

**WEST VIRGINIA
SECRETARY OF STATE**

JOE MANCHIN, III

ADMINISTRATIVE LAW DIVISION

Form #5

Do Not Mark In This Box

FILED

2003 DEC 16 A 9:58

OFFICE WEST VIRGINIA
SECRETARY OF STATE

**NOTICE OF AGENCY ADOPTION OF A PROCEDURAL OR INTERPRETIVE RULE
OR A LEGISLATIVE RULE EXEMPT FROM LEGISLATIVE REVIEW**

AGENCY: Public Service Commission TITLE NUMBER: 150

CITE AUTHORITY: West Virginia Code § 24F-1-1, et seq.

RULE TYPE: PROCEDURAL _____ INTERPRETIVE _____

EXEMPT LEGISLATIVE RULE X

CITE STATUTE(S) GRANTING EXEMPTION FROM LEGISLATIVE REVIEW

West Virginia Code § 24-1-7

AMENDMENT TO AN EXISTING RULE: YES _____ NO X

IF YES, SERIES NUMBER OF RULE BEING AMENDED: _____

TITLE OF RULE BEING AMENDED: _____

IF NO, SERIES NUMBER OF RULE BEING PROPOSED: 150 CSR 28

TITLE OF RULE BEING PROPOSED: Rules for the Government of Fees For Installation of
United States Department of Veterans Affairs Markers,
150 CSR 28

THE ABOVE RULE IS HEREBY ADOPTED AND FILED WITH THE SECRETARY OF STATE. THE
EFFECTIVE DATE OF THIS RULE IS February 17, 2004.



Authorized Signature

FISCAL NOTE

**P.S.C.
Series 28**

In the matter of a rulemaking to institute the Commission's Rules for the Government of Fees for Installation of United States Department of Veterans Affairs Grave Markers, 150 CSR 28,.

I. OBJECTIVES OF THE RULE

The purpose of this rulemaking is to carry out the Commission's statutory duties pursuant to W.Va. Code 24F-1-1 et seq.

II. COST OF IMPLEMENTING THE PROPOSED RULE

There will be no significant implementation cost relating to this rulemaking for the State of West Virginia. The Commission does not anticipate additional costs to be incurred as a result of the rulemaking.

III. THE EFFECT THIS MEASURE WILL HAVE ON THE COSTS OR REVENUES OF STATE GOVERNMENT (Information required by fiscal notes for either house of the Legislature.)

This rulemaking will have no effect on the costs or revenues of state government.

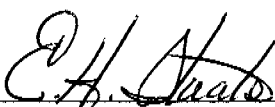
IV. ECONOMIC IMPACT OF THE RULE ON THE STATE OR ITS RESIDENTS

This rulemaking will have no significant economic impact on the state or its residents.

DATE: 12-16-03

AGENCY: Public Service
Commission

**SIGNATURE OF
AUTHORIZED REPRESENTATIVE**



E. H. Staats, Chairman
Public Service Commission

SUMMARY OF RULE

The Commission adopts Rules for the Government of Fees for Installation of United States Department of Veterans Affairs Grave Markers, 150 CSR 28. The new rules are responsive to newly codified Chapter 24F of the West Virginia Code, which authorizes the West Virginia Public Service Commission to regulate transactions among cemeteries, companies that set and install memorial head markers and veterans or their survivors concerning fees for setting United States Department of Veterans Affairs grave markers at the graves of deceased veterans. The Rules set forth price ceilings on basic, stone, and stone purchase installation of Veterans' markers. The Rules prohibit the charging of a permanent care fee for a Veteran's marker, over and above the permanent care fee that is otherwise applicable for a grave site.

**STATEMENT OF CIRCUMSTANCES WHICH
REQUIRE THE RULE**

On March 8, 2003, the West Virginia Legislature passed Senate Bill No. 494, codified as Chapter 24F of the West Virginia Code, authorizing the West Virginia Public Service Commission to regulate transactions among cemeteries, companies that set and install memorial head markers and veterans or their survivors concerning fees for setting United States Department of Veterans Affairs' grave markers at the graves of deceased veterans. This rulemaking is responsive to that legislation.

Public Service Commission

Richard E. Hitt, General Counsel



201 Brooks Street, P.O. Box 812
Charleston, West Virginia 25323

Phone: (304) 340-0317
FAX: (304) 340-0372

December 15, 2003

Judy Cooper, Director
Administrative Law Division
Secretary of State's Office
Building 1, Suite 157-K
1900 Kanawha Blvd., East
Charleston, WV 25305-0771

Re: GENERAL ORDER NO. 257.00
IN THE MATTER OF A PROCEEDING FOR
THE ADOPTION OF RULES GOVERNING
FEES FOR THE SETTING OF UNITED STATES
VETERANS AFFAIRS GRAVE MARKERS
AND RELATED TRANSACTIONS; SERIES 28

Dear Judy:

Enclosed for filing is a copy of the Commission's final rules in the referenced series. Included is a notice of adoption, a fiscal note, a summary of the rule, and the statement of circumstances.

In addition, a diskette has been enclosed containing the final rules in both the strike-through and underlined version as well as a clean version. If there are any problems with the submittal, please bring them to my attention immediately. Thank you for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "R. Hitt", written over a large, stylized flourish.

RICHARD E. HITT
General Counsel
(304)340-0317

REH/mh
Enclosures

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TITLE 150
LEGISLATIVE RULE
PUBLIC SERVICE COMMISSION

SERIES 28

RULES FOR THE GOVERNMENT OF FEES FOR INSTALLATION
OF UNITED STATES DEPARTMENT OF VETERANS AFFAIRS
GRAVE MARKERS

FILED
2003 DEC 16 A 9:58
GENERAL INVEST VIRGINIA
SECRETARY OF STATE

§150-4A-1. General.

1.1 Scope. These Rules govern fees for installation of United States Department of Veterans Affairs Grave Markers provided free of charge to families of deceased United States Armed Service veterans.

1.2 Authority. W.Va. Code § 24F-1-1 *et seq.*

1.3 Filing Date. December 16, 2003

1.4 Effective Date. February 17, 2004

1.5 Purpose. These Rules establish price ceilings that may be charged by service providers, as defined herein, for the setting and installation of United States Department of Veterans Affairs Grave Markers provided free of charge to families of deceased United States Armed Services veterans.

1.6 Application.

1.6.a. These Rules apply to service providers as defined herein.

1.6.b. If hardship results from the application of any rule or if unusual difficulty is involved in immediately complying with any rule, application may be made to the Commission for the modification of the rule or for temporary or permanent exemption from its provisions. Provided, that no application for modification or exemption will be considered by the Commission unless there is submitted therewith a full and complete justification for such action.

1.7. Definitions.

1.7.a. Basic Installation - The permanent installation of a Veteran's Marker on a concrete base without a stone slab.

1.7.b. Stone Installation - The permanent installation of a Veteran's Marker on a stone slab with or without a concrete foundation, where the Customer provides the stone slab.

1.7.c. Stone Purchase Installation - The permanent installation of a Veteran's Marker mounted on a stone slab, with or without a concrete foundation, when the stone slab is purchased by the Customer from the Service Provider.

1.7.d. Customer - The person or entity requesting installation of a Veteran's Marker at the grave of a deceased United States Veteran.

1.7.e. Permanent Care Fee - A Service Provider charge to a Customer to pay for perpetual care of an installed Veteran's Marker.

1.7.f. Service Provider - Any cemetery, cemetery association, cemetery company, and perpetual care cemetery company, irrespective of how each may be defined in *W.Va. Code* §§ 35-5-1 *et seq.*, 35-5A-1 *et seq.* and 35-5B-1 *et seq.*, and any company that sets and installs memorial monument markers, that operates within the State of West Virginia, and provides Customers with installation and/or perpetual care of Veterans' Markers.

1.7.g. Stone slab - A granite or marble slab measuring no more than 28" by 16" on its face, and 4" high.

1.7.h. Veteran's Marker - means a 24" by 12" bronze grave memorial marker provided by the United States Department of Veterans Affairs.

§150-4A-2. Prices.

2.1. Price ceilings.

2.1.a. Basic Installation - A Service Provider may charge a Customer no more than \$50.00 for Basic Installation of a Veteran's Marker.

2.1.b. Stone Installation - A Service Provider may charge a Customer no more

than \$200.00 for Stone Installation.

2.1.c. Stone Purchase Installation - A Service Provider may charge a Customer no more than \$380.00 for Stone Purchase Installation, including purchase of stone for a Veteran's Marker.

2.1.d. Permanent Care Fee - For purposes of these rules, when a cemetery, cemetery association, cemetery company, or perpetual care company, does not charge a pre-paid perpetual care fee for all grave sites, the price ceilings set forth herein are deemed to include costs for perpetual care of Veterans' Markers. A Service Provider may not assess a separate or periodic permanent care fee for care of a Veteran's Marker over and above a permanent care fee that would otherwise be applicable for a grave site.

2.1.e. The price ceilings set forth herein do not preclude the addition of legally applicable incremental, revenue based taxes, which are submitted by a Service Provider to a state or local taxing entity.

2.2. Price Schedules.

2.2.a. A cemetery, cemetery association, cemetery company, or perpetual care company shall, at the time a cemetery lot is purchased, provide the lot purchaser with a schedule setting forth the price ceilings stated herein for installation of Veterans' Markers and a price schedule showing permanent care fees applicable to grave sites.

2.2.b. Within thirty (30) days of the effective date of these rules, all cemeteries, cemetery associations, cemetery companies, and perpetual care companies shall have provided all owners of unused cemetery lots as reflected in the records of the Service Provider, with a schedule setting forth the price ceilings stated herein for installation of Veterans' Markers and a price schedule showing permanent care fees applicable to grave sites.

2.2.c. No later than July 1 of each year, all cemeteries, cemetery associations, cemetery companies, and perpetual care companies shall file with the Commission a schedule showing permanent care fees applicable to grave sites.

§150-4A-3. Discrimination.

3.1. Service Providers shall not discriminate against customers requesting the installation of Veterans' Markers pursuant to these Rules by requiring terms and conditions of service, or additional fees, that would not be equally applicable to other customers.

§150-4A-4. Petitions for Relief.

4.1. Any customer aggrieved by a Service Provider's alleged failure to comply with these Rules may file a signed petition requesting Commission review of the alleged non-compliance.

TITLE 150
LEGISLATIVE RULE
PUBLIC SERVICE COMMISSION

SERIES 28

RULES FOR THE GOVERNMENT OF FEES FOR ~~PLACEMENT~~ INSTALLATION
OF UNITED STATES DEPARTMENT OF VETERANS AFFAIRS
GRAVE MARKERS

§150-4A-1. General.

1.1 Scope. These Rules govern fees for ~~placement~~ installation of United States Department of Veterans Affairs' Grave Markers provided free of charge to families of deceased United States Armed Service veterans.

1.2 Authority. W.Va. Code § 24F-1-1 *et seq.*

1.3 Filing Date. ~~October 7, 2003.~~ December 16, 2003

1.4 Effective Date. February 17, 2004

1.5 Purpose. These Rules establish price ceilings that may be charged by service providers, as defined herein, for the setting and installation of United States Department of Veterans Affairs Grave Markers provided free of charge to families of deceased United States Armed Services veterans.

1.6 Application.

1.6.a. These Rules apply to service providers as defined herein.

1.6.b. If hardship results from the application of any rule or if unusual difficulty is involved in immediately complying with any rule, application may be made to the Commission for the modification of the rule or for temporary or permanent exemption from its provisions. Provided, that no application for modification or exemption will be considered by the Commission unless there is submitted therewith a full and complete justification for such action.

1.7. Definitions.

1.7.a. Basic Installation - The permanent installation of a Veteran's Marker on a concrete base without a stone slab.

1.7.b. Stone Installation - The permanent installation of a Veteran's Marker on a stone slab with or without a concrete ~~base~~ foundation, where the Customer provides the stone slab.

1.7.c. Stone Purchase Installation - The permanent installation of a Veteran's Marker mounted on a stone slab, with or without a concrete ~~base~~ foundation, when the stone slab is purchased by the Customer from the Service Provider.

1.7.d. Customer - The person or entity ~~responsible for payment~~ requesting installation of burial or interment costs a Veteran's Marker at the grave of a deceased United States Veteran.

1.7.e. Permanent Care Fee - ~~a~~ A Service Provider charge to a Customer to pay for perpetual care of an installed Veteran's Marker.

1.7.f. Service Provider - Any cemetery, cemetery association, cemetery company, and perpetual care cemetery company, irrespective of how each may be defined in *W.Va. Code* §§ 35-5-1 *et seq.*, 35-5A-1 *et seq.* and 35-5B-1 *et seq.*, and any company that sets and installs memorial monument markers, that operates within the State of West Virginia, and provides Customers with installation and/or perpetual care of Veterans' Markers.

1.7.g. ~~Third Party - An entity that is neither a Service Provider nor a Customer, as defined herein.~~ Stone slab - A granite or marble slab measuring no more than 28" by 16" on its face, and 4" high.

1.7.h. Veteran's Marker - means a 24" by 12" bronze grave memorial marker ~~provided to a Customer~~ by the United States Department of Veterans Affairs.

§150-4A-2. Prices.

2.1. Price ceilings.

2.1.a. Basic Installation - A Service Provider may charge a Customer no more than \$50.00 for Basic Installation of a Veteran's Marker.

2.1.b. Stone Installation - A Service Provider may charge a Customer no more than \$200.00 for Stone Installation.

2.1.c. Stone Purchase Installation - A Service Provider may charge a Customer no more than \$380.00 for Stone Purchase Installation, including purchase of stone for a Veteran's Marker.

2.1.d. Permanent Care Fee - For purposes of these rules, when a cemetery, cemetery association, cemetery company, or perpetual care company, does not charge a pre-paid perpetual care fee for all grave sites, the price ceilings set forth herein are deemed to include costs for perpetual care of Veterans' Markers. A Service Provider may not assess a separate or periodic permanent care fee for care of a Veteran's Marker over and above a permanent care fee that would otherwise be applicable for a grave site.

2.1.e. The price ceilings set forth herein do not preclude the addition of legally applicable incremental, revenue based taxes, which are submitted by a Service Provider to a state or local taxing entity.

2.2. Price Schedules.

2.2.a. ~~A Service Provider~~ cemetery, cemetery association, cemetery company, or perpetual care company shall, at the time a cemetery lot is purchased, provide the lot purchaser with a schedule setting forth the price ceilings stated herein for installation of Veterans' Markers and a price schedule showing permanent care fees applicable to grave sites.

2.2.b. Within thirty (30) days of the effective date of these rules, all ~~Service Providers~~ cemeteries, cemetery associations, cemetery companies, and perpetual care companies shall have provided all owners of unused cemetery lots as reflected in the records of the Service Provider, with a schedule setting forth the price ceilings stated herein for installation of Veterans' Markers and a price schedule showing permanent care fees applicable to grave sites.

2.2.c. No later than July 1 of each year, all ~~Service Providers~~ cemeteries, cemetery associations, cemetery companies, and perpetual care companies shall file with the Commission a schedule ~~setting forth the price ceilings stated herein for installation of Veterans' Markers and a price schedule~~ showing permanent care fees applicable to grave sites.

§150-4A-3. Discrimination.

3.1. Service Providers shall not discriminate against customers requesting the installation of Veterans' Markers pursuant to these Rules by requiring terms and conditions of service, or additional fees, that would not be equally applicable to other customers.

§150-4A-4. Petitions for Relief.

4.1. Any customer aggrieved by a Service Provider's alleged failure to comply with these Rules may file a signed petition requesting Commission review of the alleged non-compliance.

**PUBLIC SERVICE COMMISSION
OF WEST VIRGINIA
CHARLESTON**

At a session of the PUBLIC SERVICE COMMISSION OF WEST VIRGINIA in the City of Charleston on the 16th day of December, 2003.

GENERAL ORDER NO. 257.00

IN THE MATTER OF A PROCEEDING FOR THE ADOPTION OF RULES GOVERNING FEES FOR THE SETTING OF UNITED STATES VETERANS AFFAIRS GRAVE MARKERS AND RELATED TRANSACTIONS; SERIES 28

COMMISSION ORDER

On March 8, 2003, the West Virginia Legislature passed Senate Bill No. 494, codified as Chapter 24F of the West Virginia Code, authorizing the West Virginia Public Service Commission to regulate transactions among cemeteries, companies that set and install memorial head markers and veterans or their survivors concerning fees for setting United States Department of Veterans Affairs' grave markers at the graves of deceased veterans. Pursuant to this new authority, the Commission instituted this General Order on June 2, 2003.

The Commission held a hearing in this case on July 9, 2003, and heard comments and proposals from interested persons as to the procedures to be adopted by the Commission, if any, pursuant to Senate Bill No. 494.

Based on the testimony presented at the July 9, 2003, hearing, by Order issued October 7, 2003, the Commission issued proposed rules setting forth price ceilings for various installations of free United States Veterans' Markers. The Commission provided a comment period which expired on November 7, 2003. The following parties filed comments to the proposed rules: the West Virginia Cemetery and Funeral Association; Wallace Memorial Cemetery, Inc.; Stewart Enterprises, Inc.; Spring Hill Cemetery; Sears Monument Co.; Cornerstone Family Services, Inc.; Valley View Memorial; Senator Jon Blair Hunter; Veteran Hershel Woody Williams; West Virginia Veterans Coalition; and the American Legion Department of West Virginia, Inc.

DISCUSSION

Many of those who filed comments in response to the proposed rules criticized the Commission's involvement in regulation of the installation of Veterans' Markers. As those parties are aware, the West Virginia Legislature delegated this authority to the Commission, and the Commission is obligated to fulfill its statutory directives.

Based upon the hearing evidence, and after consideration of the comments filed in response to the proposed rules, by this Order the Commission adopts the rules set forth in Attachment A as final rules. As did the proposed rules, the final Rules establish a maximum fee for basic installation of a Veteran's marker on a hard concrete base; on a stone slab, with or without a concrete foundation, where the stone slab is provided by the family; or on a stone slab, with or without a concrete foundation, where the family purchases the stone slab from a Service Provider as defined in the rules. For basic concrete installation, the fee includes the cost of the base itself, attaching the marker and setting the base at the grave site. Based on the record, the fee for such basic installation is \$50. Where installation is on a stone slab provided by the family, the basic installation fee includes attaching the marker and setting the stone into appropriate anchoring material consistent with the practices of the cemetery. The fee for this installation is \$200. The stone slab subject to these price ceilings are industry standard stones not exceeding 28" by 16" on the face, and 4" high.

Where the family prefers an all inclusive fee for stone installation with the stone slab provided by a Service Provider as defined in the rules, the Rules allow for such all inclusive service and the maximum fee for such service shall be \$380. This fee shall be optional. If the family would prefer to acquire its own stone slab, it may do so and have the marker set for the basic \$200 fee.

The Commission appreciates the parties' participation in this proceeding. A number of the filed comments have resulted in clarifications and additions to the Rules as originally proposed. The changes from the proposed rules are reflected in the blackline version of the Rules attached hereto as Attachment B.

Discussion specific to filed comments

The Commission does not attempt to respond to every filed comment, but certain of the comments which caused amendment or clarification to the rules, or which can be addressed in this Order, are discussed as follows.

Several commentators opined that the price ceilings contained in the rules fail to take certain business costs into consideration such as employee benefits, liability insurance,

equipment maintenance, etcetera. The Commission did not attempt to include such costs on grounds that it would be a great administrative burden to calculate those costs on an incremental basis attributable to the presence of a Veteran's Marker. Further, the Commission must assume that such costs could be included in the purchase price of a grave site. We find that the presence of a Veteran's Marker on a grave site will not result in such an increase in maintenance costs of a site, to justify an incremental expense analysis.

Secondly, both Wallace Memorial Cemetery, Inc. and Cornerstone Family Services, Inc. expressed concern that the price ceilings might be deemed to apply to U.S. Government headstones other than the standard 24" by 12" Veteran's Marker defined in the rules. To address this concern, the Commission amended Rule 1.5. to specify that the price ceilings apply only to the free Veteran's Marker. Accordingly, companion stones, vases, etc. would not fall within the scope of the Rules.

Wallace further recommended that the terms "permanent installation," "stone slab" and "perpetual care" be defined. The Commission finds that the term "permanent installation" is self-explanatory. A definition of "stone slab" has been added at Rule 1.7.g. The Rules' applicability to perpetual care has been clarified at Rule 2.1.d. With respect to perpetual care, the Rules do not allow a cemetery to charge more, or separately, for perpetual care of a Veteran's Marker than it charges for care of the grave site generally. The Commission believes that perpetual care of a grave is purchased up front when a site is purchased. If a cemetery does not include charge for perpetual care in the purchase price of a grave site, but nevertheless performs regular maintenance of its grounds and graves, then the price ceilings in these Rules are deemed to include maintenance with respect to the Veteran's Marker.

Rules 2.2.a. 2.2.b. and 2.2.c. have been amended by replacing the term "Service Provider" with "cemetery, cemetery association, cemetery company, and perpetual care cemetery company." This change was made in view of the fact that monument vendors may fall within the definition of Service Providers while not owning or operating cemeteries.

In response to the commentators who opined that the notice requirements contained in the Rules posed an undue burden because many grave sites were purchased generations ago, the Commission has amended Rule 2.2.b. to require the mailing of price schedules to owners as reflected in the cemetery's records.

Finally, the Commission added Rule 3.1. prohibiting discrimination against customers seeking Veterans' Marker installations pursuant to the Rules, and Rule 4.1. providing that persons aggrieved by a Service Provider's failure to comply with the rules, may seek review from the Commission.

FINDINGS OF FACT

1. On March 8, 2003, the West Virginia Legislature passed Senate Bill No. 494, codified as Chapter 24F of the West Virginia Code, authorizing the West Virginia Public Service Commission to regulate transactions among cemeteries, companies that set and install memorial head markers and veterans or their survivors concerning fees for setting United States Department of Veterans Affairs' grave markers at the graves of deceased veterans. Pursuant to this new authority, the Commission instituted this General Order on June 2, 2003.

2. The Commission held a hearing in this case on July 9, 2003, and heard comments and proposals from interested persons as to the procedures to be adopted by the Commission, if any, pursuant to Senate Bill No. 494.

3. Based on the testimony presented at the July 9, 2003, hearing, by Order issued October 7, 2003, the Commission issued proposed rules setting forth price ceilings for various installations of free United States Veterans' Markers. The Commission provided a comment period which expired on November 7, 2003.

4. The following parties filed comments to the proposed rules: the West Virginia Cemetery and Funeral Association; Wallace Memorial Cemetery, Inc.; Stewart Enterprises, Inc.; Spring Hill Cemetery; Sears Monument Co.; Cornerstone Family Services, Inc.; Valley View Memorial; Senator Jon Blair Hunter; Veteran Hershel Woody Williams; West Virginia Veterans Coalition; and the American Legion Department of West Virginia, Inc.

5. The Rules adopted in this order, as did the proposed rules, establish a maximum fee for basic installation of a Veteran's marker on a hard concrete base; on a stone slab, with or without a concrete foundation, where the stone slab is provided by the family; or on a stone slab, with or without a concrete foundation, where the family purchases the stone slab from a Service Provider as defined in the rules.

6. For basic concrete installation, the fee shall include the cost of the base itself, attaching the marker and setting the base at the grave site. Based on the record, the fee for such basic installation is \$50.

7. Where installation is on a stone slab provided by the family, the basic installation fee includes attaching the marker and setting the stone into appropriate anchoring material consistent with the practices of the cemetery. The fee for this installation shall be \$200.

8. Where the family prefers an all inclusive fee for stone installation with the stone

slab provided by a Service Provider as defined in the rules, the Rules allow for such all inclusive service and the maximum fee for such service shall be \$380. This fee shall be optional. If the family would prefer to acquire its own stone slab, it may do so and have the marker set for the basic \$200 fee.

9. The stone slab subject to these price ceilings are industry standard stones not exceeding 28" by 16" on the face, and 4" high.

CONCLUSIONS OF LAW

1. In response to those who filed comments criticizing the Commission's involvement in regulation of the installation of Veterans' Markers, the Commission responds that as those parties are aware, the West Virginia Legislature delegated this authority to the Commission, and the Commission is obligated to fulfill its statutory directives.

2. Based upon the hearing evidence, and after consideration of the comments filed in response to the proposed rules, by this Order the Commission finds it reasonable and appropriate to adopt the rules set forth in Attachment A as final rules.

3. The Commission did not attempt to include business costs such as employee benefits, liability insurance, equipment maintenance, etc. in the price ceilings set forth in the Rules on grounds that it would be a great administrative burden to calculate those costs on an incremental basis attributable to the presence of a Veteran's Marker. The Commission must assume that such costs could be included in the purchase price of a grave site. The presence of a Veteran's Marker on a grave site will not result in such an increase in maintenance costs of a site, to justify an incremental expense analysis.

4. The price ceilings within the Rules apply only to the standard 24" by 12" Veteran's Marker defined in the rules. Companion stones, vases, etc. do not fall within the scope of the Rules.

5. The term "permanent installation" is self-explanatory. A definition of "stone slab" has been added at Rule 1.7.g. The Rules' applicability to perpetual care has been clarified at Rule 2.1.d.

6. With respect to perpetual care, the Rules do not allow a cemetery to charge more, or separately, for perpetual care of a Veteran's Marker than it charges for care of the grave site generally. The Commission believes that perpetual care of a grave is purchased up front when a site is purchased. If a cemetery does not include charge for perpetual care in the purchase price of a grave site, but nevertheless performs regular maintenance of its grounds

and graves, then the price ceilings in these Rules are deemed to include maintenance with respect to the Veteran's Marker.

7. Rules 2.2.a. 2.2.b. and 2.2.c. have been amended by replacing the term "Service Provider" with "cemetery, cemetery association, cemetery company, and perpetual care cemetery company." This change was made in view of the fact that monument vendors may fall within the definition of Service Providers while not owning or operating cemeteries.

8. In response to the commentators who opined that the notice requirements contained in the Rules posed an undue burden because many grave sites were purchased generations ago, the Commission has amended Rule 2.2.b. to require the mailing of price schedules to owners as reflected in the cemetery's records.

9. The Commission has added Rule 3.1. prohibiting discrimination against customers seeking Veterans' Marker installations pursuant to the Rules, and Rule 4.1. providing that persons aggrieved by a Service Provider's failure to comply with the rules, may seek review from the Commission.

ORDER

IT IS THEREFORE ORDERED that the attached Rules for the Government of Fees for Installation of United States Department of Veterans Affairs Grave Markers, 150 CSR 28, attached hereto as Attachment A, are hereby adopted as final rules.

IT IS FURTHER ORDERED that the new Rules for the Government of Fees for Installation of United States Department of Veterans Affairs Grave Markers, shall be effective sixty days from the date of this Order, or on February 17, 2004.

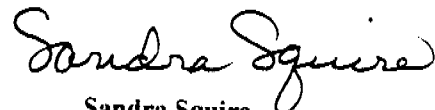
IT IS FURTHER ORDERED that the Commission's Executive Secretary shall serve a copy of this Order and Attachments A and B to all parties of record, all parties previously served in this proceeding, by United States mail, and upon Commission Staff by hand delivery.

IT IS FURTHER ORDERED that the Executive Secretary shall file a copy of these rules with the Office of the Secretary of State.

IT IS FURTHER ORDERED that this case is hereby resolved and shall be removed from the Commission's docket of active cases.

JML/ljm
go257cb.wpd

A True Copy. Teste:


Sandra Squire
Executive Secretary