

RIN 2900-AR88 Commemorative Plaques and Urns (Proposed Rule)

[Federal Register](#)

What does the regulation do? This proposed rulemaking would implement new statutory authority (by adding 38 C.F.R. § 38.634) for the National Cemetery Administration (NCA) to furnish upon request, either a commemorative plaque or a commemorative urn for a veteran whose cremated remains are not interred in a national cemetery, a state veterans' cemetery, a tribal cemetery, a county cemetery, or a private cemetery. This new benefit was authorized by section 2207 of P. L. 116-315, the "Johnny Isakson and David P. Roe, M.D. Veterans Health Care and Benefits Improvement Act of 2020."

Once a commemorative plaque or urn is furnished, the statute prohibits the Department of Veterans Affairs (VA) from interring that veteran in a VA national cemetery or providing a government headstone, marker, or medallion for that veteran in any cemetery. For example, a family may receive a VA commemorative plaque or commemorative urn for the cremated remains of an eligible veteran whose remains are not interred. At the request of the spouse who could not part with the remains, the family purposely deferred interment. When the veteran's eligible spouse dies, the family requests burial in a VA national cemetery for the spouse and veteran. By law, VA is prohibited from interment of the veteran's cremated remains with the spouse in a VA national cemetery and can only inter the spouse, if in those circumstances the family chooses to proceed. Similarly, if a family receives a VA commemorative plaque or urn for the cremated remains of an eligible veteran whose remains are not interred, and the family later interrs the veteran in a private cemetery, VA is prohibited from furnishing a VA headstone, marker, and medallion. These examples demonstrate the limitations families must be aware of when requesting a VA commemorative urn or plaque for an eligible deceased veteran whose cremated remains are not interred.

Are the provisions, services, or benefits associated with this rulemaking current practice or new to Veterans? Please explain. Commemorative plaques and urns are new benefits which provide an alternative memorialization for families that do not seek to inter their loved ones. Previously, the only NCA benefit available for deceased veterans if the family of the veteran wanted to retain possession of the remains was a Presidential Memorial Certificate (PMC). Important distinctions exist between the Commemorative Plaque and Urn and NCA's PMC program in that VA

could issue multiple PMCs to multiple individuals on behalf of one veteran, and issuance of the PMC would not have an effect on eligibility for other burial and memorial benefits.

Who does it impact? This rulemaking, which implements 38 U.S.C. § 2306(h), would impact members of a deceased veteran's family who would request either the commemorative plaque or commemorative urn. Some families may find the commemorative plaque or urn commemorating their veteran's service to be a desirable benefit.

NCA anticipates, however, that since receipt of a commemorative plaque or urn for a veteran makes that veteran statutorily ineligible for burial in a VA national cemetery or for a VA provided government headstone, marker or medallion, there will be negative impacts to families if they make an uninformed decision or one member of the family elects the commemorative plaque or urn when other family members desired a more traditional interment option (e.g., burial in a national or state veterans' cemetery with standard government headstone/marker/medallion).

The rulemaking, which implements 38 U.S.C. § 2306(h), would also impact national cemeteries (which will be required to deny burial requests received subsequently for veterans who have been given this benefit) and all other cemeteries (including Arlington National Cemetery and VA grant funded cemeteries) which rely on VA to provide government markers for the graves of veterans. Many of these partners in service to veterans have already expressed their concerns to NCA about how their business practices might be impacted. Arlington National Cemetery, for example, has determined it will not inter veterans who have received a commemorative plaque or urn from VA. (NCA has designed systems to enable all cemeteries to be able to check to see if a plaque or urn has been issued on behalf of a veteran.)

If the benefit becomes popular it could negatively impact businesses that sell urns for the remains of veterans.

Why is it happening/important? Congress created the benefit for veterans whose cremated remains are not interred in a national cemetery, a state veterans' cemetery, a tribal cemetery, a county cemetery, or a private cemetery. VA proposes to make corresponding amendments to its regulations under Part 38, which govern memorialization benefits, to implement the new authority.

Why are we doing it? VA must amend its regulation to be consistent with the law authorizing commemorative urns and plaques. NCA deliberated extensively with the assistance of the Office of General Counsel Benefits Law Group to draft the proposed

rule so that the benefit could be clearly understood by potential applicants and to minimize the potential hazard of unintended forfeitures of benefits, family disputes and duplicate claims.