



PROPOSED RULE MAKING

CR-102 (July 2022)
(Implements RCW 34.05.320)
Do **NOT** use for expedited rule making

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STATE OF WASHINGTON
FILED

DATE: April 30, 2024

TIME: 2:38 PM

WSR 24-10-094

Agency: State Board of Health

Original Notice

Supplemental Notice to WSR

Continuance of WSR

Preproposal Statement of Inquiry was filed as WSR _____; or

Expedited Rule Making--Proposed notice was filed as WSR _____; or

Proposal is exempt under RCW 34.05.310(4) or 34.05.330(1); or

Proposal is exempt under RCW _____.

Title of rule and other identifying information: (describe subject) Chapter 246-500 WAC – Handling of Human Remains. The State Board of Health (Board) is proposing amending parts of the rule to align with the changes to RCW 68.50.230 prescribed in Substitute House Bill 1974, which passed during the 2024 legislative session.

Hearing location(s):

Date:	Time:	Location: (be specific)	Comment:
June 12, 2024	1:30 P.M.	Physical Location: Heathman Lodge 7801 NE Greenwood Drive Vancouver, Washington 98662 Virtual Link: https://us02web.zoom.us/join/register/WN_vifXql9mSCGxcB06RcHI0Q	The State Board of Health will be holding a hybrid hearing with the option to attend and testify either via Zoom or in-person.

Date of intended adoption: 6/12/2024 (Note: This is **NOT** the effective date)

Submit written comments to:

Name: Shay Bauman
Address: P.O. Box 47990
Olympia, WA
98504-7990
Email: shay.bauman@sboh.wa.gov
Fax: N/A
Other:
By (date) 5/31/2024

Assistance for persons with disabilities:

Contact Melanie Hisaw
Phone: 360-236-4104
Fax: N/A
TTY: 711
Email: melanie.hisaw@sboh.wa.gov
Other:
By (date) 06/05/2024

Purpose of the proposal and its anticipated effects, including any changes in existing rules: The purpose of this proposal is to update WAC 245-500-050, WAC 246-500-053, and WAC 246-500-055 to align with changes in statute. These rules establish the requirements for remains reduced through cremation, alkaline hydrolysis, and natural organic reduction. Under these sections, the local registrar or the Department of Health may issue a burial-transfer permit for the disposition of cremated remains, remains reduced through alkaline hydrolysis, or remains reduced through natural organic reduction which have been in the lawful possession of any person, firm, corporation, or association for a period of 90 days or more. The 90 day holding period is established in RCW 68.50.230, which was recently amended to 45 days. The amendment also added counties to the list of entities that may lawfully dispose of human remains after the holding period. The purpose of the proposal is to align the rule with the changes in statute.

Reasons supporting proposal: This change is dictated by statute. The existing rules must be amended to align with the statute and to no be in conflict. The 90 day holding period is being amended to 45 days. The proposed rules also add counties to the list of entities that may lawfully dispose of human remains to be consistent with the language in the law.

Statutory authority for adoption: RCW 43.20.050(2)(f)

Statute being implemented: Substitute House Bill 1974 (Chapter 57, Laws of 2024), as codified in RCW 68.50.230

Is rule necessary because of a:

Federal Law? Yes No
Federal Court Decision? Yes No
State Court Decision? Yes No

If yes, CITATION:

Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters: None

Type of proponent: Private Public Governmental

Name of proponent: Washington State Board of Health

Name of agency personnel responsible for:

	Name	Office Location	Phone
Drafting:	Shay Bauman	101 Israel Road SE, Tumwater, WA, 98504	564-669-8929
Implementation:	Shay Bauman	101 Israel Road SE, Tumwater, WA, 98504	564-669-8929
Enforcement:	Funeral and Cemetary Board	405 Black Lake Blvd SW, Olympia, WA 98502	

Is a school district fiscal impact statement required under [RCW 28A.305.135](#)? Yes No

If yes, insert statement here:

The public may obtain a copy of the school district fiscal impact statement by contacting:

Name:

Address:

Phone:

Fax:

TTY:

Email:

Other:

Is a cost-benefit analysis required under [RCW 34.05.328](#)?

Yes: A preliminary cost-benefit analysis may be obtained by contacting:

Name:

Address:

Phone:

Fax:

TTY:

Email:

Other:

No: Please explain: The proposed rule is exempt under RCW 34.05.328(5)(b)(v) Rules explicitly and specifically dictated by statute

Regulatory Fairness Act and Small Business Economic Impact Statement

Note: The [Governor's Office for Regulatory Innovation and Assistance \(ORIA\)](#) provides support in completing this part.

(1) Identification of exemptions:

This rule proposal, or portions of the proposal, **may be exempt** from requirements of the Regulatory Fairness Act (see [chapter 19.85 RCW](#)). For additional information on exemptions, consult the [exemption guide published by ORIA](#). Please check the box for any applicable exemption(s):

This rule proposal, or portions of the proposal, is exempt under [RCW 19.85.061](#) because this rule making is being adopted solely to conform and/or comply with federal statute or regulations. Please cite the specific federal statute or regulation this rule is being adopted to conform or comply with, and describe the consequences to the state if the rule is not adopted.

Citation and description:

This rule proposal, or portions of the proposal, is exempt because the agency has completed the pilot rule process defined by [RCW 34.05.313](#) before filing the notice of this proposed rule.

This rule proposal, or portions of the proposal, is exempt under the provisions of [RCW 15.65.570\(2\)](#) because it was adopted by a referendum.

This rule proposal, or portions of the proposal, is exempt under [RCW 19.85.025\(3\)](#). Check all that apply:

[RCW 34.05.310](#) (4)(b)
(Internal government operations)

[RCW 34.05.310](#) (4)(e)
(Dictated by statute)

[RCW 34.05.310](#) (4)(c)
(Incorporation by reference)

[RCW 34.05.310](#) (4)(f)
(Set or adjust fees)

[RCW 34.05.310](#) (4)(d)
(Correct or clarify language)

[RCW 34.05.310](#) (4)(g)
((i) Relating to agency hearings; or (ii) process requirements for applying to an agency for a license or permit)

This rule proposal, or portions of the proposal, is exempt under [RCW 19.85.025\(4\)](#) (does not affect small businesses).

This rule proposal, or portions of the proposal, is exempt under RCW _____.

Explanation of how the above exemption(s) applies to the proposed rule: All of the proposed changes are dictated by statute.

(2) Scope of exemptions: *Check one.*

The rule proposal is fully exempt (*skip section 3*). Exemptions identified above apply to all portions of the rule proposal.

The rule proposal is partially exempt (*complete section 3*). The exemptions identified above apply to portions of the rule proposal, but less than the entire rule proposal. Provide details here (consider using [this template from ORIA](#)):

The rule proposal is not exempt (*complete section 3*). No exemptions were identified above.

(3) Small business economic impact statement: *Complete this section if any portion is not exempt.*

If any portion of the proposed rule is **not exempt**, does it impose more-than-minor costs (as defined by RCW 19.85.020(2)) on businesses?

- No Briefly summarize the agency's minor cost analysis and how the agency determined the proposed rule did not impose more-than-minor costs.
- Yes Calculations show the rule proposal likely imposes more-than-minor cost to businesses and a small business economic impact statement is required. Insert the required small business economic impact statement here:

The public may obtain a copy of the small business economic impact statement or the detailed cost calculations by contacting:

Name:
Address:
Phone:
Fax:
TTY:
Email:
Other:

Date: April 30, 2024

Name: Michelle A. Davis

Title: Executive Director, State Board of Health

Signature:



AMENDATORY SECTION (Amending WSR 21-01-039, filed 12/7/20, effective 1/7/21)

WAC 246-500-050 Human remains reduced through cremation. (1)

Other than the provisions in this section and WAC 246-500-010, this chapter does not apply to human remains after cremation.

(2) A local registrar, in cooperation with the Washington state funeral and cemetery board, may issue a burial-transit permit for disposition of cremated human remains. The permit for the disposition of cremated remains may be used in connection with the transportation of cremated remains by common carrier or other means.

(3) The local registrar or the department of health may issue a burial-transit permit for the disposition of cremated human remains which have been in the lawful possession of any person, firm, corporation, county, or association for a period of (~~ninety~~) 45 days or more. This permit will specify that the disposition of cremated remains must be consistent with Washington state laws and rules.

AMENDATORY SECTION (Amending WSR 21-01-039, filed 12/7/20, effective 1/7/21)

WAC 246-500-053 Human remains reduced through alkaline hydrolysis. (1) Other than the provisions in this section and WAC 246-500-010, this chapter does not apply to human remains after alkaline hydrolysis.

(2) A hydrolysis facility must:

(a) Operate a high-temperature purpose built vessel, that reaches a minimum temperature of (~~two hundred fifty~~) 250 degrees Fahrenheit for a minimum of (~~thirty~~) 30 minutes during the reduction process; or

(b) Operate a purpose built vessel, for which third-party validation testing is provided demonstrating the reduction process destroys prions, and achieves sterilization in both the water and airspace, according to the manufacturer's specifications. The testing criteria must include a matrix-assisted laser desorption/ionization time of flight (MALDI-TOF) mass spectrometry peptide sizing analysis and a (~~6~~) six spore log reduction or greater in the level of *Bacillus* spores. An operator shall retain this documentation on-site and be able to provide it upon request to state or local health officials.

(3) A local registrar, in cooperation with the Washington state funeral and cemetery board, may issue a burial-transit permit for disposition of human remains reduced through alkaline hydrolysis. The permit for the disposition of remains reduced through alkaline hydrolysis may be used in connection with the transportation of remains reduced through alkaline hydrolysis by common carrier or other means.

(4) The local registrar or the department of health may issue a burial-transit permit for the disposition of human remains reduced through alkaline hydrolysis which have been in the lawful possession of any person, firm, corporation, county, or association for a period of (~~ninety~~) 45 days or more. This permit will specify that the disposition of remains reduced through alkaline hydrolysis must be consistent with Washington state laws and rules.

WAC 246-500-055 Human remains reduced through natural organic reduction. (1) Other than the provisions of this section and WAC 246-500-010, this chapter does not apply to human remains after natural organic reduction.

(2) A natural organic reduction facility operator shall:

(a) Collect material samples for analysis that are representative of each instance of natural organic reduction using a sampling method such as described in the U.S. Composting Council 2002 Test Methods for the Examination of Composting and Compost, Method 02.01-A through E;

(b) Analyze each instance of reduced human remains for physical contaminants. Reduced remains must have less than 0.01 mg/kg dry weight of physical contaminants which include, but are not limited to, intact bone, dental fillings, and medical implants;

(c) Analyze, using a third-party laboratory, the reduction facility's reduced human remains according to the following schedule:

(i) The reduction facility's initial 20 instances of reduced human remains for the parameters identified in Table 500-A, and any additional instances of human remains necessary to achieve 20 reductions meeting the limits identified in Table 500-A;

(ii) Following 20 reductions meeting limits outlined in Table 500-A, analyze, at minimum, 25 percent of a facility's monthly instances of reduced human remains for the parameters identified in Table 500-A until 80 total instances have met the requirements in Table 500-A;

(iii) The local health jurisdiction may require tests for additional parameters under (b) and (c) of this subsection;

(d) Not release any human remains that exceed the limits identified in Table 500-A;

(e) Prepare, maintain, and provide upon request by the local health jurisdiction, an annual report each calendar year. The annual report must detail the facility's activities during the previous calendar year and must include the following information:

(i) Name and address of the facility;

(ii) Calendar year covered by the report;

(iii) Annual quantity of reduced human remains;

(iv) Results of any laboratory analyses of reduced human remains;

and

(v) Any additional information required by the local health jurisdiction; and

(f) Test for arsenic, cadmium, lead, mercury, and selenium, and either fecal coliform or salmonella in reduced human remains to meet the testing parameters and limits identified in Table 500-A.

**Table 500-A
Testing Parameters**

Metals and other testing parameters	Limit (mg/kg dry weight), unless otherwise specified
Fecal coliform	< 1,000 Most probable number per gram of total solids (dry weight)
or	

Salmonella	< 3 Most probable number per 4 grams of total solids (dry weight)
and	
Arsenic	≤ 20 ppm
Cadmium	≤ 10 ppm
Lead	≤ 150 ppm
Mercury	≤ 8 ppm
Selenium	≤ 18 ppm

(3) A local registrar, in cooperation with the Washington state funeral and cemetery board, may issue a burial-transit permit for disposition of human remains reduced through natural organic reduction. The permit for the disposition of remains reduced through natural organic reduction may be used in connection with the transportation of remains reduced through natural organic reduction by common carrier or other means.

(4) The local registrar or the department of health may issue a burial-transit permit for the disposition of human remains reduced through natural organic reduction which have been in the lawful possession of any person, firm, corporation, county, or association for a period of ((90)) 45 days or more. This permit will specify that the disposition of remains reduced through natural organic reduction must be consistent with Washington state laws and rules.