

hearing under this section or to appear at a hearing for which a date has been set shall be deemed to be a waiver of the right to be heard and constitutes consent to the making of a decision on the basis of such information as is available.

(Authority: 38 U.S.C. 2408(c)(2))

§39.5 Responsibilities following project completion.

(a) States shall monitor use of the facility by various sub-groups and minority groups. To the extent that underutilization by any of these groups is determined to exist, a program shall be established to inform members of these groups about benefits available to them. The information regarding the program shall be available in a language other than English where a significant number or portion of the population eligible to be served or likely to be directly affected by the grant program needs such service or information.

(b) State veterans' cemeteries established, expanded, or improved with assistance under this program shall be operated and maintained as follows:

(1) Buildings, grounds, roads, walks, and other structures shall be kept in reasonable repair to prevent undue deterioration and hazards to safety of users.

(2) The cemetery shall be kept open for public use at reasonable hours and time of the year.

(Authority: 38 U.S.C. 2408(c)(1))

(c) The State, in coordination with the Secretary, shall audit such projects at their completion in accordance with Attachment P. OMB Circular A-102 and audit procedures established by the VA Office of the Inspector General. A copy of the audit shall be forwarded to the Director, State Cemetery Grants Program, giving the date and location where the audit was made and citing any deficiencies and corrective action taken or proposed.

(d) VA, in coordination with the State, shall inspect the project at completion for compliance with the standards set forth in §39.8 and at least once in every 3-year period following completion of the project, and throughout the period the facility is operated as a

State veterans' cemetery. A copy of the inspection shall be forwarded to the Director, State Cemetery Grants Program, giving the date and location where the inspection was made and citing any deficiencies and corrective action taken or proposed.

(e) Failure of the State to comply with paragraphs (a) through (c) of this section shall be considered cause for the Department of Veterans Affairs to suspend any payments due a State on any or all projects until the situation involved is corrected.

(Authority: 38 U.S.C. 2408(c)(2))

§39.6 State to retain control of operations.

Neither the Secretary nor any employee of the Department of Veterans Affairs shall exercise any supervision or control over the administration, personnel, maintenance, or operation of any State veterans' cemetery constructed, expanded, or improved with assistance received under this program except as prescribed in this part.

(Authority: 38 U.S.C. 2408(c)(2))

§39.7 Recapture.

If a State which has received a grant to establish, expand, or improve a veterans' cemetery ceases to own such cemetery, ceases to operate such cemetery as veterans' cemetery, or uses any part of the funds provided through such grant for a purpose other than for which the grant was made, the United States shall be entitled to recover from the State the total of all grants made to the State in connection with the establishment, expansion or improvement of such cemetery.

(Authority: 38 U.S.C. 2408(b)(4))

§39.8 General standards for site selection and construction of State veterans' cemeteries.

(a) *General.* (1) The various codes, requirements, recommendations of State and local authorities or technical and professional organizations, to the extent and manner in which reference is made in these standards, are applicable to grants for construction of State veterans' cemeteries. Additional information concerning these standards may be obtained from the Department of