

by the head of the agency pursuant to section 3(e) of Executive Order 13287.

[65 FR 77725, Dec. 12, 2000, as amended at 69 FR 40555, July 6, 2004]

APPENDIX A TO PART 800—CRITERIA FOR COUNCIL INVOLVEMENT IN REVIEWING INDIVIDUAL SECTION 106 CASES

(a) *Introduction.* This appendix sets forth the criteria that will be used by the Council to determine whether to enter an individual section 106 review that it normally would not be involved in.

(b) *General policy.* The Council may choose to exercise its authorities under the section 106 regulations to participate in an individual project pursuant to the following criteria. However, the Council will not always elect to participate even though one or more of the criteria may be met.

(c) *Specific criteria.* The Council is likely to enter the section 106 process at the steps specified in the regulations in this part when an undertaking:

(1) *Has substantial impacts on important historic properties.* This may include adverse effects on properties that possess a national level of significance or on properties that are of unusual or noteworthy importance or are a rare property type; or adverse effects to large numbers of historic properties, such as impacts to multiple properties within a historic district.

(2) *Presents important questions of policy or interpretation.* This may include questions about how the Council's regulations are being applied or interpreted, including possible foreclosure or anticipatory demolition situations; situations where the outcome will set a precedent affecting Council policies or program goals; or the development of programmatic agreements that alter the way the section 106 process is applied to a group or type of undertakings.

(3) *Has the potential for presenting procedural problems.* This may include cases with substantial public controversy that is related to historic preservation issues; with disputes among or about consulting parties which the Council's involvement could help resolve; that are involved or likely to be involved in litigation on the basis of section 106; or carried out by a Federal agency, in a State or locality, or on tribal lands where the Council has previously identified problems with section 106 compliance pursuant to § 800.9(d)(2).

(4) *Presents issues of concern to Indian tribes or Native Hawaiian organizations.* This may include cases where there have been concerns raised about the identification of, evaluation of or assessment of effects on historic properties to which an Indian tribe or Native Hawaiian organization attaches religious and cultural significance; where an Indian tribe or Native Hawaiian organization has re-

quested Council involvement to assist in the resolution of adverse effects; or where there are questions relating to policy, interpretation or precedent under section 106 or its relation to other authorities, such as the Native American Graves Protection and Repatriation Act.

PART 801—HISTORIC PRESERVATION REQUIREMENTS OF THE URBAN DEVELOPMENT ACTION GRANT PROGRAM

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APPENDIX 1 TO PART 801—IDENTIFICATION OF PROPERTIES: GENERAL

APPENDIX 2 TO PART 801—SPECIAL PROCEDURES FOR IDENTIFICATION AND CONSIDERATION OF ARCHEOLOGICAL PROPERTIES IN AN URBAN CONTEXT

AUTHORITY: Pub. L. 89-665, 80 Stat. 915 (16 U.S.C. 470); Pub. L. 94-422, 90 Stat. 1320 (16 U.S.C. 470(i)); Pub. L. 96-399, 94 Stat. 1619 (42 U.S.C. 5320).

SOURCE: 46 FR 42428, Aug. 20, 1981, unless otherwise noted.

§ 801.1 Purpose and authorities.

(a) These regulations are required by section 110(c) of the Housing and Community Development Act of 1980 (HCDA) (42 U.S.C. 5320) and apply only to projects proposed to be funded by the Department of Housing and Urban Development (HUD) under the Urban Development Action Grant (UDAG) Program authorized by title I of the Housing and Community Development Act of 1974, as amended (42 U.S.C. 5301). These regulations establish an expedited process for obtaining the comments of the Council specifically for the UDAG program and, except as specifically provided, substitute for the Council's regulations for the "Protection of Historic and Cultural Properties" (36 CFR part 800).