

any provisions of section 504(a)(2) and (b) of the Act, the records referred to in paragraph (11) are unconditionally available at their customary location for examination during normal business hours by—

- (i) Any duly authorized employee or representative of the Department or the Internal Revenue Service,
  - (ii) Any fiduciary of the Plan or any duly authorized employee or representative of such fiduciary,
  - (iii) Any employer of participants and beneficiaries and any employee organization whose members are covered by the Plan, or any authorized employee or representative of these entities; or
  - (iv) Any participant or beneficiary of the Plan whose Account is invested in Qualifying REIT Shares or the duly authorized employee or representative of such participant or beneficiary;
- (B) None of the persons described in paragraph (12)(A)(ii)–(iv) shall be authorized to examine trade secrets of the Trust REIT, or an Employer Affiliate or commercial or financial information which is privileged or confidential.

### Section III. Definitions

For purposes of this exemption,

- (a) **Account**—The term “Account” means the individual account of a participant in a defined contribution pension plan in which benefits are based solely upon the amount contributed to the participant’s account, and any income, expenses, gains or losses, and any forfeitures of accounts of other participants which may be allocated to such participant’s account.
- (b) **Affiliate**—The term “affiliate” of a person means:
- (1) Any person directly or indirectly through one or more intermediaries, controlling, controlled by, or under common control with such person;
  - (2) Any officer, director, employee, or relative (as defined in section 3(15) of the Act) of such person or partner in such person; and
  - (3) Any corporation or partnership of which such person is an officer, director, partner, or employee.
- (c) **Control**—The term “control” means the power to exercise a controlling influence over the management or policies of a person other than an individual.
- (d) **Employer Affiliate**—The term “Employer Affiliate” means any corporation, limited liability company (LLC), or partnership 50 percent or more owned by a Trust REIT.
- (e) **Independent Fiduciary**—The term “Independent Fiduciary” means a person who:
- (1) Is a trustee or an investment manager (as defined in 3(38) of the Act)

who had equity capital of at least \$1 million as of the last day of its most recent fiscal year and has client assets under management or control of over \$50 million;

- (2) Is not an affiliate of the Trust REIT, the Employer Affiliate or an affiliate thereof;
- (3) Is not a corporation, partnership or trust in which the Trust REIT, its Employer Affiliate or an affiliate thereof has a one percent or more ownership interest or is a partner;
- (4) Does not have more than a five percent ownership interest in the Trust REIT, its Employer Affiliate or an affiliate thereof;
- (5) Has acknowledged in writing that:
  - (i) It is a fiduciary; and
  - (ii) It has appropriate technical training or experience to perform the services contemplated by the exemption;
- (6) For purposes of this definition, no organization or individual may serve as Independent Fiduciary for any fiscal year in which the gross income received by such organization or individual (or partnership or corporation of which such organization or individual is an officer, director, or 10 percent or more partner or shareholder) from the Trust REIT, its Employer Affiliate and affiliates thereof, (including amounts received for services as an independent fiduciary under any prohibited transaction exemption granted by the Department) exceeds one percent of such fiduciary’s gross income for federal tax purposes in its prior tax year; and
- (7) In addition, no organization or individual which is an Independent Fiduciary and no partnership or corporation of which such organization or individual is an officer, director or 10 percent or more partner or shareholder may acquire any property from, sell any property to or borrow any funds from the Trust REIT, its Employer Affiliate or their affiliates, during the period that such organization or individual serves as an Independent Fiduciary and continuing for a period of six months after such organization or individual ceases to be an Independent Fiduciary or negotiates any such transaction during the period that such organization or individual serves as an Independent Fiduciary.
- (f) **Plan**—The term “Plan” means an individual account plan sponsored by the issuer of Qualifying REIT Shares or an Employer Affiliate thereof.
- (g) **Plan Sponsor**—The term “Plan Sponsor” means the Trust REIT or the Employer Affiliate that is the employer of the employees covered by the Plan.
- (h) **Primary Exchange**—The term “Primary Exchange” means the national

securities exchange or market system on which the Trust REIT shares are primarily traded, and which is either the New York Stock Exchange, the American Stock Exchange, or the National Association of Securities Dealers Automated Quotation System National Market.

(i) **Trust REIT**—The term “Trust REIT” means a “real estate investment trust” within the meaning of section 856 of the Code that is organized as a trust under applicable law.

(j) **Qualifying REIT Shares**—The term “Qualifying REIT Shares” means shares of beneficial interest in a Trust REIT that:

- (1) Are publicly traded (as defined in section III(k)); and
- (2) Have no trading restrictions other than those necessary to qualify for REIT status or otherwise to satisfy securities law or applicable exchange or market system trading rules. Notwithstanding the above, the term “Qualifying REIT Shares” includes a Trust REIT share that otherwise meets the conditions of this exemption but trades only as a unit consisting of a Trust REIT share and a share of corporate stock (a paired share arrangement), provided that the corporate stock with which it trades is a qualifying employer security as defined in ERISA section 407(d)(5).

(k) **Publicly Traded**—The term “publicly traded,” for purposes of this exemption, means Trust REIT shares of beneficial interest which are traded on the New York Stock Exchange, the American Stock Exchange, or the National Association of Securities Dealers Automated Quotation System National Market System.

(l) **Participant**—The term “participant” includes beneficiaries.

Signed at Washington, DC, this 22nd day of April, 2004.

**Ivan L. Strasfeld,**

*Director, Office of Exemption, Determinations, Employee Benefits Security Administration, U.S. Department of Labor.*  
[FR Doc. 04–9631 Filed 4–27–04; 8:45 am]

BILLING CODE 4520–29–P

## DEPARTMENT OF LABOR

### Employment and Training Administration

#### Job Corps: Final Finding of No Significant Impact (FONSI) for the Proposed Job Corps Center Located on Scott Hamilton Drive in Little Rock, AR

AGENCY: Employment and Training Administration, Labor.

**ACTION:** Final Finding of No Significant Impact (FONSI) for the proposed Job Corps Center to be located on Scott Hamilton Drive in Little Rock, Arkansas.

**SUMMARY:** Pursuant to the Council on Environmental Quality Regulations (40 CFR part 1500-08) implementing procedural provisions of the National Environmental Policy Act (NEPA), the Department of Labor, Employment and Training Administration, Office of Job Corps gives final notice of the proposed construction of a new Job Corps Center at Scott Hamilton Drive in Little Rock, Arkansas, and that this construction will not have a significant adverse impact on the environment. In accordance with 29 CFR 11.11(d) and 40 CFR 1501.4(e)(2), a preliminary FONSI for the new Job Corps Center was published in the February 13, 2004 *Federal Register* (69 FR 7261-7262). No comments were received regarding the preliminary FONSI.

ETA has reviewed the conclusion of the environmental assessment (EA), and agrees with the finding of no significant impact. This notice serves as the Final Finding of No Significant Impact for the new Job Corps Center at Scott Hamilton Drive in Little Rock, Arkansas. The preliminary FONSI and the EA are adopted in final with no change.

**EFFECTIVE DATE:** These findings are effective as of April 28, 2004.

**FOR FURTHER INFORMATION CONTACT:** Michael O'Malley, Employment and Training Administration, Department of Labor, 200 Constitution Avenue NW., Room N-4460, Washington, DC, 20210; (202) 693-3108 (this is not a toll-free number).

Dated this 15th day of April, 2004.

**Richard C. Trigg,**

*National Director of Job Corps.*

[FR Doc. 04-9570 Filed 4-27-04; 8:45 am]

BILLING CODE 4510-30-P

## DEPARTMENT OF LABOR

### Occupational Safety and Health Administration

#### National Advisory Committee on Ergonomics; Notice of Meeting

**AGENCY:** Occupational Safety and Health Administration (OSHA), Labor.

**ACTION:** Notice.

**SUMMARY:** The National Advisory Committee on Ergonomics (NACE) is part of the Secretary's comprehensive approach for reducing ergonomics-related injuries and illnesses in the workplace. The committee was convened for the first time on January

22, 2003. This notice schedules the fifth NACE meeting. The public is encouraged to attend.

**DATES:** The Committee workgroups will meet on Tuesday, May 11, 2004, from 1 p.m. until approximately 5 p.m. The full committee will meet on Wednesday, May 12, 2004, from 8:30 a.m. until approximately 5 p.m.

**ADDRESSES:** The committee will meet at the Holiday Inn on the Hill, 415 New Jersey Avenue, NW, Washington, DC 20001; Telephone: (202) 638-1616. Submit comments, views, or statements in response to this notice to MaryAnn Garrahan, Director, Office of Technical Programs and Coordination Activities, OSHA, U.S. Department of Labor, Room N-3655, 200 Constitution Avenue, NW., Washington, DC 20210. Phone: (202) 693-2144; Fax: (202) 693-1644.

**FOR FURTHER INFORMATION CONTACT:** OSHA, Office of Communications, Room N-3647, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210; Telephone: (202) 693-1999.

**SUPPLEMENTARY INFORMATION:** NACE was chartered for a two-year term on November 27, 2002, to provide advice and recommendations on ergonomic guidelines, research, and outreach and assistance. The committee has met on January 22, 2003, May 6-7, 2003, and January 27-28, 2004 in Washington, DC, and on September 23-24, 2003 in Arlington, VA. This notice announces the fifth meeting of the committee, which will take place in Washington, DC, on May 11-12, 2004.

#### I. Meeting Agenda

The Committee's working groups on Research, Guidelines, and Outreach and Assistance will meet on the afternoon of May 11. The working groups will report back to the full Committee on May 12th and lead discussions about their respective topics. On the morning of May 12, representatives of OSHA, will address the committee.

#### II. Public Participation

Written data, views, or comments for consideration by NACE on the various agenda items listed above may be submitted, preferably with copies for the NACE members, to MaryAnn Garrahan at the address listed above. Submissions received by May 4, 2004, will be provided to the committee members for consideration. Requests to make oral presentations to the committee may be granted if time permits. Anyone wishing to make an oral presentation to the committee should notify MaryAnn Garrahan at the address noted above. The request

should state the amount of time desired, the capacity in which the person will appear, and a brief outline of the content of the presentation. Persons who request an oral presentation may be allowed to speak, as time permits, at the discretion of the Chair of the Advisory committee.

Persons with disabilities requiring special accommodations should contact Veneta Chatmon (Phone: (202) 693-1912; Fax (202) 693-1635) by April 30, 2004.

A transcript of the meeting will be available for inspection and copying in the OSHA Technical Data Center, Room N-2625 (see **ADDRESSES** section above) Phone: (202) 693-2350. Transcripts of NACE meetings will also be available online on OSHA's Web site at [http://www.osha.gov/SLTC/ergonomics/nat\\_advis\\_comm.html](http://www.osha.gov/SLTC/ergonomics/nat_advis_comm.html).

**Authority:** This notice was prepared under the direction of John L. Henshaw, Assistant Secretary for Occupational Safety and Health. It is issued under the Federal Advisory Committee Act (FACA) (5 U.S.C. App. 2), GSA's FACA Regulations (41 CFR part 102-3), and DLMS 3 Chapter 1600.

Signed at Washington, DC, this 22nd day of April, 2004.

**John L. Henshaw,**

*Assistant Secretary.*

[FR Doc. 04-9571 Filed 4-27-04; 8:45 am]

BILLING CODE 4510-26-P

### MORRIS K. UDALL SCHOLARSHIP AND EXCELLENCE IN NATIONAL ENVIRONMENTAL POLICY FOUNDATION

#### Notice of Federal Advisory Committee Meeting

**Authority:** 5 U.S.C. Appendix; 20 U.S.C. 5601-5609.

**AGENCY:** U.S. Institute for Environmental Conflict Resolution, Morris K. Udall Foundation

**ACTION:** Notice of meeting.

**SUMMARY:** The National Environmental Conflict Resolution (ECR) Advisory Committee, of the U.S. Institute for Environmental Conflict Resolution, will conduct a public meeting on Thursday and Friday, May 13-14, 2004, at the Doubletree Hotel at Reid Park, 445 S. Alvernon Way, Tucson, Arizona 85711. The meeting will occur from 8 a.m. to approximately 5 p.m. on May 13, and from 8 a.m. to approximately 11:30 a.m. on May 14.

Members of the public may attend the meeting in person. Seating is limited and is available on a first-come, first-served basis. During this meeting, the