

## Advisory Council on Historic Preservation

## § 810.2

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 considering 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.

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 request was denied and shall extend to the requester an opportunity to confer

### § 810.3

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,

(3) The need for consultation with another agency having substantial inter-

### 36 CFR Ch. VIII (7-1-07 Edition)

est 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 determined 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.

812.102 Application.

812.103 Definitions.

812.104-812.109 [Reserved]

812.110 Self-evaluation.

812.111 Notice.

812.112-812.129 [Reserved]

812.130 General prohibitions against discrimination.

812.131-812.139 [Reserved]

812.140 Employment.

812.141-812.148 [Reserved]

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.