to make such a request, please contact us for further information.

The community in which the property securing the loan is located participates in the National Flood Insurance Program (NFIP). Federal law will not allow us to make you the loan that you have applied for if you do not purchase flood insurance. The flood insurance must be maintained for the life of the loan. If you fail to purchase or renew flood insurance on the property, Federal law authorizes and requires us to purchase the flood insurance for you at your expense.

- Flood insurance coverage under the NFIP may be purchased through an insurance agent who will obtain the policy either directly through the NFIP or through an insurance company that participates in the NFIP. Flood insurance also may be available from private insurers that do not participate in the NFIP.
- At a minimum, flood insurance purchased must cover the lesser of:
  1. the outstanding principal balance of the loan; or
  2. the maximum amount of coverage allowed for the type of property under the NFIP.

Flood insurance coverage under the NFIP is limited to the overall value of the property securing the loan minus the value of the land on which the property is located.

- Federal disaster relief assistance (usually in the form of a low-interest loan) may be available for damages incurred in excess of your flood insurance if your community’s participation in the NFIP is in accordance with NFIP requirements.

Flood insurance coverage under the NFIP is not available for the property securing the loan because the community in which the property is located does not participate in the NFIP. In addition, if the non-participating community has been identified for at least one year as containing a special flood hazard area, properties located in the community will not be eligible for Federal disaster relief assistance in the event of a Federally-declared flood disaster.

(Authority: 42 U.S.C. 4104a)

[82 FR 5534, Feb. 6, 1997]

PART 38—NATIONAL CEMETERIES
OF THE DEPARTMENT OF VETERANS AFFAIRS

Sec.
38.617 Prohibition of interment or memorialization of persons who have been convicted of Federal or State capital crimes.
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38.632 Headstone or marker application process.
38.633 Group memorial monuments.

Authority: 38 U.S.C. 501(a), 2306, unless otherwise noted.

Source: 70 FR 4769, Jan. 31, 2005, unless otherwise noted.

§ 38.600 Definitions.
(a) [Reserved]
(b) Definitions. For purposes of §§ 38.617 and 38.618:
Appropriate State official means a State attorney general or other official with statewide responsibility for law enforcement or penal functions.
Clear and convincing evidence means that degree of proof which produces in the mind of the fact-finder a firm belief regarding the question at issue.
Convicted means a finding of guilt by a judgment or verdict or based on a plea of guilty, by a Federal or State criminal court.
Federal capital crime means an offense under Federal law for which a sentence of imprisonment for life or the death penalty may be imposed.
Interment means the burial of casketed remains or the placement or scattering of cremated remains.
Life imprisonment means a sentence of a Federal or State criminal court directing confinement in a penal institution for life.
Memorialization means any action taken to honor the memory of a deceased individual.
Personal representative means a family member or other individual who has identified himself or herself to the National Cemetery Administration cemetery director as the person responsible for making decisions concerning the interment of the remains of or memorialization of a deceased individual.
§ 38.603 Gifts and donations.

(a) Gifts and donations will be accepted only after it has been determined that the donor has a clear understanding that title thereto passes to, and is vested in, the United States, and that the donor relinquishes all control over the future use or disposition of the gift or donation, with the following exceptions:

(1) Carillons will be accepted with the condition that the donor will provide the maintenance and the operator or the mechanical means of operation. The time of operation and the maintenance will be coordinated with the superintendent of the national cemetery.

(2) Articles donated for a specific purpose and which are usable only for that purpose may be returned to the donor if the purpose for which the articles were donated cannot be accomplished.

(3) If the donor directs that the gift is donated for a particular use, those directions will be carried out insofar as they are proper and practicable and not in violation of Department of Veterans Affairs policy.

(4) When considered appropriate and not in conflict with the purpose of the national cemetery, the donor may be recognized by a suitable inscription on those gifts. In no case will the inscription give the impression that the gift is owned by, or that its future use is controlled by, the donor. Any tablet or plaque, containing an inscription will be of such size and design as will harmonize with the general nature and design of the gift.

(b) Officials and employees of the Department of Veterans Affairs will not solicit contributions from the public nor will they authorize the use of their names, the name of the Secretary, or the name of the Department of Veterans Affairs by an individual or organization in any campaign or drive for money or articles for the purpose of making a donation to the Department of Veterans Affairs. This restriction does not preclude discussion with the individual offering the gift relative to the appropriateness of the gift offered.
§ 38.617 Prohibition of interment or memorialization of persons who have been convicted of Federal or State capital crimes.

(a) Persons prohibited. The interment in a national cemetery under control of the National Cemetery Administration of the remains of any person, or memorialization in such a cemetery of such person, shall not take place absent a good faith effort by the affected cemetery director, or the Under Secretary for Memorial Affairs, or his or her designee, to determine whether such person is barred from receipt of such benefits because the individual for whom interment or memorialization is sought is:

(1) A person identified to the Secretary of Veterans Affairs by the United States Attorney General, prior to approval of interment or memorialization, as an individual who has been convicted of a Federal capital crime, and whose conviction is final, other than a person whose sentence was commuted by the President.

(2) A person identified to the Secretary of Veterans Affairs by an appropriate State official, prior to approval of interment or memorialization, as an individual who has been convicted of a State capital crime, and whose conviction is final, other than a person whose sentence was commuted by the Governor of a State.

(3) A person found under procedures specified in §38.618 to have committed a Federal or State capital crime but avoided conviction of such crime by reason of unavailability for trial due to death or flight to avoid prosecution.

(b) Notice. The prohibition referred to in paragraph (a)(3) of this section is not contingent on receipt by the Secretary of Veterans Affairs or any other VA official of notice from any Federal or State official.

(c) Receipt of notification. The Under Secretary for Memorial Affairs is delegated authority to receive from the United States Attorney General and appropriate State officials on behalf of the Secretary of Veterans Affairs the notification of conviction of capital crimes referred to in paragraphs (a)(1) and (2) of this section.

(d) Decision where notification previously received. Upon receipt of a request for interment or memorialization, where the Secretary of Veterans Affairs has received the notification referred to in paragraph (a)(1) or (2) of this section with regard to the deceased, the cemetery director will make a decision on the request for interment or memorialization pursuant to 38 U.S.C. 2411.

(e) Inquiry. (1) Upon receipt of a request for interment or memorialization, where the Secretary of Veterans Affairs has not received the notification referred to in paragraph (a)(1) or (a)(2) of this section with regard to the deceased, but the cemetery director has reason to believe that the deceased may have been convicted of a Federal or State capital crime, the cemetery director will initiate an inquiry to either:

(i) The United States Attorney General, in the case of a Federal capital crime, requesting notification of whether the deceased has been convicted of a Federal capital crime; or

(ii) An appropriate State official, in the case of a State capital crime, requesting notification of whether the deceased has been convicted of a State capital crime.

(2) The cemetery director will defer decision on whether to approve interment or memorialization until after a response is received from the Attorney General or appropriate State official.

(f) Decision after inquiry. Where an inquiry has been initiated under paragraph (e) of this section, the cemetery director will make a decision on the request for interment or memorialization pursuant to 38 U.S.C. 2411 upon receipt of the notification requested under that paragraph, unless the cemetery director initiates an inquiry pursuant to §38.618(a).

(g) Notice of decision. Written notice of a decision under paragraph (d) or (f) of this section will be provided by the cemetery director to the personal representative of the deceased, along with written notice of appellate rights in accordance with §19.25 of this title. This notice of appellate rights will include notice of the opportunity to file a notice of disagreement with the decision.
§ 38.618 Findings concerning commission of a capital crime where a person has not been convicted due to death or flight to avoid prosecution.

(a) Inquiry. With respect to a request for interment or memorialization, if a cemetery director has reason to believe that a deceased individual who is otherwise eligible for interment or memorialization may have committed a Federal or State capital crime, but avoided conviction of such crime by reason of unavailability for trial due to death or flight to avoid prosecution, the cemetery director, with the assistance of the VA regional counsel, as necessary, will initiate an inquiry seeking information from Federal, State, or local law enforcement officials, or other sources of potentially relevant information. After completion of this inquiry and any further measures required under paragraphs (c), (d), (e), and (f) of this section, the cemetery director will make a decision on the request for interment or memorialization in accordance with paragraph (b), (e), or (g) of this section.

(b) Decision approving request without a proceeding or termination of a claim by personal representative without a proceeding. (1) If, after conducting the inquiry described in paragraph (a) of this section, the cemetery director determines that there appears to be clear and convincing evidence that the deceased has committed a Federal or State capital crime of which he or she was not convicted by reason of unavailability for trial due to death or flight to avoid prosecution, the cemetery director will provide the personal representative of the deceased with a written summary of the evidence of record and a written notice of procedural options.

(2) The notice of procedural options will inform the personal representative that he or she may, within 15 days of receipt of the notice:
   (i) Request a hearing on the matter;
   (ii) Submit a written statement, with or without supporting documentation, for inclusion in the record;
   (iii) Waive a hearing and submission of a written statement and have the matter forwarded immediately to the Under Secretary for Memorial Affairs for a finding; or
   (iv) Notify the cemetery director that the personal representative is withdrawing the request for interment or memorialization, thereby, closing the claim.

(3) The notice of procedural options will also inform the personal representative that, if he or she does not exercise one or more of the stated options within the prescribed period, the matter will be forwarded to the Under Secretary for Memorial Affairs for a finding based on the existing record.

(d) Hearing. If a hearing is requested, the Director, Memorial Services Network will conduct the hearing. The purpose of the hearing is to permit the personal representative of the deceased to present evidence concerning whether the deceased committed a crime which would render the deceased ineligible for interment or memorialization in a national cemetery. Testimony at the hearing will be presented under oath, and the personal representative will have the right to representation by counsel and the right to call witnesses. The VA official conducting the hearing...
§ 38.620  Persons eligible for burial.

The following is a list of those individuals who are eligible for burial in a national cemetery:

(a) Any veteran (which for purposes of this section includes a person who died in the active military, naval, or air service).

(b) Any member of a Reserve component of the Armed Forces, and any member of the Army National Guard or the Air National Guard, whose death occurs under honorable conditions while such member is hospitalized or undergoing treatment, at the expense of the United States, for injury or disease contracted or incurred under honorable conditions while such member is performing active duty for training, inactive duty training, or undergoing
that hospitalization or treatment at
the expense of the United States.

(c) Any Member of the Reserve Offi-
cers’ Training Corps of the Army,
Navy, or Air Force whose death occurs
under honorable conditions while such
member is—

(1) Attending an authorized training
camp or on an authorized practice
cruise;

(2) Performing authorized travel to
or from that camp or cruise; or

(3) Hospitalized or undergoing treat-
ment, at the expense of the United
States, for injury or disease contracted
or incurred under honorable conditions
while such member is—

(i) Attending that camp or on that
cruise;

(ii) Performing that travel; or

(iii) Undergoing that hospitalization
or treatment at the expense of the
United States.

d) Any person who, during any war
in which the United States is or has
been engaged, served in the armed
forces of any government allied with
the United States during that war,
whose last such service terminated
honorably, and who was a citizen of the
United States at the time of entry on
such service and at the time of his or
her death.

(e) The spouse, surviving spouse,
minor child, or unmarried adult child
of a person eligible under paragraph
(a), (b), (c), (d), or (g) of this section.
For purposes of this section—

(1) A surviving spouse includes a sur-
viving spouse who had a subsequent re-
marriage;

(2) A minor child means an unmar-
rried child under 21 years of age, or
under 23 years of age if pursuing a full-
time course of instruction at an ap-
proved educational institution; and

(3) An unmarried adult child means a
child who became permanently physi-
ically or mentally disabled and incapca-
bile of self-support before reaching 21
years of age, or before reaching 23
years of age if pursuing a full-time
course of instruction at an approved
educational institution.

(f) Such other persons or classes of
persons as may be designated by the
Secretary.

g) Any person who at the time of
death was entitled to retired pay under
chapter 1223 of title 10, United States
Code, or would have been entitled to
retired pay under that chapter but for
the fact that the person was under 60
years of age.

(h) Any person who:

(1) Was a citizen of the United States
or an alien lawfully admitted for per-
manent residence in the United States
at the time of their death; and

(2) Resided in the United States at
the time of their death; and

(3) Either a—

(i) Commonwealth Army veteran or
member of the organized guerilla—
a person who served before July 1, 1946,
in the organized military forces of the
Government of the Commonwealth of
the Philippines, while such forces were
in the service of the Armed Forces of
the United States pursuant to the mili-
tary order of the President dated July
26, 1941, including organized guerilla
forces under commanders appointed,
designated, or subsequently recognized
by the Commander in Chief, Southwest
Pacific Area, or other competent au-
thority in the Army of the United
States, and who died on or after No-
vember 1, 2000; or

(ii) New Philippine Scout—a person
who enlisted between October 6, 1945,
and June 30, 1947, with the Armed
Forces of the United States with the
consent of the Philippine government,
pursuant to section 14 of the Armed
Forces Voluntary Recruitment Act of
1945, and who died on or after Decem-

(Authority: 38 U.S.C. 107, 501, 2402)

§ 38.621 Disinterments.

(a) Interments of eligible decedents
in national cemeteries are considered
permanent and final. Disinterment will
be permitted only for cogent reasons
and with the prior written authoriza-
tion of the National Cemetery Area Of-
fice Director or Cemetery Director re-
sponsible for the cemetery involved.
Disinterment from a national cemetery
will be approved only when all living
immediate family members of the dece-
dent, and the person who initiated the
interment (whether or not he or she is
a member of the immediate family),
give their written consent, or when a
court order or State instrumentality of
competent jurisdiction directs the disinterment. For purposes of this section, “immediate family members” are defined as surviving spouse, whether or not he or she is remarried; all adult children of the decedent; the appointed guardian(s) of minor children; and the appointed guardian(s) of the surviving spouse or of the adult child(ren) of the decedent. If the surviving spouse and all of the children of the decedent are deceased, the decedent’s parents will be considered “immediate family members.”

(b) All requests for authority to disinter remains will be submitted on VA Form 40–4970, Request for Disinterment, and will include the following information:

(1) A full statement of reasons for the proposed disinterment.

(2) Notarized statement(s) by all living immediate family members of the decedent, and the person who initiated the interment (whether or not he or she is a member of the immediate family), that they consent to the proposed disinterment.

(3) A notarized statement, by the person requesting the disinterment that those who supplied affidavits comprise all the living immediate family members of the deceased.

(Authority: 38 U.S.C. 2404)

(c) In lieu of the documents required in paragraph (b) of this section, an order of a court of competent jurisdiction will be considered.

(d) Any disinterment that may be authorized under this section must be accomplished without expense to the Government.

(The reporting and recordkeeping requirements contained in paragraph (b) have been approved by the Office of Management and Budget under OMB control number 2900–0365)

§ 38.629 Outer Burial Receptacle Allowance.

(a) Definitions—Outer burial receptacle. For purposes of this section, an outer burial receptacle means a graveliner, burial vault, or other similar type of container for a casket.

(b) Purpose. This section provides for payment of a monetary allowance for an outer burial receptacle for any interment in a VA national cemetery where a privately-purchased outer burial receptacle has been used in lieu of a Government-furnished graveliner.

(c) Second interments. In burials where a casket already exists in a grave with or without a graveliner, placement of a second casket in an outer burial receptacle will not be permitted in the same grave unless the national cemetery director determines that the already interred casket will not be damaged.

(d) Payment of monetary allowance. VA will pay a monetary allowance for each burial in a VA national cemetery where a privately-purchased outer burial receptacle was used on and after October 9, 1996. For burials on and after January 1, 2000, the person identified in records contained in the National Cemetery Administration Burial Operations Support System as the person who privately purchased the outer burial receptacle will be paid the monetary allowance. For burials during the period October 9, 1996 through December 31, 1999, the allowance will be paid to the person identified as the next of kin in records contained in the National Cemetery Administration Burial Operations Support System based on the presumption that such person privately purchased the outer burial receptacle (however, if a person who is not listed as the next of kin provides evidence that he or she privately purchased the outer burial receptacle, the allowance will be paid instead to that person). No application is required to receive payment of a monetary allowance.

(e) Amount of the allowance. (1) For calendar year 2000 and each calendar year thereafter, the allowance will be the average cost, as determined by VA, of Government-furnished graveliners, less the administrative costs incurred by VA in processing and paying the allowance.

(1) The average cost of Government-furnished graveliners will be based upon the actual average cost to the Government of such graveliners during the most recent fiscal year ending prior to the start of the calendar year for which the amount of the allowance will be used. This average cost will be determined by taking VA’s total cost during that fiscal year for single-depth graveliners which were procured for
placement at the time of interment and dividing it by the total number of such graveliners procured by VA during that fiscal year. The calculation shall exclude both graveliners procured and pre-placed in gravesites as part of cemetery gravesite development projects and all double-depth graveliners.

(ii) The administrative costs incurred by VA will consist of those costs that relate to processing and paying an allowance, as determined by VA, for the calendar year ending prior to the start of the calendar year for which the amount of the allowance will be used.

(2) For calendar year 2000 and each calendar year thereafter, the amount of the allowance for each calendar year will be published in the ‘Notices’ section of the FEDERAL REGISTER. The FEDERAL REGISTER notice will also provide, as information, the determined average cost of Government-furnished graveliners and the determined amount of the administrative costs to be deducted.

(3) The published allowance amount for interments which occur during calendar year 2000 will also be used for payment of any allowances for interments which occurred during the period from October 9, 1996 through December 31, 1999.

(Authority: 38 U.S.C. 2306(d))

§ 38.630 Headstones and markers.

(a) Types of Government headstones and markers and inscriptions will be in accordance with policies approved by the Secretary.

(b) Inscriptions on Government headstones, markers, and private monuments will be in accordance with policies and specifications of the Under Secretary for Memorial Affairs.

(c) Memorial headstones or markers. VA will furnish, when requested, a memorial headstone or marker to commemorate an eligible individual whose remains are unavailable. A Government memorial headstone or marker for placement in a national cemetery will be of the standard design authorized for the cemetery in which it will be placed. In addition to the authorized inscription on a Government memorial headstone or marker, the phrase “In Memory Of” is mandatory.

(1) Eligible individuals. An eligible individual for purposes of paragraph (c) is:

(i) A veteran, which includes an individual who dies in the active military, naval, or air service;

(ii) A veteran’s spouse or surviving spouse, including a surviving spouse who had a subsequent remarriage terminated by death or divorce, who died after November 11, 1998, or a surviving spouse who had a subsequent remarriage and died on or after October 10, 2008; or

(iii) A veteran’s eligible dependent child who died after December 22, 2006.

(A) A dependent child of a veteran is eligible if the child is under the age of 21 years, or under the age of 23 years if pursuing a course of instruction at an approved educational institution.

(B) A dependent child of a veteran is also eligible if the child is unmarried and became permanently physically or mentally disabled and incapable of self-support before reaching the age of 21 years, or before reaching the age of 23 years if pursuing a course of instruction at an approved educational institution.

(2) Unavailable remains. An individual’s remains are considered unavailable if they:

(i) Have not been recovered or identified;

(ii) Were buried at sea, whether by the individual’s own choice or otherwise;

(iii) Were donated to science; or

(iv) Were cremated and the ashes scattered without interment of any portion of the ashes.

(3) Placement of memorial headstones or markers—(i) Veterans. A Government memorial headstone or marker to commemorate a veteran may be placed in a national cemetery, in a State veterans cemetery, or in a private cemetery.

(ii) Other eligible individuals. A Government memorial headstone or marker to commemorate a veteran’s eligible spouse, surviving spouse, or dependent child may be placed only in a national cemetery or in a State veterans cemetery.

(Authority: 38 U.S.C. 501, 2306)

§ 38.631 Graves marked with a private headstone or marker.

(a) VA will furnish an appropriate Government headstone or marker for the grave of a decedent described in paragraph (b) of this section, but only if the individual requesting the headstone or marker certifies on VA Form 40–1330 that it will be placed on the grave for which it is requested or, if placement on the grave is impossible or impracticable, as close to the grave as possible within the grounds of the private cemetery where the grave is located.

(b) The decedent referred to in paragraph (a) of this section is one who:

(1) Died on or after November 1, 1990;
(2) Is buried in a private cemetery; and
(3) Was eligible for burial in a national cemetery, but is not an individual described in 38 U.S.C. 2402(4), (5), or (6).

(c) VA will deliver the headstone or marker directly to the cemetery where the grave is located or to a receiving agent for delivery to the cemetery.

(d) VA will not pay the cost of installing a Government headstone or marker in a private cemetery.

(e) The applicant must obtain certification on VA Form 40–1330 from a cemetery representative that the type and placement of the headstone or marker requested adheres to the policies and guidelines of the selected private cemetery.

(f) VA will furnish its full product line of Government headstones or markers for private cemeteries.

(Authority: 38 U.S.C. 501, 2306)

(The Office of Management and Budget has approved the information collection requirements in this section under control number 2900–0222)


§ 38.632 Headstone or marker application process.

(a) General. This section contains procedures for ordering a Government-furnished headstone or marker through the National Cemetery Administration (NCA) headstone and marker application process for burial or memorialization of deceased eligible veterans and eligible family members. It also contains procedures for requesting the inscription of new emblems of belief on Government-furnished headstones and markers.

(b) Definitions. For purposes of this section:

(1) Applicant means the decedent’s next-of-kin (NOK), a person authorized in writing by the NOK, or a personal representative authorized in writing by the decedent to apply for a Government-furnished headstone or marker and, in appropriate instances, a new emblem of belief for inscription on a Government-furnished headstone or marker.

(2) Emblem of belief means an emblem that represents the decedent’s religious affiliation or sincerely held religious belief system, or a sincerely held belief system that was functionally equivalent to a religious belief system in the life of the decedent. The absence of evidence to the contrary, VA will accept as genuine an applicant’s statement regarding the sincerity of the religious or functionally equivalent belief system of a deceased eligible individual. The religion or belief system represented by an emblem need not be associated with or endorsed by a church, group or organized denomination. Emblems of belief do not include social, cultural, ethnic, civic, fraternal, trade, commercial, political, professional or military emblems. VA will not accept any emblem that would have an adverse impact on the dignity and solemnity of cemeteries honoring those who served the Nation, including (but not limited to) emblems that contain explicit or graphic depictions or descriptions of sexual organs or sexual activities that are shocking, titillating, or pandering in nature; and emblems that display coarse or abusive language or images.

(3) Federally-administered cemetery means a VA National Cemetery, Arlington National Cemetery, the Soldiers’ and Airmen’s Home National Cemetery, a military post or base cemetery of the Armed Forces, a service department academy cemetery, and a Department of the Interior National Cemetery.
(4) **Headstones or markers** means headstones or markers that are furnished by the Government to mark the grave or memorialize a deceased eligible veteran or eligible family member.

(5) **State veterans cemetery** means a cemetery operated and maintained by a State or territory for the benefit of deceased eligible veterans or eligible family members.

(c) **Headstone or Marker application process.** (1) Headstones or markers will be ordered automatically during the process of arranging burial or memorialization for a deceased eligible veteran or eligible family member in a national cemetery or a State veterans cemetery that uses the NCA electronic ordering system. Cemetery staff will order a Government-furnished headstone or marker by entering information received from the applicant directly into the NCA electronic ordering system. Unless a new emblem of belief is requested (see paragraph (d)(1) of this section), no further application is required to order a Government-furnished headstone or marker when the national or state cemetery uses the NCA electronic ordering system.

(2) Submission of a completed VA Form 40–1330 (Application for Standard Government Headstone or Marker) is required when a request for a Government-furnished headstone or marker is not made using the NCA electronic ordering system. VA Form 40–1330 requires the applicant to provide information about the decedent, inscription preferences, and placement of headstone or marker. There is a space in the Remarks section of VA Form 40–1330 for applicants to clarify information or make special requests, to include an emblem of belief that is not currently available. To access VA Form 40–1330 use the following link: [http://www.va.gov/vaforms/va/pdf/40–1330.pdf](http://www.va.gov/vaforms/va/pdf/40–1330.pdf).

(d) **Application process for new emblems of belief.** When there is an immediate need, and the applicant requests a new emblem of belief for inscription on a new, first Government-furnished headstone or marker for a deceased eligible individual, the following procedures will apply:

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<tr>
<th>If the burial or memorialization of an eligible individual is in a:</th>
<th>The applicant must:</th>
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<tr>
<td>(1) Federally-administered cemetery or a State veterans cemetery that uses the NCA electronic ordering system.</td>
<td>(i) Submit a written request to the director of the cemetery where burial is requested indicating that a new emblem of belief is desired for inscription on a Government-furnished headstone or marker; and</td>
</tr>
<tr>
<td>(2) Private cemetery (deceased eligible veterans only), Federally-administered cemetery or a State veterans cemetery that does not use the NCA electronic ordering system.</td>
<td>(ii) Provide the information specified in paragraph (e) of §38.632 to the NCA Director of Memorial Programs Service.</td>
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(e) **Application.** The applicant must identify the deceased eligible individual for whom a request has been made to add a new emblem of belief to those emblems of belief available for inscription on Government-furnished headstones and markers. The application must include the following:

(1) Certification by the applicant that the proposed new emblem of belief represents the decedent’s religious affiliation or sincerely held religious belief system, or a sincerely held belief system that was functionally equivalent to a religious belief system in the life of the decedent.

(2) A three-inch diameter digitized black and white representation of the requested emblem that is free of copyright or trademark restrictions or authorized by the owner for inscription on Government-furnished headstones and markers and can be reproduced in a production-line environment in stone or bronze without loss of graphic quality.

(f) **Incomplete application.** If VA determines that an application for a new emblem of belief is incomplete, VA will notify the applicant in writing of any missing information and that he or she has 60 days to submit such information.
or no further action will be taken. If the applicant does not submit all required information or demonstrate that he or she has good cause for failing to provide the information within 60 days of the notice, then the applicant will be notified in writing that no further action will be taken on the request for a new emblem.

(g) Evaluation criteria. The Director of NCA’s Office of Field Programs shall forward to the Under Secretary for Memorial Affairs all complete applications, any pertinent records or information, and the Director's recommendation after evaluating whether:

(1) The applicant has demonstrated that there is an immediate need to inscribe the emblem on a new, first, Government-furnished headstone or marker for a deceased eligible individual, unless good cause is shown for an exception;

(2) The applicant has submitted a certification concerning the emblem that meets the requirements of paragraph (e)(1) of this section.

(i) In the absence of evidence to the contrary, VA will accept as genuine an applicant’s statement regarding the sincerity of the religious or functionally equivalent belief system of a deceased eligible individual. If a factual dispute arises concerning whether the requested emblem represents the sincerely held religious or functionally equivalent belief of the decedent, the Director will evaluate whether the decedent gave specific instructions regarding the appropriate emblem during his or her life and the Under Secretary will resolve the dispute on that basis.

(ii) In the absence of such instructions, the Under Secretary will resolve the dispute in accordance with the instructions of the decedent’s surviving spouse. If the decedent is not survived by a spouse, the Under Secretary will resolve the dispute in accordance with the agreement and written consent of the decedent’s living next-of-kin. For purposes of resolving such disputes, next-of-kin means the living person(s) first listed as follows:

(A) The decedent’s children 18 years of age or older, or if the decedent does not have children, then

(B) The decedent’s parents, or if the decedent has no surviving parents, then

(C) The decedent’s siblings.

(3) The emblem meets the definition of an emblem of belief in paragraph (b)(2);

(4) The emblem would not have an adverse impact on the dignity and solemnity of cemeteries honoring those who served the Nation—for example, the emblem cannot contain explicit or graphic depictions or descriptions of sexual organs or sexual activities that are shocking, titillating, or pandering in nature, or display coarse or abusive language or images. A determination that an emblem would have an adverse impact on the dignity and solemnity of cemeteries honoring those who served the Nation may not be made based on the content of the religious or functionally equivalent belief that the emblem represents.

(5) The emblem meets the technical requirements for inscription specified in paragraph (e)(2) of this section.

(h) Decision by the Under Secretary for Memorial Affairs. (1) A decision will be made on all complete applications. A request to inscribe a new emblem on a Government-furnished headstone or marker shall be granted if the Under Secretary for Memorial Affairs finds that the request meets each of the applicable criteria in paragraph (g) of this section. In making that determination, if there is an approximate balance between the positive and negative evidence concerning any fact material to making that determination, the Under Secretary shall give the benefit of the doubt to the applicant. The Under Secretary shall consider the Director of NCA’s Office of Field Programs’ recommendation and may consider information from any source.

(2) If the Under Secretary for Memorial Affairs determines that allowing the inscription of a particular proposed emblem would adversely affect the dignity and solemnity of the cemetery environment or that the emblem does not meet the technical requirements for inscription, the Under Secretary shall notify the applicant in writing and offer to the applicant the option of either:

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§ 38.633 Group memorial monuments.

(a) Definitions of terms. For the purpose of this section, the following definitions apply:

(1) Group—all the known and unknown dead who perished in a common military event.

(2) Memorial Monument—a monument commemorating veterans, whose remains have not been recovered or identified. Monuments will be selected in accordance with policies established under 38 CFR 38.630.

(3) Next of kin—recognized in order: Surviving spouse; children, according to age; parents, including adoptive, stepparents, and foster parents; brothers or sisters, including half or stepbrothers and stepsisters; grandparents; grandchildren; uncles or aunts; nephews or nieces; cousins; and/or other lineal descendant.

(4) Documentary evidence—Official documents, records, or correspondence signed by an Armed Services branch historical center representative attesting to the accuracy of the evidence.

(b) The Secretary may furnish at government expense a group memorial monument upon request of next of kin. The group memorial monument will commemorate two or more identified members of the Armed Forces, including their reserve components, who died in a sanctioned common military event, (e.g., battle or other hostile action, bombing or other explosion, disappearance of aircraft, vessel or other vehicle) while in active military, naval or air service, and whose remains were not recovered or identified, were buried at sea, or are otherwise unavailable for interment.

(c) A group memorial monument furnished by VA may be placed only in a national cemetery in an area reserved for such purpose. If a group memorial monument has already been provided under this regulation or by any governmental body, e.g., the American Battle Monument Commission, to commemorate the dead from a common military event, an additional group memorial monument will not be provided by VA for the same purpose.

(d) Application for a group memorial monument shall be submitted in a manner specified by the Secretary. Evidence used to establish and determine eligibility for a group memorial monument will conform to paragraph (a)/(4) of this section.

(Authority: 38 U.S.C. 501, 2403)