

Cremation Issue Chart

MONTANA



ISSUE: IDENTIFICATION OF DECEASED			
Law/Regulation	Is ID Required?	Information Required for ID	Any Restrictions/Limitations
24.147.1110 INTEGRITY OF IDENTIFICATION PROCESS	Yes	<p>(1) A crematory may not accept or cremate human remains until it has received warranties of truthfulness regarding the identity of the remains to be cremated and regarding the authority of the signer to order cremation. A cremation authorization form, properly executed, shall satisfy these warranties.</p> <p>(2) A crematory operator must develop and require crematory staff to strictly follow procedures to accurately maintain the identification of the remains throughout the cremation process, including, at a minimum, the following:</p> <p>(a) Upon receipt of the remains in a container described at ARM 24.147.1102, staff shall examine the cremation authorization, any preneed cremation authorization, and the ART forms, and maintain them together with the container.</p> <p>(b) Prior to the cremation, using sequentially numbered metal tags, staff shall assign a number to the human remains and record the number on the cremation documents, a separate log, or both.</p> <p>(c) Staff shall place the metal tag on the outside of the retort during the cremation process. During final processing, staff shall place the metal tag on the container or tray containing the human remains.</p> <p>(d) After the cremation process, staff shall either place the metal tag with the cremated remains in a securely fastened plastic bag or securely fasten the tag to the exterior of the bag.</p> <p>(e) Staff shall affix an identification label to the closed urn or container in a permanent manner that ensures the integrity of the identification of the remains.</p> <p>(3) When directed by the cremation authorization, and agreed to by the crematory to scatter cremated remains, the licensee shall maintain the identifying metal tag as a permanent record of the facility.</p>	

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ISSUE: ALTERNATIVE CONTAINER FOR CREMATION		
Law/Regulation	Is It Required?	Definition of Alternative Container
Code 24.147.1102 Casket/Containers	Yes	<p>(1) All caskets and alternative containers holding human remains presented at a crematory for cremation shall:</p> <ul style="list-style-type: none"> (a) be closed to provide a complete covering for the human remains; (b) be composed of readily combustible materials suitable for cremation; (c) be resistant to leakage or spillage; (d) be sufficiently rigid for handling with ease; (e) provide protection for the health and safety of crematory personnel; and (f) have the name of the deceased affixed to it in a permanent, plainly visible manner.
ISSUE: URN		
Law/Regulation	Any requirements for Urn/ Temporary Container	Definition of Urn/Temporary Container
Code 37-19-101. Definitions.		<p>(33) "Temporary container" means a receptacle for cremated remains that is usually made of cardboard, plastic film, or similar material designed to hold the cremated remains until an urn or other permanent container is acquired.</p> <p>(34) "Urn" means a receptacle designed to permanently encase the cremated remains.</p>

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ISSUE: AUTHORIZING AGENT	
Law/Regulation	Legal Order of Authorizing Agent
37-19-904. Priority of rights of disposition	<p>(1) A person who is 18 years of age or older and of sound mind wishing to authorize another person to control the disposition of the person's remains may execute an affidavit or a written instrument before a notary public in substantially the following form</p> <p>(a) for a decedent who was on active duty in the armed forces of the United States, a member of the Montana national guard, or a member of the federal reserves of the armed forces of the United States at the time of the decedent's death, any person named by the decedent as the person with the right to control the decedent's disposition in a department of defense form 93;</p> <p>(b) a person designated by the decedent as the person with the right to control the decedent's disposition in an affidavit or written instrument executed in accordance with subsection (1);</p> <p>(c) the surviving spouse;</p> <p>(d) the sole surviving child of the decedent or, if there is more than one child of the decedent, the majority of the surviving children. However, less than one-half of the surviving children may be vested with the rights and duties provided in this section if those surviving children have used reasonable efforts to notify all other surviving children of their instructions and they are not aware of opposition to their instructions on the part of more than one-half of all surviving children.</p> <p>(e) the surviving parent or parents of the decedent. If one of the surviving parents is absent, the remaining parent may be vested with the rights and duties provided in this section if that parent's reasonable efforts have been unsuccessful in locating the absent surviving parent.</p> <p>(f) the surviving sibling of the decedent or, if there is more than one sibling of the decedent, the majority of the surviving siblings. However, less than one-half of the surviving siblings may be vested with the rights and duties provided in this section if those siblings have used reasonable efforts to notify all other surviving siblings of their instructions and they are not aware of any opposition to their instructions on the part of more than one-half of all surviving siblings.</p> <p>(g) the surviving grandparent of the decedent or, if there is more than one surviving grandparent, the majority of the grandparents. However, less than one-half of the surviving grandparents may be vested with the rights and duties provided in this section if those grandparents have used reasonable efforts to notify all other surviving grandparents of their instructions and are not aware of any opposition to their instructions on the part of more than one-half of all surviving grandparents.</p> <p>(h) the guardian of the decedent at the time of the decedent's death, if a guardian had been appointed;</p> <p>(i) the personal representative of the estate of the decedent;</p>

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ISSUE: FINAL DISPOSITION	
Law/Regulation	Any Guidelines or Requirements of Disposition of Cremated Remains Including Mailing Requirements
HOUSE BILL NO. 386 - Disposition	<p>Section 3. Prepaid funeral arrangements -- disposition directions -- definition. (1) A person who is 18 years of age or older and of sound mind, by entering into a prepaid funeral contract with any mortuary licensed under Title 37, chapter 19, part 4, or by providing disposition directions may direct the location, manner, and conditions of disposition of the person's remains and the arrangements for funeral goods and services to be provided upon the person's death.</p> <p>(2) The funeral prearrangements that are prepaid and contracted for with a licensed mortuary or the disposition directions may not be canceled or substantially revised unless the cancellation or substantial revision has been ordered by a person appointed by the decedent in the prepaid funeral contract or the disposition directions as the person authorized to cancel or revise the terms of the prepaid funeral contract or the disposition directions.</p> <p>(3) As used in this section, the term "disposition directions" means:</p> <p>(a) a video provided in a replayable format of the person who is the subject of the disposition directions in which the person describes the wishes for disposition and that is accompanied by a written attestation of the video accuracy by two witnesses who are at least 18 years of age; or</p> <p>(b) a legible written instrument signed by the person who is the subject of the disposition directions and by two people who are at least 18 years of age who have witnessed the signing by the person. The written instrument may be but is not limited to a letter of instructions, a will, a trust document, or advance directives. A written instrument that does not name a person with the right to control the decedent's disposition must follow the priority of rights of disposition provided in [section 4].</p> <p>Section 5. Arrangements provided by survivors. The provisions of [section 3 and section 4(1)] do not prevent the decedent's survivors, in the order listed in [section 4], from pursuing, at their own expense, meaningful services and making arrangements for funeral services that do not conflict with the decedent's instructions for disposition made in accordance with [section 3 and section 4(1)].</p> <p>(9) When requested to ship cremated remains, the crematory shall place the temporary container or container holding the urn in a single, sturdy, pressure-resistant, and properly sealed shipping box. Multiple containers of cremated remains of a single person shall be placed in one shipping box as described. The crematory shall label the container "CREMATED REMAINS" and ship using an internal tracing system that requires a signature by the person taking delivery of the cremated remains and a return receipt to the crematory.</p>
24.147.1111 CREMATION PROCEDURES	