

Radiation Exposure Compensation Act Trust Fund

FY 2015 President's Budget

**Submitted to the Congress of the United States
Civil Division
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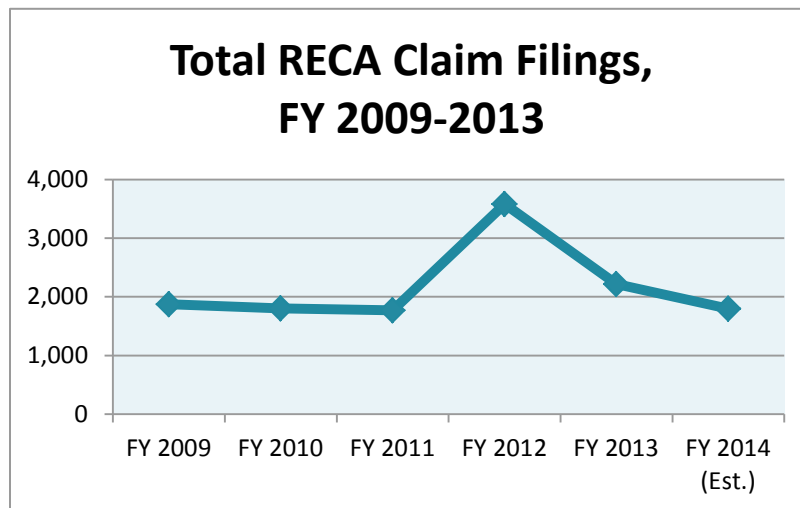
OVERVIEW

The Radiation Exposure Compensation Act (“the Act” or “RECA”) 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 the uranium industry during the build-up to the Cold War.

The Department of Justice established the Radiation Exposure Compensation Program (“the Program”) within the Civil Division to adjudicate claims under the Act. Since the Program commenced operations in April 1992, 40,681 claims have been filed and over \$1.8 billion has been awarded in connection with 28,279 approved claims (as of January 1, 2014).



Two Recent Spikes in Claims Activity. Over the past few years, the Program has witnessed two dramatic increases in claims filings. First, in November 2011, the AARP published two articles discussing atomic veterans and exposure to radiation. This media exposure caused an onslaught of claim filings in FY 2012. In total, the number of claims filed doubled from FY 2011 to FY 2012. Second, in June 2012, the AARP published a third article, causing the second wave of new filings. In FY 2012 and 2013, a significantly higher number of claims were filed compared with historic levels. Unfortunately, staffing levels have declined at the same time, challenging the Program’s ability to meet statutory deadlines.



FY 2015 Estimate. It is estimated that claims trends will decelerate to pre-FY 2012 levels in FY 2015. Thus, Civil estimates that approximately \$82,000,000 will be needed for the RECA Trust Fund in FY 2015.

PROGRAM DESCRIPTION

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.

Background

From 1945 through 1962, the United States conducted nearly 200 atmospheric nuclear weapons tests while building the arsenal that became the cornerstone of the Nation's Cold War security strategy. At the same time, other world powers also engaged in testing nuclear weapons. The mining and processing of uranium ore that was conducted by thousands of workers was essential to the development of nuclear weapons. Many workers filed class action lawsuits that appellate courts eventually dismissed. Congress then devised a program to make partial restitution to the individuals who developed serious illnesses after their exposure to radiation released during above-ground atmospheric nuclear tests or following their employment in the uranium industry. On October 5, 1990, Congress passed the Act and later broadened the scope of its coverage on July 10, 2000.

The Act established monetary compensation for individuals who contracted specified diseases in three defined populations:

- Uranium workers – uranium miners, millers, and ore transporters receive \$100,000;
- On-site participants – individuals present at atmospheric nuclear test locations receive \$75,000; and
- Downwinders – individuals who lived downwind of the Nevada Test Site receive \$50,000.

Department of Justice-issued regulations were designed to utilize existing records so that claims could be resolved in a reliable, objective, and non-adversarial manner, with little administrative cost to the United States or to the claimant.

Today, the Program is at the center of a broad inter-agency network that comprises the comprehensive federal radiation compensation system, working with the Departments of Health and Human Services (HHS), Labor, Energy, Veterans Affairs, and Defense to administer the Act.

Funding History

The RECA Trust Fund was funded out of discretionary appropriations from FY 1992 to FY 2001. Following enactment of the 2000 Amendments and a subsequent influx of new claims, 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. By 2003, however, 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 devised effective legislative solutions to the funding problems. The following statutes ensure that all eligible RECA claims will be paid in a timely manner throughout the life of the Program:

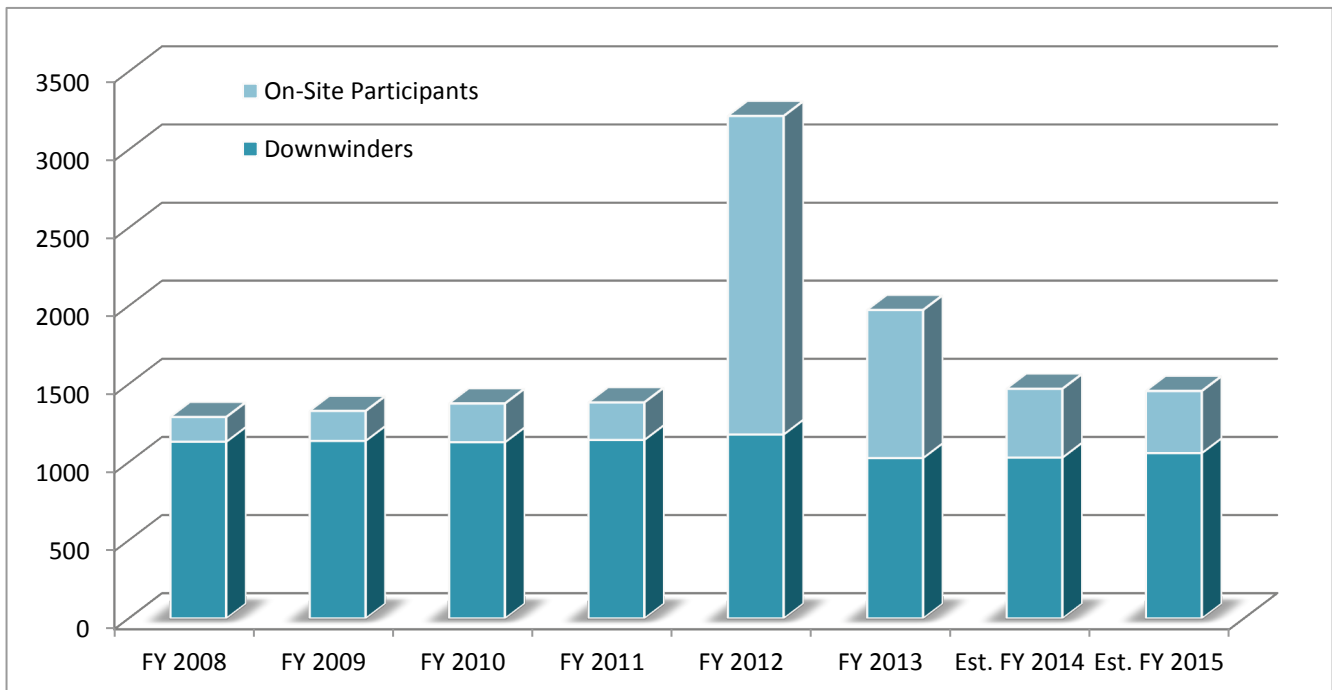
- The Consolidated Appropriations Act for 2005 contained language that made funding for the RECA Trust Fund mandatory and indefinite beginning in FY 2006. Henceforth, the Fund has exclusively paid on-site participants and downwinders (or Section 4 claimants).
- The National Defense Authorization Act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

Historical Claim Statistics and Trends

Over the life of the Program, over 40,000 claims have been filed. This has resulted in 39,220 adjudications, including 28,279 approvals, which reflects a 72 percent approval rate. Of the denials, only 13 claimants have sought review in federal district court. Total awards over the life of the Program exceed \$1.8 billion (as of January 1, 2014).

The chart on the following page illustrates Section 4 claims activity over an eight-year period.

FY 2008 – FY 2015
Section 4 Claims (On-Site Participants and Downwinders) Filed



As mentioned above, significant events occurred in November 2011 and June 2012 that sparked a massive influx of claims through which the Program is still actively working. The AARP published three articles related to atomic veterans and exposure to radiation. As a result, the media exposure led to an increase in claim filings, particularly by on-site participants, with an especially large spike in the second quarter of FY 2012 and another surge at the end of the third quarter. To quickly pay the eligible claims that were filed, the Program requested additional funding of \$15 million in March 2012 for a total of \$94 million in FY 2012.

In FY 2012, the Program received 3,216 new Section 4 claims, of which 2,038 were from on-site participant claimants.¹ While the rate at which claims are filed has since decreased, the Program still faces a tremendous amount of work to properly adjudicate all of these claims. The high number of claims currently pending with the Program will impact award amounts paid out in the next few years. The Program is focused intently on adjudicating claims in a timely manner and continues to monitor and forecast approval rates and award increases.

Even as claim filings gradually decline, no significant reduction to previous levels is expected before FY 2015. The increase in award payments that began in FY 2012 will continue through FY 2015.

¹By comparison, in all of FY 2011, the Program received 1,383 Section 4 claims, of which only 240 were on-site participant claims. The last time the Program saw such a dramatic increase in new claims was in FY 2001 after enactment of the RECA Amendments of 2000.

Looking forward to the next ten years, the Program may see additional increases in the number of downwinder and on-site participant claims filed. Several of the cancers covered under RECA, such as primary cancers of the lung, colon and breast, have a rising incidence rate in populations 50 years of age and older.² In fact, the youngest individuals exposed to radiation from the fallout of atmospheric nuclear weapons testing turned 50 years old in 2012. Moreover, individuals exposed to ionizing radiation at younger ages have shown a greater risk of contracting these cancers. As cancers express themselves in the affected population, increases of the number of claims in both claimant categories are reasonable assumptions.

Proposed Legislation

In recent years, several proposals to expand eligibility and increase award amounts have been introduced in Congress. The following bills have been introduced in the current session of Congress:

- On January 25, 2013, Congressman Paul Gosar (AZ-4) introduced the “Mohave County Radiation Compensation Act of 2013” (H.R.424) as the first RECA bill in the 113th session of Congress. Versions of this bill have been introduced in previous sessions but have never reached the House floor. Similar to its predecessors, the legislation seeks to include the county of Mohave, Arizona as an affected downwinder area. The bill is currently pending before the House Subcommittee on the Constitution and Civil Justice.
- On April 18, 2013, Congressman Ben Lujan (NM-3) introduced the “Radiation Exposure Compensation Act Amendments of 2013” (H.R.1645). The legislation increases all award amounts to \$150,000, with retroactive application, adds medical illnesses to the list of eligible diseases, eases evidentiary requirements to prove exposure and eligibility, and most significantly, extends the life of the program for 19 years after enactment of the bill, among other changes. If passed, these amendments would dramatically increase the amount of money paid from the Trust Fund. The bill is currently pending before the House Subcommittee on Workforce Protections. A companion bill (S.773) was introduced in the Senate by Senator Tom Udall (NM) on the same day and is currently pending before the Senate Committee on the Judiciary.

Current workload and funding projections do not account for the possible impact of any statutory changes.

² See U.S. Cancer Statistics Working Group, *United States Cancer Statistics: 1999–2007 Incidence and Mortality Web-based Report*, 2010, U.S. Department of Health and Human Services, Centers for Disease Control and Prevention and National Cancer Institute, available at:

PERFORMANCE, RESOURCES, AND STRATEGIES

The Program office is located in Washington, D.C. and is currently administered by a staff of four attorneys, eight full-time claims examiners, and seven contractor employees within the Constitutional and Specialized Torts Section of the Civil Division's Torts Branch. The support staff reviews claim packages, assists claimants with their applications, and manages physical case files. RECA Program attorneys strive to fairly and efficiently process and resolve claims. Since its inception, the Program has generally far surpassed its goals for the timely processing and adjudication of claims.

Performance Plan and Report for Outcomes

The Program supports Goal 2 of the Department of Justice's Strategic Plan, specifically Objective 2.6: "Protect the federal fisc and defend the interests of the United States."

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:

- Utilize 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 to support 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 the review of claimant files to decide eligibility pursuant to the Energy Employees Occupational Illness Compensation Program Act.
- Brief Members of Congress and their staffs as requested; provide information to Members of Congress and the public in an open, timely, and complete manner.

- Coordinate with HHS' Radiation Exposure Screening and Education Program to assist grantees in providing relevant information to individuals screened for disease in the affected geographic regions.
- Conduct outreach by traveling to areas with populations of potential claimants and participating in roundtable discussions held by congressional delegations for their constituents.
- Use a toll-free telephone line and website to communicate with claimants and publish regularly updated statistical information on www.data.gov.

Radiation Exposure Compensation Act Workload							
Claims Filed and Approved							
(Dollars in Thousands)							
	FY 2009 Actual	FY 2010 Actual	FY 2011 Actual	FY 2012 Actual	FY 2013 Actual	FY 2014 Estimate	FY 2015 Estimate
Section 4 Claims – Downwinders and On-Site Participants							
Downwinders							
Pending, Beginning of Year	367	297	213	224	440	581	562
Claims Filed	1,137	1,128	1,143	1,178	1,026	1,030	1,059
Claims Approved	1,053	1,035	1,018	832	776	896	999
Total Value of Approvals	\$52,650	\$51,750	\$50,900	\$41,600	\$38,800	\$44,800	\$49,950
On-Site Participants							
Pending, Beginning of Year	70	53	79	63	1,288	912	283
Claims Filed	191	248	240	2,038	948	440	397
Claims Approved	113	132	143	589	660	586	297
Total Value of Approvals	\$8,288	\$9,581	\$10,397	\$43,351	\$48,482	\$42,469	\$21,524
Subtotal Section 4 Claims							
Pending, Beginning of Year	437	350	292	287	1,728	1,493	845
Claims Filed	1,328	1,376	1,383	3,216	1,974	1,470	1,456
Claims Approved	1,166	1,167	1,161	1,421	1,436	1,482	1,296
Total Value of Approvals	\$60,938	\$61,331	\$61,297	\$84,951	\$87,282	\$87,269	\$71,474
Section 5 Claims – Uranium Miners, Millers, and Ore Transporters							
Pending, Beginning of Year	205	216	172	152	145	130	134
Claims Filed	575	452	408	394	302	366	368
Claims Approved	331	296	302	271	222	261	264
Total Value of Approvals	\$33,100	\$29,600	\$30,200	\$27,100	\$22,200	\$26,064	\$26,352

Radiation Exposure Compensation Act Workload Claims Filed and Approved (Dollars in Thousands)							
	FY 2009 Actual	FY 2010 Actual	FY 2011 Actual	FY 2012 Actual	FY 2013 Actual	FY 2014 Estimate	FY 2015 Estimate
TOTAL (Section 4 Claims and Section 5 Claims)							
Pending, Beginning of Year	642	566	464	439	1,873	1,623	979
Claims Filed	1,903	1,828	1,791	3,610	2,276	1,836	1,824
Claims Approved	1,497	1,463	1,463	1,692	1,658	1,743	1,560
Claims Denied	482	467	353	484	868	737	517
Total Adjudications (Approved + Denied)	1,979	1,930	1,816	2,176	2,526	2,480	2,077
Approval Rate	76%	76%	81%	78%	66%	70%	75%
Total Value of Approvals	\$94,038	\$90,931	\$91,497	\$112,051	\$109,482	\$113,333	\$97,826

B. Summary of Requirements

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

	FY 2015 Request		
	Direct Positions	FTE	Amount
2013 Enacted	0	0	94,000
Total 2013 Enacted	0	0	94,000
2014 Enacted	0	0	82,000
Total 2014 Enacted	0	0	82,000
Base Adjustments			
Total Base Adjustments	0	0	0
2015 Current Services	0	0	82,000
Program Changes			
Subtotal, Increases	0	0	0
Subtotal, Offsets	0	0	0
Total Program Changes	0	0	0
2015 Total Request	0	0	82,000
2014 - 2015 Total Change	0	0	0

B. Summary of Requirements

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

Program Activity	2013 Enacted with Rescissions and Sequester			2014			2015 Technical and Base Adjustments			2015 Current Services		
	Direct Pos.	Actual FTE	Amount	Direct Pos.	Est. FTE	Amount	Direct Pos.	Est. FTE	Amount	Direct Pos.	Est. FTE	Amount
RECA Program	0	0	94,000	0	0	82,000	0	0	0	0	0	82,000
Total Direct	0	0	94,000	0	0	82,000	0	0	0	0	0	82,000
Balance Rescission			0			0			0			0
Total Direct with Rescission			94,000			82,000			0			82,000
Reimbursable FTE		0			0			0			0	
Total Direct and Reimb. FTE		0			0			0			0	
Other FTE:												
LEAP		0			0			0			0	
Overtime		0			0			0			0	
Grand Total, FTE		0			0			0			0	

D. Resources by DOJ Strategic Goal and Strategic Objective

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

Strategic Goal and Strategic Objective	2013 Enacted with Rescissions and Sequester		2014		2015 Current Services		2015 Increases		2015 Offsets		2015 Total Request	
	Direct/ Reimb FTE	Direct Amount	Direct/ Reimb FTE	Direct Amount	Direct/ Reimb FTE	Direct Amount	Direct/ Reimb FTE	Direct Amount	Direct/ Reimb FTE	Direct Amount	Direct/ Reimb FTE	Direct Amount
Goal 2 Prevent Crime, Protect the Rights of the American People, and Enforce Federal Law												
2.6 Protect the federal fisc and defend the interests of the United States	0	94,000	0	82,000	0	82,000	0	0	0	0	0	82,000
Subtotal, Goal 2	0	94,000	0	82,000	0	82,000	0	0	0	0	0	82,000
TOTAL	0	94,000	0	82,000	0	82,000	0	0	0	0	0	82,000

Note: Excludes Balance Rescission and/or Supplemental Appropriations.

F. Crosswalk of 2013 Availability

Crosswalk of 2013 Availability
 Radiation Exposure Compensation
 Payments to the Radiation Compensation Trust Fund
 (Dollars in Thousands)

Program Activity	2013 Appropriation Enacted w/o Balance Rescission ¹			Supplementals			Balance Rescission			Sequester			Reprogramming/Transfers			Carryover	Recoveries/ Refunds	2013 Actual		
	Direct Pos.	Actual FTE	Amount	Direct Pos.	Actual FTE	Amount	Direct Pos.	Actual FTE	Amount	Direct Pos.	Actual FTE	Amount	Direct Pos.	Actual FTE	Amount	Amount	Amount	Direct Pos.	Actual FTE	Amount
RECA Program	0	0	94,000	0	0	0	0	0	0	0	0	0	0	0	0	6,362	250	0	0	100,612
Total Direct	0	0	94,000	0	0	0	0	0	0	0	0	0	0	0	0	6,362	250	0	0	100,612
Reimbursable FTE		0			0			0		0		0		0					0	
Total Direct and Reimb. FTE		0			0			0		0		0		0					0	
Other FTE:																				
LEAP		0			0			0		0		0		0					0	
Overtime		0			0			0		0		0		0					0	
Grand Total, FTE		0			0			0		0		0		0					0	

Carryover: The carryover and recovery amounts are used for payments awarded in FY 2013.

G. Crosswalk of 2014 Availability

Crosswalk of 2014 Availability
 Radiation Exposure Compensation
 Payments to the Radiation Compensation Trust Fund
 (Dollars in Thousands)

Program Activity	FY 2014 Continuing Resolution			Sequester			Reprogramming/Transfers			Carryover	Recoveries/ Refunds	2014 Availability		
	Direct Pos.	Estim. FTE	Amount	Direct Pos.	Actual FTE	Amount	Direct Pos.	Estim. FTE	Amount	Amount	Amount	Direct Pos.	Estim. FTE	Amount
RECA Program	0	0	82,000	0	0	0	0	0	0	13,871	100	0	0	95,971
Total Direct	0	0	82,000	0	0	0	0	0	0	13,871	100	0	0	95,971
Balance Rescission			0											0
Total Direct with Rescission			82,000											95,971
Reimbursable FTE		0			0			0		0			0	
Total Direct and Reimb. FTE		0			0			0		0			0	
Other FTE:														
LEAP		0			0			0		0			0	
Overtime		0			0			0		0			0	
Grand Total, FTE		0			0			0		0			0	

Carryover: The carryover and recovery amounts are used for payments awarded in FY 2014.

K. 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 Class	2013 Actual		2014 Availability		2015 Request		Increase/Decrease	
	Direct FTE	Amount	Direct FTE	Amount	Direct FTE	Amount	Direct FTE	Amount
Other Object Classes								
41.0 Grants, Subsidies, and Contributions		86,741		95,971		82,000		(13,971)
Total Obligations		86,741		95,971		82,000		(13,971)
Subtract - Unobligated Balance, Start-of-Year		(6,362)		(13,871)		0		13,871
Subtract - Transfers/Reprogramming				0		0		0
Subtract - Recoveries/Refunds		(250)		(100)		0		100
Add - Unobligated End-of-Year, Available		13,871				0		0
Add - Unobligated End-of-Year, Expiring		0		0		0		0
Total Direct Requirements	0	94,000	0	82,000	0	82,000	0	0