

WASHINGTON STATE BOARD OF HEALTH

Date: March 8, 2023

To: Washington State Board of Health Members

From: Patty Hayes, Board Member

Subject: Rules Hearing –Exception Rulemaking, WAC 246-500-055, Human Remains Reduced Through Natural Organic Reduction

Background and Summary:

The Washington State Board of Health (Board) has the authority under RCW 43.20.050(2)(f) to adopt rules and standards for the prevention and control of infectious and noninfectious diseases, including rules governing the receipt and conveyance of remains of deceased persons. Chapter 246-500 WAC is the Board rule that establishes standards for health and safety measures in the handling of human remains.

In 2019, the Washington State Legislature passed ESSB 5001 (Chapter 432, Laws 2019), which authorized natural organic reduction (NOR) as a disposition method for human remains. In 2020, the Board updated chapter 246-500 WAC to include NOR as an approved method. The Board also added a new subsection, WAC-246-500-055, Human Remains Reduced Through Natural Organic Reduction, to establish the requirements NOR facility operators must meet for testing and analyzing samples to prevent and control any potential health hazards. WAC 246-500-055 went into effect in January 2021.

Following the first year of rule implementation, Board staff conducted an informal survey of all four NOR facility operators to determine whether rule implementation was successful and if additional guidance was needed. Based on findings from the survey, staff identified a need for additional rulemaking to clarify the language in WAC-246-500-055. Under the Administrative Procedures Act, specifically RCW 34.05.310(4)(d), the Board may pursue “exception” rulemaking without filing a pre-proposal notice of inquiry (CR-101 form) for rules that correct typographical errors or clarify the language of a rule without changing its effect. The Board approved exception rulemaking for this rule on January 9th, 2023.

On January 31st, 2023, the Board filed a CR-102, Proposed Rule, for WAC 246-500-055 for public review and comment, as WSR 23-04-100. Proposed edits to the rule include:

- Correcting a typographic error in subsection (2)(b) concerning the weight of contaminants in reduced remains (changing dental “filing” to dental “filling”)
- Clarifying rule language in subsection (2)(f) related to initial testing requirements

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I have asked Molly Dinardo, Board Staff, to provide a summary of WAC 246-500-055 and the proposed rule edits and share any comments received during the public comment period. The Board will then hold a public hearing on the proposed rule.

Recommended Board Actions:

The Board may wish to consider, amend if necessary, and adopt the following motion:

The Board adopts the proposed revisions to WAC 246-500-055, as published in WSR 23-04-100, with any revisions described and agreed upon by the Board at today's meeting. The Board directs staff to file a CR-103, Order of Adoption, and establish an effective date.

Staff

Molly Dinardo

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PO Box 47990 • Olympia, WA 98504-7990
360-236-4110 • wsboh@sboh.wa.gov • sboh.wa.gov