

September 28, 2005

Congressional Committees

Subject: *Radiation Exposure Compensation Act: Program Status*

From 1945 through 1962, the United States conducted a series of aboveground atomic weapons tests as it built up its Cold War nuclear arsenal. Many people who were exposed to radiation resulting from the nuclear weapons development and testing program subsequently developed serious diseases, including various types of cancer. On October 15, 1990, in order to establish a procedure to make partial restitution to these victims for their suffering associated with the radiation exposure, the Radiation Exposure Compensation Act (RECA) was enacted.¹ RECA provided that the Attorney General be responsible for processing and adjudicating claims under the act. The Department of Justice (DOJ) established the Radiation Exposure Compensation Program (RECP), which is administered by its Civil Division. RECP began processing claims in April 1992. RECA has been amended several times,² including on July 10, 2000, when the RECA Amendments of 2000 were enacted.³ The amendments of 2000 broadened the scope of eligibility for benefits coverage to include new victim categories and modified the criteria for determining eligibility for compensation.

The 2000 amendments also included a mandate that we report to the Congress on DOJ's administration of RECA not later than 18 months after

¹Pub. L. No. 101-426, 104 Stat. 920 (1990). RECA recognizes that the amount of money paid does not completely compensate for the burdens placed upon such individuals.

²Early amendments included November 1990 amendments (Pub. L. No. 101-510, 104 Stat. 1835, 1837) that among other things expanded eligibility to include on-site participants and October 1992 amendments (Pub. L. No. 102-486, 106 Stat. 3131) that provided for the judicial review of denied claims.

³Pub. L. No. 106-245, 114 Stat. 501 (2000).

the enactment of the amendments and every 18 months thereafter.⁴ We have reported twice previously on DOJ's administration of RECA.⁵

In our last report, we identified the potential for a funding shortage in the compensation trust fund. We recommended that the Attorney General consult with the congressional committees of jurisdiction to develop a strategy to address the gap between current funding levels and the amount of funding estimated to be needed to pay claims projected to be approved over the 2003 to 2011 period.

This report follows up on our previous recommendation and updates information on the status of the RECA program, including the (1) status of funds available to pay claims and pay program administration costs; (2) status of claims approved, denied, and pending; (3) processing times; and (4) the total of compensation awards. According to DOJ, the information provided was obtained from the same data sources that we had previously determined to be reliable. We did not revalidate the data from these sources; we believe they are sufficiently reliable for the purposes of this update.

We conducted our review from June 2005 through August 2005, in accordance with generally accepted government auditing standards.

Background

RECA established a procedure to make partial restitution to individuals who contracted serious diseases, such as certain types of cancers, presumably resulting from exposure to radiation from aboveground nuclear tests or as a result of their employment in the uranium industry. In addition to creating eligibility criteria for compensation, RECA created a Trust Fund to pay claims. The Attorney General is responsible for reviewing applications to determine whether applicants qualify for compensation and establishing procedures for paying claims. To discharge

⁴Section 11007 of the 21st Century Department of Justice Appropriations Authorization Act (Pub. L. No. 107-273, 116 Stat. 1758, 1818 (2002)) made a technical amendment to the GAO reporting requirement provisions by striking such reporting provision in the RECA Amendment of 2000 and enacting the same reporting requirement provision at a different location within RECA.

⁵GAO, *Radiation Exposure Compensation: Analysis of Justice's Program Administration*, [GAO-01-1043](#), (Washington, D.C.: Sept. 17, 2001), and GAO, *Radiation Exposure Compensation: Funding to Pay Claims May Be Inadequate to Meet Projected Needs*, [GAO-03-481](#), (Washington, D.C.: Apr. 14, 2003).

these responsibilities, the Attorney General has issued implementing regulations.⁶

The regulations established RECP within DOJ's Civil Division and charged it with administering claims adjudication and compensation under the act. To file for compensation, the claimant or eligible surviving beneficiary, either acting on his or her own behalf or represented by counsel, submits the appropriate claim forms along with corroborating documentation to RECP, whose claims examiners and legal staff review and adjudicate the claims. If the claim is approved, a letter is sent notifying the person of the approval and enclosing an "acceptance of payment" form for the claimant to return to RECP. According to program officials, upon receipt of a signed acceptance of payment form, DOJ authorizes the Treasury Department to make payment from the Trust Fund. For more detailed information on the RECA claims adjudication process, see our April 2003 report.

The RECA Amendments of 2000 broadened the scope of eligibility for benefits coverage, including increasing the geographical area covered, allowing more individuals to qualify. Figure 1 shows the current areas affected under RECA.

Figure 1 shows the current geographic areas that represent the scope of eligibility for benefits coverage under RECA.

⁶DOJ implementing regulations for the RECA program are found at Part 79 of Title 28 Code of Federal Regulations (28 C.F.R. Part 79).

Figure 1: Map of RECA-Covered Areas



Source: Department of Justice, Civil Division.

In September 2002, in response to congressional direction⁷ the Health Resources and Services Administration (HRSA)⁸ asked the National Research Council⁹ to convene a committee to assess recent scientific evidence associating radiation exposure with cancers or other human health effects and determine whether other groups of people or additional geographic areas should be covered under RECA. In 2005, the committee published its report that included among its recommendations, whether

⁷(H. R. Conference Report No. 107-593, at 158 (2002))

⁸HRSA is a division of the U.S. Department of Health and Human Services. HRSA provides national leadership and program resources and services needed to improve access to quality health care for uninsured, underserved, and special needs populations. More detailed information on HRSA can be obtained through the HRSA web site at www.hrsa.gov.

⁹The National Research Council is part of the National Academies, which also comprise the [National Academy of Sciences](http://www.nationalacademies.org), [National Academy of Engineering](http://www.nationalacademies.org) and [Institute of Medicine](http://www.nationalacademies.org). They are private, nonprofit institutions that provide science, technology and health policy advice under a congressional charter. See www.nationalacademies.org.

persons from other states and territories should be considered for coverage under RECA.¹⁰

In addition, the RECA amendments of 2000 amended a portion of the Public Health Service Act to authorize competitive grants to state and local governments, and appropriate health-care organizations, to initiate and support programs for health screening, education, medical referral, and appropriate follow-up services for persons eligible under RECA. HRSA oversees the grants as part of the Radiation Exposure Screening and Education Program. Table 1 shows the program grants awarded between fiscal years 2002 and 2005.

¹⁰ National Research Council, Committee to Assess the Scientific Information for the Radiation Exposure Screening and Education Program, Board on Radiation Effects Research, *Assessment of the Scientific Information for the Radiation Exposure Screening and Education Program* (Washington , D.C.: The National Academies Press, 2005). For reference see: www.nap.edu.

Table 1: Radiation Exposure Screening and Education Program grants awarded between fiscal years 2002 and 2005

Organizations	Fiscal Year —\$ in Thousands			
	2002	2003	2004	2005
Utah Navajo Health System, Inc.—Montezuma Creek, UT	\$589	\$210	\$210	\$185
St. Mary's Hospital and Medical Center—Grand Junction, CO	581	313	313	276
Northern Navajo Medical Center—Shiprock, NM	517	375	375	336
Mountain Park Health Center—Phoenix, AZ	342	306	306	180
University of New Mexico Health Sciences Center—Albuquerque, NM	312	210	210	185
Miners' Colfax Medical Center—Raton, NM	271	0	0	0
Intermountain Health Services—St. George, UT	0	313	313	282
University of Nevada – Reno—NV	0	0	0	180

Source: Health Resources and Services Administration.

RECA Program Funding Status Has Improved

In April 2003, we reported that projected funding estimates to pay RECA claims may be inadequate and recommended that DOJ work with Congress to address the funding requirements. After that report, Congress took legislative actions to ensure that the RECA program would have sufficient funding to pay approved claims for the life of the program. According to the DOJ Civil Division's Fiscal Year 2006 Performance Budget submission, the actions taken by Congress will ensure that the RECA program is fully funded for 2005 and in future years. The major changes are as follows:

- The Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005,¹¹ mandated that uranium millers, miners, and ore transporters who are the highest cost claimants, (those entitled to \$100,000) will still have their claims adjudicated by RECP, but will now be compensated through the Energy Employees Occupational Illness Compensation Program administered by the Department of Labor.¹² This leaves only 2 out of 5 claimant categories (on-site participants entitled to \$75,000 and downwinders entitled to \$50,000) compensated under the RECA program.

¹¹Pub. L. No. 108-375, 118 Stat. 1811, 2187-88 (2004).

¹²The Energy Employees Occupational Illness Compensation Program compensates certain workers of the Department of Energy (and certain contractors and subcontractors) who work or worked at nuclear facilities or nuclear weapon testing sites or their survivors, as well as RECA covered uranium miners, millers, and ore transporters injured by exposure to ultra-hazardous materials, or their survivors. Pub. L. No. 106-398, 114 Stat. 1654 (2000).

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- The Consolidated Appropriations Act of 2005 appropriated \$27.8 million in addition to the fiscal year 2005 mandatory appropriation to the trust fund of \$65 million for a total of \$92.8 million, which the agency said will provide full funding for 2005.
 - Additionally, the Consolidated Appropriations Act of 2005 makes funding for downwinders and on-site participants mandatory and indefinite beginning in fiscal year 2006. As a result, according to agency officials, the appropriation will no longer end in 2011 as originally enacted and whatever amounts are required to pay the claims will be appropriated.

More Flexibility Provided to Meet Program Administration Expenses

In our last report, we stated that the administrative expense appropriation for RECP of about \$2 million was insufficient to keep up with the number of claims submitted in fiscal years 2001 and 2002. However, several legislative changes were made starting with appropriations for fiscal year 2003, to help ensure sufficient administrative funding would be available to meet future claims processing demands. First, for fiscal year 2003, appropriations for the programs administrative expenses were no longer contained, as was the case in previous years, in a separate account and were instead included within DOJ's Salaries and Expenses, General Legal Activities account.¹³ In addition, while the fiscal year 2002 appropriation included a specific amount for administrative expenses, the fiscal year 2003 administrative expenses provision contained a specific minimum amount. In accompanying conference report language, the conferees provided that they expected the Civil Division to absorb any additional requirements for processing RECA claims from other resources available to the Civil Division.¹⁴ Whereas the fiscal year 2004 administrative expense appropriation¹⁵ mirrored language contained in the fiscal year 2003 appropriation, the pertinent fiscal year 2005 appropriations did not contain language specific to RECA administrative expenses.¹⁶ The House Appropriations Committee report for DOJ's fiscal year 2005 appropriation provided that its recommendation would eliminate language for administrative expenses with respect to RECA.¹⁷ However, this Committee

¹³Pub. L. No. 108-7, 117 Stat. 11 (2003).

¹⁴H.R. Conf. Rep. No. 108-10, at 607 (2003).

¹⁵Pub. L. No. 108-199, 118 Stat. 3 (2004).

¹⁶Pub. L. No. 108-447, 118 Stat. 2809 (2004).

¹⁷H.R. Rep. No. 108-576, at 15 (2004).

recommended using language in previous appropriations acts allowing the Attorney General to provide additional resources to the Civil Division, if emergent circumstances warrant, through transfers of funds from other DOJ sources, subject to specific reprogramming requirements.

Number of RECA
Claims Received

When we last reported, RECP had received a total of 14,987 claims through fiscal year 2002. As of June 19, 2005, RECP had received 22, 206 claims. Table 2 shows the number of RECA claims filed each fiscal year.

Table 2: Number of RECA Claims Filed Each Fiscal Year 1992 through 2005

1992	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005 ^a
1,898	1,340	1,207	827	551	408	358	394	837	3,822	3,345	3,105	2,380	1,734

Source: RECA claims data from DOJ's Civil Division's case histories database.

^aThrough June 19, 2005.

Number of Claims
Approved, Denied,
and Pending

When RECP reviews a claim, the review process ends in one of two possible outcomes—approval or denial of the claim. For approved onsite participant and downwinder claims, the claim is forwarded to the Treasury for payment. In the case of uranium worker claims, approved claims are forwarded to the Department of Labor for payment. If denied, applicants may refile their claims or pursue an administrative appeal which is handled by the agency. Of the total 22,206 claims filed, RECP reached a disposition on 20,403. The remaining 1,803, or about 8 percent of claims, were pending, as of June 19, 2005.

Through June 19, 2005, RECP had approved \$926.4 million in awards to claimants. Payment approvals include \$455.8 million based on downwinder applications; \$340.8 million to eligible individuals based on uranium mine employee applications; \$63.6 million based on on-site participant applications; \$55.0 million based on uranium miller applications; and \$11.2 million based on ore transporter applications. Table 3 shows the number of RECA claims approved, denied, and pending through June 19, 2005, and the total dollar awards by claimant category.

Table 3: Number of RECA Claims Approved, Denied, and Pending through June 19, 2005

Category of Claimant	Approved	Denied	Pending	Total Claims	Dollar Awards Approved (\$millions)
Downwinder	9,117	2,751	918	12,786	\$455.8
Uranium miner	3,415	2,240	509	6,164	\$340.8
On-site participant	889	1,138	245	2,272	\$63.6
Uranium miller	550	147	111	808	\$55.0
Ore transporter	112	44	20	176	\$11.2
Total	14,083	6,320	1,803	22,206	\$926.4

Source: Department of Justice, Civil Division

Claims Processing Times Have Improved

We compared the claims processing times reported to us by DOJ in June of 2005, with the processing times at the time of our last report. As shown in table 4, claims processing times improved for four out of the five categories of claimants. The only category that does not show an improved average processing time is on-site participant claims.

Table 4: Average Number of Days to Process a Claim for Fiscal Years 1992 through June 2005

	Applicant type				
	Uranium miner	Downwinder	Uranium miller	Ore transporter	On-site participant
Average number of days to process claims					
End of fiscal year 2000	327	244	459	392	263
As of June 2005	313	222	335	351	323
Increase/ (decrease)	(14)	(22)	(124)	(41)	60

Source: Department of Justice Civil Division.

According to the program director, the increase in processing time for on-site participant claims is attributed to the extended periods of time requested by the claimants in order to make the election whether to accept the RECA award or an award pursuant to the Energy Employees Occupational Illness Compensation Program Act (EEOICPA). According to the RECA statute, if on-site participant claimants accept an award under

RECA, they will not be eligible to receive any payment or medical benefits under EEOICPA, even though they may qualify. Therefore, these claimants are provided with sufficient time in which to make this election.

Number of Pending Claims Is Down 32 Percent

The proportion of claims received but not yet adjudicated has decreased significantly since we last reported. In our last report we stated that 2,654 of 14,987, or about 18 percent of claims filed, were still pending adjudication. According to agency data as of June 2005, the total number of pending claims is down to 1,803, or about 8 percent of the total 22,206 claims filed.

Agency Comments

We provided a draft of this report to the Attorney General for review and comment. The Justice Department had no formal comments. The Civil Division reviewed the report for accuracy and provided technical comments which have been incorporated in this report where appropriate.

Copies of this report are being sent to the Attorney General; the Director, Office Management and Budget; and any other interested parties. We will also make copies available to others upon request. Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this report. In addition, the report will be available at no charge on GAO's Web site at <http://www.gao.gov>.

If you or your staffs have any questions about this report, please contact me at (202) 512-8777 or at jonespl@gao.gov. William W. Crocker and Leo M. Barbour made key contributions to this report.



Paul L. Jones, Director
Homeland Security and Justice Issues

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