By clarifying its rules and abolishing out-dated language, the Exchange is not changing or altering any obligation, rights, policies or practices enumerated within its rules.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Securities Exchange Act of 1934 (the ''Act''),[6] in general, and furthers the objectives of Section 6(b)(5) of the Act,[7] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act[8] and Rule 19b–4(f)(6) thereunder.[9] Because the proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act[10] and Rule 19b–4(f)(6)(iii) thereunder.[11]

At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to rule-comments@sec.gov. Please include File Number SR–NYSEArca–2009–96 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSEArca–2009–96. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSEArca–2009–96 and should be submitted on or before December 1, 2009.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[12]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E9–26968 Filed 11–9–09; 8:45 am]

BILLING CODE 8011–01–P

[6] 15 U.S.C. 78f(b).

[7] 15 U.S.C. 78f(b)(5).

[8] 15 U.S.C. 78s(b)(3)(A)(iii).

[9] 17 CFR 240.19b–4(f)(6).

[10] 15 U.S.C. 78s(b)(3)(A).

[11] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires the Exchange to give the Commission written notice of the Exchange's intent to file the proposed rule change along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied the pre-filing requirement [sic].

[12] 17 CFR 200.30–3(a)(12).

SMITHSONIAN INSTITUTION

NATIONAL CAPITAL PLANNING COMMISSION

Intent To Prepare a Tier II Environmental Impact Statement for Proposed Construction of the Smithsonian National Museum of African American History and Culture

AGENCY: Smithsonian Institution (SI), National Capital Planning Commission (NCPC).

ACTION: Notice.

SUMMARY: Pursuant to section 102(2)(c) of the National Environmental Policy Act (NEPA) of 1969, as implemented by the Council on Environmental Quality (40 CFR parts 1500–1509), and in accordance with the Environmental Policies and Procedures implemented by the National Capital Planning Commission, the SI and NCPC announce their intent, as Joint-Lead Agencies, with NCPC as the Responsible Federal Agency, to prepare a Tier II environmental impact statement (EIS) to assess the potential effects of constructing and operating the National Museum of African American History and Culture (NMAAHC) within the Smithsonian Institution. The Museum will be located on a 217,800 square foot (SF) or 5 acre site bounded by Constitution Avenue, Madison Drive, 14th and 15th Streets, NW., on the National Mall in Washington, DC. A public meeting will be conducted to ensure that all significant issues related to construction and operation of the proposed museum are identified for study in the EIS. SI and NCPC are conducting this NEPA process concurrent with the National Historic Preservation Act (NHPA), section 106 process.

SUPPLEMENTARY INFORMATION: Public Law 108–184, the National Museum of African American History and Culture Act enacted by the Congress of the United States on December 16, 2003, (the Act) established a museum within the Smithsonian Institution to be known as the National Museum of African American History and Culture. It recognizes that such a museum ''would be dedicated to the collection, preservation, research, and exhibition of African American historical and cultural materials reflecting the breadth and depth of the experience of individuals of African descent living in the United States.''

Section 8 of the Act, ''Building for the National Museum of African American History and Culture,'' directs the Smithsonian Board of Regents to select one site among four in Washington, DC for the construction of the museum. After undertaking a site evaluation study and consultation with parties specified in the legislation, the Board of Regents of the Smithsonian Institution voted to select the area bounded by Constitution Avenue, Madison Drive, 14th, and 15th Streets, NW., now commonly known as the Monument site. The decision was announced on January 30, 2006.

After site selection, SI and NCPC, after consultation with the Council of Environmental Quality, decided to tier the EIS process (40 CFR parts 1502.20 and 1508.28). The Tier I EIS was completed with a Final EIS (FEIS) issued on June 27, 2008 and a SI Record of Decision issued on August 8, 2008.

The identity and description of the action to be addressed in both EIS tiers derive primarily from the language of Public Law 180–184, its legislative history, and the studies by the ''National Museum of African American History and Culture Plan for Action Presidential Commission'' that led to its enactment, and the Phase II Site Evaluation Study of November 15, 2005.

The Tier I FEIS analyzed a ''no build'' alternative along with six diagrammatic massing alternatives on the site. Alternatives addressed themes that included context, siting and mass, orientation, form, exterior spaces, and profiles. The Tier I FEIS concluded that the Build Alternatives all had comparable effects on the majority of resources analyzed. This highlighted the need to develop more concrete design concepts in order to assess fully the impacts of the NMAAHC on cultural and visual/aesthetic resources. Therefore, the SI chose to express the Tier I Preferred Alternative as a set of physical parameters related to heights, setbacks, and configuration. The physical parameters resulted in a Smithsonian Preferred Alternative of about 350,000 GSF that was bounded between 60 and 105 feet in height, a minimum 50 foot setback from the inside face of the sidewalk of the surrounding streets; and a subsurface volume not lower that 45 feet. The massing parameters ranged from orthogonal and contextual to free-form and non-contextual. While NCPC and Smithsonian are working cooperatively on this EIS, Smithsonian does not submit a design to NCPC for review until later in the process.

In addition to the physical parameters, the SI developed a set of design principles to help future design architects to minimize adverse effects on historic resources. The principles speak to the importance of relating to and respecting the character, views, and spatial arrangements of the National Mall; the character, scale, and historic context of the Washington Monument grounds; and the relationship of the NMAAHC to adjacent architectural and urban contexts.

The potential range of alternatives that will be evaluated in the Tier II EIS includes the no action or no build alternative and no fewer than three build alternatives that will address, among other things, the design principles, the analysis and findings of the Tier I EIS and SI ROD and the issues surfaced in the concurrent NHPA, section 106 process. The Tier II EIS will include a full range of alternatives evaluating varying heights and forms, including one with a roof height that does not exceed the roof heights of adjacent museums, and with building faces that do not protrude beyond the building faces of adjacent museum buildings along the Mall.

Public Scoping Meeting and Comments: The Smithsonian Institution and the National Capital Planning Commission will solicit public comments for consideration and possible incorporation in the Draft Tier II EIS through public scoping, including a scoping meeting, on the proposed museum building at the Monument site. The scoping meeting will be held on December 10, 2009, from 5:30 p.m. to 8:30 p.m. in the ''Commons'' of the Smithsonian Castle Building, located at 1000 Jefferson Drive, SW., Washington, DC. Consultants representing the SI and NCPC will be available to answer questions and receive comments about the scope of the Tier II EIS. Announcements about the meeting are provided on the NCPC Web site at *http://www.ncpc.gov.* Notice of the public meeting will be publicized in local newspapers and through other sources. Additional information about the museum is located at *http://www.nmaahc.si.edu* and about the Tier I EIS at *http://www.louisberger-nmaahceis.com.* To ensure that all issues related to this action are addressed and all significant issues are identified early in the process, comments are invited in writing and orally from all interested and/or potentially affected parties. These comments may be provided at the public meeting or provided in writing to EDAW/AECOM, Attn: NMAAHC EIS Comments, 601 Prince Street, Alexandria, VA 22314 or by e-mail to *NMAAHC.EIS.Comments@aecom.com.* All public comments must be postmarked or received by e-mail by December 24, 2009.

FOR FURTHER INFORMATION CONTACT: Jane Passman, Senior Facilities Planner, Smithsonian Institution, Office of Facilities Engineering and Operations. For U.S. Postal Service delivery the address is P.O. Box 37012, MRC 511, Washington, DC 20013–7012. For all other deliveries the address is 600 Maryland Ave., SW., Suite 5001, Washington, DC 20024. Phone 202–633–6549; Fax: 202–633–6233.

Dated: November 4, 2009.

Judith Leonard,

General Counsel, Smithsonian Institution.

Dated: November 4, 2009.

Lois J. Schiffer,

General Counsel, National Capital Planning Commission.

[FR Doc. E9–27002 Filed 11–9–09; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Notice of Final Federal Agency Actions on Proposed Highway in California; Notice of Statute of Limitations on Claims

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of Limitation on Claims for Judicial Review of Actions by the California Department of Transportation (Caltrans), pursuant to 23 U.S.C. 327 and Other Federal Agencies.

SUMMARY: The FHWA, on behalf of Caltrans, is issuing this notice to announce actions taken by Caltrans, and other Federal Agencies that are final within the meaning of 23 U.S.C. 139(l)(1). The actions relate to a proposed highway project, Interstate 5 (I–5) High Occupancy Vehicle (HOV)/ Truck Lanes from the I–5/State Route 14