United States Department of the Interior

NATIONAL PARK SERVICE
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Washington, D.C. 20240

DIRECTOR'S ORDER #61: NATIONAL CEMETERY OPERATIONS

Approved: Jonathan B. Jarvis
Director

Effective Date: 7/29/2010

Sunset Date: This Order will remain in effect until amended or rescinded.

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NPS-61, "Guideline for National Cemeteries," (Release No. 1, November 1985) is replaced by this Director's Order and related reference manual. This Director's Order applies to national cemeteries, but does not apply to other historic cemeteries, family cemeteries, individual gravesites, or unmarked graves, the policies for which are found in sections 5.3.4, 6.3.8, and 8.6.10 of NPS *Management Policies 2006*.

1. Background and Purpose

Currently, the National Park Service manages 14 national cemeteries. Eleven of these cemeteries were transferred from the War Department to the Department of the Interior by

Executive Order No. 6166 in 1933. These cemeteries are Antietam, Battleground, Chalmette, Fort Donelson, Fredericksburg, Gettysburg, Poplar Grove, Shiloh, Stones River, Vicksburg and Yorktown. Three national cemeteries—Andersonville[1], Andrew Johnson[2] and Custer[3]—were authorized or transferred after 1933. The cemeteries represent a continuum of use dating to a period before the establishment of the historical parks of which they are an integral part. The cemeteries are administered to preserve the historic character, uniqueness, and solemn nature of both the cemeteries and the historical parks of which they are a part.

National Cemeteries administered by the National Park Service are classified as either "active" or "closed." Active cemeteries have casket or cremation gravesites available for first interments. A first interment is the initial burial of human remains following the death of the individual. Closed cemeteries have no available unreserved gravesites for either casket or cremation first interments, but may inter eligible family members in the same gravesite as previously interred individuals (see section 3.3 of this Order).

There are two active national cemeteries currently administered by the NPS: Andersonville and Andrew Johnson National Cemeteries. Antietam, Battleground, Chalmette, Fort Donelson, Fredericksburg, Gettysburg, Poplar Grove, Shiloh, Stones River, Vicksburg, Yorktown and Custer National Cemeteries are closed (see RM-61).

The purpose of this Director's Order is to supplement section 8.6.10.1 of NPS *Management Policies 2006* and set forth additional policy and procedures by which the NPS will preserve and administer the national cemeteries for which the agency is responsible. The policy and procedures contained herein are consistent with NPS national cemetery regulations published at 36 CFR part12.

2. Authority and Related Guidance

Authority to issue this Director's Order is contained in the NPS Organic Act (16 USC 1 through 4), and in delegations of authority found in Part 245 of the DOI Manual.

Authority to transfer inactive cemeteries, burial plots, memorials, or monuments from the Department of Veterans Affairs to the Department of the Interior is contained in the National Cemeteries Act of 1973 (38 USC 2405).

Other specific authorities and requirements governing NPS administration of national cemeteries are found in 36 CFR part 12 (National Cemetery Regulations). National cemeteries are addressed in section 8.6.10.1 of NPS *Management Policies 2006*.

This Order is intended only to improve the internal management of the NPS and it is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at

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[1] Andersonville National Cemetery was authorized by Public Law 91-645, October 16, 1970, 84 Stat. 989.

[2] Andrew Johnson National Cemetery was transferred by Presidential Proclamation No. 2554, April 27, 1942, 56 Stat. 1955.

[3] Custer National Cemetery was transferred by Executive Order No. 8428, effective July 1, 1940, 5 Fed. Reg. 2131

law or equity by a party against the United States, its departments, agencies, instrumentalities or entities, its officers or employees, or any other person.

3. Requirements and Instructions

The NPS will manage national cemeteries in accordance with this Order, Director's Order #28: Cultural Resource Management, and 36 CFR parts 1-6 and 12. The general regulations found in parts 1-6 govern the use of all areas of the national park system. The regulations in part 12 are specific to the NPS-administered national cemeteries.

3.1 Operation and Maintenance of National Cemeteries as Cultural Resources

National cemeteries encompass all types of cultural resources, including sites, landscapes, structures, objects, and archival and collections items. The operation and maintenance of national cemeteries will broadly follow NPS policy and guidance for similar classes of cultural resources. These cultural resources will be identified and evaluated through appropriate and relevant reports such as historic resource studies, cultural landscape reports, cultural resource inventories, and National Register nominations. In addition, each national cemetery will have its own legislative and administrative history or be included in the legislative and administrative histories of the historical parks in which the cemetery is located. Cultural resource preservation policies found in chapter 5 of NPS *Management Policies 2006*, and Director's Order #28 will be used to preserve and manage identified cultural resources. Headstones and markers will be treated in accordance with this Order and with the policy and procedures contained in Reference Manual 61 (RM-61).

3.2 Visitor Use

Visitors will be encouraged to conduct themselves in a manner befitting the solemn and dignified nature of the national cemeteries. Regulations in 36 CFR parts 2, 5, and 12 prohibit the following activities:

- Littering
- Disturbing or damaging natural and cultural resources
- Engaging in recreational activities
- Engaging in disorderly activities, and
- Engaging in commercial activities.

Other activities relating to visitor conduct may be allowed or prohibited through the use of the superintendent's discretionary authority, as authorized by 36 CFR 1.5 and as found in part 12. Superintendents will use that authority to prohibit the following activities:

- Soliciting funds
- Distributing printed matter, and
- Engaging in partisan political activity.
- (See also section 3.10: Ceremonies and Special Events)

Superintendents will also use their discretionary authority to designate the types of containers and the times that floral arrangements may be placed on the graves. Floral decorations will be in

keeping with the guidelines in RM-61 and should provide for efficient maintenance operations, protection of the resources, and acknowledgement of the needs of next of kin.

As required by 36 CFR 1.7, all cemetery-specific limits and restrictions imposed on visitor activities through the superintendent's discretionary authority must be communicated to the public. Appropriate communication methods include the use of signs, maps, brochures, and electronic media. These discretionary limits or restrictions must be compiled in writing as the superintendent's "compendium," justified in writing, and reviewed on an annual basis. Superintendents will publish their compendium on the park's public website, and will prominently post cemetery hours of operation. For more information on superintendent's "compendia," see Director's Order 34: Superintendent's Compendium to the Code of Federal Regulations.

3.3 Interment Eligibility and Limitations

The superintendent is responsible for determining eligibility, in accordance with Department of Veterans Affairs eligibility requirements, for interment in NPS administered national cemeteries. Interment will be permitted once eligibility has been conclusively established.

The regional director is delegated the authority to waive interment eligibility requirements under special circumstances upon the recommendation of the superintendent. Waivers should be granted only in the most compelling cases and the next of kin or a designated representative must provide written documentation of the special circumstances (see Section 3.8.1 of this Order). In accordance with 36 CFR 12.5(c)(3), gravesite reservations granted in writing prior to the adoption of the one-gravesite-per-family-unit restriction will be honored as long as the person remains eligible.

Burials in active cemeteries will be permitted, pursuant to applicable regulations, until available space has been filled (NPS *Management Policies 2006*, section 8.6.10.1). The expansion of a burial section is prohibited without the approval of the regional director (36 CFR 12.5(d)(3)). Expansion of a national cemetery outside of the confines of its historic enclosure is prohibited (36 CFR 12.5(d)(6)). Once cemeteries are determined to be closed, they will not be opened for additional unreserved first interments. The remains of eligible veterans recovered unintentionally are not considered first interments and may be reinterred in closed cemeteries (see Section 3.8 of this Order).

3.4 Interment Facilities and Services Provided

Facilities and services furnished without charge will include the opening and closing of the grave. All other services normally associated with interment are the responsibility of the next-of-kin, including the acquisition of grave liners or vaults.

3.5 Pre-interment Actions and Related Matters

Superintendents will schedule the date and hour of all interments in the national cemeteries upon receipt of a request for interment. Gravesite assignments will be made by superintendents in accordance with National Cemetery Administration policy and the approved interment plan for the national cemetery.

In instances where local soil or geological conditions make it impossible to excavate a gravesite deep enough to hold more than one deceased, superintendents may reserve the adjacent site for a spousal reservation. The need and justification for such exceptions will be documented in the approved interment plan for burial sections in the national cemeteries. Burial permits are required in accordance with the laws and regulations of the State and municipality within whose boundaries the national cemetery is located. A member of the armed forces who dies while on active duty may be interred prior to receipt of a burial permit.

3.6 The Interment

Superintendents are responsible for ensuring that each funeral and interment is conducted with maximum efficiency and without sacrificing any of the dignity and reverence accorded to the ceremony. All cemetery operations within the vicinity of the gravesite will be suspended until after the service is completed. The superintendent or a representative will attend each funeral to render assistance to the funeral party. Upon request, and in the absence of a military representative, it is the responsibility of the superintendent or the designated representative to ensure the flag is presented to the person representing the next-of-kin.

Graves will be closed as soon as practical after the interment and service. Remains should be attended until the grave is closed. The superintendent is responsible for ensuring the grave is temporarily marked immediately after closing.

Following interment, the grave will be recorded in the cemetery records, which may include the Interment Register (VA Form 40-04982) and the Record of Interment (VA Form 40-4956), or some other systematic format appropriate to each cemetery's needs.

3.7 Cremated Remains and Group Burials

Cremated remains of eligible veterans, spouses and dependents may be scattered in national cemeteries in conformance with applicable State and Federal laws and regulations. Pursuant to 36 CFR 2.62, the scattering of human ashes from cremation is prohibited, except pursuant to the terms and conditions of a permit, or in designated areas according to conditions which may be established by the superintendent (see Section 3.9.2 of this Order for guidance on memorial headstones and markers).

Group burials of military personnel will follow National Cemetery Administration policy.

3.8 Disinterments and Directed Exhumations

3.8.1 Disinterment

Interments in national cemeteries are considered to be permanent and final. Disinterment and removal of remains are seldom permitted, and then only for the most compelling reasons. Prior approval of the regional director is required before any disinterment can be made. Authorized disinterments will be accomplished at no cost to the NPS. The superintendent will establish a fee designed to recover the costs associated with supervising and administering a disinterment, including the costs of opening and closing the grave and redressing any disturbed graves or headstones.

3.8.2 Directed Exhumation

A "directed exhumation" is the disinterment of remains from a national cemetery gravesite ordered by a Federal or State court of competent jurisdiction. Directed exhumations are usually ordered for purposes of an autopsy or other forensic reason. Usually the remains are returned for interment in the national cemetery. All Federal and State orders directing exhumation will be honored and, when possible, the directed exhumation will be accomplished without cost to the NPS.

3.8.3 Reinterment of Unintentionally Disinterred Unmarked Remains

Unmarked human remains that are unintentionally disinterred within the park, but outside the national cemetery, as a result of natural processes or maintenance activities may be reinterred, even in closed national cemeteries, if space is available in the burial section. Remains that are unintentionally disinterred outside of the cemetery may be reinterred only in the NPS national cemetery that is associated with the national park in which the remains were disinterred. This section applies only to the remains of individuals that were presumed to be killed as part of a military event and recovered accidentally. This section does **not** authorize:

- The purposeful disinterment of human remains for any purpose, including reburial, within a national park or NPS national cemetery (see Section 3.8.1 of this Order).
- The interment of human remains in closed cemeteries if those remains are associated with military events other than those for which the national park or national cemetery was established.
- The expansion of a burial section without the approval of the regional director, as required by 36 CFR 12.5(d)(3).
- The expansion of a national cemetery outside the confines of its historic enclosure, as prohibited in 36 CFR 12.5(d)(6).

3.9 Headstones, Markers, and Commemorative Monuments

3.9.1 General Guidance

Each new grave in NPS-administered national cemeteries will be marked with a government-furnished headstone or marker. Private headstones are generally not permitted because of conflict with the historic character of the cemeteries. Private headstones and markers may be approved only by the Director, and only in national cemetery burial sections in which private headstones and markers were authorized as of January 1, 1947.

3.9.2 Memorial Headstone and Markers

In accordance with 38 USC 2306, memorial headstones or markers may be used to commemorate any eligible veteran whose remains: (1) have not been recovered or identified, (2) were buried at sea, (3) were donated to science, or (4) were cremated and the remains scattered. Memorial headstones or markers may be placed in areas reserved by the superintendent for this purpose as identified in a cultural landscape report, cemetery plan or other formal planning document. Superintendents may authorize the placement of memorial headstones and markers in memorial areas of both active and closed national cemeteries.

3.9.3 Commemorative Monuments

Commemorative monuments may be erected only in accordance with 36 CFR 12.9, and in keeping with section 9.6 of NPS *Management Policies 2006*. Upon recommendation of the superintendent and concurrence by the regional director, approval may be granted by the Director of the National Park Service when the monument will be designed, fabricated, installed, and maintained at no cost to the NPS. Commemorative monuments must conform to the type, size, materials, design, and specifications prescribed for the historic design of the cemetery section in which it is proposed for installation. The commemorative monument may not bear an inscription that includes the name of the person or persons responsible for its design, purchase, or installation.

3.9.4 Repair or Replacement of Damaged Headstones

All National Cemeteries will have an approved cultural landscape report or National Register documentation to determine which features, including headstones, contribute to its historical significance. Absent such documentation, all headstones in national cemeteries will be treated as historic objects (see RM-61).

Historic headstones will be preserved whenever feasible. Repair and re-inscription of historic headstones will be considered before replacement. Replacement of historic headstones, whether private or government-furnished, is the least preferred alternative (see RM-61). Park managers will choose methods of cemetery maintenance which will reduce the adverse effects of maintenance activities on headstones.

3.10 Ceremonies and Special Events

In compliance with regulations published at 36 CFR 12.4, conducting a special event or demonstration, whether spontaneous or organized, is prohibited except for official commemorative events conducted for Memorial Day, Veterans Day, and other dates designated by the superintendent as having special historic and commemorative significance to a particular national cemetery. Committal services are excluded from this restriction.

3.11 Flags

The flag of the United States will be displayed at all national cemeteries each day of the year during the hours the cemetery is open. In those cemeteries where flagpoles can be and are illuminated, the flag may be flown 24 hours a day (see RM-61).

In accordance with 36 USC 902(b)-(d) (Pub. L. 105-85, Section 1082), the POW/MIA flag will be flown on the following days:

- Armed Forces Day (the third Saturday in May).
- Memorial Day (the last Monday in May).
- Flag Day (June 14).
- Independence Day (July 4).
- National POW/MIA Recognition Day (the 3rd Friday of September).
- Veterans Day (November 11).

Established procedures and protocols for displaying the United States flag are outlined in RM-61. It is the responsibility of the National Cemetery Administration to provide a United States flag to drape the casket or accompany the cremated remains of a deceased veteran. These flags may be obtained from National Cemetery Administration offices and U.S. Post Offices throughout the United States with the submission of VA Form 21-2008.

Superintendents may authorize the placement of small U.S. flags on each grave in honor of Memorial Day and other dates as designated by the superintendent.

In national cemeteries located in States which officially set aside a specific date as Confederate Memorial Day, the superintendent may permit a sponsoring group to decorate the graves of Confederate veterans with small Confederate flags. These flags will be removed from the graves as soon as possible following the designated Confederate Memorial Day. The acquisition and placement of these flags will be at no cost to the National Park Service. Confederate Flags will not be flown on any cemetery flagpole.

4. Responsibilities of Officials

The Associate Director for Cultural Resources will issue RM-61 to address other established procedures and protocols applicable to national cemeteries under the administration of the NPS. All superintendents having responsibilities for national cemetery resources will ensure that necessary records are maintained and managed in accordance with the requirements of Director's Order #19.

----End of Director's Order----