

discuss the summary on the dates and at the locations noted below.

DATES: Comments on the summary must be received by September 19, 2000. The Access Board will hold informational meetings on the summary on August 21–22, 2000 from 8:30 a.m. to 5:30 p.m. and on September 6–7, 2000 from 8:30 a.m. to 5:30 p.m.

ADDRESSES: Comments should be sent to the Office of Technical and Information Services, Architectural and Transportation Barriers Compliance Board, 1331 F Street NW., suite 1000, Washington, DC 20004–1111. Please identify comments as pertaining to this notice of availability. Comments will be available for inspection at the above address from 9:00 a.m. to 5:00 p.m. on regular business days. The informational meeting on August 21–22, 2000 will be held at the Hilton Garden Inn, 815 14th Street, NW in Washington, DC. The informational meeting on September 6–7, 2000 will be held at the Holiday Inn Golden Gateway, 1500 Van Ness Avenue in San Francisco, CA.

FOR FURTHER INFORMATION CONTACT: Bill Botten, Office of Technical and Information Services, Architectural and Transportation Barriers Compliance Board, 1331 F Street, NW., suite 1000, Washington, DC 20004–1111. Telephone number (202) 272–5434 extension 136 (Voice); (202) 272–5449 (TTY). These are not toll-free numbers. Electronic mail address: botten@access-board.gov.

SUPPLEMENTARY INFORMATION: In 1993, the Architectural and Transportation Barriers Compliance Board (Access Board) established an advisory committee of 27 members to make recommendations on guidelines for recreation facilities. The Recreation Access Advisory Committee met from July 1993 to May 1994 and submitted a report to the Board, “Recommendations for Accessibility Guidelines: Recreational Facilities and Outdoor Developed Areas”. The Board has made this report widely available as a source of guidance until final guidelines are developed. After receiving the committee’s report, the Board published it as an advance notice of proposed rulemaking (59 FR 48542, September 21, 1994). Over 600 comments were received on the report and questions asked in the advance notice. The Board also sponsored research on access to swimming pools in 1995; and held informational meetings and site visits on access to miniature golf facilities in September 1996, and amusement rides in December 1999 and March and April 2000 to obtain additional information for this rulemaking.

A notice of proposed rulemaking on accessibility guidelines for recreation facilities was published in the **Federal Register** on July 9, 1999. 64 FR 37326 (July 9, 1999). The comment period was originally scheduled to close on November 8, 1999, but was extended until December 8, 1999 to allow more time for public comments to be submitted. Comments were submitted electronically, written, or as oral testimony received during two public hearings. Public hearings were held in Dallas, TX (August 26, 1999) and Boston, MA (November 17, 1999). Over 200 people attended the hearings and approximately 54 people provided testimony. Approximately 300 comments were received during the public comment period.

The proposed rule covered various recreation facilities, including amusement rides, boating facilities, fishing piers and platforms, golf courses, miniature golf, sports facilities, and swimming pools and spas. The proposed rule provided scoping requirements, which specify what has to be accessible, and technical requirements, which spell out how access is to be achieved. When finalized, these guidelines will supplement the Americans with Disabilities Act Accessibility Guidelines (ADAAG), which address a wide range of facilities but does not currently cover these types of recreation facilities in any particular detail.

The Access Board has created an ad hoc committee of Board members to review the comments received on the proposed rule. The ad hoc committee has discussed significant issues associated with the comments and has made recommendations to the full Board for the final rule. The Board has placed a summary of the ad hoc committee’s recommendations in the rulemaking docket (Docket No. 98–5) for public review. The summary is also available on the Access Board’s Internet site (<http://www.access-board.gov/recreation/summary.htm>).

The summary is being made available for informational purposes and for purposes of receiving additional comments from interested parties prior to final action. Following a review of any additional comments on the summary, the Board will vote on the final rule. In addition to welcoming written comments, the Board will be conducting two informational meetings to provide the public with an additional opportunity to discuss the summary. The informational meetings will be informal and interested parties are encouraged to join in discussions with Board members and the public on the

summary. Preliminary agendas for the meetings are as follows:

Washington, DC, Hilton Garden Inn, 815 14th Street, NW

August 21, 2000

8:30 a.m.–12 noon—amusement rides

1:30 p.m.–3 p.m.—amusement rides (continued)

3 p.m.–5:30 p.m.—golf, sports facilities, fishing piers and platforms

August 22, 2000

8:30 a.m.–12:00 noon—boating facilities

1:30 p.m.–5:30 p.m.—miniature golf, swimming pools and spas

San Francisco, CA, Holiday Inn Golden Gateway, 1500 Van Ness Avenue

September 6, 2000

8:30 a.m.–12 noon—boating facilities

1:30 p.m.–3 p.m.—boating facilities (continued)

3 p.m.–5:30 p.m.—golf, sports facilities, fishing piers and platforms

September 7, 2000

8:30 a.m.–12 noon—amusement rides

1:30 p.m.–5:30 p.m.—miniature golf, swimming pools and spas

Interested members of the public are encouraged to contact the Access Board at (202) 272–5434 extension 136 or (202) 272–5449 (TTY) to preregister to attend the informational meetings.

Lawrence W. Roffee,

Executive Director.

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DEPARTMENT OF VETERANS AFFAIRS

38 CFR Parts 1 and 39

RIN 2900–AJ77

Prohibition of Interment or Memorialization in National Cemeteries and Certain State Cemeteries Due to Commission of Capital Crimes

AGENCY: Department of Veterans Affairs.

ACTION: Proposed rule.

SUMMARY: We propose to amend the Department of Veterans Affairs (VA) regulations governing eligibility for interment or memorialization in national cemeteries and in State cemeteries receiving State cemetery grants from VA. The proposed rule concerns statutory provisions designed to ensure that the remains of certain persons who committed Federal or State capital crimes are not interred in such cemeteries and that the memory of such persons is not memorialized in such cemeteries. We propose to restate a portion of these statutory provisions and to establish interpretations, delegations

of authority, and procedures which we believe to be appropriate for us to carry out the statutory provisions.

DATES: Comments must be received on or before September 19, 2000.

ADDRESSES: Mail or hand-deliver written comments to: Director, Office of Regulations Management (02D), Department of Veterans Affairs, 810 Vermont Ave., NW., Room 1154, Washington, DC 20420; or fax comments to (202) 273-9289; or e-mail comments to "OGCRegulations@mail.va.gov". Comments should indicate that they are submitted in response to "RIN 2900-AJ77." All comments received will be available for public inspection in the Office of Regulations Management, Room 1158, between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday (except holidays).

FOR FURTHER INFORMATION CONTACT: Kenneth Greenberg, Staff Assistant, Office Deputy Under Secretary for Management (402) or Deanna Wilson, Program Analyst, Communications Division (402B1), National Cemetery Administration, Department of Veterans Affairs, 810 Vermont Ave., NW., Washington, DC 20420, (202) 273-5179 or (202) 273-5154 (these are not toll-free numbers).

SUPPLEMENTARY INFORMATION: The provisions of 38 U.S.C. 2408(d) and 2411 enacted on November 21, 1997, prohibit, under specified circumstances, interment or memorialization in VA national cemeteries of certain persons who are convicted of, or are found to have committed, Federal or State capital crimes and condition VA State cemetery grants on the prohibition of interment or memorialization of such persons in State cemeteries receiving such grants. This document proposes to establish regulations relating to these statutory provisions.

Proposed 38 CFR 1.600 contains definitions for proposed §§ 1.617 and 1.618.

Proposed 38 CFR 1.617 restates statutory prohibitions against interment or memorialization in a VA national cemetery of persons who have been convicted of Federal capital crimes for which they have been sentenced to death or life imprisonment or State capital crimes for which they have been sentenced to death or life imprisonment without parole, as well as persons who have been found to have committed Federal or State capital crimes and not to have been convicted as a result of unavailability for trial due to death or flight to avoid prosecution. This section would also establish procedures for decisions on requests for interment of the remains of or memorialization of

persons who may have been convicted of Federal or State capital crimes.

Proposed 38 CFR 1.618 sets forth procedures for handling eligibility determinations concerning interment or memorialization in a VA national cemetery when VA becomes aware of information suggesting that an individual has committed a capital crime for which the individual would have been convicted, in either a Federal or State court, but has not been convicted due to unavailability for trial due to death or flight to avoid prosecution. These procedures are intended to implement the provisions of 38 U.S.C. 2411. Under paragraphs (b), (c), and (d) of that statute, the prohibitions against interment and memorialization apply in these cases only if there is a finding by VA that the person committed a Federal capital crime or a State capital crime but has not been convicted of such crime because such person was not available for trial due to death or flight to avoid prosecution. However, paragraph (a)(2) of that statute states that the prohibitions in these cases apply only if written notice of this finding is provided to VA by the Attorney General or an appropriate State official. We believe that this notice provision reflects a legislative error, since there would be no need for the Attorney General or a State official to notify VA of a finding made by VA. Accordingly, we have included a provision in § 1.617 to clarify that if an appropriate finding is made by VA the prohibitions will apply without any notice from the Attorney General or a State official.

We propose to amend 38 CFR 39.2 and 39.3 to reflect provisions of 38 U.S.C. 2408(d) making future grants for the establishment, expansion, or improvement of State veterans cemeteries contingent on the prohibition of interment in such cemeteries of the remains of certain persons who have committed Federal or State capital crimes.

Regulatory Flexibility Act

The Secretary hereby certifies that the adoption of the proposed rule would not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601-612. The proposed rule would not have more than a minuscule effect on any small entity. Therefore, pursuant to 5 U.S.C. 605(b), this proposed rule is exempt from the initial and final regulatory flexibility analysis requirements of sections 603 and 604.

The Catalog of Federal Domestic Assistance numbers for this proposed rule are 64.201, 64.202, and 64.203.

List of Subjects

38 CFR Part 1

Administrative practice and procedure, Cemeteries, Claims, Crimes, Criminal offenses.

38 CFR Part 39

Cemeteries, Grant programs-veterans, Veterans.

Approved: July 5, 2000.

Togo D. West, Jr.,

Secretary of Veterans Affairs.

For the reasons set forth in the preamble, 38 CFR parts 1 and 39 are proposed to be amended as follows:

PART 1—GENERAL PROVISIONS

1. The authority citation for part 1 continues to read as follows:

Authority: 38 U.S.C. 501(a), unless otherwise noted.

2. Section 1.600 is added to read as follows:

§ 1.600 Definitions.

(a) [Reserved]

(b) *Definitions.* For purposes of §§ 1.617 and 1.618:

Appropriate State official means a State attorney general or other official with state-wide responsibility for law enforcement or penal functions.

Clear and convincing evidence means that degree of proof which produces in the mind of the fact-finder a firm belief regarding the question at issue.

Convicted means a finding of guilt by a judgment or verdict or based on a plea of guilty, by a Federal or State criminal court.

Federal capital crime means a crime under Federal law for which the death penalty or life imprisonment may be imposed.

Interment means the burial of casketed remains or the placement or scattering of cremated remains.

Life imprisonment means a sentence of a Federal or State criminal court directing confinement in a penal institution for life.

Memorialization means the erection of a memorial or marker to honor the memory of a deceased individual.

Personal representative means a family member or other individual who has identified himself or herself to the National Cemetery Administration cemetery director as the person responsible for making decisions concerning the interment of the remains of or memorialization of a deceased individual.

State capital crime means, under State law, the willful, deliberate, or premeditated unlawful killing of another human being for which the death penalty or life imprisonment without parole may be imposed.

(Authority: 38 U.S.C. 2408, 2411)

3. Section 1.617 is added to read as follows:

§ 1.617 Prohibition of interment or memorialization of persons who have committed Federal or State capital crimes.

(a) *Prohibition.* The interment in a national cemetery under the control of the National Cemetery Administration of the remains, or the memorialization in such a cemetery, of any of the following persons is prohibited:

(1) Any person identified to the Secretary of Veterans Affairs by the United States Attorney General, prior to approval of interment or memorialization, as an individual who has been convicted of a Federal capital crime and sentenced to death or life imprisonment as a result of such crime.

(2) Any person identified to the Secretary of Veterans Affairs by an appropriate State official, prior to approval of interment or memorialization, as an individual who has been convicted of a State capital crime and sentenced to death or life imprisonment without parole as a result of such crime.

(3) Any person found under procedures specified in § 1.618 to have committed a Federal or State capital crime but to have avoided conviction of such crime by reason of unavailability for trial due to death or flight to avoid prosecution.

(b) *Notice.* The prohibition referred to in paragraph (a)(3) of this section is not contingent on receipt by the Secretary of Veterans Affairs or any other VA official of notice from any Federal or State official.

(c) *Receipt of notification.* The Under Secretary for Memorial Affairs is delegated authority to receive from the United States Attorney General and appropriate State officials on behalf of the Secretary of Veterans Affairs the notification of conviction of capital crimes referred to in paragraphs (a)(1) and (2) of this section.

(d) *Decision where notification previously received.* Upon receipt of a request for interment or memorialization, where the Secretary of Veterans Affairs has received the notification referred to in paragraph (a)(1) or (a)(2) of this section with regard to the deceased, the cemetery director will make a decision on the request for interment or memorialization pursuant to 38 U.S.C. 2411.

(e) *Inquiry.* (1) Upon receipt of a request for interment or memorialization, where the Secretary of Veterans Affairs has not received the notification referred to in paragraph (a)(1) or (a)(2) of this section with regard to the deceased, but the cemetery director has reason to believe that the deceased may have been convicted of a Federal or State capital crime, the cemetery director will initiate an inquiry to either:

(i) The United States Attorney General, in the case of a Federal capital crime, requesting notification of whether the deceased has been convicted of a Federal capital crime for which the deceased was sentenced to death or life imprisonment; or

(ii) An appropriate State official, in the case of a State capital crime, requesting notification of whether the deceased has been convicted of a State capital crime for which the deceased was sentenced to death or life imprisonment without parole.

(2) The cemetery director will defer decision on whether to approve interment or memorialization until after a response is received from the Attorney General or appropriate State official.

(f) *Decision after inquiry.* Where an inquiry has been initiated under paragraph (e) of this section, the cemetery director will make a decision on the request for interment or memorialization pursuant to 38 U.S.C. 2411 upon receipt of the notification requested under that paragraph, unless the cemetery director initiates an inquiry pursuant to section 1.618(a).

(g) *Notice of decision.* Written notice of a decision under paragraph (d) or (f) of this section will be provided by the cemetery director to the personal representative of the deceased, along with written notice of appellate rights in accordance with § 19.25 of this title. This notice will include notice of the opportunity to file a notice of disagreement with the decision of the cemetery director. Action following receipt of a notice of disagreement with a denial of eligibility for interment or memorialization under this section will be in accordance with §§ 19.26 through 19.38 of this title.

Note to § 1.617: A decision under this section will not affect eligibility for any benefit under title 38, United States Code, other than interment or memorialization.

(Authority: 38 U.S.C. 512, 2411, 7105)

4. § Section 1.618 is added to read as follows:

§ 1.618 Findings concerning commission of a capital crime where a person has not been convicted due to death or flight to avoid prosecution.

(a) *Inquiry.* With respect to a request for interment or memorialization, if a cemetery director has reason to believe that a deceased individual who is otherwise eligible for interment or memorialization may have committed a Federal or State capital crime, but avoided conviction of such crime by reason of unavailability for trial due to death or flight to avoid prosecution, the cemetery director, with the assistance of the VA regional counsel, as necessary, will initiate an inquiry seeking information from Federal, State, or local law enforcement officials, or other sources of potentially relevant information. After completion of this inquiry and any further measures required under paragraphs (c), (d), (e), and (f) of this section, the cemetery director will make a decision on the request for interment or memorialization in accordance with paragraph (b), (e), or (g) of this section.

(b) *Decision approving request without a proceeding.* If, after conducting the inquiry described in paragraph (a) of this section, the cemetery director determines that there is no clear and convincing evidence that the deceased committed a Federal or State capital crime of which he or she was not convicted due to death or flight to avoid prosecution, and the deceased remains otherwise eligible, the cemetery director will make a decision approving the interment or memorialization.

(c) *Initiation of a proceeding.* (1) If, after conducting the inquiry described in paragraph (a) of this section, the cemetery director determines that there appears to be clear and convincing evidence that the deceased has committed a Federal or State capital crime of which he or she was not convicted by reason of unavailability for trial due to death or flight to avoid prosecution, the cemetery director will provide the personal representative of the deceased with a written summary of the evidence of record and a written notice of procedural options.

(2) The notice of procedural options will inform the personal representative that the personal representative may, within the earlier of ten days of mailing of the notice or ten days of hand delivery of the notice:

- (i) Request a hearing on the matter;
- (ii) Submit a written statement, with or without supporting documentation, for inclusion in the record; or
- (iii) Waive a hearing and submission of a written statement and have the matter forwarded immediately to the

Under Secretary for Memorial Affairs for a finding.

(3) The notice of procedural options will also inform the personal representative that, if the personal representative does not exercise one or more of the stated options within the prescribed period, the matter will be forwarded to the Under Secretary for Memorial Affairs for a finding based on the existing record.

(d) *Hearing.* If a hearing is requested, the hearing will be conducted by the cemetery director or his or her designee. The purpose of the hearing is to permit the personal representative of the deceased to present evidence concerning whether the deceased committed a crime which would render the deceased ineligible for interment or memorialization in a national cemetery. Testimony at the hearing will be presented under oath, and the personal representative will have the right to representation by counsel and the right to call witnesses. The VA official conducting the hearing will have the authority to administer oaths. The hearing will be conducted in an informal manner and court rules of evidence will not apply. The hearing will be recorded on audiotape and, unless transcription is waived by the personal representative, a transcript of the hearing will be produced and included in the record.

(e) *Decision of approval or referral for a finding after a proceeding.* Following a hearing or the timely submission of a written statement, or in the event a hearing is waived or no hearing is requested and no written statement is submitted within the time specified:

(1) If the cemetery director determines that it has not been established by clear and convincing evidence that the deceased committed a Federal or State capital crime of which he or she was not convicted due to death or flight to avoid prosecution, and the deceased remains otherwise eligible, the cemetery director will make a decision approving interment or memorialization, or

(2) If the cemetery director believes that there is clear and convincing evidence that the deceased committed a Federal or State capital crime of which he or she was not convicted due to death or flight to avoid prosecution, the cemetery director will forward a request for a finding on that issue, together with the cemetery director's recommendation and a copy of the record, to the Under Secretary for Memorial Affairs.

(f) *Finding by the Under Secretary for Memorial Affairs.* Upon receipt of a request from the cemetery director under paragraph (e) of this section, the Under Secretary for Memorial Affairs

will make a finding concerning whether the deceased committed a Federal or State capital crime of which he or she was not convicted by reason of unavailability for trial due to death or flight to avoid prosecution. The finding will be based on consideration of the cemetery director's recommendation and the record supplied by the cemetery director.

(1) A finding that the deceased committed a crime referred to in paragraph (f) of this section must be based on clear and convincing evidence.

(2) The cemetery director and the personal representative of the deceased will be provided with written notification of the finding of the Under Secretary for Memorial Affairs.

(g) *Decision after finding.* Upon receipt of notification of the finding of the Under Secretary for Memorial Affairs, the cemetery director will make a decision on the request for interment or memorialization pursuant to 38 U.S.C. 2411. In making that decision, the cemetery director will be bound by the finding of the Under Secretary for Memorial Affairs.

(h) *Notice of decision.* The cemetery director will provide written notice of a decision under paragraph (b), (e)(1), or (g) of this section and notice of appellate rights to the personal representative of the deceased, in accordance with § 19.25 of this title. This notice will include notice of the opportunity to file a notice of disagreement with the decision of the cemetery director and the finding of the Under Secretary for Memorial Affairs. Action following receipt of a notice of disagreement with a denial of eligibility for interment or memorialization under this section will be in accordance with §§ 19.26 through 19.38 of this title.

(Authority: 38 U.S.C. 512, 2411)

PART 39—STATE CEMETERY GRANTS

5. The authority citation for part 39 continues to read as follows:

Authority: 38 U.S.C. 2408.

6. In § 39.2, a new paragraph (d) is added to read as follows:

§ 39.2 Scope of the State cemetery grants program.

* * * * *

(d) Any grant under this part made on or after November 21, 1997, is made on the condition that after the date of receipt of the grant the State receiving the grant, subject to requirements for receipt of notice in 38 U.S.C. 2408 and 2411, will prohibit in the cemetery for which the grant is furnished the

interment of the remains of or the memorialization of any person:

(1) Who has been convicted of a Federal capital crime for which the person was sentenced to death or life imprisonment;

(2) Who has been convicted of a State capital crime for which the person was sentenced to death or life without parole; or

(3) Who has been found by an appropriate State official, under procedures to be established by the State, to have committed a Federal or State capital crime but to have not been convicted of such crime by reason of unavailability for trial due to death or flight to avoid prosecution.

(Authority: 38 U.S.C. 2408, 2411)

7. In § 39.3, paragraph (b)(1) is revised and an authority citation is added at the end of paragraph (b) to read as follows:

§ 39.3. Applications with respect to projects.

* * * * *

(b) * * *

(1) Any cemetery established, expanded, or improved through assistance of this program shall be used exclusively for the interment or memorialization of eligible persons, as set forth in §§ 39.1(h) and 39.2(a), whose interment or memorialization is not contrary to the conditions of the grant (see § 39.2(d) and 38 U.S.C. 2408 and 2411).

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(Authority: 38 U.S.C. 2408, 2411)

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CA 184-0245b; FRL-6734-6]

Revisions to the California State Implementation Plan, Ventura County Air Pollution Control District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve revisions to the Ventura County Air Pollution Control District's (VCAPCD) portion of the California State Implementation Plan (SIP). These revisions concern volatile organic compound (VOC) emissions from degreasers. We are proposing to approve local rules to regulate these emission