

agency decisionmaking. To implement these requirements the Council shall:

- (1) Consider all relevant environmental documents in evaluating proposals for action;
- (2) Ensure that all relevant environmental documents, comments, and responses accompany the proposal through internal Council review processes;
- (3) Consider only those alternatives encompassed by the range of alternatives discussed in the relevant environmental documents when evaluating proposals for the Council action; and,

(4) Where an environmental impact statement (EIS) has been prepared consider the specific alternative analyzed in the EIS when evaluating the proposal which is the subject of the EIS.

(b) For each of the Council's principal activities covered by NEPA, the following chart identifies the point at which the NEPA process begins, the point at which it ends, and the key officials required to consider environmental documents in their decision-making.

Activity	Start of NEPA process	Completion of NEPA process	Key officials required to consider environmental documents
Recommendations for legislation.	During staff formulation of proposal.	Prior to submission to Congress or OMB.	Executive Director and full Council, as appropriate.
Regulations and procedures ...	Prior to publication of draft regulations in FEDERAL REGISTER.	Prior to publication of final regulations in FEDERAL REGISTER.	Executive Director and full Council as appropriate.
Policy recommendations	During staff formulation of proposal.	Prior to adoption by full Council or Executive Director.	Executive Director and full Council, as appropriate.

§ 805.5 Typical classes of action.

(a) Section 1507.3(c)(2) (40 CFR 1507.3(c)(2)) in conjunction with §1508.4 requires agencies to establish three typical classes of action for similar treatment under NEPA: actions normally requiring EIS; actions normally requiring assessments but not necessarily EISs; and actions normally not requiring assessments or EISs. Each of the covered categories of Council actions generally falls within the second category, normally requiring an assessment but not necessarily an EIS.

(b) The Council shall independently determine whether an EIS or an environmental assessment is required where:

- (1) A proposal for Council action is not covered by one of the typical classes of action above; or
- (2) For actions which are covered, the presence of extraordinary circumstances indicates that some other level of environmental review may be appropriate.

§ 805.6 Interagency cooperation.

The Council shall consult with appropriate Federal and non-Federal agencies and with interested private persons and organizations when it is con-

sidering actions involving such parties and requiring environmental assessments. Where other Federal agencies are involved in the proposed action, the Council shall cooperate in the required environmental assessment and the preparation of necessary environmental documents. Where appropriate as determined by the nature and extent of Council involvement in the proposed action, the Council shall assume the status of lead agency.

§ 805.7 Environmental information.

Interested persons may contact the Executive Director for information regarding the Council's compliance with NEPA.

PART 810—FREEDOM OF INFORMATION ACT REGULATIONS

- Sec.
- 810.1 Purpose and scope.
- 810.2 Procedure for requesting information.
- 810.3 Action on requests.
- 810.4 Appeals.
- 810.5 Fees.
- 810.6 Exemptions.

AUTHORITY: Pub. L. 89-665, 80 Stat. 915 (16 U.S.C. 470) as amended by Pub. L. 91-243, Pub. L. 93-54, Pub. L. 94-422, Pub. L. 94-458, Pub. L. 96-199, Pub. L. 96-244, Pub. L. 96-515.

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SOURCE: 46 FR 45334, Sept. 11, 1981, unless otherwise noted.

§ 810.1 Purpose and scope.

This subpart contains the regulations of the Advisory Council on Historic Preservation implementing the Freedom of Information Act (5 U.S.C. 552). Procedures for obtaining the records covered by the Act are established in these regulations. Persons seeking information or records of the Council are encouraged to consult first with the staff of the Council before filing a formal request under the Act pursuant to these regulations. The informal exchange of information is encouraged wherever possible.

§ 810.2 Procedure for requesting information.

(a) Requests for information or records not available through informal channels shall be directed to the Administrative Officer, Advisory Council on Historic Preservation, 1522 K Street NW., Washington, DC 20005. All such requests should be clearly marked "FREEDOM OF INFORMATION REQUEST" in order to ensure timely processing. Requests that are not so marked will be honored, but will be deemed not to have been received by the Council, for purposes of computing the response time, until the date on which they are identified by a member of the Council staff as being a request pursuant to the Freedom of Information Act.

(b) Requests should describe the records sought in sufficient detail to allow Council staff to locate them with a reasonable amount of effort. Thus, where possible, specific information, including dates, geographic location of cases, and parties involved, should be supplied.

(c) A request for all records falling within a reasonably specific category shall be regarded as conforming to the statutory requirement that records be reasonably described if the records can be identified by any process that is not unreasonably burdensome or disruptive of Council operations.

(d) If a request is denied on the ground that it does not reasonably describe the records sought, the denial shall specify the reasons why the re-

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quest was denied and shall extend to the requester an opportunity to confer with Council staff in order to reformulate the request in sufficient detail to allow the records to be produced.

§ 810.3 Action on requests.

(a) Once a requested record has been identified, the Administrative Officer shall notify the requester of a date and location where the records may be examined or of the fact that copies are available. The notification shall also advise the requester of any applicable fees under § 810.5.

(b) A reply denying a request shall be in writing, signed by the Administrative Officer and shall include:

(1) Reference to the specific exemption under the Act which authorizes the denial of the record, a brief explanation of how the exemption applies to the record requested, and a brief statement of why a discretionary release is not appropriate; and,

(2) A statement that the denial may be appealed under § 810.4 within 30 days by writing to the Executive Director, Advisory Council on Historic Preservation, 1522 K Street NW., Washington, DC 20005.

(c) The requirements of § 810.3 (b)(1) and (2) do not apply to requests denied on the ground that they are not described with reasonable specificity and consequently cannot be identified.

(d) Within 10 working days from receipt of a request, the Administrative Officer shall determine whether to grant or deny the request and shall promptly notify the requester of the decision. In certain unusual circumstances specified below, the time for determinations on requests may be extended up to a total of 10 additional working days. The requester shall be notified in writing of any extension and of the reason for it, as well as of the data on which a determination will be made. Unusual circumstances include:

(1) The need to search for and collect records from field offices or other establishments that are separate from the Washington office of the Council;

(2) The need to search for, collect, and examine a voluminous amount of material which is sought in a request; or,

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(3) The need for consultation with another agency having substantial interest in the subject matter of the request.

If no determination has been made by the end of the 10-day period or the end of the last extension, the requester may deem his request denied and may exercise a right of appeal in accordance with §810.4.

§810.4 Appeals.

(a) When a request has been denied, the requester may, within 30 days of receipt of the denial, appeal the denial to the Executive Director of the Council. Appeals to the Executive Director shall be in writing, shall be addressed to the Executive Director, Advisory Council on Historic Preservation, 1522 K Street NW., Washington, DC 20005, and shall be clearly marked "FREEDOM OF INFORMATION APPEAL." Requests that are not so marked will be honored, but will be deemed not to have been received by the Council, for purposes of computing the response time, until the date on which they are identified by a member of the Council staff as being an appeal pursuant to the Freedom of Information Act.

(b) The appeal will be acted on within 20 working days of receipt. A written decision shall be issued. Where the decision upholds an initial denial of information, the decision shall include a reference to the specific exemption in the Freedom of Information Act which authorizes withholding the information, a brief explanation of how the exemption applies to the record withheld, and a brief statement of why a discretionary release is not appropriate. The decision shall also inform the requester of the right to seek judicial review in the U.S. District Court where the requester resides or has his principal place of business, or in which the agency records are situated, or in the District of Columbia.

(c) If no decision has been issued within 20 working days, the requester is deemed to have exhausted his administrative remedies.

§810.5 Fees.

(a) Fees shall be charged according to the schedules contained in paragraph (b) of this section unless it is deter-

mined that the requested information will be of primary benefit to the general public rather than to the requester. In that case, fees may be waived. Fees shall not be charged where they would amount to less than \$3.00.

(b) The following charges shall be assessed:

(1) Copies of documents—\$0.10 per page.

(2) Clerical searches—\$1.00 for each one quarter hour in excess of the first quarter hour spent by clerical personnel in searching for requested records.

(3) Professional searches—\$2.00 for each one quarter hour in excess of the first quarter hour spent by professional or managerial personnel in determining which records are covered by a request or other tasks that cannot be performed by clerical personnel.

(c) Where it is anticipated that fees may amount to more than \$25.00, the requester shall be advised of the anticipated amount of the fee and his consent obtained before the request is processed. The time limits for processing the request under §810.3 shall not begin to run until the requester's written agreement to pay the fees has been received. In the discretion of the Administrative Officer, advance payment of fees may be required before requested records are made available.

(d) Payment should be made by check or money order payable to the Advisory Council on Historic Preservation.

§810.6 Exemptions.

(a) The Freedom of Information Act exempts from disclosure nine categories of records which are described in 5 U.S.C. 552(b).

(b) When a request encompasses records which would be of concern to or which have been created primarily by another Federal agency, the record will be made available by the Council only if the document was created primarily to meet the requirements of the Council's regulations implementing section 106 of the National Historic Preservation Act or other provisions of law administered primarily by the Council. If

the record consists primarily of materials submitted by State or local governments, private individuals, organizations, or corporations, to another Federal agency in fulfillment of requirements for receiving assistance, permits, licenses, or approvals from the agency, the Council may refer the request to that agency. The requester shall be notified in writing of the referral.

PART 811—EMPLOYEE RESPONSIBILITIES AND CONDUCT

AUTHORITY: 5 U.S.C. 7301 and 16 U.S.C.470, as amended.

SOURCE: 63 FR 54355, Oct. 9, 1998, unless otherwise noted.

§811.1 Cross-references to employees' ethical conduct standards, financial disclosure and financial interests regulations and other conduct rules.

Employees of the Advisory Council on Historic Preservation are subject to the executive branch-wide standards of ethical conduct, financial disclosure and financial interests regulations at 5 CFR Parts 2634, 2635 and 2640, as well as the executive branch-wide employee responsibilities and conduct regulations at 5 CFR Part 735.

PART 812—ENFORCEMENT OF NONDISCRIMINATION ON THE BASIS OF HANDICAP IN PROGRAMS OR ACTIVITIES CONDUCTED BY THE ADVISORY COUNCIL ON HISTORIC PRESERVATION

Sec.

- 812.101 Purpose.
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- 812.149 Program accessibility: Discrimination prohibited.
- 812.150 Program accessibility: Existing facilities.

812.151 Program accessibility: New construction and alterations.

812.152-812.159 [Reserved]

812.160 Communications.

812.161-812.169 [Reserved]

812.170 Compliance procedures.

812.171-812.999 [Reserved]

AUTHORITY: 29 U.S.C. 794.

SOURCE: 51 FR 22896, June 23, 1986, unless otherwise noted.

§812.101 Purpose.

This part effectuates section 119 of the Rehabilitation, Comprehensive Services, and Developmental Disabilities Amendments of 1978, which amended section 504 of the Rehabilitation Act of 1973 to prohibit discrimination on the basis of handicap in programs or activities conducted by Executive agencies or the United States Postal Service.

§812.102 Application.

This part applies to all programs or activities conducted by the agency.

§812.103 Definitions.

For purposes of this part, the term—
Assistant Attorney General means the Assistant Attorney General, Civil Rights Division, United States Department of Justice.

Auxiliary aids means services or devices that enable persons with impaired sensory, manual, or speaking skills to have an equal opportunity to participate in, and enjoy the benefits of, programs or activities conducted by the agency. For example, auxiliary aids useful for persons with impaired vision include readers, brailled materials, audio recordings, telecommunications devices and other similar services and devices. Auxiliary aids useful for persons with impaired hearing include telephone handset amplifiers, telephones compatible with hearing aids, telecommunication devices for deaf persons (TDD's), interpreters, notetakers, written materials, and other similar services and devices.

Complete complaint means a written statement that contains the complainant's name and address and describes the agency's alleged discriminatory action in sufficient detail to inform the agency of the nature and date of the alleged violation of section 504. It shall