

CRS Insights

Display of the Confederate Flag at Federal Cemeteries

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The Department of Veterans Affairs (VA), the National Park Service (NPS), and the Department of the Army all administer federal cemeteries that sometimes display the Confederate flag. There are 147 national cemeteries in all. The VA, through its National Cemetery Administration (NCA), administers 131 of them. The Army, in the Department of Defense (DOD), administers 2 national cemeteries, Arlington National Cemetery and Soldiers' and Airmen's Home National Cemetery. Another 14 national cemeteries are maintained by the NPS, in the Department of the Interior. 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 has come under scrutiny.

National Park Service Policy

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, place, and remove the flags 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 shootings, the NPS Director issued a memorandum to all NPS units on June 24, 2015, stating that NPS had requested its concessioners and other partners to voluntarily end sales of items that solely depict a Confederate flag. The memorandum also stated 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 the display of Confederate flags at national cemeteries.

Department of Veterans Affairs Policy

VA policy 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. The VA does not provide the flags. The display is allowed only at VA-managed cemeteries where Confederate soldiers, sailors, and Marines are buried. The Confederate flag may also be flown on a separate flagpole from the U.S. flag only in NCA-managed cemeteries in which Confederate soldiers are buried in mass graves and must be subordinated to the U.S. flag. 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.

Department of the Army Policy

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

House Members have addressed the display of confederate flags at NPS cemeteries in amendments to [H.R. 2822](#), the House Interior, Environment, and Related Agencies appropriations bill for FY2016. Representative Huffman offered [H.Amdt. 592](#), prohibiting 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. The amendment was agreed to by voice vote on July 7, 2015. On July 8, however, Representative Calvert offered [H.Amdt. 651](#), which instead would prohibit funds being used to contravene existing NPS policies on Confederate flags. A recorded vote on this amendment was demanded but has not yet occurred.

In addition, two separate amendments to the Interior bill addressing other NPS matters relating to Confederate flags were agreed to by voice vote on July 7. [H.Amdt. 586](#) prohibits the use of funds in the bill for contracts or agreements providing for the sale in NPS facilities of items that have a Confederate flag as a stand-alone feature. Whereas the NPS had *requested* that concessioners end such sales, this amendment would bar funds from being used for such purposes during FY2016. The Calvert amendment discussed above takes a different position, providing that no funds in the bill may be used in contravention of the current NPS policies for sales items outlined in the Director's June 24 memorandum. Separately, [H.Amdt. 606](#) prohibits the use of funds by NPS to purchase or display a Confederate flag, except where such flags would provide historical context pursuant to an NPS memorandum.

Currently, there are no provisions concerning the Confederate flag's display in [H.R. 2029](#), the Military Construction and Department of Veterans Affairs appropriations bill for FY2016, as passed by the House and as reported by the Senate Committee on Appropriations. Nor are there any provisions in the Department of Defense appropriations bill for FY2016, [H.R. 2685](#), as passed by the House on June 11, 2015, and [S. 1558](#), as reported on June 11, 2015.