

FLAGS IN VA NATIONAL CEMETERIES

1. REASON FOR ISSUE: To revise National Cemetery Administration (NCA) policy and procedures for displaying flags in Department of Veterans Affairs (VA) national cemeteries.

2. SUMMARY OF CONTENTS: This directive prescribes policy and procedures related to displaying, handling, storage and disposition of flags in VA national cemeteries, including the flag of the United States of America, flags associated with the Confederate States of America, and the National League of Families POW/MIA Flag. It also outlines the procedures for requesting an exception to NCA flag policy. Deviation from NCA policy expressed in NCA Directive 3220 is not authorized unless approved in writing by the NCA Director, Office of Field Operations.

3. SUMMARY OF CHANGES: The following substantial changes were made to the April 30, 2001 guidance:

a. The position of Deputy Under Secretary for Operations was abolished and the responsibilities previously assigned to that position are now assigned to the Director, Office of Field Programs;

b. A new policy allowing daily display of an Avenue of Flags under certain conditions has been added;

c. A new policy allowing the five flags of the Military Departments of the United States to be flown in the cemetery during the time frame that committal services are being conducted;

d. Because the ruling was overturned on appeal, the reference to an order of the United States District Court for the District of Maryland pertaining to the daily display of a Confederate flag at Point Lookout Confederate Cemetery has been removed;

e. A new requirement pertaining to presentation of burial flags to next of kin during committal services at national cemeteries has been added; and

f. This directive combines information previously published in a separate directive and handbook.

NOTE: *The format of this directive was extensively revised and clarifying information added, so new information is not specifically designated.*

4. RESPONSIBLE OFFICE: NCA, Office of Field Programs, 810 Vermont Avenue, NW, Washington, DC 20420, is responsible for the material contained in this directive.

5. RELATED PUBLICATIONS: Soon-to-be-published NCA Directive 3170, Non-Department of Veterans Affairs (VA) Ceremonies and Special Events at VA National Cemeteries.

6. RESCISSIONS:

- a. NCA Directive 3220 - Flags in VA National Cemeteries (April 30, 2001)
- b. NCA Handbook 3220 - Flags in VA National Cemeteries (April 30, 2001)
- c. NCA Policy Letter, Presentation of Burial Flags (February 13, 1985)

7. RECERTIFICATION: This publication is scheduled for recertification on or before November 2008.

/s/
William F. Tuerk
Under Secretary
for Memorial Affairs

Distribution: Electronic

FLAGS IN VA NATIONAL CEMETERIES

1. PURPOSE AND SCOPE

This directive states Department of Veterans Affairs (VA) National Cemetery Administration (NCA) policy and procedures concerning the display of flags in national cemeteries under its jurisdiction. It provides guidance to NCA national cemetery staff in fulfilling the agency's primary mission to maintain its national cemeteries as national shrines dedicated to honoring the memory of those who served. The statutory authority for this directive is title 4, United States Code (U.S.C.), chapter 1; title 36, U.S.C., Section 902; and title 38, U.S.C., chapter 24. Other authorities are found in title 38, Code of Federal Regulations (CFR), sections 1.9, 1.10, and 1.218(a).

2. POLICY

a. Flags may not be displayed on NCA property as a means for political activity or similar conduct that promotes any particular viewpoint or ideology other than to commemorate and/or honor the military service of persons who have served or are serving in the Armed Forces of the United States. The terms "national cemetery" and "national cemeteries" mean property under the jurisdiction of NCA, including all land acquired under the National Cemeteries Act of 1973, Public Law 94-43, and all property later acquired by NCA for purposes of interment or memorialization of veterans and their eligible dependents. This definition includes any property used by NCA for administrative functions that relate to the interment or memorialization of veterans and their dependents.

b. Any deviation from NCA policy expressed in this directive is not authorized unless approved in writing by the Director, Office of Field Programs. Cemetery Directors have the authority to deny requests that are not in keeping with NCA's mission. Cemetery Directors also have the authority to recommend to the Director, Office of Field Programs, through the appropriate Memorial Service Network (MSN) Director, that a request for an exception to policy be approved. Such recommendations will be submitted in writing by the Cemetery Director at least 14 days before the proposed display will take place. Request for exceptions to policy are not encouraged and will generally only be approved when there is a historical or unique architectural feature that clearly justifies an exception. The Director, Office of Field Programs, will review the request and any background material and will respond within 5 business days of receiving the request from the MSN Director. The decision of the Director, Office of Field Programs, on such matters is final.

c. A Cemetery Director may revoke any organization's authorization to display a flag if the organization's conduct is not in keeping with standards of conduct on VA property or does not maintain the integrity or decorum of the national cemetery. Such a decision will only occur after the Cemetery Director's decision is approved by the Director, Office of Field Programs. The Cemetery Director will provide the organization with notice in writing of the potential revocation and the reasons why and will allow the sponsoring organization ten days to provide any relevant information that could affect the decision.

d. The United States of America flag and the National League of Families POW/MIA flag are the only two flags authorized for daily public display in VA national cemeteries. All other flags, including State flags and flags associated with the former Confederate States of America, may only be displayed under circumstances specified in this directive.

e. Respect will be demonstrated at all times for all flags authorized for public display at VA national cemeteries through appropriate handling, storage, display and disposition in accordance with title 4, U.S.C. chapter 1; title 38, U.S.C., section 2403; and title 38, CFR, sections 1.9, 1.10, 1.218(a). All flags, pennants and guidon banners will also be displayed in a dignified manner and in accordance with the rules of flag etiquette as described in title 4, U.S.C., chapter 1.

f. If a flag is in such condition that it is no longer a fitting emblem for display, it shall be destroyed in a dignified way, preferably by burning. Appropriate local service organizations are welcome to assist in the disposition of flags.

3. VA DISTINGUISHING FLAG, PENNANTS, GUIDON BANNERS, FLAGS OF VETERANS SERVICE ORGANIZATIONS AND MILITARY DEPARTMENTS, FOREIGN NATIONAL FLAGS

a. The distinguishing flag of the Department of Veterans Affairs is authorized for public display as described in 38 CFR Section 1.9(e).

b. Flags, pennants, and guidon banners may be displayed at the discretion of the Cemetery Director during ceremonies, special events, or during committal services so long as they commemorate honorable military service and are not intended to promote any particular viewpoint or ideology and do not contain language or symbols that are either inappropriate for a national cemetery or of an offensive nature. Any flags, pennants, guidon banners, or similar items displayed during a ceremony, special event, or committal service must be removed at the conclusion of that event.

c. Flags of Veterans Service Organizations granted congressional charters or recognized by VA under 38 CFR Section 14.628, for purposes of representing claimants for VA benefits, may be appropriately displayed at the discretion of the Cemetery Director during ceremonies, special events, or committal services. Such flags may also be placed in the administration building.

d. As a means of honoring military service, and at the discretion of the Cemetery Director, the five flags of the Military Departments of the Armed Forces of the United States may be:

(1) Appropriately displayed at the discretion of the Cemetery Director during ceremonies, special events, or committal services;

(2) Placed in the administration building; or

(3) Flown from a grouping of individual flagpoles within the cemetery from one-half hour before the start of the first committal service to one-half hour after the conclusion of the last committal service each day. (When such a display takes place, all five military service flags must be displayed simultaneously and at equivalent heights.)

e. Foreign National flags may be displayed during a visit by a current or former Head of State of a foreign government as part of an official ceremony attended by the Head of State, or during a visit by members of an official delegation of a foreign government to the United States. During such a visit, the graves of foreign citizens and/or prisoners of war may be decorated with their respective National flag.

4. UNITED STATES OF AMERICA FLAG

a. Each VA national cemetery will display an all-weather United States of America flag on the main flagpole each day of the year during the hours the cemetery is open, during the hours of daylight. Cemeteries having an appropriately illuminated flagpole may display the flag during non-daylight hours so long as the flag is illuminated between the hours of sunset and sunrise.

b. VA national cemetery personnel will display the flag of the United States of America on Memorial Day at half-staff until noon, at which time it will be raised to full staff. The flag may also be flown at half-staff when otherwise authorized (see title 4, U.S.C., section 7(m)) or by Presidential proclamation to commemorate the death of distinguished citizens, and each December 7 in honor of the individuals who died as a result of their service at Pearl Harbor (Pub. L. 103-308).

c. VA national cemetery personnel will bring the flag of the United States of America to half staff one-half hour before the start of the first committal service and raise it to full staff one-half hour after the conclusion of the last committal service each day.

d. No other flag will be routinely displayed subordinate to the United States of America flag on the main flagpole.

5. BURIAL FLAGS

a. Eligibility for and disposition of the flag of the United States of America for burial purposes is governed by 38 CFR 1.10.

b. VA national cemetery personnel will ensure the burial flag that drapes a casket, or is displayed with an urn containing cremated remains, is displayed in accordance with title 4, U.S.C, chapter 1, unless the primary next of kin or, if none, the party responsible for the burial wishes that the burial flag not be displayed.

c. Burial flags are available to next of kin at VA regional offices and U.S. Post Offices. (Funeral directors usually assist with completion of the required VA Form 21-2008, Application for United States Flag for Burial Purposes.)

d. When remains arrive at a VA national cemetery unaccompanied by a burial flag, one will be issued by the cemetery.

e. When a VA national cemetery representative presents the burial flag to the next of kin in lieu of a member of a military honor guard or national cemetery honor guard, the representative will present the burial flag using these words: "This flag is presented on behalf of a grateful Nation, as a token of appreciation for the honorable and faithful service rendered by your loved one."

f. For the purpose of presenting the burial flag at the committal service, the following order of preference will be followed (unless otherwise specified by the next of kin):

- (1) Surviving spouse.

(2) Children according to age (present to the eldest child at the interment, minor child may be issued flag on application signed by guardian).

(3) Parents, including adoptive, stepparents, and foster parents.

(4) Brothers and sisters, including half-brothers and half-sisters (present to eldest sibling present).

(5) Uncles or aunts.

(6) Nephews or nieces.

(7) Other relative, such as a cousins or grandparents.

(8) Where there is no living relative or next-of-kin, the flag may be presented to a close friend or associate.

g. Each VA national cemetery will maintain a supply of VA Form 21-2008 and burial flags adequate to meet anticipated needs. National cemetery staff should order burial flags (VA Stock Number VA-NSN-8345-00-656-1432) through established supply channels. Burial flags are accountable items.

h. VA national cemetery personnel will inspect all burial flags that accompany remains to assure that the flags are free of defects. Defective flags will be replaced with cemetery stock and turned in through established supply procedures for stock replenishment.

6. AVENUE OF FLAGS

a. An "Avenue of Flags" consists of multiple current (50 star) United States of America flags arrayed on both sides of the principal drive of the main entrance into a VA national cemetery. In newly constructed VA national cemeteries, the Avenue of Flags is the primary display of respect for the service performed by our Nation's veterans, and may replace the decorating of individual graves with small flags on Memorial Day, Veterans Day or other days of national significance.

b. Where Avenues of Flags are authorized and in place, they are displayed on Memorial Day, Veterans Day and other days of national significance such as Flag Day and Independence Day when weather permits. The wishes of local service and civic organizations should be considered in determining on which special occasions to display the Avenue of Flags.

c. A VA national cemetery may host a daily display of an Avenue of Flags if:

(1) A written request submitted by the Cemetery Director through the MSN Director has been approved by the Director, Office of Field Programs;

(2) All flags are maintained in excellent condition;

(3) All flags and flagpoles are donated by next of kin or provided by a cemetery support committee or other veterans support organization; and

(4) A Memorandum of Agreement has been implemented with the donating organization that outlines the ongoing responsibilities of both the organization and the cemetery in maintaining an Avenue of Flags.

d. Specific approval to display the Avenue of Flags on a daily basis was granted to the Black Hills National Cemetery based on the national cemeteries acceptance of the requirements specified in 6.c.

e. The size of a national cemetery's Avenue of Flags will be determined by the number of serviceable burial flags available and a program scope that can be readily managed by cemetery staff and volunteers. To the extent that it can be arranged, the Avenue of Flags will be supplied, installed, maintained, erected and taken down through voluntary donation of time and labor by local civic and service organizations, school groups, and other interested parties.

f. United States of America flags used in the Avenue of Flags are burial flags that are either donated by the next of kin to a VA national cemetery for display or provided by a cemetery support committee or other veterans organization. Cemetery Directors must make it clear to the donor that these flags become the property of VA, and that the donation is unconditional. Loaned flags will not be used for display in the Avenue of Flags. New burial flags drawn from stock will also not be used unless the cemetery receives written approval by the Director, Office of Field Programs.

g. When a memorial flag donation is accepted, the Cemetery Director will present a completed VA Form 40-4998, Certificate of Appreciation (Avenue of Flags Program), to the donor. This certificate should be prepared so that it is suitable for presentation and display. When practical, the certificate should be presented in person. When this is not practical, the certificate should be mailed to the donor along with an appropriate cover letter signed by the Cemetery Director. The certificate and letter should be packaged in a manner that offers protection from damage during shipment.

h. Flagpoles used to display the Avenue of Flags will be sufficient in size and strength to adequately and appropriately display a standard burial flag. Flagpoles are secured by insertion into an in-ground receptacle, usually spaced about 20 feet apart (6m), and placed so they do not interfere with vehicle or pedestrian traffic.

7. UNITED STATES GRAVE DECORATING FLAGS

a. In VA national cemeteries that display small individual grave decorating flags, such flags will be displayed only during the Memorial Day period each year. The practice of displaying grave decorating flags will be continued at such cemeteries except where substitution of an Avenue of Flags is favored by the local veteran community and discontinuation would not impact negatively on NCA or the cemetery. Discontinuance of the practice of decorating graves with individual flags may be implemented only with the prior approval of the Director, Office of Field Programs.

b. A Grave Decorating Flag Program is not required at newly constructed VA national cemeteries or at cemeteries where display of the Avenue of Flags is the traditional method of displaying United States of America flags on Memorial Day.

c. United States of America flags used to decorate graves are acquired at Government expense through established procurement procedures. Cemetery Directors will maintain an adequate stock of serviceable flags to decorate graves in the cemetery. It is important that these flags be protected from damage and properly stored to maximize their useful life.

d. Flags will be placed on graves in a uniform manner, usually 1 foot (.304m) in front of and centered on the headstone or marker. Depending on the number of graves to be decorated and available labor, graves may be decorated the weekend before Memorial Day and the flags should be removed shortly after Memorial Day. This will result in unilluminated flags in place during non-daylight hours; however, this is an authorized deviation from the flag code made necessary by logistics.

e. Cemetery Directors will actively promote voluntary assistance from local civic, historical or service organizations, for example: the Boy and Girl Scouts, other groups, and citizens who are interested in placing and removing grave decorating flags. Volunteers will be supervised to the extent possible to assure that flags are treated with dignity and respect and are properly placed. VA national cemetery personnel will conduct flag-related work that cannot be accomplished with assistance from volunteers.

f. After removal and before storage, flags will be inspected, dried, if necessary, and culled to remove those that are unserviceable. Unserviceable flags will be disposed of appropriately. If necessary, replacements will be ordered to assure that an adequate supply of flags will be on hand when needed. Flags will be stored in a dignified manner out of public view.

g. Small U.S. flags placed at gravesites by individuals will be removed at normal floral pickup or as necessary for grounds maintenance. Non-U.S. flags will be removed from gravesites when observed by cemetery staff, except when displayed in accordance with paragraph 8 (Flags of the Former Confederate States of America) of this directive.

8. FLAGS OF THE FORMER CONFEDERATE STATES OF AMERICA

a. A flag of the former Confederate States of America (CSA), such as the Confederate battle flag, may be displayed only in VA national cemeteries where Confederate soldiers, sailors, or marines are interred, and only to honor the memory of those who served in the armies, navy, or marines of the CSA during the Civil War.

b. Display of Confederate flags on NCA property is limited to displays by a sponsoring organization on Memorial Day and Confederate Memorial Day in cemeteries in those States that recognize a Confederate Memorial Day. In States that do not recognize a Confederate Memorial Day, NCA may approve a "ceremonial day" in lieu of Confederate Memorial Day. The process for Cemetery Directors to follow in reviewing requests for an alternate ceremonial day is provided in soon-to-be-published NCA Directive 3170, Non-Department of Veterans Affairs (VA) Ceremonies and Special Events at VA National Cemeteries.

c. A former Confederate States of America flag is to be subordinate to the United States of America flag in size and prominence of display. When displayed on graves in conjunction with the United States of America flag on Memorial Day, Confederate flags are placed 3 feet (.914m) in front of and centered on the headstone of deceased Confederate veterans. When displayed without the presence of the United States of America flag, as may be done on Confederate Memorial Day, the Confederate flag is placed 1 foot (.304m) in front of and centered on the headstone of deceased Confederate veterans.

d. The Confederate flag(s) will be displayed as follows:

(1) At VA national cemeteries where Confederate veterans are interred in individual graves, small individual Confederate grave flags may be placed on each grave on the day(s) identified in paragraph 8.b.

(2) At VA national cemeteries where Confederate veterans are buried in mass graves, the Confederate flag may be displayed on a separate flagpole that is subordinate to the United States of America flag on the day(s) identified in paragraph 8.b.

e. To permit broad participation on the two days identified in paragraph 8.b., display of a Confederate flag is permitted only under the sponsorship of a historical or service organization. Such display may occur only on the two days identified above, unless an exception has been granted as stated in paragraph 2.b. of this directive. Once initial display has been approved, a Confederate flag may be displayed by the sponsoring organization on the approved ceremonial day(s) on an annual basis, provided that the display is otherwise consistent with the requirements contained in this directive.

f. Requests to permit the display of a Confederate flag on a one-time basis as part of a ceremony or special event on a day other than the two days identified in paragraph 8.b. will be handled in accordance with soon-to-be-published NCA Directive 3170 – Non-Department of Veterans Affairs Ceremonies and Special Events at VA National Cemeteries.

g. The sponsoring organization will supervise the placement and removal of all Confederate grave decorating flags without cost to the United States. Removal will generally be on the same day unless precluded by logistical reasons. The sponsoring organization is responsible for the storage of Confederate flags. However, the cemetery director may, as a courtesy to the sponsoring organization, agree to store such flags if space is available and their storage does not result in any additional burden or cost to NCA.

h. Confederate flags may not be purchased with Government funds.

9. THE NATIONAL LEAGUE OF FAMILIES POW/MIA FLAG

a. The National League of Families POW/MIA Flag (POW/MIA flag) is the congressionally designated symbol of the Nation's concern to resolve the fates of Americans taken prisoner, or missing in action, and who remain unaccounted for in Southeast Asia. As stated in 36 U.S.C. Section 902(b), the display of the POW/MIA flag on the days and locations specified by Congress serves two purposes:

(1) It serves as a symbol of the Nation's commitment to achieve the fullest possible accounting of Americans who, having been prisoners of war or missing in action, remain unaccounted for.

(2) It serves as the symbol of the Nation's commitment to achieve the fullest possible accounting of Americans who in the future may become prisoners of war, missing in action, or otherwise be unaccounted for as a result of hostile action.

b. In keeping with NCA's continuing mission of commemorating the service of the Nation's veterans, the POW/MIA flag will be flown daily at all VA national cemeteries and other NCA property daily staffed by NCA personnel. At VA national cemeteries and NCA property that are not daily staffed, the POW/MIA flag will be flown on the 6 days required under 36 U.S.C. Section 902(c). The 6 days are:

- (1) Armed Forces Day, the third Saturday in May;
- (2) Memorial Day, the last Monday in May;
- (3) Flag Day, June 14;
- (4) Independence Day, July 4;
- (5) National POW/MIA Recognition Day (traditionally the third Friday in September); and
- (6) Veterans Day, November 11.

c. Consistent with the requirement at 36 U.S.C. Section 902(f) that the POW/MIA flag "be displayed in a manner designed to ensure visibility to the public," the POW/MIA flag will be displayed on a separate flagpole erected in a location to exhibit appropriate respect for the flag unless circumstances make display on a separate flagpole impractical.

10. STATE FLAGS

a. For the purposes of this directive, the term State flags includes the flags of all 50 states of the United States of America, as well as the Commonwealth of Puerto Rico.

b. State flags may be flown as part of an official ceremony or event attended by a senior State official. A State flag will not be flown in national cemeteries on a daily basis except at those national cemeteries that have been granted an exception to policy as noted below.

c. Four exceptions to policy have been issued by the Director, Office of Field Programs, authorizing the daily display of the flag of the State or, in the case of Puerto Rico, a flag of the United States Commonwealth, where the national cemeteries are located. These national cemeteries are: Black Hills National Cemetery; Houston National Cemetery; National Memorial Cemetery of Arizona; and Puerto Rico National Cemetery.

d. Cemeteries may display all State flags as part of the special events for Memorial Day and Veterans Day if the cemetery has the facilities to do so. All State flags must be included, and they all must be raised and lowered on that day.

11. RESPONSIBILITIES

a. **Director, Office of Field Programs**, is responsible for making final determinations in writing on requests referred through the MSN Director regarding:

- (1) Display of flags not in accordance with policy;
- (2) Hosting a daily display of an Avenue of Flags;
- (3) Discontinuing the practice of using grave decorating flags on Memorial Day; and
- (4) Following consultation with the MSN Director, revoking authority given to sponsoring organizations to display a flag if:

(a) The organization does not comply with standards for conduct on VA property and the requirements contained in this directive;

(b) There are operational or logistical issues that make revocation necessary; or

(c) Continuance of the display would adversely impact the image of VA national cemeteries as national shrines.

b. **Memorial Service Network (MSN) Directors** are responsible for:

(1) Assisting Cemetery Directors and the Office of Field Programs in evaluating requests for permission to deviate from the policies expressed in this directive;

(2) Referring requests for certain actions to the Director, Office of Field Programs, for final determinations; and

(3) Consulting with the Office of Field Programs regarding documented violations of policy or procedures.

c. **Cemetery Directors** are responsible for:

(1) Arranging for appropriate display of flags at the cemetery and appropriate disposition of flags, in accordance with the policies and procedures expressed in this directive;

(2) Maintaining an adequate supply of VA Form 21-2008 for use by the public in requesting burial flags;

(3) Maintaining an adequate supply of U.S. flags for burial and grave decorating purposes;

(4) Ensuring that each set of remains that arrives at the national cemetery is accompanied by a burial flag;

(5) Ensuring that donors of burial flags for display on an Avenue of Flags are aware that the donation is unconditional and presenting each donor with a completed VA Form 40-4998;

(6) Submitting a written request through the appropriate MSN Director to the Director, Office of Field Programs, for approval to host a daily display of an Avenue of Flags, to display flags not in accordance with current policy, to discontinue the practice of using grave decorating flags on Memorial Day, or to revoke a sponsoring organization's authority to display a flag if the organization does not comply with standards for conduct on VA property and the requirements contained in this directive; and,

(7) Promoting volunteer assistance for an Avenue of Flags, and timely placement and removal of grave decorating flags during the Memorial Day period.

12. REFERENCES

a. Title 4, United States Code (U.S.C.), chapter 1, *The Flag*

b. 36 U.S.C., section 902, *The National League of Families POW/MIA Flag*

- c. 38 U.S.C., chapter 24, *National Cemeteries and Memorials*
- d. Public Law 103-308, *National Pearl Harbor Remembrance Day*
- e. 38 Code of Federal Regulations (CFR), section 1.9, *Description, Use, and Display of VA Seal and Flag*
- f. 38 CFR 1.10, *Eligibility for and Disposition of the United States Flag for Burial Purposes*
- g. 38 CFR 1.218, *Security and Law Enforcement at VA Facilities*
- h. 38 CFR 14.628, *Recognition of Organizations*
- i. Soon-to-be-published NCA Directive 3170, Non-Department of Veterans Affairs Ceremonies and Special Events at VA National Cemeteries
- j. Letters approving exceptions to display the state flag on a daily basis signed by Director, Office of Field Operations, on May 17, 2004 (Puerto Rico National Cemetery); July 28, 2004 (National Memorial Cemetery of Arizona), September 8, 2004 (Black Hills National Cemetery); and January 14, 2005 (Houston National Cemetery)
- k. Letter approving exception to display an Avenue of Flags on a daily basis for Black Hills National Cemetery signed by the Under Secretary for Memorial Affairs on June 9, 2003