

Services, the State licensing agency (SLA).

Mr. Fracasso was placed on the Graduate Permanent Transfer Seniority List, effective November 22, 1991. The SLA, according to section IX of its Rules and Regulations governing the Randolph-Sheppard vending program in Rhode Island, maintains two lists regarding vendor transfer and promotions. One list is a Vendor Permanent Transfer Seniority List, which ranks licensed operators based on the length of time the licensee actually has operated a vending facility. The other is a Graduate Permanent Transfer Seniority List, which ranks graduate licensees awaiting a vending facility location by seniority, based upon each person's graduation date from the vending facility training program.

In May 1993, the Woonsocket Post Office vending facility became open for bid, and complainant decided not to submit a bid for this location. Also, no other licensed operator or licensee awaiting a vending assignment submitted a bid at the time of the bid closing. Subsequently, the SLA assigned another recent licensee to this location, which placed the new graduate on the Vendor Permanent Transfer Seniority List.

In July 1993 the Providence Health Lab came up for bid, and Mr. Fracasso submitted his bid for this location. The official bidding period closed, and the SLA notified complainant that the Providence Health Lab had been awarded to the licensee who had been assigned to operate the Woonsocket Post Office.

Mr. Fracasso requested and received on December 16, 1993, a State fair hearing regarding the placement of the other new licensee at the Providence Health Lab. The complainant alleged that the SLA illegally awarded that location to the other vendor since the other new vendor never actually operated the Woonsocket Post Office vending facility. Mr. Fracasso further alleged that the SLA's action in placing the new graduate on the Vendor Permanent Transfer Seniority List gave that vendor an unfair advantage over complainant in his bid on the Providence Health Lab.

On March 4, 1994, the Hearing Officer issued his opinion affirming the SLA's decision to place the other new graduate at the Woonsocket Post Office since no one else from either of the two transfer seniority lists had placed a bid on the facility. The Hearing Officer also concluded that "when the health laboratory vending facility became subject to a bid solicitation, the award was granted to the most senior vendor

who bid. The most senior vendor who bid was the recent graduate from the training activity who had been awarded the vending facility in Woonsocket, R.I. on July 12, 1993."

The SLA adopted the Hearing Officer's decision as final agency action, and it was this decision that Mr. Fracasso sought to have reviewed by a Federal arbitration panel. A Federal arbitration hearing was held on December 4, 1995, concerning this complaint. On December 20, 1996, the panel reconvened, one panel member dissenting, at the request of the complainant to hear additional evidence.

The issues heard by the arbitration panel were—(1) Whether the SLA violated its bidding procedures in a manner that adversely affected Mr. Fracasso; (2) If the SLA were found in violation of its bidding procedures, whether an arbitration panel convened by an administrative agency of the Executive branch of government could order a State to pay money damages to a private individual under the Randolph-Sheppard Act; and (3) If the SLA were found in violation of its bidding procedures, what other remedies, if any, would be appropriate to redress the deprivation caused by the SLA of the complainant's enforceable rights.

Arbitration Panel Decision

Based upon the evidence presented at the hearing on this matter, the majority of the arbitration panel concurred with the SLA's acknowledgement that it had violated its own bidding procedures in awarding the Providence Health Lab vending facility to another vendor.

While admitting the violation, the SLA stated that the violation was not intentional and was a result of a bureaucratic error. The complainant, on the other hand, argued that the violation was intentional and was specifically directed in favor of the other vendor. On this point, the majority of the panel ruled that there was no compelling evidence presented to support the complainant's contention that the SLA intentionally favored the other vendor.

The panel next took up the issue of what remedies, if any, exist once a finding has been made that the SLA violated its bidding procedures.

The majority of the panel ruled, after extensive review of case law, that any award that required the State of Rhode Island to compensate Mr. Fracasso for misdeeds committed against him is barred by the sovereign immunity principle contained in the Eleventh Amendment to the United States Constitution despite the fact that the

SLA had violated its own bidding procedures.

The panel noted further that the United States Court of Appeals for the Eighth Circuit in *McNabb v. U.S. Department of Education*, 862 F.2d 681 (8th Cir. 1988), has allowed prospective damages—those that accrue after initiation of the arbitration—but not retrospective damages. However, the panel found that the complainant did not continue to incur damages as a result of the SLA's violation of the Act. In addition, the panel found that, while the complainant could be awarded costs under section 107d-2(d) of the Act, these costs did not include attorney's fees.

Concerning the remedy for the SLA's violation affecting complainant's seniority rights, the majority of the arbitration panel ruled that the Eleventh Amendment presented no bar because payment of money damages was not involved. The majority of the panel found that complainant was entitled to be reinstated to his appropriate place on the SLA's seniority list, and the SLA was directed to take any and all steps necessary to reinstate him.

One panel member dissented from the majority opinion.

The views and opinions expressed by the panel do not necessarily represent the views and opinions of the U.S. Department of Education.

Dated: October 31, 1997.

Judith E. Heumann,

Assistant Secretary for Special Education and Rehabilitative Services.

[FR Doc. 97-29270 Filed 11-4-97; 8:45 am]

BILLING CODE 4000-01-P

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Kirtland Area Office (Sandia)

AGENCY: Department of Energy

ACTION: Notice of open meeting

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770) notice is hereby given of the following Advisory Committee meeting: Environmental Management Site-Specific Advisory Board, Kirtland Area Office (Sandia).

DATE: Wednesday, November 19, 1997: 6:00 p.m.–8:56 p.m. (Mountain Daylight Time).

ADDRESSES: Los Duranes Community Center, 2920 Leopoldo NW, Albuquerque, NM.

FOR FURTHER INFORMATION CONTACT: Mike Zamorski, Acting Manager,

Department of Energy Kirtland Area Office, P.O. Box 5400, Albuquerque, NM 87185 (505) 845-4094.

SUPPLEMENTARY INFORMATION:

Purpose of the Board: The purpose of the Board is to make recommendations to DOE and its regulators in the areas of environmental restoration, waste management, and related activities.

Tentative Agenda:

- 6:00 p.m.—Call to Order/Roll Call—
Jamie Wells, Chair
- 6:02 p.m.—Public Comments
- 6:12 p.m.—Approval of Agenda
- 6:14 p.m.—Approval of 10/15/97
Minutes
- 6:19 p.m.—Chair's Report—Jamie Wells
- 6:24 p.m.—1. DOE Quarterly Meeting
- 7:24 p.m.—Break
- 7:34 p.m.—2. Self-evaluation
Committee Report—Yugal Behl,
Committee Chair
- 8:34 p.m.—3. 501(c)3 Non-Profit Status
Report—Paul Catacosinos
- 8:39 p.m.—4. New/Other Business
- 8:49 p.m. Public Comments
- 8:54 p.m.—Announcement of Next
Meeting—January 21, 1998

A final agenda will be available at the meeting Wednesday, November 19, 1997.

Public Participation: The meeting is open to the public. Written statements may be filed with the Committee either before or after the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact Mike Zamorski's office at the address or telephone number listed above. Requests must be received 5 days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Designated Federal Official is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Each individual wishing to make public comment will be provided a maximum of 5 minutes to present their comments. This notice is being published less than 15 days before the date meeting due to programmatic issues that needed to be resolved prior to publication.

Minutes: The minutes of this meeting will be available for public review and copying at the Freedom of Information Public Reading Room, 1E-190, Forrestal Building, 1000 Independence Avenue, SW, Washington, DC 20585 between 9:00 a.m. and 4 p.m., Monday-Friday, except Federal holidays. Minutes will also be available by writing to Mike Zamorski, Department of Energy Kirtland Area Office, P.O. Box 5400, Albuquerque, NM 87185, or by calling (505) 845-4094.

Issued at Washington, DC on October 31, 1997.

Rachel Samuel,

Deputy Advisory Committee Management Officer.

[FR Doc. 97-29260 Filed 11-4-97; 8:45 am]

BILLING CODE 6450-01-P

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Rocky Flats

Notice of Open Meeting

AGENCY: Department of Energy.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (Pub.L. 92-463, 86 Stat. 770) notice is hereby given of the following Advisory Committee meeting: Environmental Management Site-Specific Advisory Board (EM SSAB), Rocky Flats.

DATES: Thursday, November 6, 1997: 6 p.m.-9:30 p.m.

ADDRESSES: Westminster City Hall, Lower-level Multi-purpose Room, 4800 West 92nd Avenue, Westminster, CO.

FOR FURTHER INFORMATION CONTACT: Ken Korkia, Board/Staff Coordinator, EM SSAB-Rocky Flats, 9035 North Wadsworth Parkway, Suite 2250, Westminster, CO 80021, phone: (303) 420-7855, fax: (303) 420-7579.

SUPPLEMENTARY INFORMATION:

Purpose of the Board: The purpose of the Board is to make recommendations to DOE and its regulators in the areas of environmental restoration, waste management, and related activities.

Tentative Agenda:

1. How plutonium moves in the natural environment at Rocky Flats. Scientists are currently studying this subject and hope to be able to provide answers about the likelihood of radioactive materials migrating into the community from the Rocky Flats site.
2. Highlight the proposed decommissioning plan for the first plutonium-contaminated building to be taken down at Rocky Flats. The cleanup and demolition process for this building is scheduled to begin early in 1998.
3. Administrative Business.

Public Participation: The meeting is open to the public. Written statements may be filed with the Committee either before or after the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact Ken Korkia at the address or telephone number listed above. Requests must be received 5 days prior to the meeting and reasonable provision will be made to include the presentation

in the agenda. The Designated Federal Official is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Each individual wishing to make public comment will be provided a maximum of 5 minutes to present their comments at the beginning of the meeting. This notice is being published less than 15 days in advance of the meeting due to programmatic issues that needed to be resolved.

Minutes: The minutes of this meeting will be available for public review and copying at the Freedom of Information Public Reading Room, 1E-190, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585 between 9 a.m. and 4 p.m., Monday-Friday, except Federal holidays. Minutes will also be available at the Public Reading Room located at the Board's office at 9035 North Wadsworth Parkway, Suite 2250, Westminster, CO 80021; telephone (303) 420-7855. Hours of operation for the Public Reading Room are 9:00 a.m. and 4:00 p.m. on Monday through Friday. Minutes will also be made available by writing or calling Deb Thompson at the Board's office address or telephone number listed above.

Issued at Washington, DC on October 31, 1997.

Rachel Samuel,

Deputy Advisory Committee Management Officer.

[FR Doc. 97-29261 Filed 11-4-97; 8:45 am]

BILLING CODE 6450-01-P

DEPARTMENT OF ENERGY

International Energy Agency Meetings

AGENCY: Department of Energy.

ACTION: Notice of meetings.

SUMMARY: Subject to timely enactment of legislation to reinstate the antitrust defense under section 252 of the Energy Policy and Conservation Act, the Industry Advisory Board to the International Energy Agency (IEA) will meet November 12-13, 1997, at the IEA's headquarters in Paris, France to permit attendance by representatives of U.S. company members of the IAB at a joint meeting of the IEA's Standing Group on Emergency Questions (SEQ) and the Standing Group on the Oil Market and at a meeting of the SEQ.

FOR FURTHER INFORMATION CONTACT: Samuel M. Bradley, Acting Assistant General Counsel for International and Legal Policy, Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585, 202-586-6738.

SUPPLEMENTARY INFORMATION: Subject to timely enactment of legislation to