

U.S. Department of Justice
Radiation Exposure Compensation Act
Trust Fund

FY 2008 Performance Budget
Congressional Submission

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Radiation Exposure Compensation Act Trust Fund

Overview

On October 5, 1990, Congress passed the Radiation Exposure Compensation Act (RECA). The Act offers an apology and monetary compensation to individuals who contracted certain cancers and other serious diseases as a result of their exposure to radiation released during above-ground atmospheric nuclear weapons tests or as a result of their occupational exposure while employed in underground uranium mines during the build-up to the Cold War. This unique program was designed as an alternative to litigation in that the statutory criteria do not require claimants to establish causality. Specifically, if the claimant can satisfy the requirements outlined in the statute, which include demonstrating that he or she contracted a compensable disease after working or residing in a designated location for a specified period of time, he or she qualifies for compensation. The amount of the award is statutorily prescribed and ranges from \$50,000 to \$100,000 depending on claimant category. Congress charged the Attorney General with responsibility for adjudicating claims under the Act. The Department of Justice established the Radiation Exposure Compensation Program (the Program) within the Civil Division. The Program commenced operations in April 1992.

“It is the purpose of this Act to establish a procedure to make partial restitution to the individuals... for the burdens they have borne for the Nation as a whole. ...The Congress apologizes on behalf of the Nation to the individuals... and their families for the hardships they have endured.”

Radiation Exposure Compensation Act

Beginning in FY 2007, electronic copies of the Department of Justice’s congressional budget justifications and Capital Asset Plan and Business Case exhibits can be viewed or downloaded from the Internet using the Internet address: <http://www.usdoj.gov/jmd/2008justification/>.

Mission Statement: Fairly and expeditiously adjudicate claims, fully consistent with the Radiation Exposure Compensation Act, as amended; educate the public about the Act; and develop strategies for improving the Program.

On July 10, 2000, amendments to RECA (2000 Amendments) were enacted that markedly expanded the scope of the Program. Major changes included the creation of new categories of beneficiaries (uranium mill workers and ore transporters); expansion of eligible diseases, geographic areas, and time period; and a reduction in the radiation exposure threshold that miners must meet to receive compensation. As a result, there was a flood of new claim filings and a sharp rise in monetary awards.

The National Research Council of the National Academy of Sciences (NAS) published a study in April 2005 concerning possible changes to RECA, particularly whether other groups of individuals or additional geographic regions or diseases should be covered. The report concludes that 1) based on current scientific evidence, no additional diseases should be included under RECA; 2) further study should be conducted to assess all radionuclides and radiogenic diseases

to establish a probability of causation model to determine possible expansion of compensation beyond current geographic boundaries; and 3) Congress should set new eligibility criteria based on a scientific assessment.

As a result of this publication, regardless of the findings, there may be a rise in the number of claims filed due to increased awareness of the Program within affected communities. The study also spurred congressional interest. In response to the NAS report, on May 11, 2005, Senators Crapo and Craig introduced legislation (S. 998) to amend RECA to include the state of Idaho as a covered downwinder area. Senator Burns introduced a bill (S. 977) that would amend RECA to allow certain Montana residents to apply for compensation. On December 16, 2005, Senators Crapo, Craig, and Burns cosponsored legislation (S. 2132) to include Idaho and Montana. Representative Bordallo also introduced a bill (H.R. 2910) to include the territory of Guam as a covered downwind area. Additional legislative initiatives may be introduced. Current workload and funding projections do not account for the possible impact of any scientific studies or substantive statutory changes.

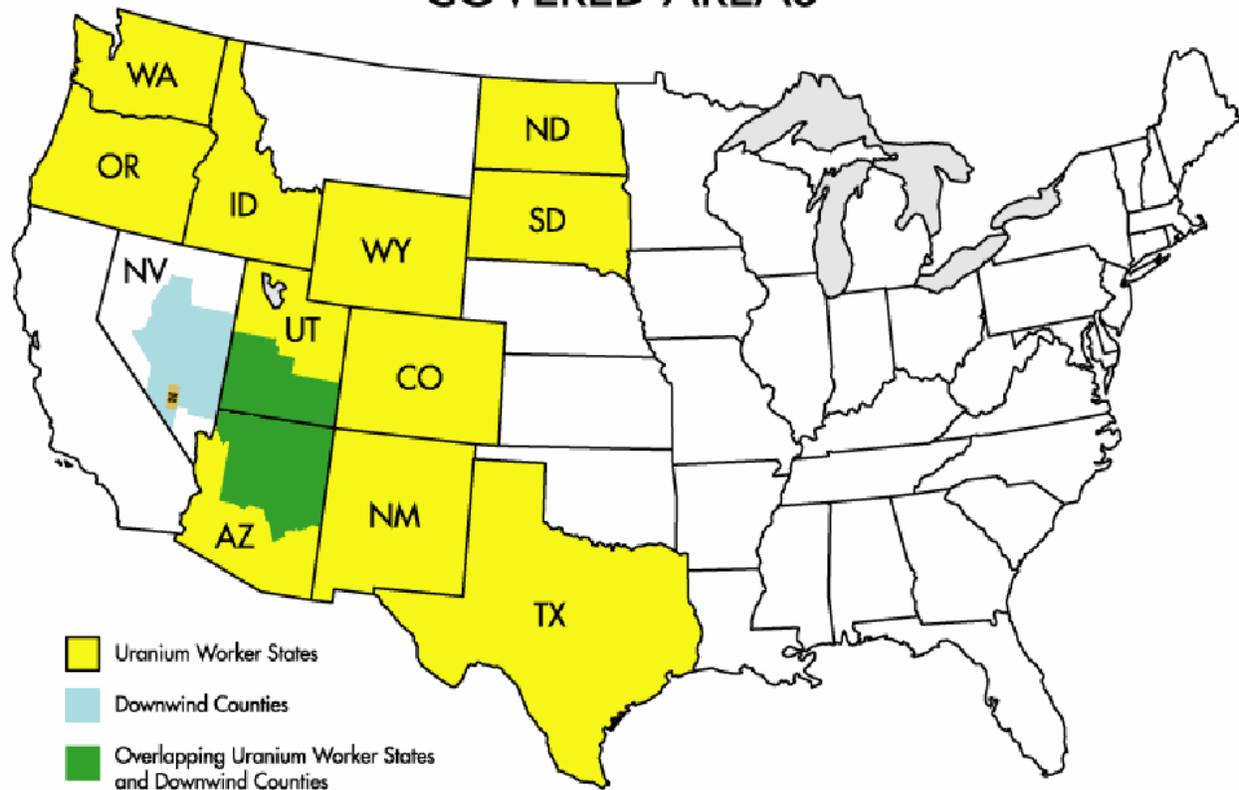
The RECA Program was evaluated with OMB's Program Assessment Rating Tool (PART) during FY 2006. See page eight for more information on the results of this evaluation.

Program Description

From 1945 through 1962, the United States conducted extensive atmospheric atomic weapons testing as it developed and built the effective arsenal that became the cornerstone of the Nation's Cold War security strategy. Critical to the production of atomic weapons was the mining, milling, and transport of uranium ore by the tens of thousands of individuals employed in that industry. Many people exposed to radiation resulting from the nuclear weapons development and testing subsequently developed serious diseases, including various types of cancer. In order to establish a procedure to make partial restitution to these individuals, the Radiation Exposure Compensation Act was enacted in 1990.

The Act established monetary compensation for specified diseases in three defined populations: underground uranium miners, who receive \$100,000; individuals present at test site locations, who receive \$75,000 (on-site participants); and individuals who lived downwind of the Nevada Test Site, who receive \$50,000 (downwinders). The 2000 Amendments added above-ground miners, uranium mill workers, and ore transporters, who receive \$100,000. The Amendments also added compensable diseases, expanded the years and geographic areas covered, and lowered the exposure level that miners must demonstrate to receive compensation. The map below shows the geographic areas covered by the Act. Although the vast majority of claims are filed by people living in the Four Corners Region (Utah, Colorado, New Mexico, and Arizona), the Program has awarded compensation to individuals residing in every state as well as several foreign countries.

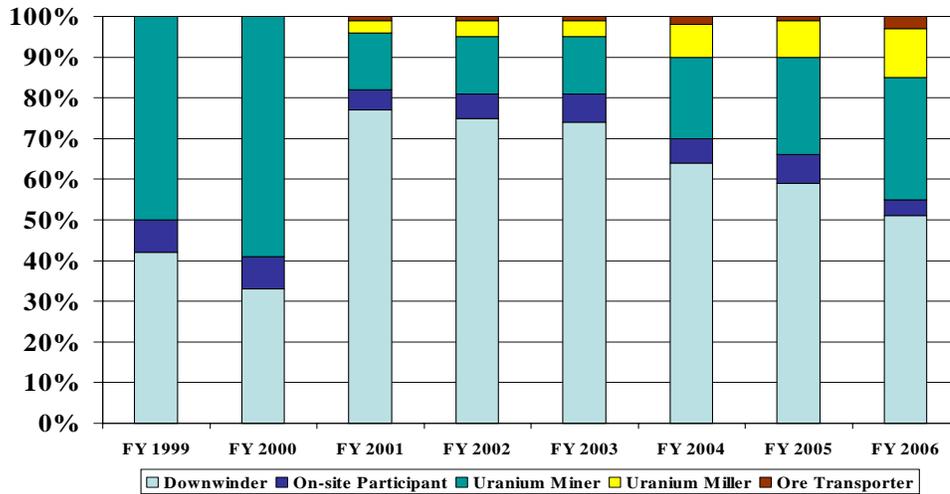
MAP OF RADIATION EXPOSURE COMPENSATION ACT COVERED AREAS



The Program office is located in Washington, D.C. and is administered by a staff of attorneys, claims examiners, and an office assistant within the Civil Division's Torts Branch. The support staff reviews claims packages, assists claimants with their applications, and manages physical case files. The Civil Division strives to process and resolve claims fairly and efficiently.

Trends Since the inception of the Program, 25,696 claims have been filed, and more than \$1.1 billion has been awarded to 16,867 claimants (as of January 3, 2007). The following graphic shows how the 2000 Amendments changed the distribution of awards across the claimant categories. The changes in approval criteria resulted in greater numbers of qualifying claimants, especially downwinders.

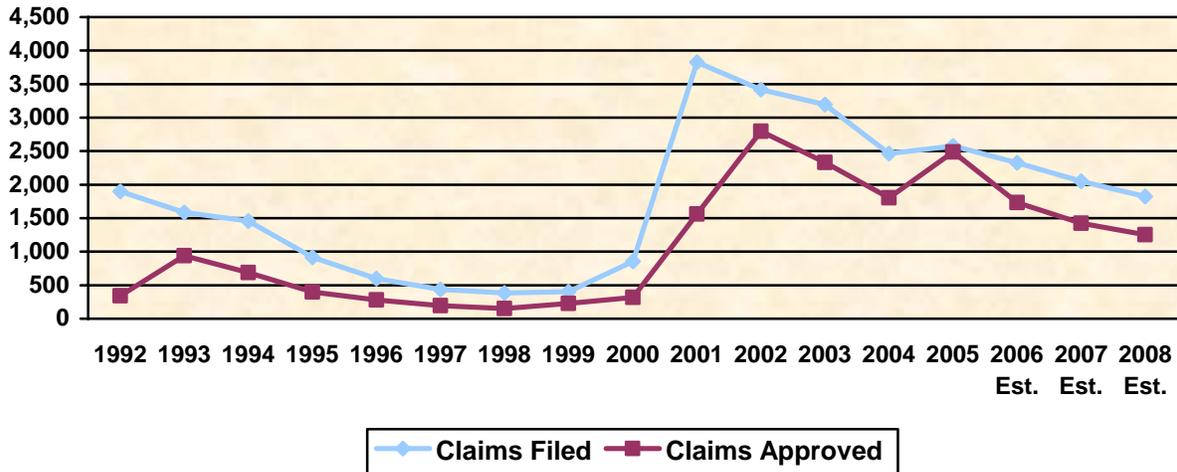
Distribution of Approved RECA Claims By Claimant Category



Prior to enactment of the 2000 Amendments, receipts had tapered off and approximately 43 percent of claims were approved. Following enactment, the number of claims filed and the portion found to be eligible increased sharply. By the end of FY 2002, the workload had increased more than fivefold to 6,349 claims, and the average approval rate had increased to about 80 percent. The chart on the following page provides an historical overview of these trends in receipts and approvals, as well as projections through FY 2008. More detailed statistics may be found on page nine. The workload and funding projections are based on the following assumptions:

- The number of new claims filed will decline gradually;
- The approval rate will not increase;
- There will be no substantive statutory changes.

RECA Receipts and Approvals Before and After the 2000 Amendments



Funding The RECA Trust Fund was subject to discretionary appropriations from FY 1992 to FY 2001. Following enactment of the 2000 Amendments, the appropriation became insufficient to meet the increase in the number of claims deemed eligible for compensation. In 2002, Congress addressed the problem within the Department of Defense Authorization Act for FY 2002, which established annual funding against mandatory spending caps. However, by 2003 the increased rate of new claim filings and approvals proved the caps to be inadequate, and a funding shortfall ensued. Working in close coordination, the appropriators and authorizers effectively devised legislative solutions to the funding problems and have ensured that all RECA claims will be fully funded through the life of the Program.

- The Consolidated Appropriations Act, 2005 contained language that made funding for the RECA Trust Fund mandatory and indefinite beginning in FY 2006. Henceforth the Fund has exclusively paid Section 4 claimants (downwinders and on-site participants).
- The National Defense Authorization Act for FY 2005 requires that RECA Section 5 claimants (uranium miners, millers, and ore transporters) be paid out of the Energy Employees Occupational Illness Compensation Fund.

Performance, Resources, and Strategies

Performance Plan and Report for Outcomes

The Radiation Exposure Compensation Program supports Goal Two of the Department of Justice’s Strategic Plan, specifically Objective 2.5: “Enforce federal statutes, uphold the rule of law, and vigorously represent the interests of the United States in all matters for which the Department has jurisdiction.”

The Program's primary objective is to:

- Implement civil justice reform initiatives to resolve categories of claims for which traditional litigation has proven ineffective and to administer compensation programs enacted by Congress that offer non-litigation solutions for radiation exposure claimants.

Strategies to Accomplish Outcomes

The Program will employ the following strategies to accomplish this mission:

- Hire skilled claims examiners to conduct the initial review of claims, freeing the Program attorneys to conclude the adjudication and render the final determination;
- Access external data sources, such as the Social Security Administration, the National Institute for Occupational Safety and Health, the Public Health Service, and state cancer and tumor registries to assist claimants in securing the necessary documentation in support of their claims;
- Coordinate with the Department of Labor's Energy Employees Occupational Illness Compensation Program to ensure that eligible Section 5 RECA claimants receive compensation in a timely manner. This includes review of RECA claimant files to determine eligibility pursuant to the Energy Employees Occupational Illness Compensation Program Act;
- Brief Members of Congress and their staffs as requested; provide information to Members and the public in an open, timely, and complete manner;
- Coordinate with the Department of Health and Human Services' Radiation Exposure Screening and Education Program to assist grantees in providing relevant information on the RECA Program to individuals screened for disease in the affected geographic regions;
- Use a toll-free phone line and website to communicate with claimants;
- Conduct outreach by traveling to areas with populations of potential claimants and participate in workshops held by congressional delegations for their constituents. This past year, staff members initiated contact with the Hopi and Yavapai Apache tribes, participated in informational sessions and provided assistance to new RECA claimants. Also, Program staff members attended town hall meetings sponsored by the Department of Labor in Shiprock, New Mexico; Kayenta, Arizona; and Grand Junction, Colorado, to assist in providing information regarding DOL and RECA benefits.

Outcomes The following results for FY 2006 encompass both claims and appeals for all RECA claimant categories:

2,260 filings	2,236 adjudications	1,776 awards
	\$130 million awarded	

Results of Program Assessment Rating Tool (PART) Reviews

The RECA Program was evaluated with the Office of Management and Budget's Program Assessment Rating Tool (PART) during FY 2006. The Program received a rating of "Adequate." This rating describes a program that needs to set more ambitious goals, achieve better results, improve accountability, or strengthen its management practices.

OMB's findings include:

- The Program has developed ambitious annual and long-term goals focusing on outcomes that meaningfully reflect the purpose of the Program. However, the Program must ensure that partners are committed to achieving annual and long-term goals;
- The Program's statutory scheme contains flaws with respect to some of its claimant categories. Although the statute is founded on the scientifically-based association between exposure and illness for occupationally exposed uranium workers, the same is not true for other claimant categories.

The Department of Justice will take the following actions to improve the RECA Program's performance:

- Ensure Program partners are expressly committed to achieving the stated annual and long-term performance goals of the Program;
- Develop a plan to tie resources to specific performance measures;
- Monitor the activities of the National Academy of Sciences and like organizations that are studying the Act's eligibility criteria.

Radiation Exposure Compensation Act Workload Claims Filed and Approved (Dollars in Thousands)						
	FY 2003 Actual	FY 2004 Actual	FY 2005 Actual	FY 2006 Actual	FY 2007 Estimate	FY 2008 Estimate
Section 4 Claims:						
Downwinders						
Pending, Beginning of Year	1,690	1,581	1,536	1,137	1,087	993
Claims Filed	2,120	1,517	1,368	1,000	801	641
Claims Approved	1,714	1,163	1,459	907	652	533
Value of Approvals	\$85,700	\$58,150	\$72,950	\$45,350	\$32,600	\$26,650
On-Site Participants						
Pending, Beginning of Year	260	260	267	246	204	185
Claims Filed	274	231	268	173	152	134
Claims Approved	175	100	181	82	64	59
Value of Approvals	\$12,756	\$7,086	\$12,666	\$5,698	\$4,800	\$4,425
Subtotal Section 4 Claims						
Pending, Beginning of Year	1,950	1,841	1,803	1,383	1,291	1,178
Claims Filed	2,394	1,748	1,636	1,173	953	775
Claims Approved	1,889	1,263	1,640	989	716	592
Value of Approvals	\$98,456	\$65,236	\$85,616	\$51,048	\$37,400	\$31,075
Section 5 Claims (Uranium Miners, Millers, and Ore Transporters)						
Pending, Beginning of Year	740	971	813	643	759	674
Claims Filed	800	715	942	1,087	1,036	987
Claims Approved	438	539	845	787	672	640
Value of Approvals	\$43,800	\$53,900	\$84,407	\$78,700	\$67,200	\$64,000
TOTAL						
Pending, Beginning of Year	2,690	2,812	2,616	2,026	2,050	1,852
Claims Filed	3,194	2,463	2,578	2,260	1,989	1,762
Claims Approved	2,327	1,802	2,485	1,776	1,388	1,232
Value of Approvals	\$142,256	\$119,136	\$170,023	\$129,748	\$104,600	\$95,075
Claims Denied	745	857	683	460	799	716
Approval Rate	76%	68%	78%	79%	63%	63%

B: Summary of Requirements

Summary of Requirements
 Radiation Exposure Compensation
 Payments to the Radiation Compensation Trust Fund
 (Dollars in Thousands)

	Perm. Pos.	FTE	Amount
2006 Current Estimate	\$53,625
2007 Current Estimate	43,950
Adjustments to Base:			
Program Decrease	(12,875)
2008 Current Services	31,075
Program Increases
Program Offsets
2008 Total Request	31,075
2007 - 2008 Total Change	(12,875)

Estimates by budget activity	2006 Current Estimate			2007 Current Estimate			2008 Adjustments to Base			2008 Current Services			2008 Increases			2008 Offsets			2008 Request			2007- 2008 Total Change		
	Pos.	FTE	Amount	Pos.	FTE	Amount	Pos.	FTE	Amount	Pos.	FTE	Amount	Pos.	FTE	Amount	Pos.	FTE	Amount	Pos.	FTE	Amount	Pos.	FTE	Amount
Radiation Exposure Compensation Trust Fund	\$53,625	....	....	\$43,950	....	....	#####	....	....	\$31,075	....	....	....	....	....	....	....	....	\$31,075	....	....	(12,875)

D: Resources by DOJ Strategic Goal and Objective

Resources by Department of Justice Strategic Goal and Objective
 Radiation Exposure Compensation
 Payments to the Radiation Compensation Trust Fund
 (Dollars in Thousands)

Strategic Goal and Objective	2006 Current Estimate		2007 Current Estimate		2008 Current Services		2008 Increases/Offsets		2008 Request		2007-2008 Total Change	
	Amount		Amount		Amount		Amount		Amount		Amount	
	FTE	\$000s	FTE	\$000s	FTE	\$000s	FTE	\$000s	FTE	\$000s	FTE	\$000s
Goal 2: Enforce Federal Laws and Represent the Rights and Interests of the American People												
2.5: Enforce federal statutes, uphold the rule of law, and vigorously represent the interests of the United States in all matters for which the Department has jurisdiction.	\$53,625	....	\$43,950	....	\$31,075	....	....	....	\$31,075	....	(\$12,875)
Subtotal, Goal 2	53,625	....	43,950	....	31,075	....	....	....	31,075	....	(12,875)
GRAND TOTAL	\$ 53,625	....	\$ 43,950	....	\$ 31,075	....	....	....	\$ 31,075	....	\$ (12,875)

E. Justification for Base Adjustments

Justification for Base Adjustments
Radiation Exposure Compensation
Payments to the Radiation Compensation Trust Fund

Decreases

Program Decrease. Based on out-year statistical projections for downwinders and on-site participants, the Division requests an adjustment to base reduction of (\$12,875,000) for FY 2008.

F: Crosswalk of 2006 Availability

Crosswalk of 2006 Availability
 Radiation Exposure Compensation
 Payments to the Radiation Compensation Trust Fund
 (Dollars in Thousands)

Activity/Program	FY 2006 Enacted Without Rescission			Rescissions			Carryover/ Recoveries			2006 Availability		
	Pos.	FTE	Amount	Pos.	FTE	Amount	Pos.	FTE	Amount	Pos.	FTE	Amount
Radiation Exposure Compensation Trust Fund	\$53,625	....	....	....	....	....	\$3,979	....	....	\$57,604

G: Crosswalk of 2007 Availability

Crosswalk of 2007 Availability
 Radiation Exposure Compensation
 Payments to the Radiation Compensation Trust Fund
 (Dollars in Thousands)

Activity/Program	2007 Estimate			Rescissions			Carryover/ Recoveries			2007 Availability		
	Pos.	FTE	Amount	Pos.	FTE	Amount	Pos.	FTE	Amount	Pos.	FTE	Amount
Radiation Exposure Compensation Trust Fund	\$43,950	....	....	....	....	....	\$6,800	....	....	\$50,750

L: Summary of Requirements by Object Class

Summary of Requirements by Object Class
 Radiation Exposure Compensation
 Payments to the Radiation Compensation Trust Fund
 (Dollars in Thousands)

Object Classes	2006 Actual Obligations		2007 Current Estimate		2008 Request		Increase/Decrease	
	FTE	Amount	FTE	Amount	FTE	Amount	FTE	Amount
41.0 Grants, Subsidies and Contributions	\$53,625	....	\$43,950	....	\$31,075	....	(\$12,875)
Total obligations	53,625	....	43,950	....	31,075	....	(12,875)
Unobligated balance, start of year		3,484		6,800		....	
Unobligated balance, end of year		(6,305)		....		....
Recoveries of prior year obligations			
Total Requirements		50,804		50,750		31,075		
Relation of Obligations to Outlays:								
Total Obligations		50,804		37,400		31,075		
Obligated balance, start of year		4,785		10,213		7,480		
Obligated balance, end of year		(10,213)		(7,480)		(6,775)		
Recoveries of prior year obligations		(495)		....		....
Outlays		44,881		40,133		31,780		