

Information Act (FOIA). These regulations update and amplify the Commission's current regulations.

DATES: Effective February 26, 2003.

FOR FURTHER INFORMATION CONTACT: Mr. Thomas R. Sole, Freedom of Information Officer, American Battle Monuments Commission or Ms. Martha Sell, Freedom of Information Act Representative, Courthouse Plaza II, Suite 500, 2300 Clarendon Blvd., Arlington, VA 22202 or by telephone at 703-696-6897.

SUPPLEMENTARY INFORMATION: This rule replaces 36 CFR Parts 404 and 405. It updates Commission addresses, organizational information, and fee schedule and explicitly incorporates electronic format information as within the scope of covered information consistent with the Electronic Freedom of Information Act of 1996 (Pub. L. 104-231).

List of Subjects in 36 CFR Part 404

Freedom of information.

For the reasons stated in the preamble, the American Battle Monuments Commission amends Chapter IV of title 36 of the Code of Federal Regulations as follows:

1. Part 404 is revised to read as follows:

PART 404—PROCEDURES AND GUIDELINES FOR COMPLIANCE WITH THE FREEDOM OF INFORMATION ACT

Sec.

- 404.1 General.
- 404.2 Authority and functions.
- 404.3 Organization.
- 404.4 Access to information.
- 404.5 Inspection and copying.
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- 404.9 Miscellaneous fee provisions.
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Authority: 5 U.S.C. 552.

§ 404.1 General.

This information is furnished for the guidance of the public and in compliance with the requirements of section 552 of Title 5, United States Code, as amended.

§ 404.2 Authority and functions.

The general functions of the American Battle Monuments Commission, as provided by statute, 36 U.S.C. Section 2101, *et seq.*, are to build and maintain suitable memorials commemorating the service of American Armed Forces and to maintain permanent American military cemeteries in foreign countries.

§ 404.3 Organization.

(a) The brief description of the central organization of the American Battle Monuments Commission follows:

(1) The Commission is composed of not more than 11 members appointed by the President.

(2) The day to day operation of the Commission is under the direction of a Secretary appointed by the President.

(3) Principal Officials include the Executive Director, Director of Finance, Director of Procurement and Contracting, Director of Engineering, Maintenance, and Operations and Director of Personnel and Administration.

(4) The Commission also creates temporary offices when tasked with major additional responsibilities not of a permanent nature.

(b) Locations. (1) The principal offices of the American Battle Monuments Commission are located at Courthouse Plaza II, Suite 500, 2300 Clarendon Boulevard, Arlington, VA 22201. Persons desiring to visit offices or employees of the American Battle Monuments Commission should write or telephone ahead (703-696-6897 or 703-696-6895) to make an appointment.

(2) Field offices are located in Paris, France; Rome, Italy; Manila, Republic of the Philippines; the Republic of Panama; and Mexico City, Mexico.

§ 404.4 Access to information.

(a) The American Battle Monuments Commission makes available information pertaining to Commission matters within the scope of 5 U.S.C. 552(a)(2) by publishing them electronically at the ABMC home page at <http://www.abmc.gov>.

(b) The ABMC FOIA Officer is responsible for acting on all initial requests. Individuals wishing to file a request under the Freedom of Information Act (FOIA) should address their request in writing to the FOIA Officer, American Battle Monuments Commission, Courthouse Plaza II, Suite 500, 2300 Clarendon Boulevard, Arlington, VA 22201 (telephone 703-696-6897 or 703-696-6895). Requests for information shall be as specific as possible.

(c) Upon receipt of any request for information or records, the FOIA Officer will determine within 20 days (excepting Saturdays, Sundays and legal public holidays) after the receipt of such request whether it is appropriate to grant the request and will immediately provide written notification to the person making the request. If the request is denied, the written notification to the person making the request shall include

the names of the individuals who participated in the determination, the reasons for the denial, and a notice that an appeal may be lodged within the American Battle Monuments Commission. (Receipt of a request as used herein means the date the request is received in the office of the FOIA Officer.)

(d) Expedited processing. (1) Requests and appeals will be taken out of order and given expedited treatment whenever it is determined that they involve:

(i) Circumstances in which the lack of expedited treatment could reasonably be expected to pose an imminent threat to the life or physical safety of an individual;

(ii) An urgency to inform the public about an actual or alleged federal government activity, if made by a person primarily engaged in disseminating information;

(iii) The loss of substantial due process rights; or

(iv) A matter of widespread and exceptional media interest in which there exist possible questions about the government's integrity which effect public confidence.

(2) A request for expedited processing may be made at the time of the initial request for records or at any later time.

(3) A requester who seeks expedited processing must submit a statement, certified to be true and correct to the best of that person's knowledge and belief, explaining in detail the basis for requesting expedited processing. For example, a requester within the category described in paragraph (d)(1)(ii) of this section, if not a full-time member of the news media, must establish that he or she is a person whose main professional activity or occupation is information dissemination, though it need not be his or her sole occupation. A requester within the category (d)(1)(ii) of this section also must establish a particular urgency to inform the public about the government activity involved in the request, beyond the public's right to know about government activity generally. The formality of certification may be waived as a matter of administrative discretion.

(4) Within 10 days of its receipt of a request for expedited processing, ABMC will decide whether to grant it and will notify the requester of the decision. If a request for expedited treatment is granted, the request will be given priority and will be processed as soon as practicable. If a request for expedited processing is denied, any appeal of that decision will be acted on expeditiously.

(e) Appeals shall be set forth in writing within 30 days of receipt of a