

Display of the Confederate Flag at Federal Cemeteries in the United States

August 31, 2016 (IN10313)

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The National Park Service (NPS), the Department of Veterans Affairs (VA), and the Department of the Army all administer federal cemeteries that sometimes display the Confederate flag. There are 147 national cemeteries in the United States. Fourteen are maintained by the NPS, in the Department of the Interior. The VA, through its National Cemetery Administration (NCA), administers 131 cemeteries. The Army, in the Department of Defense (DOD), administers 2 national cemeteries. In addition, the American Battle Monuments Commission (ABMC) operates 25 American military cemeteries in 16 foreign countries. The NPS, the VA, and the Army all have policies concerning the Confederate flag's display. Following the June 17, 2015, shooting deaths of nine people in a historically black church in Charleston, SC, the display of Confederate flags at federal cemeteries came under scrutiny.

National Park Service Policy

(CRS contact: Laura Comay, 7-6036)

The NPS policy ([NPS Director's Order #61](#) and related [reference manual](#)) allows the Confederate flag to be displayed in some national cemeteries on two days of the year. If a state observes a Confederate Memorial Day, NPS cemeteries in the state may permit a sponsoring group to decorate the graves of Confederate veterans with small Confederate flags. Additionally, according to the NPS reference manual (p. 33), such flags may also be displayed on the nationally observed Memorial Day, to accompany the U.S. flag on the graves of Confederate veterans. In both cases, a sponsoring group must provide and place the flags, and remove them as soon as possible after the end of the observance, all at no cost to the federal government. At no time may a Confederate flag be flown on an NPS cemetery flagpole.

Following the June 2015 shootings, the NPS asked its concessioners and other partners to voluntarily end sales of items

that solely depict a Confederate flag, and also issued a policy memorandum stating that Confederate flags shall not be flown in units of the National Park System or related areas, except where the flags provide historical context. However, the memorandum did not address NPS policies for displaying Confederate flags at national cemeteries.

Department of Veterans Affairs Policy

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VA policy (NCA Directive 3220 issued on November 22, 2005; available from CRS) allows for small flags to be placed at individual gravesites of interred Confederates, either with a U.S. flag or without, on Memorial Day and on Confederate Memorial Day in states that have designated a Confederate Memorial Day. In states without a Confederate Memorial Day, another date may be selected by the cemetery administrator. The VA does not provide the Confederate flags. The display is allowed only at NCA-managed cemeteries where Confederate soldiers, sailors, and Marines are buried. Any display of the Confederate flag must be requested by a sponsoring historical or service organization, which must provide the flags. The sponsoring organization must also place and remove the flags at no cost to the government.

New VA Policy Prohibiting the Confederate Flag from Flying on Flagpole

Previously, VA policy (NCA Directive 3220) permitted the Confederate flag to be flown on a separate flagpole, subordinated to the U.S. flag, in NCA-managed cemeteries in which Confederate soldiers are buried in mass graves on same days that Confederate flags may be placed on individual graves. However, on August 12, 2016, the [VA announced in a letter to Representative Jared Huffman](#) that the agency will amend its policy such that the Confederate flag may no longer fly from a fixed flagpole at any NCA-managed cemetery. The letter does not include any details on the implementation of this policy change.

Department of the Army Policy

(CRS contact: Barbara Torreon, 7-8996)

The [Army policy](#) allows a small Confederate flag of a size not to exceed that of the U.S. flag to be placed on Confederate graves at private expense, either on Memorial Day or on the day when Confederate Memorial Day is observed. Those individuals or groups desiring to place these flags must agree in writing to absolve the federal government from any responsibility for loss or damage to the flags. Confederate flags must be removed at private expense on the first workday following Memorial Day or the day observed as Confederate Memorial Day.

Legislative Action in 2015

Following the June 2015 shootings, House Members addressed the display of confederate flags at NPS cemeteries in floor amendments to [H.R. 2822](#), the House Interior, Environment, and Related Agencies appropriations bill for FY2016. Representative Huffman offered [H.Amdt. 592](#), which would have prohibited the use of funds in the bill to implement the policies in [NPS Director's Order #61](#) that provide for the flag decorations in cemeteries. Representative Calvert offered an opposing amendment, [H.Amdt. 651](#), which would have prohibited funds being used to contravene existing NPS policies on Confederate flags. Further action ceased on the bill, pending agreement on these and other amendments concerning NPS use of the Confederate flag. The NPS's FY2016 appropriations were eventually provided in December 2015 through [P.L. 114-113](#), the Consolidated Appropriations Act, 2016, which contained no Confederate flag provisions for NPS.

No provision affecting the placement of Confederate flags in VA or Army cemeteries was included in [P.L. 114-113](#). In the House, [H.R. 3007](#) was introduced to prohibit the display of the Confederate flag in any VA national cemetery.

Legislative Action in 2016

On May 19, 2016, the House passed an amendment introduced by Representative Huffman ([H.Amdt. 1064](#)) to [H.R. 4974](#), the initial House Military Construction and VA appropriations bill for FY2017, which would have prohibited the use of VA funds to implement Section 8(d)(2) of NCA Directive 3220, thus prohibiting the flying of the Confederate

flag from a flagpole at NCA-managed cemeteries in which Confederate veterans are buried in mass graves. The placement of Confederate flags at the individual graves of Confederate veterans was not affected by this amendment. The amended version of [H.R. 4974](#) subsequently passed the House. This provision was not included in the conference report to [H.R. 2577](#), the subsequent version of the House Military Construction and VA appropriations bill for FY2017, which was passed by the House on June 23, 2016. However, on August 12, 2016, the VA announced that the agency was changing its policy to prohibit the flying of the Confederate flag from a flagpole at NCA-managed cemeteries.

On July 1 and July 8, 2016, Representatives Huffman and Jeffries submitted [amendments](#) to [H.R. 5538](#), the Interior and Related Agencies appropriations bill for FY2017, which addressed the display and sale of the Confederate flag in the National Park System. The amendments would have prohibited NPS from using funds in the bill (1) to implement the policies in [NPS Director's Order #61](#) that provide for the flag decorations in cemeteries, (2) to enter into contracts or agreements with vendors who sell items with a Confederate flag as a stand-alone feature, and (3) to fly a Confederate flag, except for certain uses to provide historical context. None of these amendments was made in order by the House Committee on Rules in [H.Res. 820](#), the rule providing for consideration of [H.R. 5538](#).