

**State of California
Office of Administrative Law**

In re:
Department of Veterans Affairs

Regulatory Action:

Title 12, California Code of Regulations

Adopt sections: 463. 464

Amend sections: 461

Repeal sections:

**NOTICE OF APPROVAL OF REGULATORY
ACTION**

Government Code Section 11349.3

OAL Matter Number: 2016-0726-02

OAL Matter Type: Regular Resubmittal (SR)

This rulemaking action by the Department of Veterans Affairs establishes new burial and disinterment fees for veterans, their spouses, and their dependent children who are eligible to be buried in a state veterans cemetery.

OAL approves this regulatory action pursuant to section 11349.3 of the Government Code. This regulatory action becomes effective on 8/30/2016.

Date: August 30, 2016



Eric Partington
Attorney

For: Debra M. Cornez
Director

Original: Vito Imbasciani
Copy: Angela Yamamoto

STD. 400 (REV. 01-2013)

OAL FILE NUMBERS	NOTICE FILE NUMBER Z-2015-0810-01	REGULATORY ACTION NUMBER 2016-0726-02SR	EMERGENCY NUMBER
For use by Office of Administrative Law (OAL) only			
NOTICE		REGULATIONS	
AGENCY WITH RULEMAKING AUTHORITY California Department of Veterans Affairs			AGENCY FILE NUMBER (If any)

ENDORSED - FILED
in the office of the Secretary of State
of the State of California

AUG 30 2016

1:49 pm

2016 JUL 26 A 9:01
OFFICE OF
ADMINISTRATIVE LAW

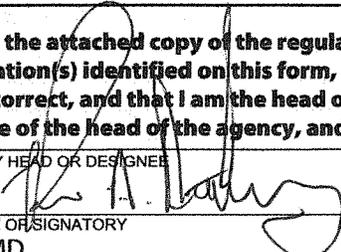
A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)

1. SUBJECT OF NOTICE		TITLE(S)	FIRST SECTION AFFECTED	2. REQUESTED PUBLICATION DATE	
3. NOTICE TYPE <input type="checkbox"/> Notice re Proposed <input type="checkbox"/> Regulatory Action <input type="checkbox"/> Other		4. AGENCY CONTACT PERSON		TELEPHONE NUMBER	FAX NUMBER (Optional)
OAL USE ONLY	ACTION ON PROPOSED NOTICE <input type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved/Withdrawn			NOTICE REGISTER NUMBER 2015, 34-2	PUBLICATION DATE 8/21/2015

B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

1a. SUBJECT OF REGULATION(S) State Veterans Cemeteries Burial Fees and Disinterment		1b. ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBER(S) 2015-1118-015 and 2016-0427-02	
2. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics related)			
SECTION(S) AFFECTED (List all section number(s) individually. Attach additional sheet if needed.)		ADOPT 463 and 464	
		AMEND 461	
TITLE(S) 12		REPEAL	
3. TYPE OF FILING			
<input type="checkbox"/> Regular Rulemaking (Gov. Code §11346)		<input type="checkbox"/> Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Gov. Code §§11346.2-11347.3 either before the emergency regulation was adopted or within the time period required by statute.	
<input checked="" type="checkbox"/> Resubmittal of disapproved or withdrawn nonemergency filing (Gov. Code §§11349.3, 11349.4)		<input type="checkbox"/> Emergency Readopt (Gov. Code, §11346.1(h))	
<input type="checkbox"/> Emergency (Gov. Code, §11346.1(b))		<input type="checkbox"/> File & Print	
		<input type="checkbox"/> Other (Specify) _____	
		<input type="checkbox"/> Changes Without Regulatory Effect (Cal. Code Regs., title 1, §100)	
		<input type="checkbox"/> Print Only	
4. ALL BEGINNING AND ENDING DATES OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §44 and Gov. Code §11347.1) 10/28/15 to 11/12/15; 2/23/16 to 3/10/16; 6/30/16 to 7/15/16			
5. EFFECTIVE DATE OF CHANGES (Gov. Code, §§ 11343.4, 11346.1(d); Cal. Code Regs., title 1, §100)			
<input type="checkbox"/> Effective January 1, April 1, July 1, or October 1 (Gov. Code §11343.4(a))		<input checked="" type="checkbox"/> Effective on filing with Secretary of State	
		<input type="checkbox"/> §100 Changes Without Regulatory Effect	
		<input type="checkbox"/> Effective other (Specify) _____	
6. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY			
<input checked="" type="checkbox"/> Department of Finance (Form STD. 399) (SAM §6660)		<input type="checkbox"/> Fair Political Practices Commission	
<input type="checkbox"/> Other (Specify) _____		<input type="checkbox"/> State Fire Marshal	
7. CONTACT PERSON Angela Yamamoto		TELEPHONE NUMBER 916-651-3068	FAX NUMBER (Optional)
		E-MAIL ADDRESS (Optional) angela.yamamoto@calvet.ca.gov	

8. I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

SIGNATURE OF AGENCY HEAD OR DESIGNEE 	DATE 7/25/16
TYPED NAME AND TITLE OF SIGNATORY Vito Imbasciani, MD	

For use by Office of Administrative Law (OAL) only

ENDORSED APPROVED

AUG 30 2016

Office of Administrative Law

**STATE OF CALIFORNIA
CALIFORNIA DEPARTMENT OF VETERANS AFFAIRS
1227 O STREET, ROOM 105
SACRAMENTO, CA 95814**

**TITLE 12. MILITARY AND VETERANS AFFAIRS
DIVISION 2. DEPARTMENT OF VETERANS' AFFAIRS
CHAPTER 3. VETERANS' SERVICES
SUBCHAPTER 5. STATE VETERANS CEMETERY**

Final text

Changes noted in the following manner: adopted in single underline; deleted in single strikethrough

§ 461. Persons Eligible for Burial.

(a) In determining which persons are eligible for burial in a state veterans cemetery, the Division of Veterans Services (Division) shall use the eligibility requirements specified in Title 38 Code of Federal Regulations § 38.620 "Persons Eligible for Burial" (Federal Register, Volume 70, Number 19 effective January 31, 2005), which is hereby incorporated by reference in its entirety.

(b) The Division of Veterans Services, or its designee, shall review and determine the eligibility of persons seeking burial in a state veterans cemetery. Any person requesting burial of an applicant in a state veterans cemetery, shall submit an "Eligibility for Burial Benefits Determination" application (~~DVS-100, dated August, 2005~~) (VSD-002, dated June 2016), which is hereby incorporated in its entirety, and supporting documentation as required by VSD-002 to enable the Division to determine the applicant's and dependent eligibility.

Note: Authority cited: Section ~~7001455~~, Military and Veterans Code. Reference: Sections 1400, 1410 and 1455, Military and Veterans Code.

§ 463. Burial Fees

(a) The department shall not charge a fee for initial burial of eligible veterans.

(b) The fee for subsequent burial of an eligible veteran for which a federal reimbursement has already been awarded (for example, moving a veteran interred at a national veterans cemetery to a state veterans cemetery) shall be equal to the current published U. S. Department of Veterans Affairs burial rate for veterans.

(c) The fee for the interment of eligible spouses and children of veterans in a state veterans cemetery shall be equal to the current published U.S. Department of Veterans Affairs burial rate for veterans.

Note: Authority cited: Section 1455, Military and Veterans Code. Reference: Sections 1400, 1410 and 1455, Military and Veterans Code.

§ 464. Disinterments

(a) Interments of eligible decedents in state veterans cemeteries are considered permanent and final. Disinterment will be permitted only for cogent reasons (e.g., when families move and want their loved one close by, or when the next of kin was not aware that the person had purchased a plot in a different cemetery), and with the prior written authorization of the Cemetery Director responsible for the cemetery involved. Disinterment from a state veterans cemetery will be approved only when 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), give their written consent, or when a court order 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) Requests for disinterment must be submitted on Form VSD-003, Request for Disinterment (dated June 2016), which is hereby incorporated by reference in its entirety, and 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.

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

(d) The state veterans cemetery shall charge a disinterment fee for an in-ground cremation that is equivalent to 50% of the current federal burial reimbursement rate, and a disinterment fee for caskets that is equivalent to 75% of the current federal burial reimbursement rate. The state veterans cemetery may not charge a disinterment fee for the reopening of a niche.

Note: Authority cited: Section 1455, Military and Veterans Code. Reference: Sections 1400, 1410 and 1455, Military and Veterans Code.

Repeated



Northern California Veterans Cemetery
Eligibility for Burial Benefits Determination
PO Box 76 - 11800 Gas Point Road Igo, California 96047-0076
(866)-777-4533 (toll free)

REQUEST TYPE (Check all that apply)

- Veteran Pre-need
- Spouse Need

INTERMENT TYPE

- Cremation Casket
- Undecided

VETERAN'S INFORMATION

Last Name _____ First Name _____ MI _____
Address _____ City _____ State _____ ZIP _____
Gender Male Female Date of Birth _____ Social Security # _____
Marital Status: Single Married Divorced Widowed Legally Separated

SERVICE RECORD (A copy of Form DD-114 or equivalent discharge documents MUST be included with this form)

Branch of Service _____ Highest Rank _____
Date of Entry into Active Service _____ Date of Separation _____

CONTACT INFORMATION (Who should be contacted about this form)

Last Name _____ First Name _____ MI _____
Address _____ City _____ State _____ ZIP _____
Daytime Phone (____) _____ Evening Phone (____) _____
Relationship to Veteran _____

SPOUSAL INFORMATION (Complete for spousal pre-registration; copy of Marriage License MUST be included)

Last Name _____ First Name _____ MI _____
Address _____ City _____ State _____ ZIP _____
Spouses Date of Birth _____ Social Security # _____
If Spouse is a Veteran please submit a separate application

AUTHORIZATION

I hereby certify under penalty of perjury that the information contained in this application and supporting documents is given for the purpose of obtaining burial benefits and is true, correct and complete. I authorize the California Department of Veterans Affairs (CDVA) employees, officers and designees to verify these documents. I hereby authorize the U.S. Department of Veterans Affairs and the Department of Defense to release information regarding my service to the CDVA with the understanding that benefits may be denied if any information is found to be incomplete or inaccurate.

Veterans Signature _____ Date _____
(Or person authorized to act on the veteran's behalf)
Spouses Signature _____ Date _____

_____ For Cemetery Use Only
 Approved Denied: _____ Letter Sent

This form is required to assist the Cemetery in determining eligibility for burial in the Northern California Veterans Cemetery. The form is required at the time of need or may be used for a pre-need determination.

Pre-need determination allows a veteran to establish in advance, his/her eligibility for interment at the Northern California Veterans Cemetery. There is no cost for pre-need determination and it does not obligate the veteran to be interred at the cemetery. Pre-need determination is intended to simplify and assist the veteran's next-of-kin at the time of death.

Eligibility determinations shall be made in accordance with federal regulations (38 CFR 38.620) or state regulations (CCR Title 12 Sec. 460-461)

There will be an interment fee for eligible spouses and dependent children at the time of need. Associated funeral expenses are incurred by the veteran and/or family.

Please complete the application as instructed below:

- "Request Type" Check all appropriate boxes – Is the determination for the Veteran and/or Spouse? Is this application for a pre-need determination or an at-need determination? Select the Interment Type.
- Complete the "Veteran's Information" and "Service Record" sections of the form. Please note that the "Service Record" information listed on this application is not in lieu of providing the Cemetery with a copy of Form DD-214 or other equivalent discharge document. A copy of either of these documents MUST be included when submitting this application. Failure to provide the required service record document will delay processing the application.
- Complete the "Contact Information" with either the veterans contact information or the family member who will be able to assist the Cemetery in the event more information is needed.
- Complete the "Spousal Information" if the eligible spouse wishes to be interred in the Veterans Cemetery. A copy of the Marriage License MUST be included when submitting this application. Failure to provide a copy of the Marriage license will delay processing.
- In certain circumstances, dependent children may also be eligible for interment. Please contact the Veterans Cemetery Office for more information regarding dependents.
- The person completing this application should sign and date the form. Please indicate the relationship to the veteran. It is recognized that in certain cases the veteran may require assistance and not be the individual completing the application.

For questions or further information, please call (866) 777-4533. Mail the completed application and a copy of Form DD-214 or other equivalent discharge document to:

**Northern California Veterans Cemetery
PO Box 76 - 11800 Gas Point Road, Igo, CA 96047-0076
(866) 777-4533**

PRIVACY NOTIFICATION

The Information Practices Act of 1977 (Civil Code Section 1798.17) and the Federal Privacy Act (Public Law 93-579) require that this notice be provided when collecting personal information from individuals. The California Department of Veterans Affairs, Veterans Services Division, is requesting the information for the purposes of identification, and to determine eligibility for benefits under the provisions of California Code of Regulations Title 12 §461. The Administrator, Northern California Veterans Cemetery administers the program (contact information listed above). Individuals may visit the cemetery to review their personal records during normal business hours. Providing the requested information is voluntary. Failure to provide the requested information may result in the delay, or denial of benefits.



State Veterans Cemeteries

This application is for burial at:

California Central Coast Veterans Cemetery (CCVC) in Seaside (Monterey County)

Northern California Veterans Cemetery (NCVC) in Igo (Shasta County)

VETERAN'S INFORMATION

Last Name _____ First Name _____ MI _____

Address _____ City _____ State _____ ZIP _____

Gender Male Female Date of Birth _____ Social Security # _____

Marital Status: Single Married Divorced Widowed Legally Separated

SERVICE RECORD (A copy of Form DD-214 or equivalent discharge documents MUST be included with this form)

Branch of Service _____ Dates of Service _____ Military Retiree Yes No

CONTACT INFORMATION (Who should be contacted about this form)

Last Name _____ First Name _____ MI _____

Address _____ City _____ State _____ ZIP _____

Daytime Phone (____) _____ Evening Phone (____) _____

Relationship to Veteran _____ Email Address _____

SPOUSAL INFORMATION (Complete for Spousal pre-registration; copy of Marriage License MUST be included)

Last Name _____ First Name _____ MI _____

Address _____ City _____ State _____ ZIP _____

Spouse's Date of Birth _____ Social Security # _____

If spouse is a veteran, please submit a separate application

AUTHORIZATION

I hereby certify under penalty of perjury that the information contained in this application and supporting documents is given for the purpose of obtaining burial benefits and is true, correct and complete. I authorize the California Department of Veterans Affairs (CalVet) employees, officers and designees to verify these documents. I hereby authorize the U.S. Department of Veterans Affairs and the Department of Defense to release information regarding my service to CalVet with the understanding that benefits may be denied if any information is found to be incomplete or inaccurate.

Veteran's Signature _____ Date _____
(Or person authorized to act on the veteran's behalf)

Spouse's Signature _____ Date _____

For CalVet Use Only

Approved Denied: _____ Letter Sent

This form is required to assist CalVet in determining eligibility for burial in a California State Veterans Cemetery.

Eligibility determination allows a veteran to establish his/her eligibility for interment at a California State Veterans Cemetery. There is no cost for this determination and it does not obligate the veteran to be interred at the cemetery. Eligibility determination is intended to simplify and assist the veteran's next-of-kin. Eligibility determinations shall be made in accordance with federal regulations (38 CFR 38.620) and state regulations (CCR, Title 12, Sections 460-461). In certain circumstances, dependent children may also be eligible for interment. Please contact a State Veterans Cemetery for more information regarding dependent eligibility.

To register for eligibility determination, please submit the following:

- **Completed application form** – Be sure to sign and date the form after filling it out.
- **Copy of veteran's military discharge document** – This is most commonly a Form DD-214, but may be a different record, particularly for World War II and Korean war era veterans. The document(s) must show the veteran's name, dates of active duty military service, and type of discharge. A discharge certificate is not sufficient to establish eligibility. For help obtaining your DD-214 or discharge documents, contact your local County Veterans Service Office or a State Veterans Cemetery (contact information below).
- **Copy of marriage certificate** – If a spouse is applying for interment at a State Veterans Cemetery, a copy of the marriage certificate is required. If the certificate is in a foreign language, please provide a translation.
- **Copy of death certificate** – If the application is for a deceased veteran or spouse, provide a copy of the death certificate.

There is no interment fee for eligible veterans. There is an interment fee for eligible spouses and dependent children, which is due at time of interment. Any additional expenses associated with the interment (such as a burial permit and funeral home expenses) are the responsibility of the veteran and/or family.

Please note that at this time, the CCCVC in Seaside offers only interment of urns containing cremated remains in above-ground columbaria, and memorial plaques; future phases of the cemetery's development will include in-ground burials. The NCVC in Igo offers in-ground burials for caskets and urns, placement of urns in above-ground columbaria, and memorial headstones.

For questions or further information, please call the appropriate cemetery at the phone number listed below. Mail the completed application with supporting documents to the appropriate cemetery.

Northern California Veterans Cemetery PO Box 76 – 11800 Gas Point Rd. Igo, CA 96047-0076 Cemetery Analyst: Mark George (530) 396-2429	California Central Coast Veterans Cemetery 2900 Parker Flats Road Seaside, CA 93955 Cemetery Manager: Daria Maher (530) 396-2429
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PRIVACY NOTIFICATION

The Information Practices Act of 1977 (Civil Code Section 1798.17) and the Federal Privacy Act (Public Law 93-579) require that this notice be provided when collecting personal information from individuals. The California Department of Veterans Affairs, Veterans Services Division, is requesting the information for the purposes of identification, and to determine eligibility for benefits under the provisions of California Code of Regulations, Title 12, §461. Individuals may visit the cemetery in which a person is interred (location and contact information shown above) to review their personal records during normal business hours. Providing the requested information is mandatory for interment in a State Veterans Cemetery. Failure to provide the requested information may result in the delay or denial of benefits.



VSD-003 - REQUEST FOR DISINTERMENT INSTRUCTIONS

As specified in California Code of Regulations, Title 12, Section 464, disinterment will be permitted only for cogent reasons (e.g., when families move and want their loved one close by, or when the next of kin was not aware that the person had purchased a plot in a different cemetery). Disinterment from a state veterans cemetery will be approved only when 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), give their written consent, or when a court order directs the disinterment.

“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.”

Requests for disinterment must be submitted on this Request for Disinterment Form and shall 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.

The state veterans cemetery shall charge a disinterment fee for an in-ground cremation that is equivalent to 50% of the current federal burial reimbursement rate, and a disinterment fee for caskets that is equivalent to 75% of the current federal burial reimbursement rate. The state veterans cemetery may not charge a disinterment fee for the reopening of a niche.

Please complete this Request for Disinterment Form, as instructed above, and return to the appropriate state cemetery. Your request will be reviewed for completeness and compliance, and then you will be contacted.

If you have any questions or require further assistance, please contact the State Veterans Cemetery office.

VSD-003 - REQUEST FOR DISINTERMENT

PRIVACY NOTIFICATION: The Information Practices Act of 1977 (Civil Code Section 1798.17) and the Federal Privacy Act (Public Law 93-579) require that this notice be provided when collecting personal information from individuals. The California Department of Veterans Affairs, Veterans Services Division, is requesting the information for the purposes of identification, and to determine eligibility for disinterment under the provisions of California Code of Regulations, Title 12, §464. Individuals may visit the cemetery in which a person has been interred to review their personal records during normal business hours. Providing the requested information is mandatory for disinterment from a State Veterans Cemetery. Failure to provide the requested information may result in the delay or denial of disinterment.

TO: _____ (Name of California State Veterans Cemetery)

I hereby request authority for the disinterment of the remains of my:

(Relationship of deceased)

(Name of deceased)

from the _____ cemetery. I understand that any disinterment must be accomplished without expense to the State of California, and that all costs associated with the disinterment will be borne by the requestor/s, and that all arrangements for the removal of the remains are also the responsibility of the requestor/s. Interested parties acknowledge that remains are buried in containers that degrade over time, and that the forces of nature will cause deterioration of the container and compromise the condition of the remains.

This disinterment is requested for the following reason (Attach additional pages as necessary) :

I hereby certify that the individuals named on page 2 of this form constitute all of the living immediate family members of the deceased as follows: Surviving spouse (whether or not remarried), all adult children of the decedent, appointed guardian(s) of minor children, the appointed guardian of the surviving spouse or of the adult child(ren) of the decedent. In the absence of a surviving spouse and children, the decedent's parents will be considered "immediate family members". *Affidavit(s) (page 2 of this form) must be attached from all living immediate family members (must include the person who initiated the interment, if living, even if not a member of the immediate family).*

Witness my signature this _____ day of _____, 20____

(Signature of Requestor)

Sworn to and subscribed before me this _____ day of _____, 20____

[Seal]

(Signature of Notary Public)

My commission expires _____

VSD-003 – DISINTERMENT AFFIDAVIT

PRIVACY NOTIFICATION: The Information Practices Act of 1977 (Civil Code Section 1798.17) and the Federal Privacy Act (Public Law 93-579) require that this notice be provided when collecting personal information from individuals. The California Department of Veterans Affairs, Veterans Services Division, is requesting the information for the purposes of identification, and to determine eligibility for disinterment under the provisions of California Code of Regulations, Title 12, §464. Individuals may visit the cemetery in which a person has been interred to review their personal records during normal business hours. Providing the requested information is mandatory for disinterment from a State Veterans Cemetery. Failure to provide the requested information may result in the delay or denial of disinterment.

TO WHOM IT MAY CONCERN:

I (we) the undersigned hereby signify my (our) Agreement for the disinterment of the remains of _____
from _____. (Enter name of cemetery)

PRINTED NAME	SIGNATURE	RELATIONSHIP TO DECEASED	ADDRESS
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

Sworn to and subscribed before me this _____ day of _____, 20_____

[SEAL] _____
(Signature of Notary Public)

My commission expires: _____