Congress of the United States
Washington, DC 20510

April 16, 2008

The Honorable Elaine Chao
Secretary, Department of Labor
Frances Perkins Building
Third Street and Constitution Avenue, NW
Washington, DC 20210

The Honorable Michael Leavitt
Secretary, Department of Health and Human Services
200 Independence Avenue, SW
Washington, DC 20201

John Howard, M.D.
Director, National Institute for Occupational Safety and Health
Centers for Disease Control and Prevention
Department of Health and Human Services
Patriots Plaza Building
395 E Street, SW, Suite 9200
Washington, DC 20201

Dr. Paul Ziemer
Chair, Advisory Board on Radiation and Worker Health
National Institute for Occupational Safety and Health
Centers for Disease Control and Prevention
Department of Health and Human Services

Dear Secretaries Chao and Leavitt and Doctors Howard and Ziemer:

We are writing to express our deep concern regarding news that certain workers at the Rocky Flats Plant or their survivors whose claims were approved as meeting the requirements for inclusion in the Special Exposure Cohort (SEC) will now be denied benefits based on Bulletin No. 08-14 issued by the Department of Labor (DOL) on January 23, 2008. This is a clear example of DOL changing the rules in the middle of the game and creating more bureaucratic red tape to prevent Rocky Flats Plant workers from receiving compensation. We ask that you reconsider the guidelines set forth in Bulletin No. 08-14 and actively work to grant these workers the compensation they deserve.

The Energy Employee Occupational Illness Compensation Program Act (EEIOCPA) was enacted to compensate the heroic men and women (or certain survivors) who worked in U.S. laboratories and factories building nuclear weapons during the Cold War. The men

and women who worked at the Rocky Flats plant served a critical role in the U.S. nuclear weapons program that was essential to our national security. However, on June 12, 2007 the Advisory Board on Radiation and Worker Health made its recommendation to limit the number of workers who would receive compensation to those who were employed at the Rocky Flats Plant from January 1, 1959 to December 31, 1966. On August 6, 2007, Secretary Leavitt designated the class for inclusion in the SEC, a decision which became final on September 5, 2007. This decision denied benefits to many workers who were exposed to toxic and carcinogenic properties and their survivors.

According to the SEC, Rocky Flats Plant workers are presumptively eligible for benefits if they can prove they worked at the Rocky Flats Plant for 250 days, suffered from one of the 22 specified cancers known to be linked to radiation exposure, and were monitored or should have been monitored for neutrons. However, through casework conducted in our Colorado district offices, an additional requirement was brought to our attention that significantly impacts the ability of workers to qualify for benefits. The additional requirement, found in EEOICPA Bulletin Number 08-14, requires workers to also prove that they worked in specific, high-risk buildings.

Letters from the Advisory Board on Radiation and Worker Health to Secretary Leavitt and letters drafted by Secretary Leavitt to Congress do not state that a worker would have to prove that they worked in specific buildings. In a letter to Speaker Nancy Pelosi, Secretary Leavitt designated the following class for addition to the SEC:

"Employees of the Department of Energy (DOE), its predecessor agencies, or DOE contractors or subcontractors who were monitored or should have been monitored for neutron exposures while working at the Rocky Flats Plant in Golden, Colorado, for a number of work days aggregating at least 250 worked days from April 1, 1952, through December 31, 1958, or in combination with work days within the parameters established for one or more other classes of employees in the Special Exposure Cohort."

As a specific example of the burden, pain and hardship that Bulletin Number 08-14 has caused, we would like to share with you the story of Ms. Mary Bock, a former employee of the Rocky Flats Plant and dedicated Cold War Veteran. For twenty years, Ms. Bock worked at the Rocky Flats Plant. She was a constant advocate of the Rocky Flats mission to the public, her family, and her friends. In 1985, as a result of her work at the Plant, Ms. Bock passed away from cancers that came to inhabit her bones, her lungs, and brain. Ms. Bock is survived by her two children, Mr. Steve Bock and Ms. Mary Yourishin.

As the bereaved, Mr. Bock and Ms. Yourishin filed a claim for compensation under Part B of EEOICPA, which was approved in November 2007. However, on March 3, 2008 Mr. Bock received a Remand Order form DOL informing him that his survivor claim was remanded to the Denver district office for "additional development based on the guidelines outlined in EEOICPA Bulletin No. 08-14." On March 14, 2008, Mr. Bock received a letter from the Final Adjudication Board (FAB) stating that his mother did not meet the standard of monitored or should have been monitored for neutron dose for at least 250 days in one year during the SEC covered period, essentially revoking the

previously approved claim. Additionally, the letter states that Mr. Bock would need to provide additional information to prove that his mother worked in one or more of the specific buildings listed in the letter.

Further restricting workers or their survivors from receiving compensation is not consistent with the purpose of the Program; to compensate those who put their health on the line to help fight the Cold War. We all know that it will be very difficult for Mr. Bock and other workers to provide the additional documentation. This difficulty was created when our government failed workers when it maintained shoddy, inaccurate and incomplete records.

Rocky Flats families have suffered enough. Again, we ask that you take the necessary steps to reverse the guidelines set forth in Bulletin No. 08-14. We also ask that you respond to this letter stating your authority to revoke the terms of the SEC.

Sincerely,

Ken Salazar
United States Senator

Mark Udall
Member of Congress

John Salazar
Member of Congress

Ed Perlmutter
Member of Congress