

IDAPA 21 – DIVISION OF VETERANS SERVICES

Central Support Office

21.01.04 – Rules Governing Idaho State Veterans Cemeteries

Who does this rule apply to?

Veterans and dependents interested in interment at one of the Idaho State Veterans Cemeteries.

What is the purpose of this rule?

This rule contains provisions for eligibility for interment at an Idaho State Veterans Cemetery and the provisions for operation and maintenance of the Idaho State Veterans Cemeteries.

What is the legal authority for the agency to promulgate this rule?

This rule implements the following statutes passed by the Idaho Legislature:

Soldiers and Sailors -

Service Men's Memorials:

- [Section 65-108, Idaho Code](#) – Idaho State Veterans Cemeteries
Division of Veterans Services — Veterans Affairs Commission
- [Section 65-202, Idaho Code](#) – Powers and Duties

Who do I contact for more information on this rule?

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Table of Contents

21.01.04 – Rules Governing Idaho State Veterans Cemeteries

000. Legal Authority.	3
001. Scope.	3
002. Incorporation By Reference.	3
003. -- 009. (Reserved)	3
010. Definitions.	3
011. -- 019. (Reserved)	3
020. Eligibility For Interment.	4
021. (Reserved)	4
022. Interment And Reinterment.	4
023. Disinterment And Reinterment.	4
024. Fees For Interment, Disinterment, Reinterment, And Memorial.	5
025. -- 029. (Reserved)	5
030. Cemetery Use.	5
031. -- 039. (Reserved)	6
040. Memorials And Donations.	6
041. – 999. (Reserved)	6

21.01.04 – RULES GOVERNING IDAHO STATE VETERANS CEMETERIES

000. LEGAL AUTHORITY.

Section 65-202, Idaho Code.

(3-1-23)T

001. SCOPE.

These rules contain provisions for eligibility for interment at Idaho State Veterans Cemeteries and the provisions for operation and maintenance of Idaho State Veterans Cemeteries.

(3-23-22)

002. INCORPORATION BY REFERENCE.

01. **Incorporated Documents.** These rules incorporate by reference the following: (3-23-22)

a. The full text of 38 CFR 38.620, dated July 1, 2001. (3-23-22)

b. 38 U.S.C.A. Section 2402, (2004 and Supp. 2004). (3-23-22)

c. 38 CFR 39.5(d), dated July 1, 2008. (3-23-22)

003. -- 009. (RESERVED)

010. DEFINITIONS.

01. **Administrator.** The Administrator of the Idaho Division of Veterans Services or his designee. (3-23-22)

02. **Applicant.** The individual requesting interment, disinterment or reinterment of a qualified person. (3-23-22)

03. **Armed Forces Member.** A member or former member of the armed forces of the United States, the reserve component of the armed forces of the United States, the reserve officers training corps of the United States, or the armed forces of an ally of the United States who is eligible for burial in national cemeteries pursuant to 38 CFR 38.620 and 38 U.S.C. Section 2402. (3-23-22)

04. **Cemetery.** Idaho State Veterans Cemeteries authorized pursuant to Section 65-108, Idaho Code. (3-23-22)

05. **Committal Service.** A gathering of one (1) or more individuals prior to interment or reinterment. (3-23-22)

06. **Cremains.** Cremated human remains. (3-23-22)

07. **Disinterment.** The removal of human remains from their place of interment. (3-23-22)

08. **Division.** The Idaho Division of Veterans Services. (3-23-22)

09. **Interment.** The disposition of human remains by burial or the placement of cremains in a grave plot or in any location designated by the Administrator for use as a permanent location of cremains. (3-23-22)

10. **Qualified Person.** A person who satisfies the requirements for eligibility for interment in national cemeteries found at 38 CFR 38.620 and 38 U.S.C. Section 2402 and is not prohibited from being interred by 38 CFR 39.10(b)); or a member or former member of the reserve component of the armed forces of the United States; the reserve officers training corps of the United States; or members of the Army National Guard or Air National Guard who completed at least one term of enlistment, or officers who completed at least four years of service. (3-1-23)T

11. **Reinterment.** The interment of previously interred human remains. (3-23-22)

12. **Unremarried Spouse.** An individual who is the surviving spouse of a deceased armed forces member and who has not remarried. (3-23-22)

13. **USDVA.** The United States Department of Veterans Affairs. (3-23-22)

011. -- 019. (RESERVED)

020. ELIGIBILITY FOR INTERMENT.

01. Eligibility. A qualified person is eligible for interment at the cemetery. An individual who is a qualified person based upon a relationship to an armed forces member is eligible for interment at the cemetery if the armed forces member is pre-registered for interment at the cemetery or is interred at the cemetery. (3-23-22)

02. Requirements. (3-23-22)

a. Proof of qualification as an Armed Forces Member as evidenced by: (3-23-22)

i. A valid discharge from the armed forces of the United States in the name of the individual indicating that the character of discharge was other than dishonorable; (3-23-22)

ii. A copy of a Reserve Retirement Eligibility Benefits Letter in the name of the individual; (3-23-22)

iii. A valid certificate of naturalization or a valid United States passport in the name of the individual and a valid discharge in the name of the individual from the armed forces of an ally of the United States in a war during which the individual served indicating that the character of discharge was other than dishonorable; (3-23-22)

iv. Any other evidence satisfactory to the Administrator. (3-23-22)

b. Proof of qualification for relatives of an Armed Forces Member as evidenced by the documentation necessary for an Armed Forces Member and the following: (3-23-22)

i. For a parent of the individual, a valid birth or adoption record identifying such parent, and proof of the individual's birth date; or (3-23-22)

ii. For the spouse of the individual, a valid record of marriage between the individual and the armed forces member, and a certification that the individual was an unremarried spouse at the time of death, if the armed forces member predeceased the individual; or (3-23-22)

iii. Any other evidence satisfactory to the Administrator. (3-23-22)

03. Burden of Proof. The burden of proof in establishing eligibility for interment or reinterment in the cemetery is on the applicant. (3-23-22)

04. Application. Applications must be submitted on a form prescribed by the Administrator by a qualified person or their legal representative, the Administrator of their estate, or the personal representative or a relative of a deceased person. (3-23-22)

021. (RESERVED)

022. INTERMENT AND REINTERMENT.

01. Remains. Remains shall be delivered to the cemetery in a casket or, if cremated, in a recoverable container. The container for cremains designated by the applicant for interment in a location other than a grave plot shall not exceed nine (9) inches in width, thirteen (13) inches in height, and nine (9) inches in depth. (3-23-22)

02. Committal Services. The cemetery will provide a designated non-gravesite location for committal services. The cemetery will not provide facilities for viewing of remains. The arrangements for and any expenses associated with committal services are the responsibility of the applicant. (3-23-22)

023. DISINTERMENT AND REINTERMENT.

01. Disinterment. The Administrator may approve an application for disinterment where the applicant for interment, the surviving unremarried spouse, if any, and the children of the interred person, or the legal

representatives of any of the foregoing persons, complete and sign an application form prescribed by the Administrator and submit proof of applicable governmental approval of the disinterment, transporting, and reinterment of the remains. The Administrator shall approve an application for disinterment accompanied by the order of a court of competent jurisdiction. (3-23-22)

02. Reinterment. (3-23-22)

a. Who May Be Reinterred. The Administrator may approve an application for reinterment of remains in the cemetery where the remains are of a qualified person and the applicant for interment desires that the remains be interred with remains interred in the cemetery or with the remains of a qualified person pre-registered for interment in the cemetery. (3-23-22)

b. Application and Proof of Eligibility. The applicant for reinterment shall complete an application form prescribed by the Administrator and submit proof of the eligibility of the qualified person and proof of applicable governmental approval of the disinterment, transporting, and reinterment of the remains. If the application seeks reinterment of the remains of a qualified person, the applicant shall identify the qualified person with whom the reinterred remains will be interred. (3-23-22)

024. FEES FOR INTERMENT, DISINTERMENT, REINTERMENT, AND MEMORIAL.
The Administrator shall charge the following fees: (3-23-22)

01. Interment. (3-23-22)

a. A fee equal to the then current USDVA reimbursement for opening and closing an interment site containing a pre-placed crypt. The Administrator will accept, as full payment, the amount of reimbursement by the USDVA to the Division for opening and closing an interment site containing a pre-placed crypt for persons eligible for USDVA reimbursement. (3-1-23)T

b. In addition to the fee charged under Paragraph 024.01.a. of this rule, the Administrator shall charge a fee of seven hundred dollars (\$700) for preparation of an interment site not containing a pre-placed crypt. (3-23-22)

02. Disinterment. A fee equal to the then current USDVA reimbursement for opening and closing an interment site. The expenses of removal, transportation and reinterment of remains, and the expenses of removal, transportation and reinstallation of the grave marker, if any, shall be paid by the applicant for disinterment. (3-23-22)

03. Reinterment. A fee equal to the then current USDVA reimbursement for opening and closing an interment site for reinterment. The expenses of reinterment of remains and reinstallation of the grave marker, if any, shall be paid by the applicant for reinterment. (3-23-22)

04. Memorial Marker. A fee of two hundred dollars (\$200) to order, install, and provide perpetual care of a furnished flush granite marker to commemorate a qualified person whose remains have not been recovered or identified, were buried at sea, donated to science, or cremated and the remains scattered. (3-1-23)T

025. -- 029. (RESERVED)

030. CEMETERY USE.

01. Public Use. The cemetery will be open to public access from 8 a.m. to sunset daily. The Administrator may close the cemetery at 6 p.m. when a public fireworks display is planned. (3-23-22)

02. Interment Schedule. Cemetery staff will schedule interments to ensure that cemetery staff complete their duties between the hours of 8 a.m. and 5 p.m. Cemetery staff will not schedule interments on Saturdays, Sundays and legal holidays without the prior approval of the Administrator. (3-23-22)

03. Public Behavior. The Administrator may adopt and enforce policies regarding public behavior in the cemetery, including but not limited to preservation of property, recreation, ceremonies and gatherings, animals, motor vehicles, alcohol, and photography. (3-23-22)

031. -- 039. (RESERVED)

040. MEMORIALS AND DONATIONS.

01. Flowers and Grave Decorations. The Administrator will post the requirements for natural and artificial flowers and other grave decorations in the cemetery. Cemetery personnel may remove and discard grave decorations that fail to comply with the posted requirements or that are faded, wilted, tattered or worn. (3-23-22)

02. Plaques, Statues, and Other Memorials. The Administrator may approve plaques, statues, and other memorials to commemorate events, units, individuals, groups, and organizations. Persons wishing to install such memorials at their own cost may submit an application on a form prescribed by the Administrator. Memorials approved by the Administrator are considered donations to the cemetery. (3-23-22)

03. Grave Markers. Grave markers issued by the USDVA are approved as follows: (3-23-22)

a. Graves – Upright granite markers. (3-23-22)

b. Interments in an area reserved for the interment of cremains in the soil – Flush granite markers. (3-23-22)

c. Interment of cremains in a structure reserved for the interment of cremains – Granite niche markers. (3-23-22)

041. – 999. (RESERVED)