

SUPPLEMENT TO INITIAL STATEMENT OF REASONS

Section 461(a): The removal of the Federal Regulations reference was canceled because it's necessary to state the exact Federal Regulations that must be adhered to by the State Veterans Cemetery.

Also, the Military and Veterans Code limits eligibility to dependent children at the SCVC and the CCCSVC, but 12 C.C.R. § 461(a) states that eligibility at a state veterans cemetery will be determined in accordance with the federal standards under 38 U.S.C. § 38.620, which does not explicitly limit eligibility to dependent children. This section is necessary because the term "dependent children" is not defined in the Military and Veterans Code sections governing state veterans homes. In adopting the VA's eligibility criteria, CalVet has determined that the term "dependent children," as used in these sections, is substantially similar to the term "minor child," as that term is used in the VA regulations governing eligibility for burial in a national cemetery. (38 C.F.R. § 38.620, subd. (e).) Under section 38.620, a "minor child" is defined as an unmarried child under 21 years of age, or under 23 years of age if pursuing a full-time course of instruction at an approved educational institution. Thus, 12 C.C.R. § 461(a) will extend eligibility to a "minor child," as defined, at all state veterans cemeteries.

Section 463(a)(1): CalVet adopted (added) this subsection to establish a fee for the burial of a veteran who has already used his or her VA burial benefits. It is necessary to add this subsection in order to charge a fee for the reinterment of the veteran, where the State would otherwise not be able to recover the costs for the burial. It is necessary to add this subsection for full transparency to the public all costs and fees to families interring individuals at state veterans cemeteries.

"Second" was deleted because it was unnecessary language as it is repetitive to "subsequent burial." Subsequent was used because there may be more than two burials.

Section 463 (b): CalVet did not properly include the necessity of this section and determination of the cost for burial of an eligible dependent in the original initial statement of reasons. The average current costs for a burial at a state veterans cemetery is \$830 (this is an average cost of staff salary/benefits and ongoing equipment costs for casketed, in-ground cremations, and columbarium niche including a memorial service and perpetual maintenance) at the Northern California Veterans Cemetery (NCVC). The remaining \$85 is offset by the General Fund annual budget allocations at the Northern California Veterans Cemetery. The average costs for a burial at the California Central Coast Veterans Cemetery (CCCVC) are estimated at around \$750 (this is an average cost of staff salary/benefits and ongoing equipment costs for columbarium niche including a memorial service); less than NCVC due to the fact that only cremation burials are available at CCCVC. The current reimbursement rate for burials from the U.S. Department of Veterans Affairs (USDVA) is \$747 as of October 1, 2015 (per the USDVA Burial and Plot Allowance Fact Sheet, dated December 2015). CalVet estimates future costs of burials to mirror the costs reimbursed by USDVA; therefore, this section is necessary to establish the fees ongoing that mirror the USDVA rate.

Section 464 (b): CalVet added this section to specify the form that is required for a family to request disinterment from a state veterans cemetery. Without this section, the public would not know what forms are required for the Department to approve the request for disinterment.

Section 464 (c): 12 C.C.R. § 464 originally stated that disinterment will be permitted according to 38 C.F.R. § 38.621. OAL noted that while section 38.621 could be used as a model, many of its provisions are inapplicable to state veterans cemeteries. CalVet agreed and changed the section to no longer refer to C.F.R. § 38.621 and instead specify our own procedure using section 38.621 as a model. It is necessary to include these as the basis for the procedures and expectations for disinterment for a state veterans cemetery.

The CalVet costs (staff and ongoing equipment) for disinterment are less than initial burials in the way that an initial casketed gravesite does not need to be dug for a disinterment and the costs of perpetual maintenance were already considered in the initial burial fee. The initial statement of reasons was not clear in stating that the “same” resources are required—what was intended was to state that the same type of resources are used (staff and equipment) but the amount of staff time and equipment is reduced about 25% for a casketed burial and 50% reduced for an in-ground cremation.

Authority and Reference: Authority and References cited were changed in the first draft but not highlighted in the original proposed text. They were highlighted in the third public comment period.

Military and Veterans Code sections 1400-1403 govern the Northern California Veterans Cemetery (NCVC). Section 1400(b)(1) provides that those eligible for interment in the cemetery include all honorably discharged veterans and their spouses and children. Section 1400(b)(1) further provides that a fee of \$500 shall be charged for each spouse or child interred in the cemetery. Section 1400(b)(2) authorizes CalVet to adopt regulations to specify the eligibility requirements for interment in the cemetery.

Military and Veterans Code sections 1410-1418 govern the Southern California Veterans Cemetery (SCVC). Section 1410(b)(1) provides that honorably discharged veterans, their spouses, and dependent children are eligible for interment in the cemetery. Section 1410(b)(1) further provides that CalVet shall establish a fee to be charged for interment of veteran spouses and eligible dependent children, not to exceed CalVet’s reasonable interment costs. Section 1410(b)(2) authorizes CalVet to adopt regulations to specify the eligibility requirements for interment in the cemetery.

Military and Veterans Code sections 1450-1457 govern the California Central Coast State Veteran Cemetery (CCCSVC). Section 1455(b) provides that all honorably discharged veterans and their spouses and dependent children are eligible for interment. Section 1455(a) authorizes CalVet to adopt regulations to specify: (1) the eligibility requirements for interment; (2) the appropriate fees to be charged for interment of spouses and dependent children; and (3) the appropriate fees to be charged for disinterment of remains. Section 1455(d) states that regulations adopted pursuant to this section shall also be applicable to all state-operated veterans cemeteries in order to ensure consistent and equitable treatment of all veterans and their families throughout the state.

The statutory schemes for each state veterans cemetery differ in important ways. For example, all children of honorably discharged veterans are eligible for interment at the NCVC, but only dependent children are eligible for interment at the SCVC and the CCCSVC. The term “dependent” is undefined. Additionally, while there is no fee for the interment of honorably discharged veterans, the NCVC is required by statute to impose a \$500 fee for the interment of spouses and children. At the SCVC and CCCSVC, however, those fees are left at CalVet’s discretion, provided that they do not to exceed the cemeteries’ reasonable interment costs. Finally, CalVet is authorized to establish the fee for disinterment of remains at the CCCSVC, but the statutory schemes governing the NCVC and SCVC are silent as to the fees for disinterment.

In order to “ensure consistent and equitable treatment of all veterans and their families throughout the state,” the Legislature made any regulations adopted for the CCCSVC applicable to the other state veterans cemeteries. (Mil. & Vet Code §1455, subd. (d).) Thus, CalVet may adopt regulations for all of the state veterans cemeteries, provided that they are consistent with section 1455. Since section 1455 provides that only dependent children are eligible for interment, CalVet may impose this limitation on all state veterans cemeteries. Additionally, CalVet may, at its discretion, impose a fee for all state veterans cemeteries. It is not limited to the \$500 fee specified in section 1400 for the NCVC. (While only

applicable to the SCVC, section 1410(b)(1) suggests the Legislature's intent that the fee not exceed CalVet's reasonable interment costs.)

In 12 C.C.R. § 463(b), CalVet provides that the fee charged for interment at a state veterans cemetery will be equivalent to the fee charged by the U.S. Department of Veterans Affairs (VA). The reimbursement rate for burial from the VA is \$745.00, as of October 1, 2014. [citation] The average cost for burial at a state veterans cemetery is \$830.00. Thus, by adopting the VA rate, CalVet is imposing a fee which is fair and reasonable, and which is not greater than CalVet's interment costs.