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for Book A of your set of
Federal Regulations**

Title 38, Parts 0, 1, 2, 12, 14-16,
18-20, 25-26, 38-45, 48-49, 74-75

General

Veterans Benefits Administration

Supplement No. 89

Covering period of *Federal Register* issues
through May 3, 2009

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GENERAL INSTRUCTIONS

Custom Federal Regulations Service™

Supplemental Materials for *Book A*

Code of Federal Regulations

Title 38, Parts 0, 1, 2, 12, 14-16, 18-20, 25-26, 38-45, 48-49, 74-75

General

Veterans Benefits Administration

Supplement No. 89

5 May 2009

Covering the period of Federal Register issues
through May 3, 2009

When **Book A** was originally prepared, it was current through final regulations published in the *Federal Register* of 21 April 1992. These supplemental materials are designed to keep your regulations up to date. You should file the attached pages immediately, and record the fact that you did so on the *Supplement Filing Record* which begins on page A-8 of Book A, *General*.

**To ensure accuracy and timeliness of your materials,
it is important that you follow these simple procedures:**

1. Always file your supplemental materials immediately upon receipt.
2. Before filing, always check the Supplement Filing Record (page A-8) to be sure that all prior supplements have been filed. If you are missing any supplements, contact the Veterans Benefits Administration at the address listed on page A-2.
3. After filing, enter the relevant information on the Supplement Filing Record sheet (page A-8)—the date filed, name/initials of filer, and date through which the *Federal Register* is covered.
4. If as a result of a failure to file, or an undelivered supplement, you have more than one supplement to file at a time, be certain to file them in chronological order, lower number first.
5. Always retain the filing instructions (simply insert them at the back of the book) as a backup record of filing and for reference in case of a filing error.
6. Be certain that you *permanently discard* any pages indicated for removal in the filing instructions in order to avoid confusion later.

To execute the filing instructions, simply remove *and throw away* the pages listed under *Remove These Old Pages*, and replace them in each case with the corresponding pages from this supplement listed under *Add These New Pages*. Occasionally new pages will be added without removal of any old material (reflecting new regulations), and occasionally old pages will be removed without addition of any new material (reflecting rescinded regulations)—in these cases the word *None* will appear in the appropriate column.

FILING INSTRUCTIONS

**Book A, Supplement No. 89
May 5, 2009**

*Remove these
old pages*

*Add these
new pages*

*Section(s)
Affected*

**Do not file this supplement until you confirm that
all prior supplements have been filed**

38.629-2 to 38.630-3

38.629-2 to 38.630-3

§38.630

**Be sure to complete the
Supplement Filing Record (page A-8)
when you have finished filing this material.**

HIGHLIGHTS

Book A, Supplement No. 89
May 5, 2009

Supplement Highlights references: Where substantive changes are made in the text of regulations, the paragraphs of *Highlights* sections are cited at the end of the relevant section of text. Thus, if you are reading §3.263, you will see a note at the end of that section which reads: “Supplement *Highlights* references—6(2).” This means that paragraph 2 of the *Highlights* section in Supplement No. 6 contains information about the changes made in §3.263. By keeping and filing the *Highlights* sections, you will have a reference source explaining all substantive changes in the text of the regulations.

Supplement frequency: This Book A (*General*) was originally supplemented twice a year, in April and October. Beginning 1 August 1995, supplements will be issued *every month* during which a final rule addition or modification is made to the parts of Title 38 covered by this book. Supplements will be numbered consecutively as issued.

Modifications in this supplement include the following:

1. On 1 May 2009, the VA published a final rule, effective that same date, to amend existing regulations regarding authority to provide Government-furnished memorial headstones and markers in order to incorporate a statutory amendment which provides that eligibility for a memorial headstone or marker is extended to a veteran’s surviving spouse who had a subsequent remarriage and whose remains are unavailable for interment. Changes:

- In §38.630, revised paragraphs (c)(1)(ii), (c)(1)(iii) introductory text, and (c)(3)(ii).



(2) For calendar year 2000 and each calendar year thereafter, the amount of the allowance for each calendar year will be published in the “Notices” section of the *Federal Register*. The *Federal Register* notice will also provide, as information, the determined average cost of Government-furnished graveliners and the determined amount of the administrative costs to be deducted.

(3) The published allowance amount for interments which occur during calendar year 2000 will also be used for payment of any allowances for interments which occurred during the period from October 9, 1996 through December 31, 1999. (Authority: 38 U.S.C. 2306(d))

§38.630 Headstones and markers.

(a) Types of Government headstones and markers and inscriptions will be in accordance with policies approved by the Secretary.

(b) Inscriptions on Government headstones, markers, and private monuments will be in accordance with policies and specifications of the Under Secretary for Memorial Affairs.

(c) *Memorial headstones or markers.* VA will furnish, when requested, a memorial headstone or marker to commemorate an eligible individual whose remains are unavailable. A Government memorial headstone or marker for placement in a national cemetery will be of the standard design authorized for the cemetery in which it will be placed. In addition to the authorized inscription on a Government memorial headstone or marker, the phrase “In Memory Of” is mandatory.

(1) *Eligible individuals.* An eligible individual for purposes of paragraph (c) is:

(i) A veteran, which includes an individual who dies in the active military, naval, or air service;

(ii) A veteran’s spouse or surviving spouse, including a surviving spouse who had a subsequent remarriage terminated by death or divorce, who died after November 11, 1998, or a surviving spouse who had a subsequent remarriage and died on or after October 10, 2008; or

(iii) A veteran’s eligible dependent child who died after December 22, 2006.

(A) A dependent child of a veteran is eligible if the child is under the age of 21 years, or under the age of 23 years if pursuing a course of instruction at an approved educational institution.

(B) A dependent child of a veteran is also eligible if the child is unmarried and became permanently physically or mentally disabled and incapable of self-support before reaching the age of 21 years, or before reaching the age of 23 years if pursuing a course of instruction at an approved educational institution.

(2) *Unavailable remains.* An individual’s remains are considered unavailable if they:

(i) Have not been recovered or identified;

(ii) Were buried at sea, whether by the individual’s own choice or otherwise;

(iii) Were donated to science; or

- (iv) Were cremated and the ashes scattered without interment of any portion of the ashes.

(3) *Placement of memorial headstones or markers.*

(i) *Veterans.* A Government memorial headstone or marker to commemorate a veteran may be placed in a national cemetery, in a State veterans cemetery, or in a private cemetery.

(ii) *Other eligible individuals.* A Government memorial headstone or marker to commemorate a veteran's eligible spouse, surviving spouse, or dependent child may be placed only in a national cemetery or in a State veterans cemetery. (Authority: 38 U.S.C. 501, 2306)

[70 FR 4769, Jan. 31, 2005, as amended at 72 FR 53432, Sept. 19, 2007; 74 FR 20226, May 1, 2009]

Supplement *Highlights* reference: 89(1)

Reserved