

## § 72.11

## 22 CFR Ch. I (4-1-01 Edition)

### § 72.11 Cremation.

(a) *Arrangements.* When cremation is desired, and the facilities are available, the consular officer should see that all necessary arrangements are made if compatible with the requirements of the country in which the death occurred, having in mind particularly such local laws as may prohibit cremation unless specific request for such disposition was made in writing by the individual prior to death.

(b) *Disposition of ashes.* Disposition of the ashes should be made in accordance with the expressed wishes of the deceased or the next of kin, or other interested person. If shipment to the United States is desired, only local health requirements must be met, as there are no sanitary requirements for entry of ashes into the United States. A marking should be made on, or a marker firmly affixed to, the container in which the ashes are shipped. The latter should be accompanied by—

- (1) An official death certificate;
- (2) Cremation certificate;
- (3) Certificate from the crematorium stating that the container holds only the cremated remains of the deceased; and
- (4) A permit to export (if required locally).

### § 72.12 Shipment of remains to the United States.

(a) *Arrangements.* Whenever the remains of persons who have died abroad, regardless of the nationality of the deceased, are to be shipped to the United States, the consular officer should assure himself that they are properly encased and accompanied by all necessary papers pertaining to the death, exhumation (if applicable) and preparation for shipment. The requirements of the country where the death occurred must be met at all times.

(b) *Local documents accompanying remains.* The following documents should accompany the remains for shipment, attached to the consular mortuary certificate (see paragraph (d) of this section):

- (1) A certificate of death issued by the local registrar of deaths, or similar authority, identifying the remains, showing the place, date and cause of death as certified by the attending

physician, with a listing of the cause of death conforming as far as practicable with the terminology of the International List of Causes of Death (needed to comply with United States Quarantine and interstate requirements);

(2) The affidavit described in paragraph (c) of this section (for United States Customs), which also would generally include evidence of embalming, when applicable (needed to comply with the requirements for interstate shipment);

(3) A “transit permit” authorizing export of the body out of the country, issued by the health authority at the port of embarkation, stating the date of its issuance, name of deceased, sex, race, age, cause and date of death (needed to comply with New York health requirements).

(c) *Packing and labeling of casket.* In order to facilitate clearance through United States Customs at the port of entry, the undertaker, or whatever person is responsible for packing the body for shipment, should be required to make a sworn declaration—to be attached to the consular mortuary certificate (see paragraph (d) of this section)—that the casket or box contains only the body of the deceased and the necessary clothing and packing. The sworn declaration should be made, if practicable, before the consular officer; if not, it should be made before a qualified local official, whose signature and seal can be authenticated by the consular officer. The outer box should be labeled in conformity with port of entry health requirements.

(d) *Consular mortuary certificate.* A consular mortuary certificate should be prepared indicating how the case is marked and addressed, means of transportation to the United States, name of carrier, date and place of shipment, port of entry and scheduled time of arrival. The documents listed in paragraph (b) of this section should be ribboned to the consular mortuary certificate, which should be signed by the consular officer and sealed with the consular press seal.

### § 72.13 Remains requiring special handling.

(a) *Foreign Service personnel.* In the absence of relatives or other interested

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persons, the consular officer should make all necessary arrangements for the disposition of the remains of deceased officers and employees of the Foreign Service according to specific instructions from the Department.

(b) *Personnel of other Government agencies.* The consular officer should extend to other departments or agencies of the United States Government all appropriate aid, in accordance with specific instructions received through the Department of State for the disposition of the remains of an employee who has died while serving in a foreign country.

### § 72.14 Fees for disposing remains.

No fees are prescribed for services in connection with the disposition of remains of United States citizens or nationals. Fees for such services with respect to the remains of foreign nationals are as prescribed in the Schedule of Fees, 22 CFR 22.1.

[63 FR 6480, Feb. 9, 1998]

#### PERSONAL ESTATES OF DECEASED CITIZENS

### § 72.15 Statutory responsibility of consular officer.

Sections 1175–1179 of title 22 of the United States Code prescribe the statutory responsibility of officers of the United States Foreign Service for the personal estates of deceased United States citizens dying outside the United States.

### § 72.16 Regulatory responsibility of consular officer.

Except as otherwise provided in §§ 72.18 through 72.26, the consular officer (or in his absence a diplomatic officer) should take possession and dispose of the personal estates (other than the articles described in §§ 72.29 and 72.30) of all United States citizens who die within his jurisdiction or were residing therein at the time of death. This responsibility should be discharged in accordance with the procedure prescribed herein so far as that procedure is authorized by:

- (a) Treaty provisions; or
- (b) The laws or authorities of the country wherein the estate is located; or

(c) Established usage.

### § 72.17 Responsibility of consular agents.

A consular agent has no statutory authority to take possession and dispose of the personal estate of a deceased citizen of the United States, except under the immediate supervision and as the agent of his principal consular officer. The consular agent, therefore, should immediately report the circumstances to, and request instructions from, his principal consular officer, who should assume the responsibility for taking possession and disposing of the personal estate in accordance with the regulations in this part.

### § 72.18 Responsibility if legal representative is present.

According to law (22 U.S.C. 1175), the consular officer should not take possession or dispose of the personal estate of a deceased citizen who has left a legal representative in the country where the death occurred or in the country where he was residing at the time of death. As used here, the term “legal representative” means—

- (a) An executor designated by will or testament;
- (b) An administrator appointed in interstate proceedings;
- (c) An agent of executor or administrator qualifying by power of attorney;
- (d) A child of legal age;
- (e) A parent;
- (f) The next of kind (nearest blood relative);
- (g) The surviving spouse.

### § 72.19 Responsibility if trustee for personal estate is present.

Likewise, the law (22 U.S.C. 1175) stipulates that the consular officer should not take possession or dispose of the personal estate of a deceased citizen who has left in the country where the death occurred, or in which he was residing at the time of death, a “trustee by him appointed.” The language of the statute includes any person, natural or juristic, appointed by the decedent in a will, or appointed by a deed to hold legal title to the personal property for the benefit of a named beneficiary.