



STATE OF WASHINGTON
DEPARTMENT OF LICENSING
PO Box 9020, Olympia, Washington 98507-9020

**Washington Administrative Code
Notice of Permanent Rules for
Washington State Funeral and Cemetery Board**

Adoption of: Title 98 WAC Department of Licensing (Cemetery Board) and Title 308 WAC Department of Licensing

Effective date: These rule changes will become effective 31 days after filing or on May 7, 2020.

What are the agency's reasons for adopting this rule?

The Funeral and Cemetery Board is promulgating rulemaking to incorporate ESSB 5001 which was passed during the 2019 legislative session. These rules will cover the two new dispositions: alkaline hydrolysis and natural organic reduction. In addition to ESSB 5001 changes, the Board is repealing Chapter 98 in its entirety and is rewriting and merging all relevant funeral and cemetery rules into Chapter 308 for ease of use. New statutory requirements for new dispositions will require rules to be promulgated related to licensing and facility operations. In addition to new rules, Chapter 98 is being repealed and Chapter 308 will include rewriting current rules to include relevant information from Chapter 98. Having all of the rules under one Chapter – Chapter 308- will be more efficient and easier to use for licensees and the public. Also, some rules will be written to codify current policies and complete housekeeping.

Summary of all public comments received on this rule proposal and the agency's response to those comments:

Walt Patrick, Herland Forest

1) "The Department of Licensing has been instructed by the Courts (*sic*) that the statutes must be interpreted and construed so that all of the language used has given effect with no portion rendered meaningless or superfluous...so looking at the law, the fact that they have broken out natural organic reduction from operating a natural reduction (*sic*) facility we believe indicates that these are now two separate things in the eyes of the Legislature and that the rules have to recognize that."

Response:

The Statute states a "license or endorsement...is required in order to operate... or conduct" and these two words (operate or conduct) differentiate between operating a reduction facility and conducting the actual

The Administrative Procedure Act (RCW 34.05.325(6)) requires agencies to complete a concise explanatory statement before filing adopted rules with the Office of the Code Reviser. This statement must be provided to anyone who gave comment about the proposed rulemaking.

The Department of Licensing appreciates your involvement in this rulemaking process. If you have any questions, please contact Damon Monroe, Agency Rules Coordinator, at (360) 902-3843 or email dmonroe@dol.wa.gov.

process of reduction. The proposed rule is intended to license the “operator” of a reduction facility and not just the facility.

RCW 18.39.217

License or endorsement required for cremation, alkaline hydrolysis, and natural organic reduction—Penalty. (Effective May 1, 2020.)

(1) A license or endorsement issued under this chapter or chapter 68.05 RCW is required in order to operate a crematory, alkaline hydrolysis, or natural organic reduction facility or conduct a cremation, alkaline hydrolysis, or natural organic reduction.

(2) Conducting a final disposition without a license or endorsement is a misdemeanor. Each such action is a separate violation.

Walt Patrick, Herland Forest

2). “Natural organic reduction is the contained accelerated reduction. (Explains the process at their facility and cemetery) we believe what we are doing qualifies under those regulations. Again the Legislature is saying the two are separate things so our question is what degree of licensing – we are already licensed a cemetery 588 and are licensed to do what we do- our question is to what degree do we have to proceed to get our endorsement on our license? That is the question.”

Response:

In order for an individual or entity to receive a license for a Natural Organic Reduction facility they must:

WAC 308-47-080 Facility licensure requirements for crematories, hydrolysis facilities, and natural organic reduction facilities.

(a) Submit an application on a form approved by the funeral and cemetery board; and

(b) Pay a fee as determined by the director per RCW 43.24.086.

WAC 308-47-075 Reduction facility requirements.

(3) Natural organic reduction facilities must:

(a) Only use a contained reduction vessel that is designed to promote aerobic reduction and minimizes odors and vectors;

(b) Employ a licensed natural organic reduction facility operator;

(c) Comply with all other applicable local, state, and federal laws and regulations; and

(d) Reach a minimum temperature of 131 degrees Fahrenheit for seventy-two consecutive hours during the reduction process.

In order to obtain a Natural Organic Reduction facility license one should be able to demonstrate the ability to comply with the minimum temperature requirement.

Nora Menkin, People’s Memorial Association;

The Administrative Procedure Act (RCW 34.05.325(6)) requires agencies to complete a concise explanatory statement before filing adopted rules with the Office of the Code Reviser. This statement must be provided to anyone who gave comment about the proposed rulemaking.

The Department of Licensing appreciates your involvement in this rulemaking process. If you have any questions, please contact Damon Monroe, Agency Rules Coordinator, at (360) 902-3843 or email dmonroe@dol.wa.gov.

Katrina Spade, Recompose and Char Barrett, A Sacred Moment said they mirrored the comment made by Ms. Menkin:

3) “Removing pacemakers, 308-47-030, we suggest striking through both sections that require an embalmer’s license to remove pacemakers. We believe removing a pacemaker from a cadaver is a simple procedure and requiring mortuary school and two years of apprenticeship to become an embalmer would be a hardship for small business to have to hire an embalmer to do this.”

Response:

308-47-030 WAC does not pertain only to pacemakers. This rule pertains to all implanted devices and can include pacemakers, drug pumps, defibrillators, gastric electrical stimulators and neuro-stimulators. Some of these implanted devices require a level of training that is required of an embalmer or embalmer intern to remove safely. This rule also takes into consideration the training required of a licensed embalmer or intern to comply with the rules of 246-500-020 WAC. Items of concern would include proper disinfection of instruments, barrier precautions and precautions to prevent injuries by scalpels, instruments, and equipment during use, cleaning, and disposal.

This proposed rule is consistent with a Board policy adopted 06/11/2013 that states: “The Funeral and Cemetery Board will allow an unlicensed individual to open cremation containers and unwrap human remains prior to cremation, for the sole purpose of making final identification. If any action beyond identification is required, that action must be performed by a properly licensed individual.”

Nora Menkin and Char Barrett:

4). “The new occupational licensing requirements... upon specific individuals will cause undo hardship upon facilities by forcing them to license or terminate long-term staff, hire and onboard and train new employees with unnecessary occupational licenses.”

Response:

This proposed rule is intended to comply with the statutes in RCW 68.05.175 and RCW 18.39.217 which require a license to operate or conduct each of the three reduction methods. The rule establishes operator licensing consistent with the above statute. A license to operate a reduction facility is distinct from a license to conduct a reduction process (the operator).

Lydia Webb, Terrace Heights Memorial Park- written comment

5). “My initial thought is what is the point, purpose and goal of the licensing of crematory operators? What would this training SPECIFICALLY consist of?”

Response:

The point, purpose and goal of this rule is the legal, practical and safety standards of the operator, operations and additionally the respectful and reverential handling of human remains. This rule is no more

The Administrative Procedure Act (RCW 34.05.325(6)) requires agencies to complete a concise explanatory statement before filing adopted rules with the Office of the Code Reviser. This statement must be provided to anyone who gave comment about the proposed rulemaking.

The Department of Licensing appreciates your involvement in this rulemaking process. If you have any questions, please contact Damon Monroe, Agency Rules Coordinator, at (360) 902-3843 or email dmonroe@dol.wa.gov.

or less specific than the course of training requirements for Funeral Directors or Embalmers in RCW 18.39.045. This rule is intended to set a standard of training that assures operational safety, respectful and reverential handling of human remains, and appropriate health standards for the employees of the reduction facility. In specific regards to this question, as pertains to a crematory, the rule says, "...provided by the equipment manufacturer, or other provider generally accepted by the death care profession, or as approved by the board." (308-47-090 WAC). Many equipment manufacturers and third party providers have demonstrated a training course that meets these concerns and the board is willing to approve in-house training that meets the same type of training standards mentioned herein.

Changes made to the proposed WAC as a result of public comment:

None.

The Administrative Procedure Act (RCW 34.05.325(6)) requires agencies to complete a concise explanatory statement before filing adopted rules with the Office of the Code Reviser. This statement must be provided to anyone who gave comment about the proposed rulemaking.

The Department of Licensing appreciates your involvement in this rulemaking process. If you have any questions, please contact Damon Monroe, Agency Rules Coordinator, at (360) 902-3843 or email dmonroe@dol.wa.gov.