

**TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING**  
**CHAPTER 64 FUNERAL HOMES AND DISPOSERS**  
**PART 10 CREMATION PRACTICES**

**16.64.10.1 ISSUING AGENCY:** New Mexico board of funeral services.  
[6/15/1996; 16.64.10.1 NMAC - Rn & A, 16 NMAC 64.10.1, 9/15/2001; A, 8/8/2012]

**16.64.10.2 SCOPE:** 16.64.10 NMAC applies to licensed crematories and establishment.  
[6/15/1996; 16.64.10.2 NMAC - Rn & A, 16 NMAC 64.10.2, 9/15/2001]

**16.64.10.3 STATUTORY AUTHORITY:** 16.64.10 NMAC is adopted pursuant to the Funeral Services Act, Sections 61-32-2, 61-32-6, 61-32-7 and 61-32-19 NMSA 1978.  
[6/15/1996; 16.64.10.3 NMAC - Rn, 16 NMAC 64.10.3, 9/15/2001; A, 8/8/2012]

**16.64.10.4 DURATION:** Permanent.  
[6/15/1996; 16.64.10.4 NMAC - Rn, 16 NMAC 64.10.4, 9/15/2001]

**16.64.10.5 EFFECTIVE DATE:** September 26, 1993, unless a different date is cited at the end of a section.  
[6/15/1996; 16.64.10.5 NMAC - Rn & A, 16 NMAC 64.10.5, 9/15/2001]

**16.64.10.6 OBJECTIVE:** 16.64.10 NMAC is to establish the scope of practice for crematories, cremation requirements and requirement of crematories and establishments for maintaining records and disposing of cremated remains.  
[6/15/1996; 16.64.10.6 NMAC - Rn & A, 16 NMAC 64.10.6, 9/15/2001; A, 11/1/2019]

**16.64.10.7 DEFINITIONS:**

- A.** "Cremation" and "calcination" are considered synonymous, and means the final disposition of the dead human body to a residue of cremated remains.
- B.** "Authorizing agent(s)" means the person(s) legally entitled to order the cremation.
- C.** "Cremated remains container" means any container in which cremated remains may be enclosed which will avoid leakage and prevent the entrance of foreign substances.
- D.** "Cremation container" means an enclosure in which a dead human body is placed for delivery to a crematory and subsequently cremated with the body.
- E.** "Crematory authority" means an authorized representative of a crematory.
- F.** "Urn" means a cremated remains container considered to be decorative, that varies in size, styling and composition.  
[11/21/1986...9/26/1993; 16.64.10.7 NMAC - Rn & A, 16 NMAC 64.10.7, 9/15/2001; A, 11/1/2019]

**16.64.10.8 CREMATION PRACTICES:**

- A.** No cremation shall take place until all necessary documentation is obtained or a court order has been issued authorizing the cremation; such documentation shall include:
  - (1) signed authorization by the authorizing agent(s);
  - (2) signed permit from the office of the medical investigator of the state, or its equivalent if the death occurred outside this state; provided no such permit shall be required for the cremation of fetal deaths; and
  - (3) any other form(s) which may be required by the crematory in order for the cremation to take place.
- B.** For acceptance by the crematory, a dead human body must be enclosed in an acceptable cremation container and identification of the dead body must be noted on the outside of the cremation container.
  - (1) A cremation container is considered acceptable if it meets or exceeds the following minimum standards:
    - (a) is composed of a suitable combustible material;
    - (b) is rigid and secure for handling with ease, which includes a rigid bottom and full dome enclosure;
    - (c) provides for complete covering of the enclosed dead human body; and
  - (2) A cremation container is considered unacceptable if it is composed of any explosive material or such other material as fiberglass, plastic resin compound, or other synthetic material not suitable for

combustion in a cremation retort.

**(3)** Any crematory may make its own requirements as to the acceptability of a cremation container, provided they are not less than outlined in 16.64.10 NMAC, and are not otherwise in any way in violation of any statute, ordinance or rule.

**C.** The crematory authority may require that all pacemakers, radium implants and all explosive devices implanted in the body, or attached thereto, be removed, at the expense of the authorizing agent(s), prior to the cremation.

**D.** The unauthorized simultaneous cremation of more than one dead human body within the same cremation retort is specifically prohibited.

**E.** A crematory may simultaneously cremate more than one dead human body in the same cremation retort upon receipt of written authorization to do so from the authorizing agent(s) of each dead human body. Such written authorization shall also exempt the crematory authority from all liability in commingling the cremated remains of simultaneous cremation.

**F.** No crematory authority shall be required to simultaneously cremate more than one dead human body even if authorized by the authorizing agent(s).

**G.** Immediately prior to placing a dead human body into the cremation retort, the identification of the cremation container shall be verified and identification of the body shall be placed on the cremation retort panel, where it shall remain in place until the cremation is completed.

**H.** To the extent that is reasonably practical, all residue of each cremation shall be removed from the cremation retort, and shall not be commingled with any other cremated remains unless directed by the authorizing agent(s) and agreed to by the crematory authority.

**I.** All body prosthetics, dental work or similar items separated from any cremated remains shall be disposed of by the crematory authority, unless otherwise ordered by the authorizing agent(s) at the time the cremation authorization is executed.

**J.** Properly identified cremated remains shall be placed in a cremated remains container as directed by the authorizing agent(s) or crematory authority. The crematory authority is required to provide cremated remains of adequate size to accommodate all the cremated remains from each cremation unless a cremated remains container is furnished by the authorizing agent(s). In either case, the crematory authority shall have a written agreement with the authorizing agent(s) if the cremated remains container is not of sufficient size to enclose the cremated remains.

**K.** Cremated remains may be disposed in any lawful manner by any establishment, crematory authority, cemetery or person having the right to control the disposition of the cremated remains, or that person's agent.

**L.** Establishments and crematories shall keep an accurate record of all cremations performed, and the place of disposition of the cremated remains, for a period of not less than seven years.

**M.** Any legal forms for cremation authorization shall contain wording that will hold harmless a crematory authority, or establishment from disposing of unclaimed cremated remains in any lawful manner after a period of one year.

[11/21/1986...9/26/1993; 16.64.10.8 NMAC - Rn & A, 16 NMAC 64.10.8, 9/15/2001; A, 11/1/2019]

#### **HISTORY OF 16.64.10 NMAC:**

**Pre-NMAC History:** The material in this part was derived from that previously filed with the State Records Center and Archives:

Regulation 17, Cremation, 4/15/1991.

Reg. 18, Cremation Practices, 8/27/1993.

TB 86-2, Crematory Rules and Regulations, 10/22/1986.

Section 1, Crematory Rules and Regulations - Terminology (Definitions), 12/9/1988.

Section 3, Crematory Rules and Regulations - Cremation Requirements, 12/9/1988.

Section 4, Crematory Rules and Regulations - Cremation of Human Remains, 12/9/1988.

Section 5, Crematory Rules and Regulations - Processing of Cremated Remains, 12/9/1988.

Section 6, Crematory Rules and Regulations - Disposition of Cremated Remains, 12/9/1988.

**History of Repealed Material: [RESERVED]**