

Dear Senators LAKEY, Foreman, Wintrow, and
Representatives HOLTZCLAW, Bundy, Chew (Rubel):

The Legislative Services Office, Research and Legislation, has received the enclosed rules of the
Division of Veterans Services:

IDAPA 21.01.04 - Rules Governing Idaho State Veterans Cemeteries (Fee Rule) - Proposed Rule
(Docket No. 21-0104-2402).

Pursuant to Section 67-454, Idaho Code, a meeting on the enclosed rules may be called by the
cochairmen or by two (2) or more members of the subcommittee giving oral or written notice to Research
and Legislation no later than fourteen (14) days after receipt of the rules' analysis from Legislative
Services. The final date to call a meeting on the enclosed rules is no later than 07/01/2024. If a meeting is
called, the subcommittee must hold the meeting within forty-two (42) days of receipt of the rules' analysis
from Legislative Services. The final date to hold a meeting on the enclosed rules is 07/29/2024.

The germane joint subcommittee may request a statement of economic impact with respect to a
proposed rule by notifying Research and Legislation. There is no time limit on requesting this statement,
and it may be requested whether or not a meeting on the proposed rule is called or after a meeting has
been held.

To notify Research and Legislation, call 334-4854, or send a written request to the address on the
memorandum attached below.



Terri Kondeff
Director

Legislative Services Office

Idaho State Legislature

Serving Idaho's Citizen Legislature

MEMORANDUM

TO: Rules Review Subcommittee of the Senate Judiciary & Rules Committee and the House Commerce & Human Resources Committee

FROM: Deputy Division Manager - Katharine Gerrity

DATE: June 13, 2024

SUBJECT: Division of Veterans Services

IDAPA 21.01.04 - Rules Governing Idaho State Veterans Cemeteries (Fee Rule) - Proposed Rule (Docket No. 21-0104-2402)

Summary and Stated Reasons for the Rule

The Division of Veterans Services submits notice of proposed rule at IDAPA 21.01.04 - Rules Governing Idaho State Veterans Cemeteries. This is a fee rule. The division states that the rule seeks to expand eligibility for interment at Idaho State Cemeteries to non-retiree Guard and Reservists who completed an enlistment of service honorably but are otherwise ineligible because they were never activated federally or did not complete enough service time to retire out of the Guard or Reserves. The division notes that the rule will impose a fee on non-veteran guard or reserve eligible for burial but ineligible for USDVA reimbursement equivalent to the USDVA reimbursement amount, as well as a \$400 fee for the cost of a casket/upright marker or \$250 for all other interment/memorial marker types.

Negotiated Rulemaking / Fiscal Impact

The division states that negotiated rulemaking was not conducted because it is prompted by a change to federal law. It does not appear that the rulemaking results in a fiscal impact to the state.

Statutory Authority

The rulemaking appears to be authorized pursuant to sections 65-108 and 65-202, Idaho Code.

cc: Division of Veterans Services
Kevin Wallior

*** PLEASE NOTE ***

Per the Idaho Constitution, all administrative rules may be reviewed by the Legislature during the next legislative session. The Legislature has 3 options with this rulemaking docket: **1)** Approve the docket in its entirety; **2)** Reject the docket in its entirety; or **3)** Reject the docket in part.

Paul Headlee, Deputy Director Matt Drake, Manager Keith Bybee, Manager April Renfro, Manager Norma Clark, Manager
Legislative Services Office Research & Legislation Budget & Policy Analysis Legislative Audits Information Technology

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IDAPA 21 – DIVISION OF VETERANS SERVICES
21.01.04 – RULES GOVERNING IDAHO STATE VETERANS CEMETERIES
DOCKET NO. 21-0104-2402 (FEE RULE)
NOTICE OF RULEMAKING – PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 65-108 and 65-202, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than June 19, 2024.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

This proposed rule seeks to expand eligibility for interment at Idaho State Veterans Cemeteries to non-retiree Guard and Reservists who completed an enlistment of service honorably but are otherwise ineligible because they were never activated federally or did not complete enough service time to retire out of the Guard or Reserves.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased:

This rule will impose a fee on non-Veteran guard or reserve eligible for burial but ineligible for USDVA reimbursement equivalent to the USDVA reimbursement amount, as well as a \$400 fee for the cost of a casket/upright marker or \$250 for all other interment/memorial marker types. This fee is authorized under Section 65-202(8), Idaho Code.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking:

The fiscal impact is minimal due to the small number of individuals eligible, and the cost being born by those individuals rather than the state.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because it is prompted by a change to federal law.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: N/A

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Kevin Wallior, 208-780-1308.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before June 26, 2024.

DATED this 30th day of April 2024.

Kevin R. Wallior
Management Assistant
Idaho Division of Veterans Services
351 N. Collins Road
Boise, ID 83702
Ph: 208-780-1308; fax: 208-780-1301
Email: kevin.wallior@veterans.idaho.gov

THE FOLLOWING IS THE TEXT OF THE PROPOSED (FEE) RULE FOR DOCKET NO. 21-0104-2402
(Only Those Sections With Amendments Are Shown.)

000. LEGAL AUTHORITY.

~~The Idaho Legislature has given the Administrator of the Division of Veterans Services the authority to promulgate rules governing the Idaho State Veterans Cemetery pursuant to Section 65-202, Idaho Code. (3-23-22)()~~

(BREAK IN CONTINUITY OF SECTIONS)

~~**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)~~

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

~~**02. Document Availability.** Copies are available from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402-0001. (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. Designated Interpretive Trail.** A public recreational trail designated by a sign or marker. (3-23-22)~~

~~**08**~~ **7. Disinterment.** The removal of human remains from their place of interment. (3-23-22)

~~**09**~~ **8. Division.** The Idaho Division of Veterans Services. (3-23-22)

109. **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)

110. **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 (1) term of enlistment, or officers who completed at least four (4) years of service. (3-23-22)()

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

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

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

(BREAK IN CONTINUITY OF SECTIONS)

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 a qualified veteran persons eligible for USDVA reimbursement. (3-23-22)()

b. ~~In An addition al 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 a casket burial at an interment site not containing a pre-placed crypt. (3-23-22)()

c. For interments ineligible for a USDVA provided marker, the Administrator shall charge: ()

i. \$400 for the cost of a Casket/Upright Marker; or ()

ii. \$250 for all other Interment/Memorial Marker types. ()

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 fifty dollars (~~\$200~~250) to order, install, and provide perpetual care of a furnished flush granite marker to commemorate ~~an eligible deceased Veteran~~ a qualified person whose remains have not been recovered or identified, were buried at sea, donated to science, or cremated and the remains scattered. (3-23-22)()

(BREAK IN CONTINUITY OF SECTIONS)

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)

~~**04. Donations and Gifts.** The Administrator may accept gifts and donations to the Veterans Cemetery Maintenance Fund established pursuant to Section 65-107, Idaho Code. (3-23-22)~~

PROPOSED RULE COST/BENEFIT ANALYSIS

Section 67-5223(3), Idaho Code, requires the preparation of an economic impact statement for all proposed rules imposing or increasing fees or charges. This cost/benefit analysis, which must be filed with the proposed rule, must include the reasonably estimated costs to the agency to implement the rule and the reasonably estimated costs to be borne by citizens, or the private sector, or both.

Department or Agency: Idaho Division of Veterans Services

Agency Contact: Kevin Wallior **Phone:** 208-780-1308

Date: 05/13/2024

IDAPA, Chapter and Title Number and Chapter Name:

[IDAPA 21.01.04 Rules Governing Idaho State Veterans Cemeteries](#)

Fee Rule Status: X **Proposed** **Temporary**

Rulemaking Docket Number: 21-0104-2402

STATEMENT OF ECONOMIC IMPACT:

There will be no impact to the general fund. This rule change will require an increase to our appropriation from miscellaneous receipts for the purchase of markers for additional interments. The first year this is in effect there will be an estimated 30 additional interments with approximately \$35,940 revenue collected in fees from those interments. Thereafter there will be an estimated 10 additional interments per year with approximately \$11,980 revenue collected in fees.