

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 either solicited or received.

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

The foregoing proposed rule change has been designated as a fee change pursuant to Section 19(b)(3)(A)(ii) of the Act<sup>15</sup> and Rule 19b-4(f)(2)<sup>16</sup> thereunder, because it establishes or changes a due, fee, or other charge imposed by the Exchange. Accordingly, the proposal will take effect upon filing with the Commission. At any time within 60 days of the filing of such 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](mailto:rule-comments@sec.gov). Please include File Number SR-Phlx-2006-71 on the subject line.

*Paper Comments*

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

All submissions should refer to File Number SR-Phlx-2006-71. 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. Copies of such filing also will be available for inspection and copying at the principal office of the Phlx. 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-Phlx-2006-71 and should be submitted on or before December 11, 2006.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>17</sup>

**Nancy M. Morris,**  
*Secretary.*

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**SMITHSONIAN INSTITUTION**

**Intent To Prepare an 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, to prepare an 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.

**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. The sites identified are the Arts and Industries Building; the area bounded by Constitution Avenue, Madison Drive, 14th, and 15th Streets, NW., now commonly known as the Monument site; the Liberty Loan site located on 14th Street, SW. at the foot of the 14th Street Bridge; and the Banneker Overlook site, located on 10th Street, SW. at the foot of the L'Enfant Plaza Promenade. After undertaking a site evaluation study that analyzed site-specific characteristics and evaluated minimum and maximum build scenarios at each site, as well as a process of consultation with parties specified in the legislation, the Board of Regents of the Smithsonian Institution voted to select the Monument site. The decision was announced on January 30, 2006.

The identity and description of the action to be addressed in this EIS 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. With regard to the scope of the action, much information on the potential size, configuration, and siting of a museum facility at the Monument site was presented in the Phase II Site Evaluation Study of November 15, 2005, for the use of the Smithsonian Regents in their selection of the site. Graphics included in this study showed the potential in

<sup>15</sup> 15 U.S.C. 78s(b)(3)(A)(ii).

<sup>16</sup> 17 CFR 240.19b-4(f)(2).

<sup>17</sup> 17 CFR 200.30-3(a)(12).

terms of massing and placement of a museum facility on the candidate sites. Although they were conceptual and only intended for site selection purposes, they are a point of departure for this study and the range of alternatives evaluated in this EIS.

The potential range of alternatives that will be evaluated in the EIS includes the no action or no build alternative and a range of build alternatives derived from the site evaluation study that will include a minimum build-out at approximately 350,000 gross square feet (GSF), a middle range build-out at approximately 415,000 GSF, and a maximum build-out that would not exceed approximately 804,000 GSF. Each alternative description will identify the number of levels above and below ground, general massing, and site setbacks. The Presidential Commission identified 350,000 GSF as the preliminary program space requirements for the museum. Thus, it was used as the baseline or "point of departure" for the maximum and minimum build scenarios developed in the site evaluation study. As part of the scoping process, other alternatives may be identified that merit further investigation.

Topics for environmental analysis will be further defined during scoping activities with the public and agencies but will include topics such as historic resources, archeology, visual resources, transportation, public utilities, land use, social and economic issues, and physical and biological resources such as air, geology, and groundwater.

**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 EIS through public scoping, including a scoping meeting, on the proposed museum building at the Monument site. Notice of the public meeting will be publicized in local newspapers and through other sources. 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 Jill Cavanaugh at the Louis Berger Group, Inc., 2300 N Street, NW., #800, Washington, DC 20037 (until December 15, 2006) and to 2445 M Street, NW., 4th Floor, Washington, DC 20037-1445 (after December 15, 2006). Comments will also be collected at <http://www.nmaahc-eis.com>. All public

comments must be postmarked or received on the Web site by January 5, 2007.

**FOR FURTHER INFORMATION CONTACT:** Jane Passman, Senior Facilities Planner, Smithsonian Institution, Office of Facilities Engineering and Operations, PO Box 37012, 750 9th Street, NW., Suite 5200 MRC 908, Washington, DC 20013-7012; Phone: 202-275-0234; Fax: 202-275-0889.

**John E. Huerta,**

*General Counsel, Smithsonian Institution.*

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## DEPARTMENT OF STATE

[Public Notice 5617]

### Bureau of Political-Military Affairs; Statutory Debarment Under the Arms Export Control Act and the International Traffic in Arms Regulations

**ACTION:** Notice.

**SUMMARY:** Notice is hereby given that persons convicted of violating or conspiring to violate Section 38 of the Arms Export Control Act, as amended, ("AECA") (22 U.S.C. 2778) are statutorily debarred pursuant to Section 38(g)(4) of the AECA and Section 127.7(c) of the International Traffic in Arms Regulations ("ITAR") (22 CFR parts 120 to 130).

**DATES:** *Effective Date:* Date of conviction as specified for each person.

**FOR FURTHER INFORMATION CONTACT:** David Trimble, Director, Office of Defense Trade Controls Compliance, Bureau of Political-Military Affairs, Department of State (202) 663-2700.

**SUPPLEMENTARY INFORMATION:** Section 38(g)(4) of the AECA, 22 U.S.C. 2778(g)(4), prohibits the Department of State from issuing licenses or other approvals for the export of defense articles or defense services to be issued where the applicant or any party to the export, has been convicted of violating certain statutes, including the AECA. In implementing this provision, Section 127.7 of the ITAR provides for "statutory debarment" of any person who has been convicted of violating or conspiring to violate the AECA. Persons subject to statutory debarment are prohibited from participating directly or indirectly in the export of defense articles, including technical data, or in the furnishing of defense services for which a license or other approval is required.

Statutory debarment is based solely upon conviction in a criminal proceeding, conducted by a United States Court, and as such the administrative debarment procedures outlined in Part 128 of the ITAR are not applicable.

The period for debarment will be determined by the Assistant Secretary for Political-Military Affairs based on the underlying nature of the violations, but will generally be for three years from the date of conviction. At the end of the debarment period, export privileges may be reinstated only at the request of the debarred person followed by the necessary interagency consultations, after a thorough review of the circumstances surrounding the conviction, and a finding that appropriate steps have been taken to mitigate any law enforcement concerns, as required by Section 38(g)(4) of the AECA. Unless export privileges are reinstated, however, the person remains debarred.

Department of State policy permits debarred persons to apply to the Director, Office of Defense Trade Controls Compliance, for reinstatement beginning one year after the date of the debarment, in accordance with Section 38(g)(4) of the AECA. Any decision to grant reinstatement can be made only after the statutory requirements under Section 38(g)(4) of the AECA have been satisfied.

Exceptions, also known as transaction exceptions, may be made to this debarment determination on a case-by-case basis at the discretion of the Assistant Secretary of State for Political-Military Affairs, after consulting with the appropriate U.S. agencies. However, such an exception would be granted only after a full review of all circumstances, paying particular attention to the following factors: whether an exception is warranted by overriding U.S. foreign policy or national security interests; whether an exception would further law enforcement concerns that are consistent with the foreign policy or national security interests of the United States; or whether other compelling circumstances exist that are consistent with the foreign policy or national security interests of the United States, and that do not conflict with law enforcement concerns. Even if exceptions are granted, the debarment continues until subsequent reinstatement.

Pursuant to Section 38(g)(4) of the AECA and Section 127.7(c) of the ITAR, the following persons are statutorily debarred following the date of their AECA conviction: