

## Department of Veterans Affairs

## § 39.8

Director, State Cemetery Grants Program, giving the date and location where the audit was made and citing any deficiencies and corrective action taken or proposed.

(d) VA, in coordination with the State, shall inspect the project at completion for compliance with the standards set forth in § 39.8 and at least once in every 3-year period following completion of the project, and throughout the period the facility is operated as a State veterans' cemetery. A copy of the inspection shall be forwarded to the Director, State Cemetery Grants Program, giving the date and location where the inspection was made and citing any deficiencies and corrective action taken or proposed.

(e) Failure of the State to comply with paragraphs (a) through (c) of this section shall be considered cause for the Department of Veterans Affairs to suspend any payments due a State on any or all projects until the situation involved is corrected.

(Authority: 38 U.S.C. 2408(c)(2))

### § 39.6 State to retain control of operations.

Neither the Secretary nor any employee of the Department of Veterans Affairs shall exercise any supervision or control over the administration, personnel, maintenance, or operation of any State veterans' cemetery constructed, expanded, or improved with assistance received under this program except as prescribed in this part.

(Authority: 38 U.S.C. 2408(c)(2))

### § 39.7 Recapture.

If a State which has received a grant to establish, expand, or improve a veterans' cemetery ceases to own such cemetery, ceases to operate such cemetery as veterans' cemetery, or uses any part of the funds provided through such grant for a purpose other than for which the grant was made, the United States shall be entitled to recover from the State the total of all grants made to the State in connection with the establishment, expansion or improvement of such cemetery.

(Authority: 38 U.S.C. 2408(b)(4))

### § 39.8 General standards for site selection and construction of State veterans' cemeteries.

(a) *General.* (1) The various codes, requirements, recommendations of State and local authorities or technical and professional organizations, to the extent and manner in which reference is made in these standards, are applicable to grants for construction of State veterans' cemeteries. Additional information concerning these standards may be obtained from the Department of Veterans Affairs, National Cemetery Administration (40G), 810 Vermont Avenue, NW., Washington, DC 20420.

(2) These standards constitute general design and construction criteria and shall apply to all projects for which Federal assistance is requested under 38 U.S.C. 2408.

(3) In developing these standards, no attempt has been made to comply with all of the various State and local codes and regulations. These standards must be followed where they exceed State or local codes and regulations. Departure will be permitted, however, when alternate standards will provide equivalent or better design criteria. Conversely, compliance is required with State and local codes where such requirements provide a higher standard. The additional cost, if any, in using standards which are higher than those of the Department of Veterans Affairs (VA) should be documented and justified in the application.

(4) The space criteria and area requirements referred to in these standards should be used as a guide in planning. Additional area and facilities beyond those specified as basic may be included if found to be required by the program but are subject to approval by VA. Substantial deviation from the space or area standards should be carefully considered and justified, except for occasional variances which would require individual justification. Failing to meet or exceeding the standards by more than 10 percent in the completed plan would be regarded as evidence of inferior design or as exceeding the boundaries of professional requirements. VA participation may be subject to proportionate reduction in those projects which unjustifiably exceed maximum space or area criteria.