

TITLE 75: OFFICE OF THE GOVERNOR

SUBCHAPTER 75-15.1 VETERANS CEMETERY REGULATIONS

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Subchapter Authority: 1 CMC § 20133(a).*

Subchapter History: Adopted 28 Com. Reg. 26305 (Oct. 30, 2006); Proposed 28 Com. Reg. 26140 (Sept. 27, 2006).

* The authority of the CNMI Office of Military Liaison and Veterans Affairs to promulgate regulations and operate a veterans' cemetery is not specifically provided by this section. See Commission comment to this subchapter.

Commission Comment: Public Law 13-34, the Military Liaison and Veterans Affairs Office Act of 2002, codified at 1 CMC §§ 20131-20135, established the Office of Military Liaison and Veterans Affairs with the Office of the Governor. 1 CMC § 20132. Formerly the Division of Veterans Affairs of the Department of Community and Cultural Affairs, the Office of Military Liaison and Veterans Affairs has "authority over all military and veteran's affairs of the United States Armed Forces in all matters not within the exclusive jurisdiction of the United States Government." 1 CMC § 20132.

Public Law 13-34 does not specifically provide the Office with the authority to promulgate any regulations or manage a veterans' cemetery. The Office of Military Liaison and Veterans Affairs issued the following statement regarding its authority to promulgate the regulations set forth in this subchapter:

The Office of Military Liaison and Veterans Affairs, established within the Office of Governor, is authorized to promulgate regulations governing programs or activities related to the Commonwealth and U.S. Armed Forces relationship. 1 CMC § 20133(a).

See 28 Com. Reg. 26140 (Sept. 27, 2006).

The code section cited by Office of Military Liaison and Veterans Affairs, 1 CMC § 20133(a), provides that the Office of Military Liaison and Veterans Affairs shall:

Formulate plans as policies, develop a comprehensive approach coordinate and/or implement programs or activities that result in an improved relationship between the Commonwealth and U.S. Armed Forces. The office shall be a single point of contact and clearinghouse on matters relative to the U.S. military and U.S. veteran affairs in the CNMI.

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The Commission codified the regulations in this subchapter subject to a decision of a court of competent jurisdiction that the CNMI Office of Military Liaison and Veterans Affairs lacked the authority to promulgate regulations regarding the CNMI Veterans Cemetery.

PL 17-61 (Nov. 8, 2011), codified at 1 CMC §§ 20136-20141, established the CNMI Veterans Cemetery and directed the executive officer for the Office of the Military Liaison and Veteran Affairs to establish guidelines for the control and operation of the cemetery. To the extent these regulations conflict with the terms of PL 17-61, they are superseded.

During codification of this subchapter, the Commission entitled part 100 “Operations” and changed part 300 from “Operations” to “Burial; Exhumation.”

Part 001 - General Provisions

§ 75-15.1-001 Purpose

The purpose of this chapter is to establish rules for the Commonwealth (CNMI) Veterans Cemetery on Saipan.

History: Adopted 28 Com. Reg. 26305 (Oct. 30, 2006); Proposed 28 Com. Reg. 26140 (Sept. 27, 2006).

§ 75-15.1-005 Definitions

As used in this rule unless otherwise provided:

- (a) “Armed forces” means the United States Army, Navy, Marine Corps, Coast Guard, and Air Force or any women’s auxiliary branch thereof, organized pursuant to an Act of Congress.
- (b) “Cemetery” means the CNMI Veterans Cemetery.
- (c) “Designated cemetery officials” means those persons so designated by the director to act as agents for the CNMI Veterans Cemetery.
- (d) “Columbarium” means a structure with niches for the inurnment of human remains.
- (e) “Director” means the director of the Office of Veterans Affairs.
- (f) “Grave” means the space of ground in the cemetery used, or intended to be used, for burial of human remains.
- (g) “CNMI Veterans Cemetery” means that cemetery located at Marpi Saipan.
- (h) “Interment” means the disposition of human remains by burial or inurnment.
- (i) “Liner” means a grave liner or vault as defined by the director.
- (j) “Niche” means a space in a columbarium used, or intended to be used, for inurnment of cremated human remains.

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- (k) “Office” means the Office of Veterans Affairs.
- (l) “Public records” means records and information available for public inspection as provided by state or federal law.
- (m) “Space” means area in the cemetery used, or intended to be used, for interment or inurnment of human remains.

Modified, 1 CMC § 3806(f), (g).

History: Adopted 28 Com. Reg. 26305 (Oct. 30, 2006); Proposed 28 Com. Reg. 26140 (Sept. 27, 2006).

Commission Comment: The Commission made “official” plural in subsection (c) to correct a manifest error.

§ 75-15.1-010 Authority; Supervision

- (a) The director and a designated cemetery official shall be authorized to enforce this rule.
- (b) A designated cemetery official shall have charge of the grounds and buildings, and at all times shall supervise and control all persons in the cemetery, including the conduct of funerals, ceremonies, traffic, employees, and visitors.
- (c) Anyone violating this rule may have their permission to enter or remain upon the cemetery premises revoked by the director or a designated cemetery official.

Modified, 1 CMC § 3806(f).

History: Adopted 28 Com. Reg. 26305 (Oct. 30, 2006); Proposed 28 Com. Reg. 26140 (Sept. 27, 2006).

Part 100 – Operations

§ 75-15.1-101 Hours

- (a) The director or a designated cemetery official shall establish a reasonable schedule of visiting hours for all or portions of the cemetery and close or restrict public use of all or any portion thereof, when necessary for the protection of the area, maintenance, upkeep, construction, or the safety and welfare of persons or property, by the posting of appropriate signs indicating the extent and scope of closure.
- (b) All persons shall observe and abide by the officially posted signs designating closed areas and visiting hours.
- (c) Hours of operation for the cemetery are:
 - (1) Visitors: 8:00 a.m., in coordination with the opening and closing schedule of the CNMI Veterans Cemetery.
 - (2) Office: 7:30 a.m. to 4:30 p.m.
 - (3) Interment hours: Monday-Friday, excluding holidays, 9:00 a.m. to 3:00 p.m.

Modified, 1 CMC § 3806(f), (g).

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History: Adopted 28 Com. Reg. 26305 (Oct. 30, 2006); Proposed 28 Com. Reg. 26140 (Sept. 27, 2006).

Commission Comment: In the original, some of the times were stated in a twenty-four hour format and others were in a twelve hour format. The Commission changed all times to a twelve hour format for consistency.

The Commission entitled part 100 "Operations" and changed part 300 from "Operations" to "Burial; Exhumation."

§ 75-15.1-105 Visitors

- (a) Visitors may be admitted during the hours the cemetery is open.
- (b) Visitors shall not be permitted to:
 - (1) Litter the grounds;
 - (2) Cut, break, remove, or injure trees, shrubs, grass, or other plantings;
 - (3) Use the cemetery for any form of sports or recreation, including but not limited to:
 - (i) Jogging;
 - (ii) Skate boarding;
 - (iii) Bicycling;
 - (iv) Picnicking;
 - (v) Ball playing;
 - (vi) Consumption of intoxicating beverages or illegal use of controlled substances;
 - (vii) Loitering;
 - (viii) Pets (this section shall not apply to seeing-eye dogs accompanying their masters);
 - (ix) Any service, ceremony or demonstration, except as authorized by a designated cemetery official.
- (c) Visitors at public gatherings or ceremonies shall observe proper standards of decorum and decency while upon the cemetery premises.

Modified, 1 CMC § 3806(f), (g).

History: Adopted 28 Com. Reg. 26305 (Oct. 30, 2006); Proposed 28 Com. Reg. 26140 (Sept. 27, 2006).

Commission Comment: The Commission removed the periods in subsection (3)(viii) and inserted the parenthesis and semicolon. In subsection (c), the Commission changed "premise" to "premises" to correct a manifest error.

§ 75-15.1-110 Traffic Control

- (a) The director or a designated cemetery official shall adopt such rules as may be necessary to manage, provide for safety and to control traffic including, but not limited to, the operation and parking of sightseeing or chartered buses or other vehicles.
- (b) The speed of vehicles in the cemetery may not exceed posted speeds.

Modified, 1 CMC § 3806(f), (g).

History: Adopted 28 Com. Reg. 26305 (Oct. 30, 2006); Proposed 28 Com. Reg. 26140 (Sept. 27, 2006).

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Commission Comment: The Commission changed “charted” to “chartered” to correct a manifest error.

§ 75-15.1-115 Fee Structure

- (a) By law, the state holds title to all gravesites.
- (b) There shall be no charge for the gravesite or its perpetual care.
- (c) However, to compensate for the opening and closing of graves the following fee structure is in effect:
 - (1) For interment of veterans,
 - (i) The state shall receive the veteran’s plot allowance.
 - (ii) The state shall supply a liner or the representative may purchase another liner if that liner meets the guidelines defined by the director and incurs no cost to the state.
 - (2) For interment of eligible dependents, the state shall receive from the dependent’s survivor or representative the sum equivalent to the amount of the plot allowance, plus the cost of the required liner.

Modified, 1 CMC § 3806(f).

History: Adopted 28 Com. Reg. 26305 (Oct. 30, 2006); Proposed 28 Com. Reg. 26140 (Sept. 27, 2006).

Commission Comment: The Commission moved the “however” from the end of subsection (b) to the beginning of subsection (c) and changed the semi-colon to a period in subsection (b).

§ 75-15.1-120 Flags

- (a) The United States flag shall be flown over the cemetery during normal duty hours.
- (b) The flag shall be flown at half-staff on Memorial Day and during interment services and wreath-laying ceremonies.

History: Adopted 28 Com. Reg. 26305 (Oct. 30, 2006); Proposed 28 Com. Reg. 26140 (Sept. 27, 2006).

§ 75-15.1-125 Floral, Decorative, and Commemorative Objects

- (a) Cut natural flowers, wreaths, and sprays in containers may be placed on, but not attached to, graves or in designated areas in the columbarium at any time.
- (b) The religious convention of placing fruit, beverages, and religious artifacts on the graves shall be allowed.
- (c) Potted plants shall be permitted only during the period five days before and five days after Easter Sunday, All Souls Day, Christmas Day, and Memorial Day.
- (d) Potted plants, permanent plantings, artificial flowers, statues, vigil lights, commemorative items, or toys shall not be permitted, except as provided in this section.

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- (e) Cemetery personnel shall remove floral displays when faded or withered.
- (f) Glass containers or objects shall not be allowed at any time.
- (g) Candles are only permitted for ceremonial purposes and only on the holidays mentioned in § 75-15.1-125(c). They shall be extinguished and removed at the completion of all services.

Modified, 1 CMC § 3806(d), (g).

History: Adopted 28 Com. Reg. 26305 (Oct. 30, 2006); Proposed 28 Com. Reg. 26140 (Sept. 27, 2006).

Commission Comment: The Commission moved “when faded or withered” located after “personnel” in the original to the end of subsection (e).

§ 75-15.1-130 Memorialization

No person shall make or install any monuments, memorial, tablet, or other commemorative installation.

Modified, 1 CMC § 3806(f).

History: Adopted 28 Com. Reg. 26305 (Oct. 30, 2006); Proposed 28 Com. Reg. 26140 (Sept. 27, 2006).

§ 75-15.1-135 Gifts, Devises, or Bequests

- (a) The director may prescribe restrictions and accept non-monetary gifts, devises, or bequests, which are beneficial to the cemetery.
- (b) Gifts, devises, or bequests shall be accepted only after it has been determined that the donor has a clear understanding that title thereto passes to, and shall be vested in, the office, and that the donor relinquishes all control over the future use or disposition of the gift or donation, except as agreed upon between the director and the donor.

Modified, 1 CMC § 3806(f).

History: Adopted 28 Com. Reg. 26305 (Oct. 30, 2006); Proposed 28 Com. Reg. 26140 (Sept. 27, 2006).

§ 75-15.1-140 Public Information and Public Records

- (a) All public records shall be available for inspection in the office.
- (b) Public records printed or reproduced by the office may be given to any person requesting the same and paying the reasonable cost thereof, including the cost of reproduction and mailing, or where a charge is specified by law or by rule, such specified charges. All payments will be made out to the CNMI Veterans Cemetery funds account.
- (c) Requests for public information, for permission to inspect public records, or for copies of public records shall be made in writing to the director.

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Modified, 1 CMC § 3806(f).

History: Adopted 28 Com. Reg. 26305 (Oct. 30, 2006); Proposed 28 Com. Reg. 26140 (Sept. 27, 2006).

§ 75-15.1-145 Corrections

The director or designated cemetery official shall have the right to correct any errors that may be made by it, either in making interments or disinterment, or in setting the grave marker, and reserves the right to correct any errors in its official records of interments and graves.

Modified, 1 CMC § 3806(f).

History: Adopted 28 Com. Reg. 26305 (Oct. 30, 2006); Proposed 28 Com. Reg. 26140 (Sept. 27, 2006).

Part 200 - Eligibility

§ 75-15.1-201 Eligibility

- (a) Title 38, part 1, section 620 of the Code of Federal Regulations, as it existed on July 1, 1993, shall govern the procedures pertaining to eligibility for interment in the cemetery.
- (b) The burden of proof of eligibility for burial in the cemetery shall be on the applicant for such burial.
- (c) A designated cemetery official shall determine the eligibility of a person for interment or inurnment in the cemetery in accordance with this rule and shall issue such determination in writing.
- (d) In questionable cases relating to character of discharge and verifying service information, eligibility shall be based on a determination by the United States Department of Veterans Affairs regional office concerning the character of discharge and verification of service information.
- (e) A veteran, representative, or next of kin may appeal any determination of a designated cemetery official as provided under § 75-15.1-201(c) regarding the eligibility of a veteran, or dependent, for burial in the cemetery.
 - (1) The appeal shall be in writing, shall include all information to be considered as the basis of the appeal, and shall be filed with the director no more than seven days after notification of the initial determination made by a designated cemetery official;
 - (2) The director shall render a decision in writing no more than seven days after conclusion of the hearing on appeal;
 - (3) The veteran, representative, or next of kin filing the appeal may request to expedite the appeal by agreeing to modify or waive any procedure and informally dispose of any case by stipulation, agreed settlement, consent order, or default of the parties and the director shall respond to the appeal within three working days of its submission.

Modified, 1 CMC § 3806(c), (f).

History: Adopted 28 Com. Reg. 26305 (Oct. 30, 2006); Proposed 28 Com. Reg. 26140 (Sept. 27, 2006).

§ 75-15.1-205 Persons Eligible for Interment or Inurnment

Persons eligible for interment or inurnment shall include:

- (a) Any former member or member of the armed forces who was born in the CNMI or was a resident of the CNMI at entrance to or separation from the armed forces, or was a resident of the CNMI for two continuous years, or was a resident of the CNMI for six months, or showed intention to become a resident; and
 - (1) Died while serving on active duty;
 - (2) Served as an active member of the armed forces and was honorably discharged or released under honorable conditions.
 - (3) Any citizen of the United States who, during any war in which the United States has been or may hereafter be engaged, served in the armed forces of any government allied with the United States during that war, whose last such service terminated honorably, who was a citizen of the United States at the time of entry in such service and at the time of death; or
 - (4) Served as a member of a reserve component of the armed forces, the Army National Guard, the Air National Guard, or the Reserve Officers' Training Corps of the Army, Navy, or Air Force and whose death occurred under honorable conditions while serving on active duty for training or performing full-time service, or while hospitalized or undergoing treatment for service-related conditions.
 - (5) Reservists and National Guard members, as well as their spouses and dependent children, are eligible if they were entitled to retired pay at the time of death, or would have been if they were over age 60.
- (b) The spouse, widow, or widower of an eligible active duty member or veteran, including the widow or widower of a member of the armed forces lost or buried at sea or officially determined to be permanently absent in the status of missing in action;
- (c) The surviving spouse of a veteran whose remarriage was annulled or otherwise declared void by a court of competent jurisdiction;
- (d) Minor children of an eligible active duty member or veterans who are unmarried and:
 - (1) Who are under twenty-one years of age; or
 - (2) Who are under twenty-three years of age and pursuing a course of instruction at an approved educational institution;
- (e) Adult children of an eligible active duty member or veterans who were declared physically or mentally disabled and incapable of self-support before attaining the age of twenty-one years, and have written documentation such as medical records, or a letter from an attending physician;
- (f) Commissioned officers of other services who were detailed or transferred to active duty and who served honorably and were provided with a DD Form 214, or equivalent, upon separation;

(g) The remains of eligible persons previously interred in other locations may be reinterred in the cemetery upon the request of anyone legally entitled to make such request; provided, that no cost shall be borne by the state other than that which would be incurred in an original interment.

Modified, 1 CMC § 3806(f), (g).

History: Adopted 28 Com. Reg. 26305 (Oct. 30, 2006); Proposed 28 Com. Reg. 26140 (Sept. 27, 2006).

Commission Comment: In subsection (d)(2), the Commission changed “approve” to “approved” to correct a manifest error.

Part 300 - Burial; Exhumation

§ 75-15.1-301 Interment; Inurnment

(a) The state shall open and close the grave in accordance with the fee schedule established in this rule and furnish perpetual care without charge.

(b) All graves shall be equal and have a uniform type of flat marker. Military rank or civilian stature shall be given no consideration in selection of the grave, and a designated cemetery official shall make the space selection.

(c) Reservation of spaces shall not be allowed.

(d) The funeral director shall be responsible for making interment arrangements for an eligible decedent. The funeral director shall submit all documents as may be required or requested by the office to determine the eligibility of the decedent to be interred in the cemetery.

(e) Three working days notice shall be given to schedule the interment or inurnment in the cemetery.

(f) All applications for burial in the cemetery shall be processed by a designated cemetery official who shall determine the eligibility of the decedent to be interred.

(g) After the decedent has been determined eligible, the burial shall be scheduled after consultation with the funeral director, and under no circumstances shall a burial be arranged by the funeral director without first securing approval from a designated cemetery official.

(h) All expenses incurred by the survivors or representative for the funeral services and supplies provided by a funeral director of their choice and transportation shall be the responsibility of the survivors or representative.

(i) All funerals on entering the cemetery shall be under the supervision of a designated cemetery official.

(j) Services shall be held at the committal shelter. Every effort shall be made to accommodate special religious traditions by individual arrangements with a designated cemetery official.

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- (k) Interment services are held Monday to Friday, excluding holidays from 9:00 a.m. to 3:00 p.m.
- (l) Arranging for military honors shall be the responsibility of the designated cemetery official.
- (m) Graves shall be closed as soon as practicable after the interment session or before the close of that business day.
- (n) Graves shall be temporarily marked using a temporary grave marker until the Department of Veterans Affairs provides the permanent marker for each grave.
- (o) Each grave shall be marked with a marker furnished by the Department of Veterans Affairs. Ordering of markers shall be the responsibility of the cemetery. No other parties may order a marker for placement within the cemetery.
- (p) All graves shall have a liner.
- (q) Gravesite services are not permitted. Committal services will be held in the committal/interment shelter on the cemetery grounds. Family members may return to the gravesite after the burial of the casket or urn is complete and the area is cleared of all equipment and materials.

Modified, 1 CMC § 3806(f), (g).

History: Adopted 28 Com. Reg. 26305 (Oct. 30, 2006); Proposed 28 Com. Reg. 26140 (Sept. 27, 2006).

Commission Comment: In the first sentence of subsection (d), the Commission changed “decent” to “decedent” to correct a manifest error. The Commission changed “0900 am to 3 p.m.” to “9:00 a.m. to 3:00 p.m.” in subsection (k).

The Commission entitled part 100 “Operations” and changed part 300 from “Operations” to “Burial; Exhumation.”

§ 75-15.1-305 Disinterment

- (a) Interment of eligible decedents shall be considered to be permanent and final.
- (b) Disinterment and removal of remains shall be permitted only with the prior approval of the director.
- (c) All arrangements and all expenses in connection with a disinterment shall be the responsibility of the requesting individual or agency. These arrangements shall include compliance with the local and state health laws or rules, engagement of a funeral director to accomplish the disinterment, necessary re-casketing of the remains, rehabilitation of the old grave, and compliance with any special instruction of the director.
- (d) The director or a designated cemetery official shall supervise disinterments at the gravesite.
 - (1) Special care and concern shall be shown for adjacent graves and markers.

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- (2) Cemetery personnel shall reopen the grave down to one foot above the top of the grave liner or vault.
 - (i) Cemetery personnel shall not otherwise participate in any other aspect of the disinterment operation.
 - (ii) No charge shall be made for the supervision and reopening of the grave to the extent indicated above.

- (e) The marker of the grave being disinterred shall not be shipped to the cemetery where the remains are to be interred.
- (f) If the decedent being disinterred is to be reinterred at another location within the cemetery, the same maker shall be removed and reordered showing the change of grave location and placed at the new gravesite.

- (g) When a disinterment has been completed, the open grave shall be reused at the earliest practical date.

Modified, 1 CMC § 3806(f), (g).

History: Adopted 28 Com. Reg. 26305 (Oct. 30, 2006); Proposed 28 Com. Reg. 26140 (Sept. 27, 2006).

Commission Comment: The Commission inserted “grave” after “reopen the” in subsection (d)(2) to correct a manifest error. In subsection (f), the Commission changed “reinterret” to “reinterred” to correct a manifest error.

§ 75-15.1-310 Directed Exhumation

- (a) Federal and CNMI court orders directing exhumations shall be honored.

- (b) Exhumations on the basis of orders issued by out of state courts, or courts of questionable authority, shall be conducted if such orders are enforceable in the CNMI.

- (c) The issuing court must indicate the final disposition of the exhumed remains.

- (d) Exhumation activities shall be coordinated with the ordering court and carried out under the supervision of the director or a designated cemetery official.
 - (1) If the remains are to be permanently removed from the cemetery, arrangements shall be made for immediate removal and the grave may be reused.
 - (2) If the remains are to be reinterred in the cemetery, the same grave shall be used.
- (e) All expenses for directed exhumations shall be the responsibility of the requesting party.

Modified, 1 CMC § 3806(f).

History: Adopted 28 Com. Reg. 26305 (Oct. 30, 2006); Proposed 28 Com. Reg. 26140 (Sept. 27, 2006).