



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: January 31, 2023

TIME: 3:32 PM

WSR 23-04-100

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) WAC 246-500-055 – Human Remains Reduced Through Natural Organic Reduction. The State Board of Health (Board) is proposing administrative edits through exception rulemaking to correct typographical errors in the rule and clarify rule language without changing its intended effect.

Hearing location(s):

Date: 03/08/2023	Time: 1:30 pm	Location: (be specific) This will be a hybrid meeting. Below is the physical address for those attending in person: Washington State Department of Labor & Industries 7273 Linderson Way SW, Tumwater, WA 98501	Comment: Zoom webinar information for those attending virtually: https://us02web.zoom.us/webinar/register/WN_VJVUA9FgQdym6TzrsmD2g
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Date of intended adoption: 03/08/2023 (Note: This is **NOT** the effective date)

Submit written comments to:

Name: Molly Dinardo
Address: P.O. Box 47990
Olympia, WA
98504-7990
Email: molly.dinardo@sboh.wa.gov
Fax:
Other:
By (date) 02/27/2023

Assistance for persons with disabilities:

Contact: Melanie Hisaw
Phone: 360-236-4104
Fax:
TTY:
Email: melanie.hisaw@sboh.wa.gov
Other:
By (date) 03/01/2023

Purpose of the proposal and its anticipated effects, including any changes in existing rules: The purpose of this proposal is to clarify rule language in WAC 246-500-055 and correct a typographical error. This rule establishes the requirements that natural organic reduction (NOR) facilities must meet for this specific reduction method. Under this section, NOR facility operators must collect material samples for analysis and conduct testing for certain contaminants. Interested parties have requested clarity and guidance with respect to Table 500-A. The Table requires testing for fecal coliform or salmonella and arsenic, cadmium, lead, mercury, and selenium but does not expressly include the word "and" between salmonella and arsenic. In addition, subsection (2)(b) refers to "dental filings" when it should refer to "dental fillings" with respect to the weight of physical contaminants that may be present in reduced remains.

Exception rulemaking is needed for the Board to expeditiously make administrative edits to the rule for purposes of clarity. Testing of natural organic reduction final product is essential to ensure the process eliminates pathogens and elements harmful to human health and the environment.

Reasons supporting proposal: NOR was approved by the Legislature in ESSB 5001 (Chapter 432, Laws of 2019) as an authorized method for the disposition of human remains. Washington was the first state in the country, and first place in the world to authorize this disposition method for human remains. This rule addresses specific health and safety concerns related to NOR and is intended to prevent and control health hazards that could be linked to NOR.

WAC 246-500-055 went into effect in January 2021. Since then, there have been four facilities licensed to conduct NOR in Washington. To date, each facility has successfully collected material samples, analyzed them for physical contaminants, and sent samples to be analyzed by third-party testing facilities.

This proposal is necessary to allow facilities to continue with their processes and ensure the initial testing requirements described in the rule are clear and accurate.

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

Statute being implemented: RCW 43.20.050(2)(f), Engrossed Substitute Senate Bill 5001 (chapter 432, Laws of 2019) as codified in Chapter 68.05 RCW

Is rule necessary because of a:

Federal Law?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Federal Court Decision?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
State Court Decision?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> 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: (person or organization) Washington State Board of Health

Name of agency personnel responsible for:

Name	Office Location	Phone
Drafting: Molly Dinardo	101 Israel Road SE, Tumwater, WA, 98504	564-669-3455
Implementation: Molly Dinardo	101 Israel Road SE, Tumwater, WA, 98504	564-669-3455
Enforcement: Funeral and Cemetery Board	405 Black Lake Blvd SW Olympia, WA 98502	360-664-1555

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)(iv) Rules that only correct typographical errors, make address or name changes, or clarify language of a rule without changing its effect. This proposal corrects typographical errors and clarifies language without changing intended effect in WAC 246-500-055.

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: The proposal corrects typographical errors and clarifies language without changing the intended effect in WAC 246-500-055.

(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: January 31, 2023

Name: Michelle Davis

Title: Executive Director, State Board of Health

Signature:

A handwritten signature in cursive script that reads "Michelle A. Davis". The signature is written in black ink on a white background.