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RADIATION EXPOSURE COMPENSATION

Analysis of Justice's Program Administration

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Abbreviations

DOJ	Department of Justice
FTE	full-time equivalent
JMD	Justice Management Division
NGO	Nongovernmental organization
OPB&E	Office of Planning, Budget and Evaluation
RECA	Radiation Exposure Compensation Act
RECP	Radiation Exposure Compensation Program
WLM	working level months

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United States General Accounting Office
Washington, DC 20548

September 17, 2001

Congressional Committees

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 exposed to radiation resulting from the nuclear weapons 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,[1] the President signed into law the Radiation Exposure Compensation Act (RECA).[2] RECA established the Radiation Exposure Compensation Trust Fund (Trust Fund), criteria for determining claimant eligibility for compensation, and a program (administered by the Attorney General) to process and adjudicate claims under the act. The Department of Justice (DOJ) established the Radiation Exposure Compensation Program (RECP) within its Civil Division to administer its responsibilities under the act. Almost 2 years later, RECP began processing claims in April 1992. RECA has been amended several times,[3] most recently on July 10, 2000, when the President signed into law the Radiation Exposure Compensation Act Amendments of 2000.[4] The 2000 amendments further broaden the scope of eligibility for benefits coverage to include new victim categories and modify the criteria for determining eligibility for compensation.

The 2000 amendments also mandate that we periodically report to the Congress on DOJ's administration of the program. This report covers program performance from 1992 to the end of fiscal year 2000 and (1) determines the outcomes of RECP's claim review and adjudication process; (2) quantifies the costs to DOJ for administering the program; (3) documents DOJ's procedures to certify that funds are appropriately disbursed from the Trust Fund; and (4) describes RECP's outreach

[1]The amount of money paid does not completely compensate for the victim's costs or suffering.

[2]P.L. 101-426, 104 Stat. 920 (Oct. 5, 1990).

[3]Early amendments included November 1990 amendments (P.L. 101-510, 104 Stat. 1835, 1837), which among other things expanded eligibility to include onsite participants and October 1992 amendments (P.L. 102-486, 106 Stat. 3131), which provided for the judicial review of denied claims.

[4]P.L. 106-245, 114 Stat. 501.

activities intended to inform potential claimants about and facilitate their applying for compensation.

Results in Brief

Through the end of fiscal year 2000, RECP has received 7,819 applications for compensation. Roughly equal numbers of applications have been approved and denied, awarding compensation to about 46 percent of the claimants and denying compensation to about 46 percent. Approximately 8 percent of the applications were still pending at the time of our analysis. RECA claims are most frequently denied because the disease contracted by the victim is not specifically designated as eligible for compensation under the RECA program. Treasury paid $245.1 million in compensation to 5,150 victims or their survivors, but later awards were not paid by the end of fiscal year 2000 because the money in the Trust Fund was depleted. Subsequently, funds were appropriated to pay these claims. Although lack of funds may have prevented timely payment of compensation in some cases, RECP generally processed claims in a timely fashion. RECP case histories data showed that 89 percent of the claims were processed within the mandated 12 months. According to RECP officials, the remaining claims were not processed in a timely fashion because of mitigating circumstances. For example, rather than denying a claim in certain situations, RECP allowed a claimant extra time to find documentation to substantiate his or her claim, which delayed adjudication of the case.

The costs for administering RECP have fluctuated from the first full year of program implementation, fiscal year 1993, through fiscal year 2000. For example, administrative costs were $2.1 million in fiscal year 1993 and $1.3 million in fiscal year 2000. Full-time equivalent (FTE) staff levels have ranged from 15.4 in fiscal year 1994 to10.4 in fiscal year1999.

DOJ has procedures in place to certify that funds are appropriately disbursed from the Trust Fund. Our review of the payment documentation for 30 randomly selected RECA cases, where compensation was awarded, indicated that all payments were made as authorized.

To identify and inform candidates of their potential eligibility for compensation under the program and to help them apply for funds, RECP engages in three primary outreach activities. The program has established an Internet website,[5] conducts onsite visits to groups and organizations to promote the program, and operates a toll-free telephone line for program

[5]The RECP website address is http://www.usdoj.gov/civil/torts/const/reca/index.htm.

queries. We spoke with 11 nongovernmental organizations (NGO) that assist potential RECA claimants. These groups had mixed comments about RECP's outreach efforts. Although five organizations said that RECP had made an effort to inform them about their eligibility for the program, eight said that RECP had made no attempt to coordinate its outreach efforts with them. RECP officials told us that they are looking into the concerns raised by the NGOs and are actively exploring new techniques for meeting the needs of claimants and others interested in the program.

In its comments on a draft of this report, Justice generally concurred with our results.

Background

RECA establishes a procedure to make partial restitution to individuals who contracted serious diseases, such as certain types of cancers, presumably resulting from their exposure to radiation from aboveground nuclear tests or as a result of their employment in uranium mines. The law established three claimant categories—uranium mine employees (those who worked in underground uranium mines in certain specified states), downwinders (those who were downwind from aboveground nuclear weapons tests conducted at the Nevada test sites), and onsite participants (those who actually participated onsite in aboveground nuclear weapons tests). Table 1 summarizes the key provisions of RECA by type of claim, prior to the RECA 2000 Amendments.

Table 1: Summary of Key Legal RECA Provisions by Claimant Category

Claimant category[a]	Time periods	Location	Amount of compensation	Examples of diseases covered	Other
Uranium mine employees	Any time from January 1, 1947-December 31, 1971.	Colorado, New Mexico, Arizona, Wyoming, or Utah.	$100,000	Lung cancer and certain nonmalignant respiratory diseases.	Victims must have been exposed to minimum levels of radiation.[b]
Downwinders	A period of at least 2 years from January 21, 1951-October 31, 1958 or for the period between June 30 and July 31, 1962.	Certain Utah, Nevada, and Arizona counties downwind from the Nevada test site.	$50,000	All of the primary cancers listed in RECA, such as leukemia and lymphomas, multiple myeloma, and primary cancer of the thyroid.	
Onsite participants	Designated nuclear tests from July 16, 1945-December 31, 1962.	Onsite testing areas include the Nevada, Pacific, Trinity, and the South Atlantic test sites.[c]	$75,000	Certain types of leukemia and lymphomas, multiple myeloma, and primary cancer of the thyroid.	Justice identifies the test sites in the RECA implementation regulations.

[a]Also includes victim's survivors.

[b]Levels of exposure to radiation are referred to as working level months (WLMs) and are calculated by multiplying the number of months an individual worked in a particular uranium mine and the radon level in the mine during the period of employment. Minimum WLM exposure for eligibility purposes varied from 200 to 500 WLMs and is on the basis of the victim's smoking history and age of diagnosis with a compensable disease.

[c]Justice lists the dates and locations of the atmospheric tests conducted by the federal government in regulations codified at 28 C.F.R. Part 79. For claimant eligibility, Justice adds 6 months to the end of the designated time span for each of the listed test periods.

Source: RECA and related regulations.

In addition to creating eligibility criteria for compensation, the law stipulates that appropriated funds be held in the Trust Fund to pay claims. By law, the Trust Fund is to be administered by the Secretary of the Treasury but maintained by the Attorney General. The Attorney General is also responsible for reviewing applications to determine whether applicants qualify for compensation and establishing procedures for paying claims. To discharge these two responsibilities, the Attorney General issued a final regulation implementing RECP on April 10, 1992.

The regulation established RECP within Justice's Civil Division and charged it with administering claims adjudication and compensation under the act. To file for compensation, applicants submit the appropriate claims forms along with corroborating documentation to RECP, whose claims examiners and legal staff review and adjudicate the claims. If the claim is approved, Justice authorizes the Treasury Department to make payment

from the Trust Fund. If the victim is deceased, compensation may be awarded to the victim's eligible survivors (e.g., the victim's spouse or children). Figure 1 shows RECP's claims adjudication process, including the procedures for refiling and administratively appealing denied claims.

If RECP denies a claim, it notifies the claimant in writing of the basis for the denial and the claimant's rights to refile or appeal the claim. Claimants may refile a claim with new information to RECP up to two times. If denied, claimants may file an administrative appeal to a Justice Appeals Officer, who can affirm or reverse the original decision or remand the claim back to RECP for further action. Applicants may also appeal denied claims in the U.S. district courts. RECP officials said that through July 3, 2001, claimants sought a judicial remedy only eight times.

More recently, the Attorney General approved revisions to the regulations, effective April 21, 1999, to assist claimants in establishing entitlement to an award. The revised regulations modified eligibility restrictions regarding the claimants' use of tobacco. Prior to the revision, RECP would apply stricter standards if the victim contracted certain qualifying diseases and was a "heavy smoker" or "heavy drinker."[6] The revised regulations, among other things, allow claimants to submit affidavits to establish smoking use histories and to submit pathology reports showing specified diseases. In addition, the changes permit applicants, whose claims were denied prior to the implementation of these regulations, to file another three times.

The RECA Amendments of 2000,[7] signed into law by the President on July 10, 2000, expanded the criteria for compensation, opening RECP to more people and establishing a prompt payment period. Some of the major changes include:

- permitting eligible aboveground uranium mine employees, uranium mill workers, and individuals, who transported uranium ore, to qualify for compensation; they are entitled to a payment of $100,000;
- increasing the geographic areas included for eligibility and extending the time period considered for radiation exposure for uranium mine employees;

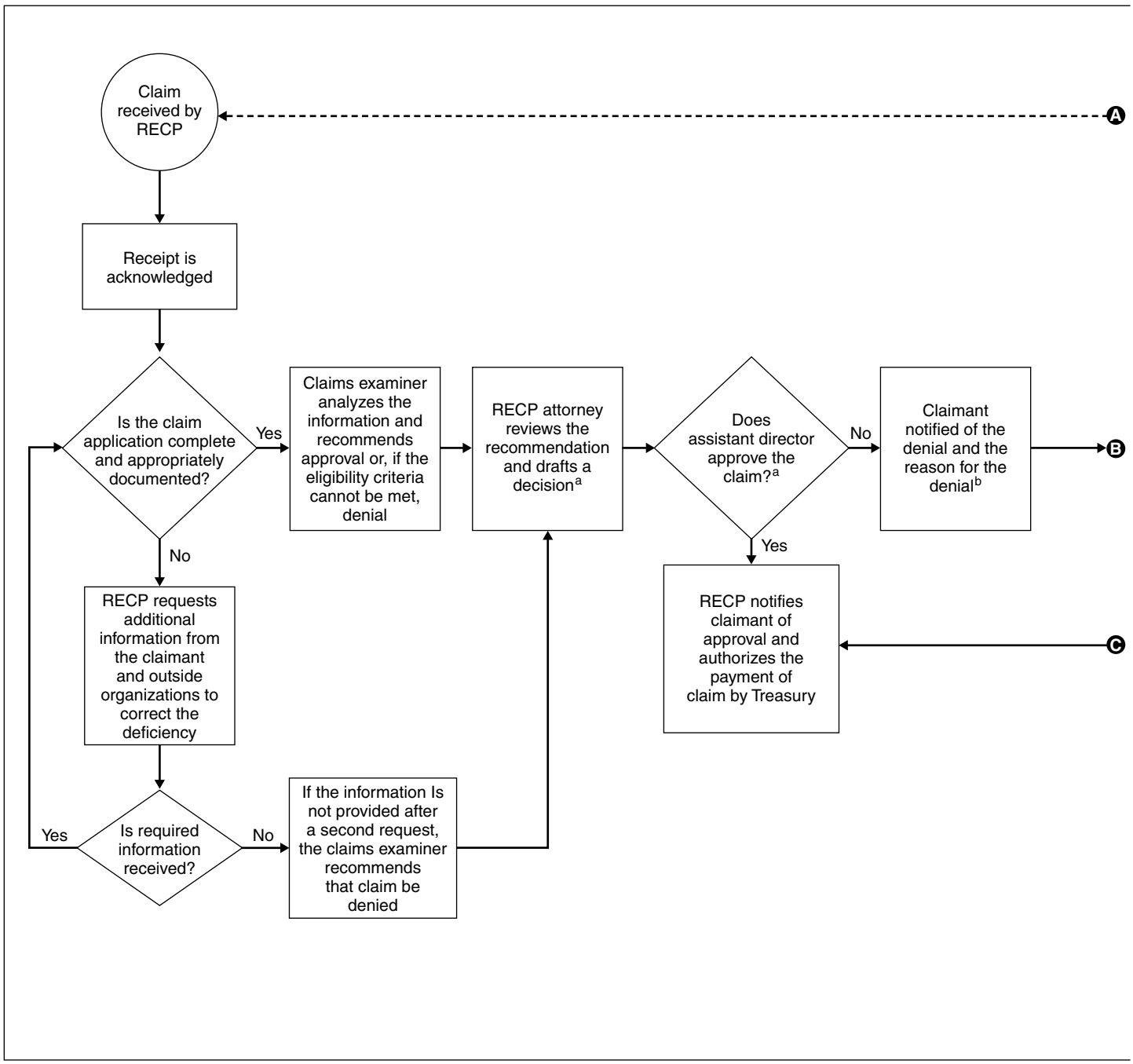
[6]The revisions modify the definition of nonsmoker to include former smokers who stopped smoking at least 15 years prior to the diagnosis of a compensable disease.

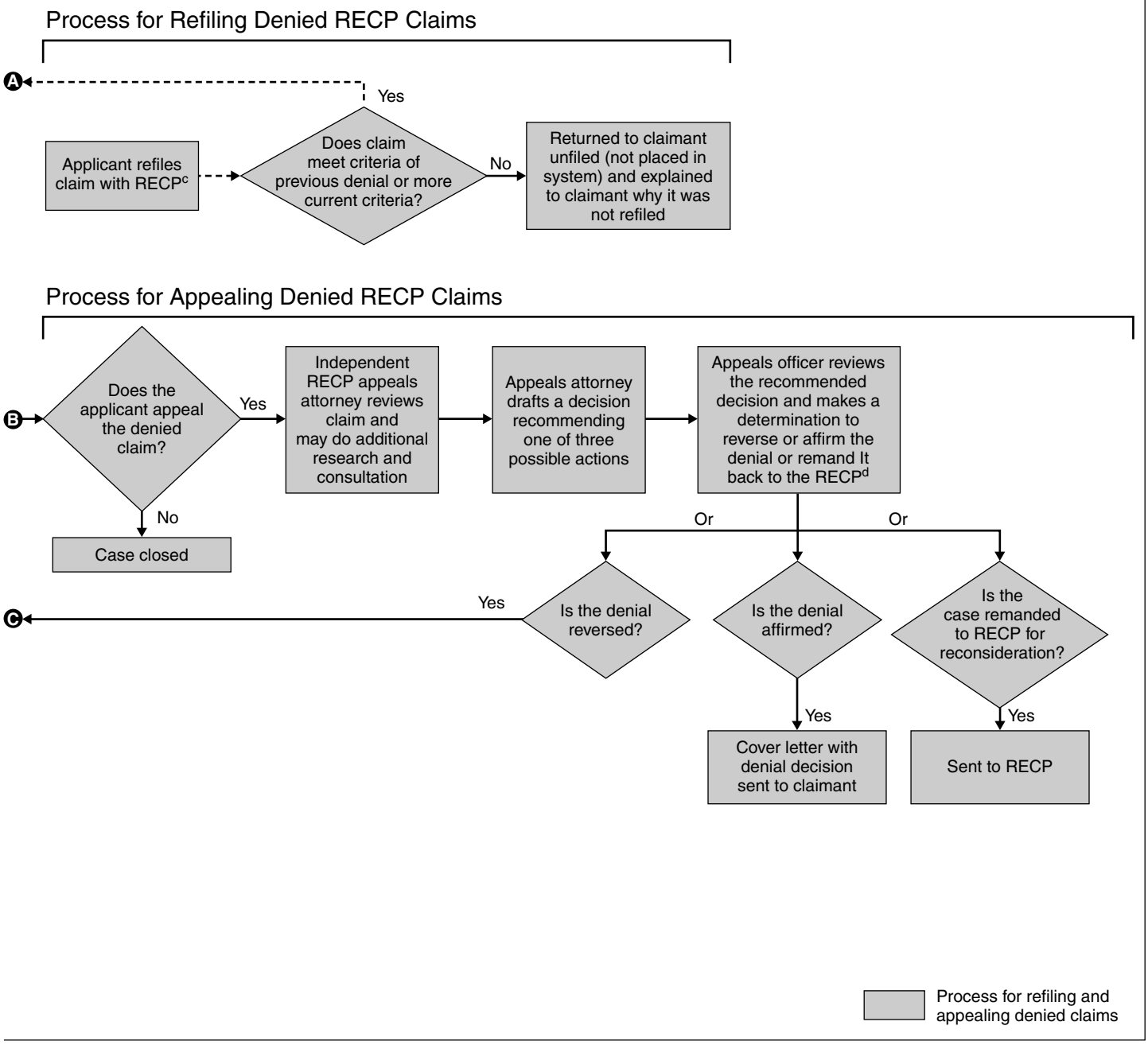
[7]P.L. 106-245.

- expanding the list of specified diseases that may qualify individuals for compensation to include other types of cancer and also noncancers (e.g., salivary gland, brain, and colon cancer);
- decreasing the level of radiation exposure that is necessary to qualify for compensation for uranium mine employees;[8]
- making certain medical documentation requirements less stringent for potential claimants;
- eliminating distinctions between smokers and nonsmokers pertaining to diseases such as lung cancer and nonmalignant respiratory diseases; and
- requiring the Attorney General to ensure that a claim is paid within 6 weeks of approval.

[8]The minimum radiation exposure level for uranium mine employees was reduced from a range from 200 to 500 WLMs to 40 WLMs.

Figure 1: RECP's Claims Adjudication Process





[a]The RECP attorney may request additional supporting information before making a recommendation (for approval or denial) to the Assistant Director.

[b]As of July 10, 2000, based on the 2000 amendments, an applicant can file a claim for consideration up to three times.

[c]Applicants whose claims have been denied are permitted to refile their claims if (1) they provide information to correct the deficiency that was the basis for the last denial under the original RECA legislation or (2) they believe that they are now eligible as result of the 1999 regulatory changes and/or the 2000 amendments.

[d]The Appeals Officer may (1) reverse the denial (award compensation to the claimant), (2) affirm the denial (deny compensation to the claimant), or (3) remand the case to RECP. The decision is equivalent to a negative determination for the other two options.

Source: Prepared by GAO based on RECP's information.

In addition to RECA, other programs provide compensation to persons who have presumably become ill as a result of working for the federal government in producing or testing nuclear weapons. For example, the Radiation-Exposed Veterans Compensation Act of 1988, in general, provides monthly compensation to veterans who were present at certain atomic bomb exercises, served at Hiroshima and Nagasaki during the post World War II occupation of Japan, or were prisoners of war in Japan.[9] In addition, on October 30, 2000, the President signed into law The Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001.[10] Title XXXVI of this act establishes the "Energy Employees Occupational Illness Compensation Program" to, in general, compensate covered employees who contracted certain illnesses resulting from exposure to certain ultra-hazardous materials during employment in Department of Energy facilities that processed or produced radioactive materials used in the production of atomic weapons. Certain uranium employees who are eligible for compensation under RECA may also be eligible for additional compensation and medical benefits under title XXXVI. This would be RECP's administrative responsibility.

Scope and Methodology

To determine the outcomes of the claims adjudication process, including the number of approved and denied claims, the timeliness of the claims adjudication process, the primary reasons for denials, and the amount of money awarded, we obtained and analyzed RECA-related case information from DOJ's Civil Division's case histories database. Our analysis was done on claims filed during fiscal years 1992 through 2000. Our analysis was done using the case histories database, as of February 26, 2001. We also analyzed claims payment information from the Civil Division's Office of Planning, Budget and Evaluation (OPB&E). We discussed the basis for any

[9]P.L. 100-321, 102 Stat. 485 (May 20, 1988).

[10]P.L. 106-398, 114 Stat. 1654.

major fluctuations with RECP officials. While we did not independently verify the accuracy of the RECA data extracted from the database, we did, however, ask the Civil Division's Office of Management Information, the office that maintains the database, to complete a data reliability questionnaire about the design specifications and documentation for the database. The reliability questionnaire also posed questions about quality controls and procedures used to ensure data reliability. Our analysis of the questionnaire responses did not indicate any data reliability problems.

To determine the cost of administering the RECP and the FTE program staff levels, we requested that OPB&E provide us with RECP administrative costs by budget object class for the end of fiscal years 1992 through 2000. The cost provided includes items such as personnel compensation and benefits, travel and transportation of persons, and printing and reproduction costs. To determine FTE staffing levels, the office provided us with FTE staff levels for RECP at the end of fiscal years 1992 through 2000.

To determine the nature of expenditures from the Trust Fund, we evaluated annual Trust Fund activity (appropriations, interest earned on investments in government securities, and payments to awarded individuals) from fiscal years 1992 through 2000 provided by OPB&E.

To verify that compensation awarded by RECP was paid as authorized, we randomly selected 30 individual payments from DOJ's Civil Division's case histories database of 1,592 RECA payments made from fiscal years1996 through 2000. We then obtained financial documentation for each payment from OPB&E, including (1) RECP's payment authorization letter to OPB&E, (2) the fiscal payment request invoice approval sheet from OPB&E to the Justice Management Division's (JMD) Financial Operations Service, and (3) the payment certification summary generated from a JMD financial database that shows that the Department of the Treasury made payments electronically or by check to the authorized individuals. We interviewed officials from RECP, OPB&E, and JMD to determine how they authorize, process, and certify payments from the Trust Fund. Finally, we interviewed officials from Treasury's Financial Management Service to clarify Treasury's role in disbursing the awarded RECA compensation.

To determine the nature of RECP's outreach activities, we interviewed RECP officials who described the elements of their outreach efforts and provided us with a list of the office's outreach-related onsite visits that could be identified from existing records. To obtain insights on RECP's outreach efforts, we conducted telephone interviews with a judgmental sample of 11 NGOs that (1) had members who could be eligible for

compensation under RECA or (2) provided assistance and information about the program to potentially eligible candidates. We selected these organizations from a list provided by RECP, an Internet search, and a list of those who testified before the Congress in a RECA-related 1998 hearing.[11] In addition, we asked officials from these organizations to suggest other related groups for us to contact, some of which we contacted.

As agreed, we focused our review on Justice's administration of RECA from its inception in fiscal year 1992 through the end of fiscal year 2000. We began our review in October 2000 and performed our audit work from January to August 2001 in Washington, D.C., in accordance with generally accepted government auditing standards.

Analysis of Processed RECA Claims

When RECP reviews and adjudicates a claim, the process ends in one of two possible outcomes—approval or denial of the claim. If approved, Justice electronically submits a request for payment to Treasury. If denied, applicants may refile their claims or pursue other avenues of appeal. Through the end of fiscal year 2000, RECP received 7,819 applications for compensation. During this period, RECP approved and denied roughly equal numbers of applications, awarding compensation to about 46 percent of the claimants, and denying compensation to about 46 percent. Moreover, approximately 8 percent of the applications were still pending at the time of our analysis. RECA claims are most frequently denied because the disease contracted by the victim is not specifically designated as eligible for compensation under the RECA program. Through the end of fiscal year 2000, $245.1 million was paid from the Trust Fund to 5,150 victims or their survivors, but some of the claims awarded by RECP were not paid because money in the Trust Fund was depleted. Although lack of funds may have prevented timely payment of compensation in some cases, RECP generally processed claims in a timely fashion. Our analysis of information from the case histories database showed that about 89 percent of claims were awarded or denied within the mandated 12-month time frame. The agency reported that the remaining claims were sometimes not processed within the 12-month period due to mitigating circumstances, such as claimants requesting extra time to find documentation to substantiate their claims.

[11]Radiation Workers Justice Act of 1998: Hearings on H.R. 3539 before the Subcommittee on Immigration and Claims of the Committee on the Judiciary, House of Representatives, 105th Cong. (1998).

Equal Numbers of Claims Approved and Denied

Our analysis of RECA-related claims information from the case histories database shows that from the April 1992 inception of the claims adjudication program through the end of fiscal year 2000, RECP had received 7,819 applications for compensation. As shown in table 2, there were 3,627 uranium mine employee-based applications (about 46 percent of the total); 3,140 downwinder-based applications (about 40 percent of the total); and 1,052 onsite participant-based applications (the remaining 14 percent of the total).

Table 2: Number of RECA Claims Received From Fiscal Years 1992 Through 2000

	Type of claim			
	Uranium mine employees	Downwinders	Onsite participants	Total
Approved	1,708	1,664	226	3,598
Denied	1,555	1,273	740	3,568
Pending	364	203	86	653
Total	**3,627**	**3,140**	**1,052**	**7,819**

Note: Approved, denied, and pending data at the time of our analysis.

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

Of the 7,819 claims filed, RECP approved 3,598 and denied 3,568. These amounts represent almost an even split between approvals and denials—about 46 percent for each. The remaining 8 percent of the claims were still pending at the time of our analysis. RECP approved about 47 percent of the uranium mine employee-based claims, about 53 percent of the downwinder-based claims, and about 21 percent of the onsite participant-based claims.

Through the end of fiscal year 2000, applicants had filed claims amounting to almost $600 million, and RECP had awarded (or obligated) about $269 million to individuals on the basis of these claims.[12] Of the amount awarded, only $245.1 million was paid through the end of fiscal year 2000 because the Trust Fund was depleted (see further discussion in the next section). RECP awarded $170 million to eligible individuals based on uranium mine employee applications (or about 63 percent of the total), $83 million based on downwinder applications (or about 31 percent of the total), and $16 million based on onsite participant applications (or about 6

[12]In certain cases, awarded compensation may not actually be paid. For example, an eligible individual may refuse to accept payment or the victim may pass away before the money is disbursed and an eligible surviving beneficiary cannot be located.

percent of the total). Appendix I contains data on refiled and appealed applications.

Applicants Denied Primarily Because Illnesses Are Not Compensated Under the Law

RECP denies claims when the applicants fail to meet eligibility requirements established by RECA and the Department of Justice's implementation regulations. Our analysis of RECA-related information from the case histories database shows that through the end of fiscal year 2000, RECP denied claims for compensation for 13 different reasons. The most frequent reason for denial for all three types of RECA claims was that the disease contracted by the victim was not specifically designated as eligible for compensation under the RECA program (in about 46 percent of the cases). By type of claim, the primary reasons for denial were as follows:

- **Uranium mine employee-based claims**—The victim did not meet the minimum exposure to radiation requirements (in about 53 percent of the cases) or did not contract a disease that was eligible for compensation (in about 36 percent of the cases).
- **Downwinder-based claims**—The victim did not contract an eligible disease (in about 49 percent of the cases), was not physically present in the designated areas during the required time period (in about 21 percent of the cases), or was either under or over the required age when first exposed to radiation (in about 17 percent of the cases).
- **Onsite participant-based claims**—The victim did not contract a disease that was eligible for compensation under RECA (64 percent of the denied cases) or did not qualify as an onsite participant (in 17 percent of the cases).

Lack of Funds Leaves Some Awarded Applicants Unpaid

According to OPB&E, through the end of fiscal year 2000, Treasury paid about $245.1 million in awarded compensation to 5,150 individuals from the Trust Fund. The number of individuals who received compensation exceeds the number of claims awarded compensation. For example, in certain instances where the victim was deceased, compensation was awarded to the victim's eligible children. On May 9, 2000, the amount of money awarded to claimants exceeded the amount of funds available in the Trust Fund. By the end of fiscal year 2000, 227 awards totaling $19.2 million had not been paid because money in the Trust Fund was depleted.

As shown in table 3, the Congress initially appropriated $30 million to the Trust Fund in fiscal year 1992. Additional appropriations were made in fiscal years 1993, 1997, 1998, and 2000. Money remaining in the Trust Fund

at the end of any given fiscal year is generally carried forward to the next fiscal year. According to Justice officials, money on deposit in the Trust Fund that is not needed in the short run for award payments may be invested in interest-bearing U. S. Treasury securities. The paid interest is then added to the account balance.

Table 3: Radiation Exposure Compensation Trust Fund Activity, Fiscal Years 1992 Through 2000

Dollars in thousands

Fiscal year	Carry forward from prior years[a]	Appropriated funds	Interest earned from government securities	Payments	Balance at end of fiscal year
1992	0	$30,000	0	$22,454	$7,546
1993	$7,546	$170,750	$2,493	$57,390	$123,399
1994	$123,399	0	$2,300	$60,651	$65,048
1995	$65,048	0	$1,365	$31,242	$35,171
1996	$35,171	0	$464	$21,133	$14,502
1997	$14,502	$30,000	$332	$15,882	$28,952
1998	$28,952	$4,381	0	$12,339	$20,994
1999	$20,994	0	$259	$12,822	$8,431
2000	$8,431	$3,200	0	$11,200	$431[b]

[a]The amount carried forward is equal to the sum of appropriated funds and interest earned, less payments from the Trust Fund.

[b]The $431,000 is the amount of money that was obligated, as of May 9, 2000, but not paid as of the end of fiscal year 2000. According to data provided independently by Treasury and Justice, the ending balance for fiscal year 2000 was $431,000.

Source: DOJ's Civil Division's OPB&E.

According to OPB&E, Justice requested that $21.7 million be appropriated to the Trust Fund in fiscal year 2000; however, the Congress appropriated $3.2 million. Combined with funds carried over from fiscal year 1999, a total of $11.6 million was on deposit in the Trust Fund at the beginning of fiscal year 2000.[13] These funds were fully committed by May 9, 2000, and payment of awards was deferred. RECP notified the eligible candidates by letter that although they qualified for compensation, their award could not be paid until additional funds became available. By the end of fiscal year 2000, payments for 227 approved claims amounting to about $19.2 million were delayed.[14] Subsequently, on December 21, 2000, the President signed

[13]The $11.6 million is comprised of the approximately $8.4 million carried forward from fiscal year 1999 plus the $3.2 million appropriated in fiscal year 2000.

[14]Payments of the obligated funds continued after May 9, 2000.

into law an appropriation of $10.8 million for the Trust Fund, with the stipulation that the money was only to be used to pay applicants who qualified under RECA as it existed on June 1, 2000, prior to the RECA 2000 Amendments. As of June 2001, according to RECP, 70 of the 227 delayed payments from fiscal year 2000 have been made—this amounted to about $5.2 million. On July 24, 2001, the President signed into law a supplemental appropriations act, which provided the Trust Fund with ". . . such funds as may be necessary. . . ." to pay approved claims through the end of fiscal year 2001.

Most Claims Processed on Time

The RECA legislation requires that applications be processed within 1 year. As shown in table 4, about 89 percent of the applications were processed within 12 months.[15] According to RECP officials, applicants may request additional time to submit more documentation to support their claims. We could not readily determine how many of the 692 applications that were not processed within 1 year were due to such requests.

Table 4: Average Processing Time for Approved and Denied Applications for Fiscal Years 1992 Through 2000

	Applicant Type				
Processing time in months[a]	**Uranium mine employees**	**Downwinders**	**Onsite participants**	**Total**	**Percent of total**
12 months or less	2,437	2,613	730	5,780	89
13 months	122	35	20	177	3
14 months	87	24	13	124	2
15 months	50	10	7	67	1
16 months	36	9	1	46	1
17 months	31	3	4	38	1
18 to 24 months	113	18	15	146	2
More than 24 months	63	7	24	94	1
Total	**2,939**	**2,719**	**814**	**6,472**	**100**

[a]Appealed and pending cases have been excluded.

Source: GAO's analysis of information from DOJ's Civil Division's case histories database.

Processing times for claims differed among the three applicant types. Our analysis of information from the case histories database showed that for fiscal years 1992 through 2000 the average processing time from the date

[15]Processing time begins when a claim is received by RECP and ends at case disposition. Further, appealed and pending cases have been excluded.

the application was filed until its disposition was 269 days for uranium miner employee-based claims, 190 days for downwinders-based claims, and 245 days for onsite participant-based claims.

As shown in table 5, the average processing times for approved and denied applications varied by application type from fiscal year 1992 through fiscal year 2000.

Table 5: Average Number of Days to Process Approved and Denied Claims for Fiscal Years 1992 Through 2000

	Applicant type			
	Uranium mine employees	Downwinders	Onsite participants	Average
Approved	251	185	324	224
Denied	291	198	217	243

Note: Approved and denied data were at the time of our review and only apply to claims that were not appealed.

Source: GAO's analysis of information from DOJ's Civil Division's case histories database.

RECP attributed fluctuations in the time required to process claims to the unique characteristics associated with each claim and the different factors involved in the review and application of the law for the three claims categories. RECP told us that since the inception of the program, its policy has been to assist claimants in any way that it can. In addition, rather than denying a claim, RECP said that it allows the claimant additional time to provide corroborating documentation.

RECP cited other reasons for delays in processing claims, including RECP's need, in certain cases, to gather medical records to address the statutory restrictions on certain compensable diseases and in other cases to gather the documentation necessary to establish that the victim meets the radiation exposure eligibility requirements. RECP said that in these instances, staff would conduct additional research on behalf of the claimant or allow the claimant more time to provide the proof necessary to establish exposure.

Justice processed and adjudicated 496 claims that were subsequently refiled. On average, these 496 claims were initially processed and adjudicated within 317 days. For those claims that were refiled for the first time, RECP took on average 258 days to process and adjudicate them. Furthermore, for those 21 claims refiled for a second time, RECP took on average 212 days to process and adjudicate them. When denied RECA claims were administratively appealed to Justice, Justice took on average

115 days to process and adjudicate appealed claims when it affirmed the denials and 262 days when it reversed the denials.

DOJ's Administrative Costs Fluctuated

As shown in table 6, RECP's FTE staff levels and administrative costs have fluctuated from the first full year of the program in fiscal year 1993 through the end of fiscal year 2000.[16] In fiscal year 2000, RECP employed a staff of 11.1 FTEs. Administrative costs were $2.1 million in fiscal year 1993, $1.1 million in fiscal year 1999, and $1.3 million for fiscal year 2000. Costs as measured by the average number of applications processed per FTE staff member and the average administrative cost for processing each application has shown substantial variation for fiscal years 1993 through 2000.[17] The average number of applications processed per FTE ranged from 61 in fiscal year 1998 to 210 in fiscal year 1993. The average cost for processing applications per FTE ranged from $725 in fiscal year 1993 to $1,667 in fiscal year 1998.

[16]Administrative costs include items such as personnel compensation and benefits, travel, rent, communications, utilities, printing and reproduction, supplies and materials, and equipment.

[17]We excluded fiscal year 1992 because RECP was in effect for less than 1 year.

Table 6: Average FTE Staff Levels and Administrative Costs for Processing RECA Claims for Fiscal Years 1992 Through 2000

	Fiscal year								
	1992[a]	1993	1994	1995	1996	1997	1998	1999	2000
FTE staff	7.6	13.8	15.4	11.8	11.2	11.8	10.9	10.4	11.1
Administrative costs (dollars in millions)	$1.0	$2.1	$2.0	$1.5	$1.5	$1.2	$1.1	$1.1	$1.3
Applications processed during fiscal year[b]	1,898	2,897	2,091	1,417	1,092	803	660	705	1,179
Average applications processed per FTE staff member	250	210	136	120	98	68	61	68	106
Average cost for processing RECA applications	$527	$725	$956	$1,059	$1,374	$1,494	$1,667	$1,560	$1,103

[a]Because RECP was implemented in April 1992, the FTE staff levels and administrative costs for fiscal year 1992 only reflect the April 1992 to September 30, 1993, time frame.

[b]Includes approved, denied, and pending applications. Because applications may not be completely processed in the year that they were received, they are counted for each year that they continue to be processed. This explains why the total number of applications shown in the table as being processed from fiscal years 1992 through 2000 (12,742), exceeds the total number of applications filed during the same period (7,819).

Source: GAO's analysis of information from DOJ's Civil Division's case histories database and information provided by OPB&E.

RECP officials said that the average cost for processing RECA applications fluctuated because many of the claims RECP received when the program began in 1992 were more complete than those received later. RECP officials told us that these later claims were typically far more complex than those initially processed, and RECP staff spent more time in assisting claimants with establishing eligibility.

RECP officials told us that as a result of the RECA 2000 amendments, claims are being received at a record pace, far exceeding even the initial phase of operations in 1992. The officials said that RECP has also received an unprecedented number of telephone and written inquiries and requests for claim forms, program information, and information regarding the status of claims. According to RECP officials, staff responding to a significant number of inquiries regarding the status of funding to pay approved RECA claims has stretched RECP's operational resources further. The officials told us that, to date, RECP has not received an increase in administrative funds to accommodate its increased workload.

Certification of the Trust Fund Payments Appears Adequate

Justice has procedures in place to certify that funds are appropriately disbursed from the Trust Fund. Our review of the payment documentation for 30 randomly selected RECA cases, where compensation was awarded, indicated that all payments were made as authorized.

Justice Has Procedures in Place to Certify that Payments Are Made Appropriately

According to the law, moneys on deposit in the Trust Fund are to be used solely to pay compensation to eligible RECA claimants. Treasury is to disburse payments from the Trust Fund on the basis of authorization and certification from Justice.

Justice has established procedures for authorizing and certifying the payment of awarded claims from the Trust Fund. When a claim is approved, according to Justice officials, RECP authorizes payment to the eligible applicants. OPB&E obligates the funds, and JMD certifies the approved claim for payment on the basis of the supporting documents. JMD then electronically submits a request for payment to Treasury's Disbursement Center. Treasury confirms to JMD on a daily basis that it has received the request and made payment as directed. A JMD official told us that payment is generally made within 24 hours of JMD's electronic submission. At the end of each month, Treasury sends a list of disbursements made for that month back to JMD, which then reconciles the list with its own records.

Trust Fund Appears to be Used Appropriately

On the basis of our review of a random sample of 30 of the approximately 1,592 RECA payments made from fiscal years 1996 through 2000 where compensation was awarded by RECP (from the Trust Fund) to eligible individuals, we found that the payments were made as authorized to these individuals. We obtained and examined the financial authorization and certification documents for each of these 30 RECA payments from OPB&E. Using these documents, we traced RECA payments from authorization by RECP, through obligation by OPB&E, certification by JMD, and disbursement by Treasury. The monthly list of disbursements submitted by Treasury to JMD contains the schedule payment numbers for both electronic direct deposit and Treasury payments and also the Treasury check number. Financial summary information from this database allowed us to verify that all payments from our sample were made as authorized. As a result, at the 95-percent level of statistical confidence, we estimate that no more than 9 percent of the approximately 1,592 individual payments from which the sample was drawn could have resulted in unauthorized payments.

Views on RECP's Outreach Activities Are Mixed

To identify and inform people of their potential eligibility for compensation under the program and to help them apply for compensation, RECP engages in three primary outreach activities. We spoke with 11 organizations that assist potential RECA claimants. These groups had mixed comments about the extent of RECP's outreach efforts.

RECP Engages in Outreach Activities

RECP has established an Internet website, conducts onsite visits, and operates a toll-free telephone number for program queries.

Internet website—According to RECP officials, the Internet website was launched in November 1999 and is linked to Justice's main website. Claimants can download background information about RECA and related programs, statistical information dealing with awards and payments, and application forms. Claimants can also e-mail questions and requests for information through the website. In calendar year 2000, there were 3,727 "hits" to the RECP website.

Onsite visits—Based on a review of travel records, RECP officials have identified at least 36 outreach-related onsite visits that they have made from fiscal years 1992 through 2000. The officials told us that in many cases they did not maintain historical records of the specific organizations or groups they visited or the nature of their outreach activities during these visits. However, the summary information that RECP was able to provide shows that these onsite visits were primarily made to the five western states covered under the act—Arizona, Colorado, Nevada, New Mexico, and Utah. To inform potential applicants of planned onsite visits, officials told us that they place advertisements on local radio stations and in local newspapers. During these visits, the officials provide candidates with program regulations, instruction booklets, and applications. The officials told us that they explain the program, the application process, and assist the candidates with completing the forms. RECP does not produce any leaflets, flyers, or brochures that explain the RECA program for public distribution.

Toll-free telephone Number—RECP maintains a toll-free number for queries about the program and assigns a staff member and two alternates to answer the telephone.[18] RECP officials told us that contract personnel assist with answering the telephone and routing the calls to the appropriate staff members. According to RECP officials, the toll-free number is included on RECP correspondence, applications, instruction booklets, and the website, and it is also provided to potential applicants by health-related organizations that may come into contact with them. Over the life of the program, most of the queries have dealt with requests for claims forms and the status of claims in process.

[18]The toll-free telephone number is 1-800-729-RECP (7327).

RECP officials told us that they initiated their outreach activities in 1991, when they announced through press releases that RECP would be conducting town hall meetings at various sites in Colorado, Nevada, Utah, and Wyoming. RECP said that these first outreach meetings were an attempt to reach wide audiences and inform them about RECA. Also, RECP told us that they compiled mailing lists from meeting attendance sheets, which were later used as the basis for mailing claims applications packages to the meeting participants.

According to RECP officials, because a large percentage of the uranium mine employee population were members of the Navajo Nation and because of the language and cultural barriers, RECP began to focus its outreach efforts on the Navajo Nation. RECP told us that from mid-1992 through mid-1994, RECP staff went out to various chapter houses of the Navajo Nation in Arizona and New Mexico to conduct outreach meetings. The attendance at these meetings varied from as few as 20 people up to 100 people. The RECP officials informed us that in May 1994, RECP staff set up an office at the facilities of the Office of Navajo Uranium Mine Workers in Shiprock, New Mexico. They said that this outreach office was used by RECP until 1997. During this time, according to the officials, RECP outreach efforts were concentrated in Shiprock and at the various Navajo Nation fairs in Arizona and New Mexico.

According to RECP officials, they have also contacted organizations such as the Health and Human Services' National Institute of Occupational Safety and Health; St. Mary's Hospital in Grand Junction, Colorado; the University of New Mexico Health Clinic in Albuquerque, New Mexico; and the Miners' Colfax Medical Center in Raton, New Mexico, to help publicize the program. Program officials also reported that since RECP's inception, they have publicized the program through press releases.

Nongovernmental Organizations Express Mixed Views on Effectiveness of Outreach Activities

We conducted structured telephone interviews with representatives from 11 NGOs that are involved with RECA-related activities in order to gather their views on RECP's outreach efforts. The NGOs that we contacted included medical research institutes, Native American assistance groups, an atomic veteran's association, a uranium workers council, a RECA reform coalition, an association of radiation survivors, and downwinders' associations. Our interviews focused on the NGOs' experiences with respect to RECP's outreach efforts to inform potential applicants about the program and how helpful RECP was in assisting claimants with the application process.

The NGOs were generally mixed in their comments about RECP's efforts to inform them about the compensation program.

- Five of the 11 NGOs told us that RECP had made an effort to inform them about potential eligibility for compensation under the program, but 8 of the 11 said that RECP had made no attempt to coordinate its outreach efforts with their organizations.
- Six of the groups said that RECP had succeeded in informing potential claimants about the program from some extent to a great extent.
- Five groups said that RECP was somewhat to very responsive to their written requests for information.
- Eight groups said that RECP was somewhat to very responsive to their telephone calls.
- Four groups told us that RECP was somewhat to very responsive to their e-mail queries.[19]
- Eight organizations were familiar RECP's website and had used the website to gather general program information and six used the website to obtain claims applications.

The NGOs' views of RECP's efforts to assist potential claimants with the application process also varied. Six of the organizations believed that RECP was of little to no help in explaining the requirements for documentation to substantiate applicant claims, but five believed that RECP was generally to very helpful. However, six organizations claimed that RECP was somewhat to very helpful in explaining the eligibility criteria for RECA compensation, while four believed that RECP was not very helpful. Regarding our telephone interviews with the NGOs, RECP officials told us that they are looking into the concerns the NGOs raised and are actively exploring new techniques for meeting the needs of claimants and others interested in the program.

Agency Comments and Our Evaluation

We provided a draft of this report to the Attorney General for review and comment. On August 28, 2001, we met with a Department of Justice RECP official (an Assistant Director of the Civil Division's Torts Branch), who provided us with consolidated comments from RECP. The Assistant Director said that RECP generally agreed with our draft report. In addition, the Assistant Director provided technical comments, which have been incorporated in this report where appropriate.

[19]These responses only include those NGOs that have Internet access.

Copies of this report are being sent to the Attorney General; the Director, Office of Management and Budget; and any other interested parties. We will also make copies available to others upon request.

If you or your staffs have any questions about this report, please contact James M. Blume or me at (202) 512-8777 or at jonesp@gao.gov. Key contributors to this report are acknowledged in appendix II.

Paul L. Jones
Director, Justice Issues

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Appendix I: Data on Refiled and Appealed Claims

Applicants whose claims are denied may refile their applications with Justice's Radiation Compensation Program (RECP), appeal the denial to a separate official within Justice's Civil Division, or appeal the denial in U.S. district courts. Claimants who choose to refile must provide documentation to correct the deficiency previously noted by RECP. Also, according to RECP, claims may be refiled by providing documentation to establish eligibility (1) as a result of regulatory or legislative changes to eligibility requirements subsequent to the denied application (e.g., changes mandated by the Radiation Exposure Compensation Amendments of 2000 and/or those required by the July 1, 1999, Attorney General regulations), or (2) under a different claim category (e.g., filing a downwinder-based claim after being denied compensation on an onsite participant-based claim).

Our analysis of the RECA case-related information from the case histories database showed that from April 1992 through the end of fiscal year 2000, a total of 496 applicants refiled claims—395 were uranium mine employee-based claims, 70 were downwinder-based claims, and 31 were onsite participant-based claims. Of these refiled claims, 250 were awarded compensation, 116 were denied compensation, and the remaining 130 were still pending resolution, at the time of our analysis. Of the 116 denied claims, 28 applicants refiled for a second time—all of these were uranium mine employee-based claims. Of the 28 denied claims, 21 were awarded compensation and the remaining 7 were still pending at the time of our review.

Applicants may also administratively appeal denied claims to a separate official (an Appeals Officer) within the Department of Justice's Civil Division. The applicants must do so within 60 days of the denial. Of the 3,568 claims denied by RECP, 710 (or about 20 percent) of the applicants administratively appealed the decision to Justice, as shown in table 7. In 553 of these cases (or 78 percent of the cases), the Appeals Officer affirmed the denials.

Table 7: Results of Appealed RECP Decisions for Fiscal Years 1992 Through 2000

Appeal	Type of claim							
	Uranium mine employees		Downwinders		Onsite participants		Total	
	Number	Percentage	Number	Percentage	Number	Percentage	Number	Percentage
Denials reversed	104	31	22	10	15	10	141	20
Denials affirmed	220	66	196	89	137	87	553	78
Pending	9	3	2	1	5	3	16	2
Total	333	100	220	100	157	100	710	100

Note: Approved, denied, and pending appeal data were at the time of our review.

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

Uranium miner claimants represented about 47 percent of the administratively appealed cases, downwinders about 31 percent, and onsite participants the remaining 22 percent. The denials were affirmed upon appeal for the vast majority of these cases.

According to RECP, once claimants exhaust their administrative remedies within Justice, they may appeal their cases in U.S. district courts. RECP records showed that from program inception in 1992 through July 3, 2001, eight claims denied by RECP have been appealed to the district courts. Two of these appeals were consolidated into one court case. The courts affirmed RECP's denials in three of the seven cases and remanded three of the cases back to RECP for readjudication. RECP again denied one of these three remanded cases, approved the claim in the second case, and the third case was still pending RECP review, as of July 3, 2001. In the seventh case, RECP reassessed and approved the claim.

Appendix II: GAO Contacts and Staff Acknowledgments

GAO Contacts

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