

U.S. Department of Justice

Radiation Exposure Compensation Act Trust Fund

FY 2025 Budget & Performance Plan

March 2024

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I. <u>Overview for the Radiation Exposure Compensation Act</u>

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 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.

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: <u>https://www.justice.gov/doj/budget-and-performance</u>

The Department of Justice established the Radiation Exposure Compensation Act Program ("the Program") within the Civil Division to adjudicate claims under the Act. Since the Program commenced operations in April 1992, over 55,300 claims have been filed and approximately \$2.6 billion has been awarded in connection with over 41,200 approved claims through December 31, 2023. This reflects a 75 percent approval rate. Of the denials, only 16 claimants have sought review in Federal District Court.

The RECA Extension Act of 2022 was signed into law on June 7, 2022. This law provides a two-year extension to the RECA Trust Fund and the filing deadline for new claims from its date of enactment. The RECA Extension Act leaves in place existing statutory requirements to adjudicate a claim within one year of filing and to pay meritorious claims within six weeks of approval. On January 23, 2023, the Department published in the Federal Register a notification of procedures that explains how the Department will handle claims submitted at the revised statutory filing deadline.

FY 2025 Estimate

For Fiscal Year (FY) 2025, no new funding is requested for the RECA Trust Fund, as existing resources are likely to be sufficient to ensure adequate resources to pay timely filed, meritorious claims.

Upholding the Civil Division's Trust Responsibility to Tribal Nations

The RECA Program works to uphold the Federal Government's trust responsibility to tribal nations consistent with the Civil Division's priorities. As of December 31, 2023, the Program has received over 7,890 claims from members of tribal nations, representing 24 recognized tribes. Of those claims, over 5,480 have been granted, totaling more than \$372.6 million in awards. Members of the Navajo Nation constitute 86 percent of the claimants who indicate tribal membership, and they have received awards totaling more than \$306.6 million.

RECA's downwind affected area covers land within multiple federally designated Indian reservations, including the Navajo, Hopi, and White Mountain Apache reservations. The boundaries of these reservations, and others, include trust and restricted fee territories designated by federal treaties, executive orders, and acts of Congress. Many of the areas placed at increased risk of disease by atmospheric nuclear testing and uranium mining are covered by the United States' trust responsibilities to tribal nations.

Broad Range of Award Recipients

Compensation has been awarded to individuals residing in all 50 states, as well as several foreign countries. Residents of the "Four Corners" region of the American southwest (Arizona, New Mexico, Utah, and Colorado) have filed the majority of claims and have received awards valued at approximately \$1.8 billion during the life of the program. Of the approximately \$2.6 billion awarded through December 31, 2023, approximately \$406.1 million has been awarded to veterans, civil servants, and contractors who participated onsite in atmospheric nuclear tests.

II. Summary of Program Changes

Item Name	Description	Pos.	FTE	Amount (\$000)	Pg.
RECA Claims	Accounts for sunset of the RECA program.	0	0	-\$80,000	14

III. Appropriations Language and Analysis of Appropriations Language

The FY 2025 budget request does not include proposed changes in the appropriations language.

IV. Program Activity Justification

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.

RECA Program	Direct Pos.	Estimated FTE	Amount (\$000)
2023 Enacted	0	0	\$50,000
2024 Continuing Resolution ¹	0	0	\$80,000
Adjustments to Base and Technical Adjustments	0	0	\$0
2025 Current Services	0	0	\$80,000
2025 Program Offsets	0	0	-\$80,000
2025 Request	0	0	\$0
Total Change 2024-2025	0	0	-\$80,000

¹ Amount reflects the expected resource requirements for FY 2024 operations as projected in the first quarter of FY 2023.

Program Description

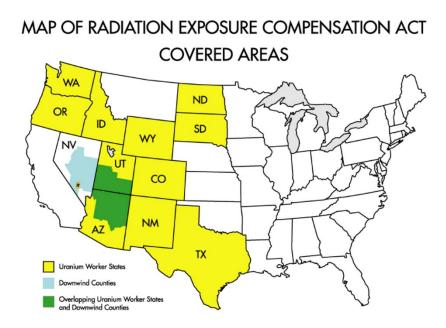
From 1945 through 1962, the United States conducted nearly 200 atmospheric nuclear weapons tests while building the arsenal that became the cornerstone of the Nation's Cold War security strategy. At the same time, other world powers also engaged in testing nuclear weapons. The mining and processing of uranium ore that was conducted by thousands of workers was essential to the development of nuclear weapons. Navajo uranium miners, and those living downwind of the Nevada Test Site, 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 RECA 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 (Section 5 claimants) uranium miners, millers, and ore transporters receive \$100,000;
- Onsite participants (Section 4 claimants) individuals present at atmospheric nuclear test locations receive \$75,000; and
- Downwinders (Section 4 claimants) individuals who lived downwind of the Nevada Test Site receive \$50,000.

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

"RECA claimants worked in hazardous occupations and were subjected to increased risk of disease to serve the national security interests of the United States. This extraordinary statute provides partial restitution to these individuals and their families for the sacrifices they made during a critical time in our nation's history."

> ~ Civil Division, March 2, 2015 Press Release



The map above shows the geographic areas covered by the Act. The claimant population also includes numerous Native American tribes.

Today, the Program is part of a broad inter-agency network that comprises the comprehensive federal radiation compensation system. The Program works with the Departments of Health and Human Services, Labor, Energy, Veterans Affairs, and Defense to administer the Act and to assist those agencies with the administration of statutes that rely on information developed under RECA.

<u>Funding History</u>

The RECA Trust Fund was funded out of discretionary appropriations from FY 1992 to FY 2001. Following enactment of the RECA Amendments of 2000 ("the 2000 Amendments") on July 10, 2000, the Department received an influx of new claims. The RECA Trust Fund appropriation was insufficient to meet the number of claims deemed eligible for compensation. In 2001, Congress addressed the deficiency via the Department of Defense Authorization Act for FY 2002, which established annual funding but imposed mandatory spending caps. By 2003, however, the increased rate of new claim filings and approvals made clear that the caps were inadequate to meet claim demands. Working in close coordination, the appropriators and authorizers bifurcated the funds from which RECA claims are paid:

- 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 onsite 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). This trust fund does not terminate.

The RECA Extension Act of 2022 extended the RECA Trust Fund and statutory claim filing deadline two years from its date of enactment on June 7, 2022. Statutory provisions requiring the Department to adjudicate claims within one year of filing, and to pay meritorious claims within six weeks of approval, were not changed by the RECA Extension Act. On January 23, 2023, the Department published revised procedures, policies, and deadlines for filing claims in the Federal Register. *See* Radiation Exposure Compensation Act: Notification of Procedures for Claims Submitted at the Revised Statutory Filing Deadline, 88 Fed. Reg. 3918 (Jan. 23, 2023)².

Claim Trends

The Department expects receipts and payments during FY 2024 to increase compared to FY 2023. The statistics from FY 2022, in which the Program received a surge in claims in the months surrounding the filing deadline prior to the recent extension of the law, will likely be replicated in FY 2024 with the Program expecting receipts and awards to increase as the final day to file claims approaches. Under the current statute, no new claims will be filed during FY 2025. The Department expects to have adjudicated most of the timely filed RECA claims by the end of the FY 2025.

The Program anticipates that publicity concerning the Program will continue during FY 2024 as the extended sunset approaches. In addition, some populations that are potentially RECA eligible are reaching the age where covered diseases present.

The Program is focused intently on adjudicating claims efficiently and in a timely manner, while continuing to monitor and forecast approval rates and projected claim filings.

Program Sunset

The RECA Extension Act of 2022 was signed into law on June 7, 2022. This law provides a two-year extension to the RECA Trust Fund and the filing deadline for new claims from its date of enactment. On January 23, 2023, the Department published in the Federal Register a notification of procedures that explains how the Department will handle claims submitted at the revised statutory filing deadline. This document sets forth claim filing procedures consistent with the Act as amended and describes the Department's policies to ensure an orderly sunset.

Introduced Legislation

The Program closely tracks legislation pending before Congress which would amend the current statute and would therefore impact RECA Program operations and resource needs. Moreover, the Program strives to be responsive to congressional inquiries and works with the Department's Office of Legislative Affairs to provide useful information to members and their staffs. The following bills have been introduced to amend RECA during the 118th Congress:

• S.2226 – National Defense Authorization Act (NDAA) for Fiscal Year 2024. The Senate passed its amendment to the 2024 NDAA on July 27, 2023, with provisions that substantially expand the eligibility criteria and compensation available under RECA. The

² <u>https://www.federalregister.gov/documents/2023/01/23/2023-00865/radiation-exposure-compensation-act-procedures-for-claims-submitted-at-the-revised-statutory-filing</u>

House NDAA, H.R.2670, passed on July 14, 2023, without the below provisions. Following conference, the 2024 NDAA was enacted on December 22, 2023, without the Senate added expansion provisions (S.2226), which included the below sections concerning RECA:

- Sec. 1099AA, the "Radiation Exposure Compensation Expansion Act," would establish a compensation system for individuals who are presumed to have been exposed to Manhattan Project waste and subsequently contracted a specified disease. Qualifying individuals must have resided within 20 specified zip codes in the St. Louis, MO metropolitan area and subsequently be diagnosed with a compensable cancer or autoimmune disease. Living qualifying individuals would receive the greater of \$50,000, or reimbursement of out-of-pocket medical expenses. A surviving spouse would be eligible for a \$25,000 lump sum. Surviving children would be eligible for a \$25,000 lump sum divided equally among all eligible parties.
- Secs. 1099BB 1099HH, "the Radiation Exposure Compensation Act 0 Amendments of 2023," mirrors bills introduced independently as S. 1751 and H.R. 4426. These sections would extend RECA for an additional 19 years and significantly expand Downwinder and uranium worker eligibility. Among other changes, the bill would expand the downwind affected area from a limited set of counties to the States of Arizona, Colorado, Idaho, Montana, Nevada, New Mexico, Utah, and the territory of Guam; would reduce the required duration of downwind presence in an affected area from two years to one year; would expand the use of affidavits; and would add chronic lymphocytic leukemia as a covered Downwinder and Onsite Participant illness. The bill would increase the award for Downwinder and Onsite Participant claimants to \$150,000 with possible retroactive application and would provide medical benefits for covered conditions. For uranium workers, the bill would extend the statutory period of covered employment from December 31, 1971, to December 31, 1990; extend coverage to core drillers and remediation workers; and expand the covered illnesses for uranium miners.
- S.1751 / H.R.4426 Radiation Exposure Compensation Act Amendments of 2023.
 S.1751 was introduced by Senator Ben Ray Lujan (D-NM) with 14 bipartisan cosponsors on May 18, 2023. H.R.4426 was introduced by Teresa Leger Fernandez (D-NM-3) on June 30, 2023, and has 32 cosponsors. The RECA Amendments of 2023 were incorporated into S.2226, the Senate amendment to the NDAA for FY 2024, which passed the Senate on July 27, 2023, but was not included in the 2024 NDAA enacted on December 22, 2023.
- S.463 / H.R.4754 Downwinders Parity Act of 2023. S.463 was introduced by Senators Kyrsten Sinema (I-AZ), Mark Kelly (D-AZ), and Jacky Rosen (D-NV) on February 16, 2023. H.R.4754 was introduced by Greg Stanton (D-AZ-4) on July 19, 2023. S.463 / H.R.4754 would expand the Downwinder Affected area to include the entire counties of Clark County, Nevada, and Mohave County, Arizona. These bills also require the Department of Justice to report to Congress on efforts to conduct outreach to persons made newly eligible for benefits.

- H.R.1751 Downwinders Parity Act of 2023. This bill, which shares the same title as S.463 / H.R.4754, was introduced by Paul A. Gosar (R-AZ-9) on March 23, 2023. H.R.1751 would expand the Downwinder Affected area to include the entire counties of Clark County, Nevada, and Mohave County, Arizona. It does not require any report to Congress.
- S.1681 / H.R.3497 Uranium Miners and Workers Act of 2023. Introduced by Senator Cynthia Lummis (R-WY) and Representative Harriet M. Hageman (R-WY-At Large) on May 18, 2023, the Uranium Miners and Workers Act of 2023 would extend the eligible period of employment for uranium workers from December 31, 1971, to December 31, 1978. The bill would expand the covered illnesses for uranium miners to include renal cancer and chronic renal disease, and would extend RECA's sunset for 4 years from its enactment. Finally, the bill would transfer \$475 million from unobligated coronavirus response appropriations to the RECA Trust Fund.

<u>Hearings</u>

No hearings concerning RECA have taken place during the 118th Congress.

<u>Claims Data</u>

On the following page is data concerning Section 4 and Section 5 claims. Actual data for the last five years, as well as claim estimates for FY 2024, and FY 2025 are provided.

	Radiation Exposure Compensation Act Workload Claims Filed and Approved										
			Dollars in T								
	FY 2019	FY 2020	FY 2021	FY 2022	FY 2023	FY 2024	FY 2025				
	Actual	Actual	Actual	Actual	Actual	Estimate	Estimate				
Section 4 Claims – Downwinders and Onsite Participants Downwinders											
Pending,			Dowiiw	muers							
Beginning of Year	282	218	108	189	265	103	201				
Claims Filed	1,020	842	838	1,133	754	850	0				
Claims Approved	1,000	858	720	1,002	819	752	180				
Total Value of Approvals	\$50,000	\$42,900	\$36,000	\$50,100	\$40,950	\$37,575	\$8,986				
			Onsite Pa	rticipants							
Pending, Beginning of Year	116	84	57	59	131	33	128				
Claims Filed	263	230	233	355	216	266	0				
Claims Approved	189	197	189	229	222	172	90				
Total Value of Approvals	\$13,936	\$14,667	\$13,946	\$16,959	\$16,522	\$12,648	\$6,619				
		Sut	ototal Sect	ion 4 Clain	ns		•				
Pending, Beginning of Year	398	302	165	248	396	136	329				
Claims Filed	1,283	1,072	1,071	1,488	970	1,116	0				
Claims Approved	1,189	1,055	909	1,231	1,041	923	270				
Total Value of Approvals	\$63,936	\$57,567	\$49,946	\$67,059	\$57,472	\$50,223	\$15,605				
Sect	tion 5 Clai	ms – Uran	ium Miner	rs, Millers	, and Ore	Transport	e rs				
Pending, Beginning of Year	93	46	43	179	130	55	174				
Claims Filed	221	159	316	354	123	266	0				
Claims Approved	191	109	134	196	103	147	122				
Total Value of Approvals	\$19,100	\$10,900	\$13,400	\$19,600	\$10,300	\$14,700	\$12,232				

	FY 2019 Actual	FY 2020 Actual	FY 2021 Actual	FY 2022 Actual	FY 2023 Actual	FY 2024 Estimate	FY 2025 Estimate
	ТС)TAL (Section	on 4 Claims	and Section :	5 Claims)		
Pending, Beginning of Year	491	348	208	427	526	191	503
Claims Filed	1,504	1,231	1,387	1,842	1,093	1,382	0
Claims Approved	1,380	1,164	1,043	1,427	1,144	1,070	392
Claims Denied	267	218	131	326	326	326	37
Total Adjudications	1,647	1,382	1,174	1,753	1,470	1,396	429
Approval Rate	84%	84%	89%	81%	78%	77%	91%
Total Value of Approvals	\$83,036	\$68,467	\$63,346	\$86,659	\$67,772	\$64,923	\$27,837

Radiation Exposure Compensation Act Workload Claims Filed and Approved (Dollars in Thousands)

		Per	forma	nce an	d Reso	urces	Fables					
Decision Unit: Ra	diation Exposure C	ompensation Act										
RESOURCES (\$ in thousands)				rget	Ac	tual	Target		Changes		Requeste	d (Total)
			20	023	FY 2023		2024		Current Services Adjustments and FY 2025 Program Changes		FY 2025 Request	
Total Costs and H	FTE	\$000	FTE	\$000	FTE	\$000	FTE	\$000	FTE	\$000		
(reimbursable FTE are included, but reimbursable costs are bracketed and not included in the total)			0	50,000	0	57,916	0	80,000	0	-80,000	0	0
ТҮРЕ	S TRATEGIC OBJECTIVE	PERFORMANCE	FY 2023		FY 2023		FY 2024		Current Services Adjustments and FY 2025 Program Changes		FY 2025 Request	
Performance M easure	2.6	1. Maintain an average claim processing time of 200 days	2	00	127		200		N/A		200	
Performance M easure	2.6	2. Percentage of claims paid within six weeks of Program receipt of acceptance form	90%		90%		99% 90%		N/A		90%	
Performance M easure	2.6	3. Percentage of claim appeals adjudicated within 90 days of filing administrative appeal	95%		10	100%		95%		N/A		%
Performance M easure	2.6	4. Percentage of claims adjudicated within 12 months or less.	80%		80% 94%		80%		N/A		80	9%

		Performance Measure Table									
Strategic	Decision Unit: Radiation Exposure Compensation Act										
Objective		FY 2022	FY 2023	FY 2023	FY 2024	FY 2025					
		Performance Measures	Actual	Target	Actual	Target	Target				
2.6	Performance Measure	1. Maintain an average claim processing time of 200 days	92	200	127	200	200				
2.6	Performance Measure	2. Percentage of claims paid within six weeks of Program receipt of acceptance form	99%	90%	99%	90%	90%				
2.6	Performance Measure	 Percentage of claim appeals adjudicated within 90 days of filing administrative appeal 	100%	95%	100%	95%	95%				
2.6	Performance Measure	4. Percentage of claims adjudicated within 12 months or less	96%	80%	94%	80%	80%				

Performance, Resources, and Strategies

The Program office is located in Washington, D.C. and is currently administered by a staff of four attorneys, five claims examiners, and seven contractors within the Constitutional and Specialized Torts Litigation Section of the Civil Division's Torts Branch. The support staff reviews claim packages, assists claimants with their applications, facilitates payments, and manages case files. The RECA Program strives to fairly and efficiently process and resolve claims.

The Division has maintained a reduction to average claim processing times from its most recent peak in 2015. In FY 2015, the Program averaged 207 days to process a claim. Each subsequent year, the program reduced the processing time by an average of 24 days, or 14 percent. The Division continued this trend even during the COVID-19 pandemic, and as it received a surge of claims in the months leading up to the previous filing deadline on July 10, 2022. By the end of FY 2022, the average processing time was 92 days. The "sunset surge" included a number of poorly documented claims that have required additional information from Federal, State, and tribal agencies. Because of the lingering effects of the COVID-19 pandemic, and the additional time needed to process poorly documented claims, average processing time was 127 days at the end of FY 2023. During FY 2024, the Program has again reduced average processing times to 81 days. As the revised sunset approaches, the program may again receive a surge of poorly documented claims which may create a similar effect on claim processing times.

a. Performance Plan and Report for Outcomes

The Civil Division is committed to vigilance in protecting and supporting all communities, including the most vulnerable ones, and to improving and expanding victim support both within and outside of the criminal justice system. The RECA Program supports the Civil Division in this goal, as well as in the promotion of safety and justice for victims in Indian country, via the administration of compensation programs enacted by Congress that offer non-litigation solutions for radiation exposure claimants. The Program has a number of performance measures that are included in the Civil Division's Performance Tables.

b. Strategies to Accomplish Outcomes

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

- Utilize skilled claims examiners to conduct the initial review and processing of claims, freeing the Program attorneys to maximize efficiency by concluding the adjudication and rendering 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 and reduce the burden on claimants.
- 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.

- Coordinate with the U.S. Department of Health and Human Services' Radiation Exposure Screening and Education Program to assist grantees in providing relevant information to individuals screened for disease in the affected geographic regions.
- 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.
- Use a toll-free telephone line and website to communicate with claimants and publish regularly updated statistical information on <u>www.data.gov</u>.
- Respond timely to all media inquiries to ensure accurate information is disseminated to the public about the Program.

V. <u>Program Increase:</u>

Not Applicable.

VI. Program Offsets by Item

Item Name: Radiation Exposure Compensation Act (RECA) Claims

Budget Decision Unit(s):	Radiation Exposure Compensation Act
Organizational Program:	Civil Division, Radiation Exposure Compensation Act (RECA) Program
Program Offset:	Positions 0 Atty 0 FTE 0 Dollars - <u>\$80,000,000</u>

Description of Item

The Civil Division seeks a program decrease of -\$80.0 million from the FY 2024 requested amount, as existing resources are likely to be sufficient to pay the remaining Radiation Exposure Compensation Act (RECA) claims in FY 2025.

Justification

A reduction in funding for \$80.0 million is proposed relative to FY 2024 due to the sunset of the RECA program. A portion of the existing funding is expected to be carried over into FY 2025 and be sufficient to allow for the payment of all timely filed approved Section 4 claims unable to be processed and paid during FY 2024.

Base Funding

FY 2023 Enacted				FY 2024 Continuing Resolution				FY 2025 Current Services			
Pos	Agt/ Atty	FTE	\$(000)	Pos	Agt/ Atty	FTE	\$(000)	Pos	Agt/ Atty	FTE	\$(000)
0	0	0	\$50,000	0	0	0	\$80,000	0	0	0	\$80,000

Personnel Offset Cost Summary

Not applicable.

Non-Personnel Offset Cost Summary

	FY 2025			Annualizations (\$000)		
Non-Personnel Item	Request (\$000)			FY 2026 (net change from 2025)	FY 2027 (net change from 2026)	
RECA Claims	-\$80,000	N/A	N/A	\$0	\$0	
Total Non-Personnel	-\$80,000	N/A	N/A	\$0	\$0	

Justification for Non-Personnel Authorizations

The Civil Division is required by law to pay valid RECA claims.

Total Request for this Item

		Positions	5	Am	ount Reques (\$000)	Annualizations (\$000)		
Category	Count	Agt/ Atty	FTE	Personnel	Non- Personnel	Total	FY 2026 (net change from 2025)	FY 2027 (net change from 2026)
Current Services	0	0	0	\$0	\$80,000	\$80,000	\$0	\$0
Offsets	0	0	0	\$0	-\$80,000	-\$80,000	\$0	\$0
Grand Total	0	0	0	\$0	\$0	\$0	\$0	\$0

Affected Crosscuts

N/A