



TEMPORARY RULE-MAKING FINDINGS OF NEED

[Authority G.S. 150B-21.1]

OAH USE ONLY

VOLUME:

ISSUE:

1. Rule-Making Agency:

NC Board of Funeral Service

2. Rule citation & name:

21 NCAC CHAPTER 34C .0102- FORM OF DOCUMENTS

3. Action:

☒ Adoption

☐ Amendment

☐ Repeal

4. Was this an Emergency Rule:

☐ Yes

☒ No

Effective date:

5. Provide dates for the following actions as applicable:

a. Proposed Temporary Rule submitted to OAH: March 13, 2019

b. Proposed Temporary Rule published on the OAH website: March 20, 2019

c. Public Hearing date: April 10, 2019

d. Comment Period: March 13, 2019 - April 12, 2019

e. Notice pursuant to G.S. 150B-21.1(a3)(2): March 13, 2019

f. Adoption by agency on: April 26, 2019

g. Proposed effective date of temporary rule [if other than effective date established by G.S. 150B- 21.1(b) and G.S. 150B-21.3]: May 24, 2019

h. Rule approved by RRC as a permanent rule [See G.S. 150B-21.3(b2)]:

6. Reason for Temporary Action. Attach a copy of any cited law, regulation, or document necessary for the review.

- ☐ A serious and unforeseen threat to the public health, safety or welfare.
- ☒ The effective date of a recent act of the General Assembly or of the U.S. Congress.
Cite: Session Law 2018-78, Sections 20 and 24
Effective date:
- ☐ A recent change in federal or state budgetary policy.
Effective date of change:
- ☐ A recent federal regulation.
Cite:
Effective date:
- ☐ A recent court order.
Cite order:
- ☐ State Medical Facilities Plan.
- ☐ Other:

Explain:

On June 25, 2018, the North Carolina General Assembly passed Session Law 2018-78 [House Bill 529], "An Act Amending the Laws Pertaining to the Practice of Funeral Service." Among other things, House Bill 529 legalized alkaline hydrolysis as a permissible method of the final disposition of human remains in North Carolina. The General Assembly also tasked the Board with promulgating rules to regulate the practice of hydrolysis in the State. The Sections of House bill 529 pertaining to alkaline hydrolysis were assigned an effective date of October 1, 2018.

7. Why is adherence to notice and hearing requirements contrary to the public interest and the immediate adoption of the rule is required?

Temporary rules as cited are necessary to the public interest in assuring a systematic and consistent procedure for the inspection and examination of alkaline hydrolysis facilities in determining whether such facilities are in compliance with the applicable provisions of Session Law 2018-78. Without temporary rules, compliance inspections would be constrained and would create barriers to the proper enforcement of the law and regulation of these facilities to assure protection of the public's health, safety and welfare.

8. Rule establishes or increases a fee? (See G.S. 12-3.1)

☐ Yes

Agency submitted request for consultation on:
Consultation not required. Cite authority:

☒ No

9. Rule-making Coordinator:

Stephen E. Davis

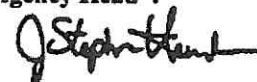
Phone:

919 733-9380

E-Mail:

sdavis@ncbfs.org

10. Signature of Agency Head*:



* If this function has been delegated (reassigned) pursuant to G.S. 143B-10(a), submit a copy of the delegation with this form.

Typed Name:

Title:

E-Mail:

Agency contact, if any:

Phone:

E-Mail:

RULES REVIEW COMMISSION USE ONLY

Action taken:

Submitted for RRC Review:

☐ Date returned to agency:

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AN ACT AMENDING THE LAWS PERTAINING TO THE PRACTICE OF FUNERAL SERVICE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 90-210.25 reads as rewritten:

"§ 90-210.25. Licensing.

- (a) Qualifications, Examinations, Resident Traineeship and Licensure. –
- (1) To be licensed for the practice of funeral directing under this Article, ~~a person must~~an applicant for licensure bears the burden of substantiating to the satisfaction of the Board that the applicant:
- a. ~~Be~~Is at least 18 years of age.
 - b. ~~Be~~Is of good moral character.
 - c. ~~Be a graduate of a Funeral Director Program at a mortuary science college approved by the Board or a school of mortuary science accredited by the American Board of Funeral Service Education. Have completed a minimum of 32 semester hours or 48 quarter hours of instruction, including the subjects set out in sub part e.1. of this subdivision, as prescribed by a mortuary science college approved by the Board or a school of mortuary science accredited by the American Board of Funeral Service Education.~~Possesses a degree in mortuary science or has graduated from a Funeral Director Program, or the equivalent, from a program approved by the Board and accredited by the American Board of Funeral Service Education.
 - d. ~~Have~~Within the last three years, has completed 12 months of resident traineeship as a funeral director, pursuant to the procedures and conditions set out in G.S. 90-210.25(a)(4), either before or after satisfying the educational requirement under sub-subdivision c. of this subdivision.
 - e. ~~Have passed an oral or written funeral director examination on~~Within the last three years, has obtained passing scores on all of the following subjects:examinations:
 1. ~~Psychology, sociology, pathology, funeral directing, business law, funeral law, funeral management, and accounting.~~Entry-level examination in funeral directing administered by The International Conference of Funeral Service Examining Boards.
 2. Repealed by Session Laws 1997-399, s. 5.
 3. ~~Laws~~Examination of the laws of North Carolina~~Carolina, the standards set forth in Funeral Industry Practices, 16 C.F.R. § 453 (1984), pursuant to its most recent version, and rules of the~~

(h) The simultaneous cremation of the human remains of more than one person within the same cremation chamber is ~~forbidden~~provided that the following human remains may be cremated simultaneously upon the express written direction of the authorized agent:

- (1) The human remains of multiple fetuses from the same mother and the same birth.
- (2) The human remains of multiple persons up to the age of one year old from the same mother and the same birth.

...."

SECTION 18. G.S. 90-210.132(a) reads as rewritten:

"(a) ~~The By rule, the Board may set and collect fees not to exceed the following amounts from crematory and hydrolysis licensees, crematory and hydrolysis manager permit holders, and applicants:~~applicants not to exceed the following amounts:

- (1) Licensee application fee. \$400.00
- (2) Annual renewal fee. 150.00
- (3) Late renewal fee. 75.00
- (4) Reinspection fee. ~~100.00~~150.00
- (5) Per cremation or hydrolysis fee. 10.00
- (6) Late fee, per ~~cremation~~cremation or hydrolysis. 10.00
- (7) Late fee, cremation or hydrolysis report. 75.00 per month
- (8) Crematory or hydrolysis manager permit application fee. 150.00
- (9) Annual crematory or hydrolysis manager permit renewal fee. 40.00."

SECTION 20. Article 13F of Chapter 90 of the General Statutes is amended by adding a new section to read:

"§ 90-210.136. Hydrolysis of human remains.

(a) The following definitions shall apply in this section:

- (1) Alkaline hydrolysis. – The technical process using water, heat, and other chemicals to destroy, dissolve, or reduce human remains to simpler or essential elements.
- (2) Hydrolysis container. – A container, other than a casket, designed to enclose human remains and made of suitable material to be easily destroyed during hydrolysis and to resist spillage and leakage. A hydrolysis container may be a cremation container or any other container that meets the requirements of this subdivision.
- (3) Hydrolysis licensee. – A person or entity licensed to hydrolyze human remains and perform hydrolysis.
- (4) Liquid waste. – Any liquid remaining after hydrolysis that does not contain any trace elements of human tissue.

(b) No person, cemetery, funeral establishment, corporation, partnership, joint venture, voluntary organization, or other entity shall hydrolyze human remains without first obtaining a license from the Board.

(c) Except as otherwise provided by this section, a license for the hydrolysis of human remains shall have the same requirements and fees as for the licensing of crematories under this Article. The hydrolysis of human remains shall be conducted in compliance with all requirements for cremation, and the licensee shall pay the same fees for monthly reports for each hydrolysis as crematories under this Article.

(d) The Board shall have the same powers to regulate, enforce, discipline, and inspect hydrolysis licensees and the practice of hydrolysis that have been granted under this Article for the regulation, enforcement, discipline, and inspection of crematories and the practice of cremation.

(e) Any solid remains or residue remaining after hydrolysis shall be treated and disposed of as cremated remains under this Article. Disposal of liquid waste shall be subject to all applicable health and environmental laws and regulations.

(f) Human remains shall be hydrolyzed in a hydrolysis container and shall not be required to be hydrolyzed in a casket.

(g) Unless specified otherwise by the manufacturer of the equipment used for hydrolysis, human remains may be hydrolyzed without first removing a pacemaker or other material or implant that would be potentially hazardous if cremated.

(h) The Board shall promulgate rules necessary to effectuate the licensing of alkaline hydrolysis."

SECTION 21. G.S. 130A-415 reads as rewritten:

"§ 130A-415. Unclaimed bodies; bodies claimed by the Lifeguardianship Council of the Association for Retarded Citizens of North Carolina; disposition.

(a) Any person, other than a person licensed as a funeral director or funeral service licensee in this State, including officers, employees and agents of the State or of any unit of local government in the State, undertakers doing business within the State, hospitals, nursing homes or other institutions, having physical possession of a dead body shall make reasonable efforts to contact relatives of the deceased or other persons who may wish to claim the body for final disposition. If the body remains unclaimed for final disposition for 10 days, disposition, the person having possession shall notify the Commission of Anatomy. Upon request of the Commission of Anatomy, the person having possession shall deliver the dead body to the Commission of Anatomy at a time and place specified by the Commission of Anatomy or shall permit the Commission of Anatomy to take and remove the body.

(a1) A dead body shall be deemed unclaimed if either of the following conditions apply:

(1) No individual notifies the person in possession of the dead body within 10 days of the date of death that the individual wishes to dispose of the dead body.

(2) All individuals who have expressed interest in arranging for disposition of the dead body have (i) ceased communicating with the person in possession of the dead body for five days, (ii) at least 10 days have passed from the date of death, and (iii) the person in possession of the dead body has used reasonable efforts to contact all individuals interested in arranging for final disposition.

(b) ~~All~~ Unless the provisions of subsection (j) of this section apply, all dead bodies not claimed for final disposition within 10 days of the decedent's death may be received and delivered by the Commission of Anatomy pursuant to the authority contained in G.S. 130A-33.30 and this Part and in accordance with the rules of the Commission of Anatomy. Upon receipt of a body by the Commission of Anatomy all interests in and rights to the unclaimed dead body shall vest in the Commission of Anatomy. The recipient to which the Commission of Anatomy delivers the body shall pay all expenses for the embalming and delivery of the body, and for the reasonable expenses arising from efforts to notify relatives or others.

(b1) ~~The 10-day period~~ periods referenced in ~~subsections (a) and (b)~~ subdivisions (1) and (2) of subsection (a1) of this section may be shortened by the county director of social services upon determination that a dead body will not be claimed for final disposition within the 10-day period.

(c) ~~Should~~ Unless the provisions of subsection (j) of this section apply, if the Commission of Anatomy decline declines to receive a dead body, the person with possession shall inform the director of social services of the county ~~in which the body is located. The~~ that is responsible for the expense of the final disposition of the decedent. Upon notification, all interests in and rights to the abandoned dead body shall vest in the director of social services of that ~~county~~ county, who then shall arrange for prompt final disposition of the body, either by ~~exemation~~ cremation, hydrolysis, or burial.

(b1) A person who does not exercise his or her right to dispose of the decedent's body under subsection (b) of this section within five days of notification or 10 days from the date of death, whichever is earlier, shall be deemed to have waived his or her right to authorize disposition of the decedent's body or contest disposition in accordance with this section. Under G.S. 130A-415(c) or (j), upon such a waiver, and upon the Commission of Anatomy declining or failing to request delivery of the abandoned dead body, the director of social services of the county in which the dead body is located shall become vested with all interests and rights to the dead body and shall authorize and arrange for disposition by cremation, hydrolysis, or burial.

(b2) Once the burial of an individual is completed under the provisions of this section, the method and location of disposition shall not be changed unless otherwise authorized by law or by a court order upon a showing of good cause.

...."

SECTION 23. If any provision of this act or its application is held invalid, the invalidity does not affect other provisions or applications of this act that can be given effect without the invalid provisions or application, and, to this end, the provisions of this act are severable.

SECTION 24. Section 17 and Section 24 of this act are effective when they become law. G.S. 90-210.25(f)(2), as enacted by Section 1 of this act, becomes effective December 1, 2018. The remainder of this act becomes effective October 1, 2018.

In the General Assembly read three times and ratified this the 15th day of June, 2018.

s/ Bill Rabon
Presiding Officer of the Senate

s/ David R. Lewis
Presiding Officer of the House of Representatives

s/ Roy Cooper
Governor

Approved 10:43 a.m. this 25th day of June, 2018

REQUEST FOR TECHNICAL CHANGE

AGENCY: North Carolina Board of Funeral Service

RULE CITATION: All Rules

DEADLINE FOR RECEIPT: Friday, May 10, 2019

PLEASE NOTE: *This request may extend to several pages. Please be sure you have reached the end of the document.*

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends that the following technical changes be made:

The versions of the Rule submitted do not track changes made in accordance with OAH formatted Rules. Please use the version of the Rules that OAH staff emailed on March 18, 2019 to make any changes.

Please note the formatting instructions on page 1.

On your forms, please type the information for the agency head in Box 10.

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Amber May
Commission Counsel
Date submitted to agency: Tuesday, April 30, 2019

REQUEST FOR TECHNICAL CHANGE

AGENCY: North Carolina Board of Funeral Service

RULE CITATION: 21 NCAC 34C .0102

DEADLINE FOR RECEIPT: Friday, May 10, 2019

PLEASE NOTE: This request may extend to several pages. Please be sure you have reached the end of the document.

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends that the following technical changes be made:

Please consider revising as follows:

When any provision of Article 13F, Chapter 90, of the North Carolina General Statutes or any rule in this Subchapter requires a crematory or hydrolysis licensee to obtain any death certificate, report, authorization, waiver, statement or other document prior to cremation or hydrolysis, ~~it shall be deemed that such requirements are complied with if the crematory or hydrolysis licensee receives the applicable~~ may accept the document ~~or documents, in the time specified,~~ in the form of the original, a photocopy, or by electronic or facsimile transmission.

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Amber May
Commission Counsel
Date submitted to agency: Tuesday, April 30, 2019

21 NCAC 34C .0102 is adopted as temporary amendment as follows:

21 NCAC 34C .0102 FORM OF DOCUMENTS

When any provision of Article 13F, Chapter 90, of the North Carolina General Statutes or any rule in this Subchapter requires a crematory or hydrolysis licensee to obtain any death certificate, report, authorization, waiver, statement or other document prior to cremation or hydrolysis, it shall be deemed that such requirements are complied with if the crematory or hydrolysis licensee receives the applicable document or documents, in the time specified, in the form of the original, a photocopy, or by electronic or facsimile transmission.

History Note: Authority G.S. 90-210.127; 90-210.134(a); 90-210.136(d),(h);

Eff. July 1, 1991;

Amended Eff. July 1, 2004;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 19, 2017.

Temporary Amendment Eff. May 24, 2019.



TEMPORARY RULE-MAKING FINDINGS OF NEED

[Authority G.S. 150B-21.1]

OAH USE ONLY

VOLUME:

ISSUE:

1. Rule-Making Agency: NC Board of Funeral Service	
2. Rule citation & name: 21 NCAC CHAPTER 34C .0103 - APPLICATION FORM FOR CREMATORY LICENSE	
3. Action: <input checked="" type="checkbox"/> Adoption <input type="checkbox"/> Amendment <input type="checkbox"/> Repeal	
4. Was this an Emergency Rule: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No Effective date:	
5. Provide dates for the following actions as applicable: a. Proposed Temporary Rule submitted to OAH: March 13, 2019 b. Proposed Temporary Rule published on the OAH website: March 20, 2019 c. Public Hearing date: April 10, 2019 d. Comment Period: March 13, 2019 - April 12, 2019 e. Notice pursuant to G.S. 150B-21.1(a3)(2): March 13, 2019 f. Adoption by agency on: April 26, 2019 g. Proposed effective date of temporary rule [if other than effective date established by G.S. 150B- 21.1(b) and G.S. 150B-21.3]: May 24, 2019 h. Rule approved by RRC as a permanent rule [See G.S. 150B-21.3(b2)]:	
6. Reason for Temporary Action. Attach a copy of any cited law, regulation, or document necessary for the review. <input type="checkbox"/> A serious and unforeseen threat to the public health, safety or welfare. <input checked="" type="checkbox"/> The effective date of a recent act of the General Assembly or of the U.S. Congress. Cite: Session Law 2018-78, Sections 20 and 24 Effective date: <input type="checkbox"/> A recent change in federal or state budgetary policy. Effective date of change: <input type="checkbox"/> A recent federal regulation. Cite: Effective date: <input type="checkbox"/> A recent court order. Cite order: <input type="checkbox"/> State Medical Facilities Plan. <input type="checkbox"/> Other:	
Explain: On June 25, 2018, the North Carolina General Assembly passed Session Law 2018-78 [House Bill 529], "An Act Amending the Laws Pertaining to the Practice of Funeral Service." Among other things, House Bill 529 legalized alkaline hydrolysis as a permissible method of the final disposition of human remains in North Carolina. The General Assembly also tasked the Board with promulgating rules to regulate the practice of hydrolysis in the State. The Sections of House bill 529 pertaining to alkaline hydrolysis were assigned an effective date of October 1, 2018.	

FILED
2019 APR 26 PM 2:00
OFFICE OF ADMIN HEARINGS

7. Why is adherence to notice and hearing requirements contrary to the public interest and the immediate adoption of the rule is required?

Temporary rules as cited are necessary to the public interest in assuring a systematic and consistent procedure for the inspection and examination of alkaline hydrolysis facilities in determining whether such facilities are in compliance with the applicable provisions of Session Law 2018-78. Without temporary rules, compliance inspections would be constrained and would create barriers to the proper enforcement of the law and regulation of these facilities to assure protection of the public's health, safety and welfare.

8. Rule establishes or increases a fee? (See G.S. 12-3.1)

☐ Yes

Agency submitted request for consultation on:
Consultation not required. Cite authority:

☒ No

9. Rule-making Coordinator:

Stephen E. Davis

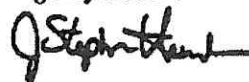
Phone:

919 733-9380

E-Mail:

sdavis@ncbfs.org

10. Signature of Agency Head*:



* If this function has been delegated (reassigned) pursuant to G.S. 143B-10(a), submit a copy of the delegation with this form.

Typed Name:

Title:

E-Mail:

Agency contact, if any:

Phone:

E-Mail:

RULES REVIEW COMMISSION USE ONLY

Action taken:

Submitted for RRC Review:

☐ Date returned to agency:

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REQUEST FOR TECHNICAL CHANGE

AGENCY: North Carolina Board of Funeral Service

RULE CITATION: 21 NCAC 34C .0103

DEADLINE FOR RECEIPT: Friday, May 10, 2019

PLEASE NOTE: This request may extend to several pages. Please be sure you have reached the end of the document.

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends that the following technical changes be made:

Please consider putting lines 5-8 in list form. It would look something like the following:

- (a) All applications for a crematory or hydrolysis license shall be made on forms provided by the Board. The application shall state the following information:
 - (1) the name of the applicant;
 - (2) address;
 - (3) type of business entity;
 - (4) location of ~~crematory~~; crematory or hydrolysis facility;
 - (5) description of ~~crematory~~; crematory or hydrolysis facilities and equipment;
 - (6) name and address of each crematory or hydrolysis technician; name and address of the crematory or hydrolysis manager; and
 - (7) any criminal convictions of the applicant and manager; manager; and other information the Board deems necessary as required by law.
- (b) Three affidavits of the moral character of the owners, partners, or officers and of the manager in compliance with G.S. 90-210.26 shall accompany the application.

What is meant by "other information the Board deems necessary as required by law"? Is this language necessary? If so, what could this be and how will the Board determine it needs it. Please note that I have deleted it in my suggestion.

What is the intent of (b)? Must an applicant submit three affidavits for all of the listed persons?

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Amber May
Commission Counsel
Date submitted to agency: Tuesday, April 30, 2019

21 NCAC 34C .0103 is adopted as temporary amendment as follows:

21 NCAC 34C .0103 APPLICATION FORM FOR CREMATORY OR HYDROLYSIS LICENSE

All applications for a crematory or hydrolysis license shall be made on forms provided by the Board. The application shall state the name of the applicant; address; type of business entity; location of crematory or hydrolysis facility; description of crematory or hydrolysis facilities and equipment; name and address of each crematory or hydrolysis technician; name and address of the crematory or hydrolysis manager; any criminal convictions of the applicant and manager; and other information the Board deems necessary as required by law. Three affidavits of the moral character of the owners, partners, or officers and of the manager in compliance with G.S. 90-210.26 shall accompany the application.

History Note: Authority G.S. 90-210.123; 90-210.134(a); 90-210.136(d),(h);

Eff. July 1, 1991;

Amended Eff. August 1, 2004;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 19, 2017.

Temporary Amendment Eff. May 24, 2019.



TEMPORARY RULE-MAKING FINDINGS OF NEED

[Authority G.S. 150B-21.1]

OAH USE ONLY

VOLUME:

ISSUE:

1. Rule-Making Agency:

NC Board of Funeral Service

2. Rule citation & name:

21 NCAC CHAPTER 34C .0104 - CREMATORY LICENSE CERTIFICATE

3. Action:

☒ Adoption

☐ Amendment

☐ Repeal

4. Was this an Emergency Rule:

☐ Yes

☒ No

Effective date:

5. Provide dates for the following actions as applicable:

a. Proposed Temporary Rule submitted to OAH: March 13, 2019

b. Proposed Temporary Rule published on the OAH website: March 20, 2019

c. Public Hearing date: April 10, 2019

d. Comment Period: March 13, 2019 - April 12, 2019

e. Notice pursuant to G.S. 150B-21.1(a3)(2): March 13, 2019

f. Adoption by agency on: April 26, 2019

g. Proposed effective date of temporary rule [if other than effective date established by G.S. 150B- 21.1(b) and G.S. 150B-21.3]: May 24, 2019

h. Rule approved by RRC as a permanent rule [See G.S. 150B-21.3(b2)]:

6. Reason for Temporary Action. Attach a copy of any cited law, regulation, or document necessary for the review.

- ☐ A serious and unforeseen threat to the public health, safety or welfare.
- ☒ The effective date of a recent act of the General Assembly or of the U.S. Congress.
Cite: Session Law 2018-78, Sections 20 and 24
Effective date:
- ☐ A recent change in federal or state budgetary policy.
Effective date of change:
- ☐ A recent federal regulation.
Cite:
Effective date:
- ☐ A recent court order.
Cite order:
- ☐ State Medical Facilities Plan.
- ☐ Other:

Explain:

On June 25, 2018, the North Carolina General Assembly passed Session Law 2018-78 [House Bill 529], "An Act Amending the Laws Pertaining to the Practice of Funeral Service." Among other things, House Bill 529 legalized alkaline hydrolysis as a permissible method of the final disposition of human remains in North Carolina. The General Assembly also tasked the Board with promulgating rules to regulate the practice of hydrolysis in the State. The Sections of House bill 529 pertaining to alkaline hydrolysis were assigned an effective date of October 1, 2018.

7. Why is adherence to notice and hearing requirements contrary to the public interest and the immediate adoption of the rule is required?

Temporary rules as cited are necessary to the public interest in assuring a systematic and consistent procedure for the inspection and examination of alkaline hydrolysis facilities in determining whether such facilities are in compliance with the applicable provisions of Session Law 2018-78. Without temporary rules, compliance inspections would be constrained and would create barriers to the proper enforcement of the law and regulation of these facilities to assure protection of the public's health, safety and welfare.

8. Rule establishes or increases a fee? (See G.S. 12-3.1)

☐ Yes

Agency submitted request for consultation on:
Consultation not required. Cite authority:

☒ No

9. Rule-making Coordinator:

Stephen E. Davis

Phone:

919 733-9380

E-Mail:

sdavis@ncbfs.org

10. Signature of Agency Head*:



* If this function has been delegated (reassigned) pursuant to G.S. 143B-10(a), submit a copy of the delegation with this form.

Typed Name:

Title:

E-Mail:

Agency contact, if any:

Phone:

E-Mail:

RULES REVIEW COMMISSION USE ONLY

Action taken:

Submitted for RRC Review:

☐ Date returned to agency:

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REQUEST FOR TECHNICAL CHANGE

AGENCY: North Carolina Board of Funeral Service

RULE CITATION: 21 NCAC 34C .0104

DEADLINE FOR RECEIPT: Friday, May 10, 2019

PLEASE NOTE: This request may extend to several pages. Please be sure you have reached the end of the document.

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends that the following technical changes be made:

Is the responsibility on the Board to demonstrate or must the applicant demonstrate to the Board that it is compliance with your Rules? As written, this Rule is putting the onus on the Board.

On line 5, what are "the requirements for a crematory or hydrolysis license"? Do you mean the Rules of this Chapter?

Overall in this Rule, do you mean something like "The Board shall issue each crematory or hydrolysis licensee a certificate to operate a crematory or hydrolysis facility upon a finding that the licensee has complied with the Rules of this Chapter"?

Is the last sentence necessary? Isn't the Board responsible for completing this and providing the certificate, as opposed to the licensee? If it is necessary, please provide the contents of the form.

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Amber May
Commission Counsel
Date submitted to agency: Tuesday, April 30, 2019

21 NCAC 34C .0104 is adopted as temporary amendment as follows:

21 NCAC 34C .0104 CREMATORY OR HYDROLYSIS LICENSE CERTIFICATE

The Board shall issue each crematory or hydrolysis licensee a certificate ~~for to operate~~ a crematory or hydrolysis facility upon demonstrating that all requirements for a crematory or hydrolysis license have been satisfied. All crematory or hydrolysis license certificates shall be issued on certificate forms provided by the Board.

History Note: Authority G.S. 90-210.123; 90-210.134(a); 90-210.136(d),(h);

Eff. July 1, 1991;

Amended Eff. August 1, 2004;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 19, 2017.

Temporary Amendment Eff. May 24, 2019.



TEMPORARY RULE-MAKING FINDINGS OF NEED

[Authority G.S. 150B-21.1]

OAH USE ONLY

VOLUME:

ISSUE:

1. Rule-Making Agency:

NC Board of Funeral Service

2. Rule citation & name:

21 NCAC CHAPTER 34C .0105 - CREMATORY INSPECTION FORM

3. Action:

☒ Adoption

☐ Amendment

☐ Repeal

4. Was this an Emergency Rule:

☐ Yes

Effective date:

☒ No

5. Provide dates for the following actions as applicable:

a. Proposed Temporary Rule submitted to OAH: March 13, 2019

b. Proposed Temporary Rule published on the OAH website: March 20, 2019

c. Public Hearing date: April 10, 2019

d. Comment Period: March 13, 2019 - April 12, 2019

e. Notice pursuant to G.S. 150B-21.1(a3)(2): March 13, 2019

f. Adoption by agency on: April 26, 2019

g. Proposed effective date of temporary rule [if other than effective date established by G.S. 150B- 21.1(b) and G.S. 150B-21.3]: May 24, 2019

h. Rule approved by RRC as a permanent rule [See G.S. 150B-21.3(b2)]:

6. Reason for Temporary Action. Attach a copy of any cited law, regulation, or document necessary for the review.

- ☐ A serious and unforeseen threat to the public health, safety or welfare.
- ☒ The effective date of a recent act of the General Assembly or of the U.S. Congress.
Cite: Session Law 2018-78, Sections 20 and 24
Effective date:
- ☐ A recent change in federal or state budgetary policy.
Effective date of change:
- ☐ A recent federal regulation.
Cite:
Effective date:
- ☐ A recent court order.
Cite order:
- ☐ State Medical Facilities Plan.
- ☐ Other:

Explain:

On June 25, 2018, the North Carolina General Assembly passed Session Law 2018-78 [House Bill 529], "An Act Amending the Laws Pertaining to the Practice of Funeral Service." Among other things, House Bill 529 legalized alkaline hydrolysis as a permissible method of the final disposition of human remains in North Carolina. The General Assembly also tasked the Board with promulgating rules to regulate the practice of hydrolysis in the State. The Sections of House bill 529 pertaining to alkaline hydrolysis were assigned an effective date of October 1, 2018.

FILED
2019 APR 26 PM 2:13
OFFICE OF ADMIN HEARINGS

7. Why is adherence to notice and hearing requirements contrary to the public interest and the immediate adoption of the rule is required?

Temporary rules as cited are necessary to the public interest in assuring a systematic and consistent procedure for the inspection and examination of alkaline hydrolysis facilities in determining whether such facilities are in compliance with the applicable provisions of Session Law 2018-78. Without temporary rules, compliance inspections would be constrained and would create barriers to the proper enforcement of the law and regulation of these facilities to assure protection of the public's health, safety and welfare.

8. Rule establishes or increases a fee? (See G.S. 12-3.1)

☐ Yes

Agency submitted request for consultation on:
Consultation not required. Cite authority:

☒ No

9. Rule-making Coordinator:

Stephen E. Davis

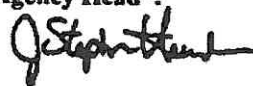
Phone:

919 733-9380

E-Mail:

sdavis@ncbfs.org

10. Signature of Agency Head*:



* If this function has been delegated (reassigned) pursuant to G.S. 143B-10(a), submit a copy of the delegation with this form.

Typed Name:

Title:

E-Mail:

Agency contact, if any:

Phone:

E-Mail:

RULES REVIEW COMMISSION USE ONLY

Action taken:

Submitted for RRC Review:

☐ Date returned to agency:

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REQUEST FOR TECHNICAL CHANGE

AGENCY: North Carolina Board of Funeral Service

RULE CITATION: 21 NCAC 34C .0105

DEADLINE FOR RECEIPT: Friday, May 10, 2019

PLEASE NOTE: This request may extend to several pages. Please be sure you have reached the end of the document.

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends that the following technical changes be made:

What is the overall intent of this Rule? As written, it appears to only provide that inspectors of the Board will complete forms for the Board. It does not appear to provide any directives to your regulated public. Is the intent here to say that licensees shall allow inspections? Overall, I'm not sure that this Rule does anything not already covered by 90-210.123.

Who is responsible for the inspections? The Board?

Are the contents of the form set forth elsewhere in Rule or Statute? If not, please provide the substantive requirements of the Form. I note that this language is already in 90-210.123.

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Amber May
Commission Counsel
Date submitted to agency: Tuesday, April 30, 2019

21 NCAC 34C .0105 is adopted as temporary amendment as follows:

21 NCAC 34C .0105 CREMATORY OR HYDROLYSIS INSPECTION FORM

The findings of all crematory or hydrolysis facility inspections shall be recorded and filed on report forms provided by the Board. ~~The crematory licensee shall furnish the name and address of the crematory, names of the owner and manager, acknowledgement of the findings of the inspector, the date for compliance, verification by the crematory licensee that any violations have been corrected, the date of the verification, and other information the Board deems necessary as required by law. Verifications by the crematory licensee that any violations have been corrected must be received by the Board no later than seven days after the date for compliance.~~

History Note: Authority G.S. 90-210.123; 90-210.134(a); 90-210.136(d),(h);

Eff. July 1, 1991;

Amended Eff. August 1, 2004;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 19, 2017.

Temporary Amendment Eff. May 24, 2019.



TEMPORARY RULE-MAKING FINDINGS OF NEED

[Authority G.S. 150B-21.1]

OAH USE ONLY

VOLUME:

ISSUE:

1. Rule-Making Agency: NC Board of Funeral Service	
2. Rule citation & name: 21 NCAC CHAPTER 34C .0106 - DEFINITIONS	
3. Action: <input checked="" type="checkbox"/> Adoption <input type="checkbox"/> Amendment <input type="checkbox"/> Repeal	
4. Was this an Emergency Rule: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No Effective date:	
5. Provide dates for the following actions as applicable: a. Proposed Temporary Rule submitted to OAH: March 13, 2019 b. Proposed Temporary Rule published on the OAH website: March 20, 2019 c. Public Hearing date: April 10, 2019 d. Comment Period: March 13, 2019 - April 12, 2019 e. Notice pursuant to G.S. 150B-21.1(a3)(2): March 13, 2019 f. Adoption by agency on: April 26, 2019 g. Proposed effective date of temporary rule [if other than effective date established by G.S. 150B- 21.1(b) and G.S. 150B-21.3]: May 24, 2019 h. Rule approved by RRC as a permanent rule [See G.S. 150B-21.3(b2)]:	
6. Reason for Temporary Action. Attach a copy of any cited law, regulation, or document necessary for the review. <input type="checkbox"/> A serious and unforeseen threat to the public health, safety or welfare. <input checked="" type="checkbox"/> The effective date of a recent act of the General Assembly or of the U.S. Congress. Cite: Session Law 2018-78, Sections 20 and 24 Effective date: <input type="checkbox"/> A recent change in federal or state budgetary policy. Effective date of change: <input type="checkbox"/> A recent federal regulation. Cite: Effective date: <input type="checkbox"/> A recent court order. Cite order: <input type="checkbox"/> State Medical Facilities Plan. <input type="checkbox"/> Other: Explain: On June 25, 2018, the North Carolina General Assembly passed Session Law 2018-78 [House Bill 529], "An Act Amending the Laws Pertaining to the Practice of Funeral Service." Among other things, House Bill 529 legalized alkaline hydrolysis as a permissible method of the final disposition of human remains in North Carolina. The General Assembly also tasked the Board with promulgating rules to regulate the practice of hydrolysis in the State. The Sections of House bill 529 pertaining to alkaline hydrolysis were assigned an effective date of October 1, 2018.	

FILED
2019 APR 26 PM 2:13
OFFICE OF ADMIN HEARINGS

7. Why is adherence to notice and hearing requirements contrary to the public interest and the immediate adoption of the rule is required?

Temporary rules as cited are necessary to the public interest in assuring a systematic and consistent procedure for the inspection and examination of alkaline hydrolysis facilities in determining whether such facilities are in compliance with the applicable provisions of Session Law 2018-78. Without temporary rules, compliance inspections would be constrained and would create barriers to the proper enforcement of the law and regulation of these facilities to assure protection of the public's health, safety and welfare.

8. Rule establishes or increases a fee? (See G.S. 12-3.1)

☐ Yes

Agency submitted request for consultation on:
Consultation not required. Cite authority:

☒ No

9. Rule-making Coordinator:

Stephen E. Davis

Phone:

919 733-9380

E-Mail:

sdavis@ncbfs.org

10. Signature of Agency Head*:



* If this function has been delegated (reassigned) pursuant to G.S. 143B-10(a), submit a copy of the delegation with this form.

Typed Name:

Title:

E-Mail:

Agency contact, if any:

Phone:

E-Mail:

RULES REVIEW COMMISSION USE ONLY

Action taken:

Submitted for RRC Review:

☐ Date returned to agency:

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REQUEST FOR TECHNICAL CHANGE

AGENCY: North Carolina Board of Funeral Service

RULE CITATION: 21 NCAC 34C .0106

DEADLINE FOR RECEIPT: Friday, May 10, 2019

PLEASE NOTE: *This request may extend to several pages. Please be sure you have reached the end of the document.*

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends that the following technical changes be made:

Please format this Rule in accordance with 26 NCAC 02C .0108. Specifically, please space this Rule with 1.5 line spacing.

Throughout this Rule consider changing "shall be deemed synonymous terms for" to "shall have the same meaning as"

On line 5, please change "and/or" to "and" or "or"

In (c), change "and which meets the same minimum" to "that" and remove the comma after hydrolysis.

In (e), what is meant by "Upon the written direction of the authorizing agent, hydrolyzed remains may take various forms"? How is this determination made by the authorizing agent and what could the "various forms" be?

(f) is not a definition – it appears to be a directive. Would this be more appropriate elsewhere in your Rules?

In (i), what is meant by "single congruous premise"? Please delete or define.

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Amber May
Commission Counsel
Date submitted to agency: Tuesday, April 30, 2019

21 NCAC 34C .0106 is adopted as temporary rule as follows:

21 NCAC 34C .0106 DEFINITIONS

The following definitions shall apply for purposes of complying with the provisions of Article 13F, Chapter 90, of the North Carolina General Statutes and/or any rule in Chapter 34, Title 21 of the North Carolina Administrative Code:

(a) “Hydrolysis operator” shall have the same meaning as the term “hydrolysis licensee” as defined by G.S. 90-210.136(a)(3).

(b) “Aquamation” and “resomation” shall be deemed synonymous terms for “alkaline hydrolysis” as defined by G.S. 90-210.136(a)(1).

(c) “Certificate of hydrolysis” means a certificate provided by the hydrolysis manager who performed the hydrolysis, and which meets the same minimum requirements for a “certificate of cremation” as set forth in G.S. 90-210.121(5).

(d) “Cremation center” shall be deemed a synonymous term for “crematory” or “crematorium” as defined by G.S. 90-210.121(11).

(e) “Final disposition” of human remains that have been hydrolyzed means the hydrolysis and the ultimate interment, entombment, inurnment, or scattering of the hydrolyzed remains or the return of the hydrolyzed remains by the hydrolysis licensee to the authorizing agent or such agent’s designee as provided by Article 13F, Chapter 90 of the North Carolina General Statutes. Upon the written direction of the authorizing agent, hydrolyzed remains may take various forms.

(f) “Hydrolysis container,” as defined by G.S. 90-210.136(a)(2), shall be made of biodegradable material and also shall comply with the provisions of G.S. 90-210.121(9)f.

(g) “Hydrolysis chamber,” “hydrolysis unit,” or “hydrolysis vessel” means the enclosed space within which the hydrolysis process occurs. Hydrolysis chambers regulated by Article 13F, Chapter 90, of the North Carolina General Statutes shall be used exclusively for the hydrolysis of human remains.

(h) “Hydrolyzed remains” means all human remains recovered after the completion of the hydrolysis process, including pulverization, that leaves only bone fragments reduced to unidentifiable dimensions.

(i) “Hydrolysis facility” or “hydrolysis center” means the building or buildings, or portion of a building or buildings, on a single congruous premise that houses the hydrolysis equipment, the holding and processing facilities, the business offices, and any other components of the hydrolysis business.

(j) “Hydrolysis interment container” means a rigid outer container composed of concrete, steel, fiberglass, or some similar material in which an urn is placed prior to being interred in the ground and which is designed to withstand prolonged exposure to the elements and to support the earth above the urn.

(k) “Hydrolysis manager” means the person who is responsible for the management and operation of the hydrolysis facility. A hydrolysis manager shall meet the same minimum requirements for a “crematory manager” as set forth in G.S. 90-210.121(13).

(l) “Hydrolysis society” means any person, firm, corporation, or organization that is affiliated with a hydrolysis licensee licensed under Article 13F, Chapter 90, of the North Carolina General Statutes and provides hydrolysis information to consumers.

(m) “Hydrolysis technician” means any employee of a hydrolysis licensee who has a certificate confirming that the hydrolysis technician has attended a training course approved by the Board.

Authority G.S. 90-210.136;

Temporary Adoption Eff. May 24, 2019.



**TEMPORARY RULE-MAKING
FINDINGS OF NEED**
[Authority G.S. 150B-21.1]

OAH USE ONLY

VOLUME:

ISSUE:

1. Rule-Making Agency:

NC Board of Funeral Service

2. Rule citation & name:

21 NCAC CHAPTER 34C .0201 - HOLDING FACILITY; CREMATION UNIT; PROCESSOR

3. Action:

☒ Adoption

☐ Amendment

☐ Repeal

4. Was this an Emergency Rule:

☐ Yes

Effective date:

☒ No

5. Provide dates for the following actions as applicable:

a. Proposed Temporary Rule submitted to OAH: March 13, 2019

b. Proposed Temporary Rule published on the OAH website: March 20, 2019

c. Public Hearing date: April 10, 2019

d. Comment Period: March 13, 2019 - April 12, 2019

e. Notice pursuant to G.S. 150B-21.1(a3)(2): March 13, 2019

f. Adoption by agency on: April 26, 2019

g. Proposed effective date of temporary rule [if other than effective date established by G.S. 150B- 21.1(b) and G.S. 150B-21.3]: May 24, 2019

h. Rule approved by RRC as a permanent rule [See G.S. 150B-21.3(b2)]:

6. Reason for Temporary Action. Attach a copy of any cited law, regulation, or document necessary for the review.

- ☐ A serious and unforeseen threat to the public health, safety or welfare.
- ☒ The effective date of a recent act of the General Assembly or of the U.S. Congress.
Cite: Session Law 2018-78, Sections 20 and 24
Effective date:
- ☐ A recent change in federal or state budgetary policy.
Effective date of change:
- ☐ A recent federal regulation.
Cite:
Effective date:
- ☐ A recent court order.
Cite order:
- ☐ State Medical Facilities Plan.
- ☐ Other:

Explain:

On June 25, 2018, the North Carolina General Assembly passed Session Law 2018-78 [House Bill 529], "An Act Amending the Laws Pertaining to the Practice of Funeral Service." Among other things, House Bill 529 legalized alkaline hydrolysis as a permissible method of the final disposition of human remains in North Carolina. The General Assembly also tasked the Board with promulgating rules to regulate the practice of hydrolysis in the State. The Sections of House bill 529 pertaining to alkaline hydrolysis were assigned an effective date of October 1, 2018.

7. Why is adherence to notice and hearing requirements contrary to the public interest and the immediate adoption of the rule is required?

Temporary rules as cited are necessary to the public interest in assuring a systematic and consistent procedure for the inspection and examination of alkaline hydrolysis facilities in determining whether such facilities are in compliance with the applicable provisions of Session Law 2018-78. Without temporary rules, compliance inspections would be constrained and would create barriers to the proper enforcement of the law and regulation of these facilities to assure protection of the public's health, safety and welfare.

8. Rule establishes or increases a fee? (See G.S. 12-3.1)

☐ Yes

Agency submitted request for consultation on:

Consultation not required. Cite authority:

☒ No

9. Rule-making Coordinator:

Stephen E. Davis

Phone:

919 733-9380

E-Mail:

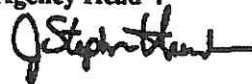
sdavis@ncbfs.org

Agency contact, if any:

Phone:

E-Mail:

10. Signature of Agency Head*:



* If this function has been delegated (reassigned) pursuant to G.S. 143B-10(a), submit a copy of the delegation with this form.

Typed Name:

Title:

E-Mail:

RULES REVIEW COMMISSION USE ONLY

Action taken:

Submitted for RRC Review:

☐ Date returned to agency:

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REQUEST FOR TECHNICAL CHANGE

AGENCY: North Carolina Board of Funeral Service

RULE CITATION: 21 NCAC 34C .0201

DEADLINE FOR RECEIPT: Friday, May 10, 2019

PLEASE NOTE: *This request may extend to several pages. Please be sure you have reached the end of the document.*

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends that the following technical changes be made:

In (a) and (b), are these intended to apply to the licensees or the facilities? Please review and clarify if necessary.

In (a)(1) and (b)(1), please change "which" to "that" in "which are" and in (b)(2) in "which meets"

Please begin (a)(1) through (3), (a)(1)(A) through (E), (a)(3)(A) through (C); and (b)(1) through (3), (b)(2)(A) through (C) with lower case letters.

Please end (a)(1) through (a)(3)(B) and (b)(1) through (b)(2)(B) with semi-colons.

In (a)(2), (a)(2)(A), (a)(3), (b)(2), and (b)(2)(A), delete or define "specifically"

In (a)(2)(B), delete or define "qualified"

Add an "and" at the end of (a)(2)(D), (a)(2)(E); and (b)(2)(A) and (b)(2)(B).

In (a)(2)(E) and (b)(2)(B), either change the language to "approval by a testing agency, such as Underwriters Laboratory" or say how the Board will determine whether a testing agency is "comparable"

In (a)(3), change "and/or" to either "and" or "or", whichever is intended.

In your History Note, 90-210.41, 90-210.45, and 90-210.50 have been recodified. Please provide the correct statutory reference.

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Amber May
Commission Counsel
Date submitted to agency: Tuesday, April 30, 2019

21 NCAC 34C .0201 is adopted as temporary amendment as follows:

SECTION .0200 - EQUIPMENT AND PROCESSING

21 NCAC 34C .0201 HOLDING FACILITY; CREMATION OR HYDROLYSIS UNIT; PROCESSORS

(a) Every crematory licensee shall have the following:

- (1) A holding facility of suitable size to accommodate all human remains which are retained and awaiting cremation.
- (2) A commercially-manufactured cremation unit, within the crematory facility, made specifically for the cremation of human remains, meeting the following minimum standards:
 - (~~a~~A) An ash collection pan that is designed specifically for the purpose of removing cremated remains from the cremation unit and to minimize the commingling of cremated remains of one human remains with another.
 - (~~b~~B) A hearth or floor that has been maintained in accordance with recommended maintenance requirements specified by the machine's manufacturer or other qualified maintenance service representative. without depressions so as to minimize commingling of cremated remains of one human remains with another.
 - (~~c~~C) A door safety switch to stop the burner operation when the front charging door is opened.
 - (~~d~~D) A pollution monitoring system to monitor and detect smoke when the density exceeds applicable federal and state standards, whereupon the system will automatically stop the burner operation on a time setting of not less than three minutes.
 - (~~e~~E) Approval by Underwriters Laboratory or a comparable testing agency.
- (3) A commercially-manufactured processor, within the crematory facility, made specifically for the pulverization of cremated and/or hydrolyzed remains, meeting the following minimum standards:
 - (~~a~~A) Capable of consistently processing cremated and/or hydrolyzed remains to unidentifiable dimensions.
 - (~~b~~B) A dust-resistant processing chamber.
 - (~~c~~C) An exterior surface made of easily cleaned, non-corrosive material.

(b) Every hydrolysis licensee shall have the following:

- (1) A holding facility of suitable size to accommodate all human remains which are retained and awaiting hydrolysis.
- (2) A commercially-manufactured hydrolysis unit, within the hydrolysis facility, made specifically for hydrolyzing human remains, and which meets the following minimum standards:
 - (A) A collection pan, tray, or other device that is designed specifically for the purpose of removing hydrolyzed remains from the hydrolysis unit and to minimize the commingling of hydrolyzed remains of one human remains with another.
 - (B) Approval by Underwriters Laboratory or a comparable testing agency.

1 (3) A commercially-manufactured processor, within the hydrolysis facility, that shall meet the same
2 minimum standards set forth in Subsection (a)(3) of this Rule.

3
4 *History Note:* *Authority G.S. 90-210.41(9),(12); 90-210.45(d),(e); 90-210.50(a); 90-210.136(d),(h);*
5 *Eff. July 1, 1991;*
6 *Recodified from Rule .0202 Eff. July 7, 1992;*
7 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 19,*
8 *2017.*
9 *Temporary Amendment Eff. May 24, 2019.*



TEMPORARY RULE-MAKING FINDINGS OF NEED

[Authority G.S. 150B-21.1]

OAH USE ONLY

VOLUME:

ISSUE:

1. Rule-Making Agency:

NC Board of Funeral Service

2. Rule citation & name:

21 NCAC CHAPTER 34C .0202 - REFRIGERATION

3. Action:

☒ Adoption

☐ Amendment

☐ Repeal

4. Was this an Emergency Rule: ☐ Yes
☒ No

Effective date:

5. Provide dates for the following actions as applicable:

a. Proposed Temporary Rule submitted to OAH: March 13, 2019

b. Proposed Temporary Rule published on the OAH website: March 20, 2019

c. Public Hearing date: April 10, 2019

d. Comment Period: March 13, 2019 - April 12, 2019

e. Notice pursuant to G.S. 150B-21.1(a3)(2): March 13, 2019

f. Adoption by agency on: April 26, 2019

g. Proposed effective date of temporary rule [if other than effective date established by G.S. 150B- 21.1(b) and G.S. 150B-21.3]: May 24, 2019

h. Rule approved by RRC as a permanent rule [See G.S. 150B-21.3(b2)]:

6. Reason for Temporary Action. Attach a copy of any cited law, regulation, or document necessary for the review.

- ☐ A serious and unforeseen threat to the public health, safety or welfare.
- ☒ The effective date of a recent act of the General Assembly or of the U.S. Congress.
Cite: Session Law 2018-78, Sections 20 and 24
Effective date:
- ☐ A recent change in federal or state budgetary policy.
Effective date of change:
- ☐ A recent federal regulation.
Cite:
Effective date:
- ☐ A recent court order.
Cite order:
- ☐ State Medical Facilities Plan.
- ☐ Other:

Explain:

On June 25, 2018, the North Carolina General Assembly passed Session Law 2018-78 [House Bill 529], "An Act Amending the Laws Pertaining to the Practice of Funeral Service." Among other things, House Bill 529 legalized alkaline hydrolysis as a permissible method of the final disposition of human remains in North Carolina. The General Assembly also tasked the Board with promulgating rules to regulate the practice of hydrolysis in the State. The Sections of House bill 529 pertaining to alkaline hydrolysis were assigned an effective date of October 1, 2018.

FILED
2019 APR 26 PM 2:14
OFFICE OF ADMIN HEARINGS

7. Why is adherence to notice and hearing requirements contrary to the public interest and the immediate adoption of the rule is required?

Temporary rules as cited are necessary to the public interest in assuring a systematic and consistent procedure for the inspection and examination of alkaline hydrolysis facilities in determining whether such facilities are in compliance with the applicable provisions of Session Law 2018-78. Without temporary rules, compliance inspections would be constrained and would create barriers to the proper enforcement of the law and regulation of these facilities to assure protection of the public's health, safety and welfare.

8. Rule establishes or increases a fee? (See G.S. 12-3.1)

☐ Yes

Agency submitted request for consultation on:
Consultation not required. Cite authority:

☒ No

9. Rule-making Coordinator:

Stephen E. Davis

Phone:

919 733-9380

E-Mail:

sdavis@ncbfs.org

Agency contact, if any:

Phone:

E-Mail:

10. Signature of Agency Head*:



* If this function has been delegated (reassigned) pursuant to G.S. 143B-10(a), submit a copy of the delegation with this form.

Typed Name:

Title:

E-Mail:

RULES REVIEW COMMISSION USE ONLY

Action taken:

Submitted for RRC Review:

☐ Date returned to agency:

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REQUEST FOR TECHNICAL CHANGE

AGENCY: North Carolina Board of Funeral Service

RULE CITATION: 21 NCAC 34C .0202

DEADLINE FOR RECEIPT: Friday, May 10, 2019

PLEASE NOTE: *This request may extend to several pages. Please be sure you have reached the end of the document.*

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends that the following technical changes be made:

Please break this Rule up into Paragraphs. I would suggest lines 5-13 as (a), lines 4-5 ("Embalmed... refrigeration unit") as (b), and lines 14-15 as (c).

Please remove the commas before and after "capable of storing at least three adult human bodies" on line 6.

Also, what is meant by "three adult human bodies"? Human bodies vary greatly.

Please begin (1) through (3) with lower case letters, and end (1) and (2) with semi-colons.

In (1) and (2) delete or define "easily cleaned"

On line 15, what is meant by "single congruous site"? I note that elsewhere, you've used "single congruous premise"

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Amber May
Commission Counsel
Date submitted to agency: Tuesday, April 30, 2019

21 NCAC 34C .0202 is adopted as temporary amendment as follows:

21 NCAC 34C .0202 REFRIGERATION

Unembalmed human remains retained in the custody of a crematory or hydrolysis licensee for more than 24 hours prior to cremation or hydrolysis shall be kept in a refrigeration unit. Crematory and hydrolysis licensees shall have a refrigeration unit, capable of storing at least three adult human bodies, in the holding facility. Each refrigeration unit required by this Rule shall meet the following minimum standards:

- (1) Capable of maintaining an interior temperature of 40 degrees Fahrenheit while loaded with the maximum number of bodies for which it is designed.
- (2) Sealed concrete, stainless steel, galvanized, aluminum or other easily cleaned flooring in walk-in units.
- (3) Stainless steel, aluminum or other non-corrosive and easily cleaned materials for the remainder of the interior of all units.

The provisions of this Rule shall not be construed to require a crematory facility and hydrolysis facility that share common ownership and are located on a single congruous site to maintain more than one refrigeration unit.

History Note: Authority G.S. 90-210.121(9),(12); 90-210.134(a); 90-210.136(d),(h);

Eff. July 1, 1991;

Recodified from Rule .0201 Eff. July 7, 1992;

Amended Eff. July 1, 2004;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 19, 2017.

Temporary Amendment Eff. May 24, 2019.



TEMPORARY RULE-MAKING FINDINGS OF NEED

[Authority G.S. 150B-21.1]

OAH USE ONLY

VOLUME:

ISSUE:

1. Rule-Making Agency: NC Board of Funeral Service	
2. Rule citation & name: 21 NCAC CHAPTER 34C .0205 - LABELS	
3. Action: <input checked="" type="checkbox"/> Adoption <input type="checkbox"/> Amendment <input type="checkbox"/> Repeal	
4. Was this an Emergency Rule: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No Effective date:	
5. Provide dates for the following actions as applicable: a. Proposed Temporary Rule submitted to OAH: March 13, 2019 b. Proposed Temporary Rule published on the OAH website: March 20, 2019 c. Public Hearing date: April 10, 2019 d. Comment Period: March 13, 2019 - April 12, 2019 e. Notice pursuant to G.S. 150B-21.1(a3)(2): March 13, 2019 f. Adoption by agency on: April 26, 2019 g. Proposed effective date of temporary rule [if other than effective date established by G.S. 150B- 21.1(b) and G.S. 150B-21.3]: May 24, 2019 h. Rule approved by RRC as a permanent rule [See G.S. 150B-21.3(b2)]:	
6. Reason for Temporary Action. Attach a copy of any cited law, regulation, or document necessary for the review. <input type="checkbox"/> A serious and unforeseen threat to the public health, safety or welfare. <input checked="" type="checkbox"/> The effective date of a recent act of the General Assembly or of the U.S. Congress. Cite: Session Law 2018-78, Sections 20 and 24 Effective date: <input type="checkbox"/> A recent change in federal or state budgetary policy. Effective date of change: <input type="checkbox"/> A recent federal regulation. Cite: Effective date: <input type="checkbox"/> A recent court order. Cite order: <input type="checkbox"/> State Medical Facilities Plan. <input type="checkbox"/> Other:	
Explain: On June 25, 2018, the North Carolina General Assembly passed Session Law 2018-78 [House Bill 529], "An Act Amending the Laws Pertaining to the Practice of Funeral Service." Among other things, House Bill 529 legalized alkaline hydrolysis as a permissible method of the final disposition of human remains in North Carolina. The General Assembly also tasked the Board with promulgating rules to regulate the practice of hydrolysis in the State. The Sections of House bill 529 pertaining to alkaline hydrolysis were assigned an effective date of October 1, 2018.	

FILED
2019 APR 26 PM 2:14
OFFICE OF ADMIN HEARINGS

7. Why is adherence to notice and hearing requirements contrary to the public interest and the immediate adoption of the rule is required?

Temporary rules as cited are necessary to the public interest in assuring a systematic and consistent procedure for the inspection and examination of alkaline hydrolysis facilities in determining whether such facilities are in compliance with the applicable provisions of Session Law 2018-78. Without temporary rules, compliance inspections would be constrained and would create barriers to the proper enforcement of the law and regulation of these facilities to assure protection of the public's health, safety and welfare.

8. Rule establishes or increases a fee? (See G.S. 12-3.1)

☐ Yes

Agency submitted request for consultation on:

Consultation not required. Cite authority:

☒ No

9. Rule-making Coordinator:

Stephen E. Davis

Phone:

919 733-9380

E-Mail:

sdavis@ncbfs.org

Agency contact, if any:

Phone:

E-Mail:

10. Signature of Agency Head*:



* If this function has been delegated (reassigned) pursuant to G.S. 143B-10(a), submit a copy of the delegation with this form.

Typed Name:

Title:

E-Mail:

RULE REVIEW COMMISSION USE ONLY

Action taken:

Submitted for RRC Review:

☐ Date returned to agency:

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REQUEST FOR TECHNICAL CHANGE

AGENCY: North Carolina Board of Funeral Service

RULE CITATION: 21 NCAC 34C .0205

DEADLINE FOR RECEIPT: Friday, May 10, 2019

PLEASE NOTE: This request may extend to several pages. Please be sure you have reached the end of the document.

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends that the following technical changes be made:

Please add a comma after "hydrolysis" on line 7.

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Amber May
Commission Counsel
Date submitted to agency: Tuesday, April 30, 2019

21 NCAC 34C .0205 is adopted as temporary amendment as follows:

21 NCAC 34C .0205 LABELS

In addition to the requirements of G.S. 90-210.29A, the crematory or hydrolysis licensee shall attach a typed or printed label to the ~~temporary~~ initial container, urn or other permanent container at the time the cremated or hydrolyzed remains are placed therein. If an inside and outside container are used, then both shall be labelled. The label shall contain the name of the decedent, the date of cremation or hydrolysis and the name of the crematory or hydrolysis licensee.

History Note: Authority G.S. 90-210.126; 90-210.134(a); 90-210.136(d),(h);

Eff. July 1, 1991;

Amended Eff. July 1, 2004;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 19, 2017.

Temporary Amendment Eff. May 24, 2019.



TEMPORARY RULE-MAKING FINDINGS OF NEED

[Authority G.S. 150B-21.1]

OAH USE ONLY

VOLUME:

ISSUE:

1. Rule-Making Agency:

NC Board of Funeral Service

2. Rule citation & name:

21 NCAC CHAPTER 34C .0206 - CLEANLINESS

3. Action:

☒ Adoption

☐ Amendment

☐ Repeal

4. Was this an Emergency Rule:

☐ Yes

☒ No

Effective date:

5. Provide dates for the following actions as applicable:

a. Proposed Temporary Rule submitted to OAH: March 13, 2019

b. Proposed Temporary Rule published on the OAH website: March 20, 2019

c. Public Hearing date: April 10, 2019

d. Comment Period: March 13, 2019 - April 12, 2019

e. Notice pursuant to G.S. 150B-21.1(a3)(2): March 13, 2019

f. Adoption by agency on: April 26, 2019

g. Proposed effective date of temporary rule [if other than effective date established by G.S. 150B-21.1(b) and G.S. 150B-21.3]: May 24, 2019

h. Rule approved by RRC as a permanent rule [See G.S. 150B-21.3(b2)]:

6. Reason for Temporary Action. Attach a copy of any cited law, regulation, or document necessary for the review.

- ☐ A serious and unforeseen threat to the public health, safety or welfare.
- ☒ The effective date of a recent act of the General Assembly or of the U.S. Congress.
Cite: Session Law 2018-78, Sections 20 and 24
Effective date:
- ☐ A recent change in federal or state budgetary policy.
Effective date of change:
- ☐ A recent federal regulation.
Cite:
Effective date:
- ☐ A recent court order.
Cite order:
- ☐ State Medical Facilities Plan.
- ☐ Other:

Explain:

On June 25, 2018, the North Carolina General Assembly passed Session Law 2018-78 [House Bill 529], "An Act Amending the Laws Pertaining to the Practice of Funeral Service." Among other things, House Bill 529 legalized alkaline hydrolysis as a permissible method of the final disposition of human remains in North Carolina. The General Assembly also tasked the Board with promulgating rules to regulate the practice of hydrolysis in the State. The Sections of House bill 529 pertaining to alkaline hydrolysis were assigned an effective date of October 1, 2018.

OFFICE OF ADMIN HEARINGS

2019 APR 26 PM 2:15

FILED

7. Why is adherence to notice and hearing requirements contrary to the public interest and the immediate adoption of the rule is required?

Temporary rules as cited are necessary to the public interest in assuring a systematic and consistent procedure for the inspection and examination of alkaline hydrolysis facilities in determining whether such facilities are in compliance with the applicable provisions of Session Law 2018-78. Without temporary rules, compliance inspections would be constrained and would create barriers to the proper enforcement of the law and regulation of these facilities to assure protection of the public's health, safety and welfare.

8. Rule establishes or increases a fee? (See G.S. 12-3.1)

☐ Yes

Agency submitted request for consultation on:
Consultation not required. Cite authority:

☒ No

9. Rule-making Coordinator:

Stephen E. Davis

Phone:

919 733-9380

E-Mail:

sdavis@ncbfs.org

10. Signature of Agency Head*:



* If this function has been delegated (reassigned) pursuant to G.S. 143B-10(a), submit a copy of the delegation with this form.

Typed Name:

Title:

E-Mail:

Agency contact, if any:

Phone:

E-Mail:

RULES REVIEW COMMISSION USE ONLY

Action taken:

Submitted for RRC Review:

☐ Date returned to agency:

Print

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REQUEST FOR TECHNICAL CHANGE

AGENCY: North Carolina Board of Funeral Service

RULE CITATION: 21 NCAC 34C .0206

DEADLINE FOR RECEIPT: Friday, May 10, 2019

PLEASE NOTE: *This request may extend to several pages. Please be sure you have reached the end of the document.*

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends that the following technical changes be made:

On lines 6 and 7, what is meant by "good repair" and "sanitary condition"? Unless defined elsewhere, please define.

In your History Note, 90-210.41 and 90-210.50 has been recodified. Please update with the correct statutory citation.

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Amber May
Commission Counsel
Date submitted to agency: Tuesday, April 30, 2019

21 NCAC 34C .0206 is adopted as temporary amendment as follows:

21 NCAC 34C .0206 CLEANLINESS

All areas of the crematory ~~and holding~~ or hydrolysis licensee facilities devoted to the reception, storage and cremation or hydrolysis of human remains and to the pulverization and delivery of cremated or hydrolyzed remains, and all equipment located therein, shall be kept in good repair and in a sanitary condition and subject to inspection by the Board or its agents at all times.

History Note: Authority G.S. 90-210.41(9),(12); 90-210.50(a); 90-210.136(d),(h);

Eff. July 1, 1991;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 19, 2017.

Temporary Amendment Eff. May 24, 2019.



TEMPORARY RULE-MAKING FINDINGS OF NEED

[Authority G.S. 150B-21.1]

OAH USE ONLY

VOLUME:

ISSUE:

1. Rule-Making Agency:

NC Board of Funeral Service

2. Rule citation & name:

21 NCAC CHAPTER 34C .0207 - REMOVAL OF PACEMAKERS OR OTHER IMPLANTED DEVICES; AUTOPSIED REMAINS; COMMUNICABLE DIS

3. Action:

☒ Adoption

☐ Amendment

☐ Repeal

4. Was this an Emergency Rule:

☐ Yes

Effective date:

☒ No

5. Provide dates for the following actions as applicable:

a. Proposed Temporary Rule submitted to OAH: March 13, 2019

b. Proposed Temporary Rule published on the OAH website: March 20, 2019

c. Public Hearing date: April 10, 2019

d. Comment Period: March 13, 2019 - April 12, 2019

e. Notice pursuant to G.S. 150B-21.1(a3)(2): March 13, 2019

f. Adoption by agency on: April 26, 2019

g. Proposed effective date of temporary rule [if other than effective date established by G.S. 150B- 21.1(b) and G.S. 150B-21.3]: May 24, 2019

h. Rule approved by RRC as a permanent rule [See G.S. 150B-21.3(b2)]:

6. Reason for Temporary Action. Attach a copy of any cited law, regulation, or document necessary for the review.

- ☐ A serious and unforeseen threat to the public health, safety or welfare.
- ☒ The effective date of a recent act of the General Assembly or of the U.S. Congress.
Cite: Session Law 2018-78, Sections 20 and 24
Effective date:
- ☐ A recent change in federal or state budgetary policy.
Effective date of change:
- ☐ A recent federal regulation.
Cite:
Effective date:
- ☐ A recent court order.
Cite order:
- ☐ State Medical Facilities Plan.
- ☐ Other:

Explain:

On June 25, 2018, the North Carolina General Assembly passed Session Law 2018-78 [House Bill 529], "An Act Amending the Laws Pertaining to the Practice of Funeral Service." Among other things, House Bill 529 legalized alkaline hydrolysis as a permissible method of the final disposition of human remains in North Carolina. The General Assembly also tasked the Board with promulgating rules to regulate the practice of hydrolysis in the State. The Sections of House bill 529 pertaining to alkaline hydrolysis were assigned an effective date of October 1, 2018.

FILED
2019 APR 26 PM 2:15
OFFICE OF ADMIN HEARINGS

7. Why is adherence to notice and hearing requirements contrary to the public interest and the immediate adoption of the rule is required?

Temporary rules as cited are necessary to the public interest in assuring a systematic and consistent procedure for the inspection and examination of alkaline hydrolysis facilities in determining whether such facilities are in compliance with the applicable provisions of Session Law 2018-78. Without temporary rules, compliance inspections would be constrained and would create barriers to the proper enforcement of the law and regulation of these facilities to assure protection of the public's health, safety and welfare.

8. Rule establishes or increases a fee? (See G.S. 12-3.1)

☐ Yes

Agency submitted request for consultation on:
Consultation not required. Cite authority:

☒ No

9. Rule-making Coordinator:

Stephen E. Davis

Phone:

919 733-9380

E-Mail:

sdavis@ncbfs.org

10. Signature of Agency Head*:



* If this function has been delegated (reassigned) pursuant to G.S. 143B-10(a), submit a copy of the delegation with this form.

Typed Name:

Title:

E-Mail:

Agency contact, if any:

Phone:

E-Mail:

RULES REVIEW COMMISSION USE ONLY

Action taken:

Submitted for RRC Review:

☐ Date returned to agency:

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REQUEST FOR TECHNICAL CHANGE

AGENCY: North Carolina Board of Funeral Service

RULE CITATION: 21 NCAC 34C .0207

DEADLINE FOR RECEIPT: Friday, May 10, 2019

PLEASE NOTE: This request may extend to several pages. Please be sure you have reached the end of the document.

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends that the following technical changes be made:

Please format this Rule in accordance with 26 NCAC 02C .0108. Specifically, please space this Rule with 1.5 line spacing.

In (a) and (b), change "it shall not be permissible" to "No person other than an individual who is licensed by the Board as either an embalmer or funeral service licensee shall..." You may also want to consider providing (a) and (b) in list form since they address the same people.

In (a), what is meant by "deemed hazardous"? By whom and how?

In (a), what is meant by "any statutes or rules enforced by any proper regulating agency"?

In (c), change "it shall not be permissible" to "A hydrolysis licensee shall not remove..."

In (c), delete or define "reasonably"

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Amber May
Commission Counsel
Date submitted to agency: Tuesday, April 30, 2019

21 NCAC 34C .0207 is adopted as temporary rule as follows:

**21 NCAC 34C .0207 REMOVAL OF PACEMAKERS OR OTHER IMPLANTED DEVICES;
AUTOPSIED REMAINS; COMMUNICABLE DISEASES**

(a) It shall not be permissible for any person other than an individual who is licensed by the Board as either an embalmer or funeral service licensee to remove a pacemaker, defibrillator, or any other implanted device or material that must be removed from human remains prior to cremation or hydrolysis as set forth in G.S. 90-210.129(d); provided, however, that any such device or material deemed hazardous shall be removed in accordance with the guidelines set by the manufacturer thereof and any statutes or rules enforced by any proper regulating agency.

(b) It shall not be permissible for any person other than an individual who is licensed by the Board as either an embalmer or funeral service licensee to handle, treat, or otherwise prepare for cremation or hydrolysis the viscera removed from human remains as the result of an autopsy.

(c) It shall not be permissible for a hydrolysis licensee to remove from the outer case required by G.S. 130A-395(b) and 10 NCAC 41A .0212, or to hydrolyze, any decedent who is known or reasonably suspected to have been infected with the plague, smallpox, or severe acute respiratory syndrome (SARS), without first obtaining the written consent of the local health director.

Authority G.S. 90-210.125; 90-210.129; 90-210.134; 90-210.136(d),(h);
Temporary Adoption Eff. May 24, 2019.



TEMPORARY RULE-MAKING FINDINGS OF NEED

[Authority G.S. 150B-21.1]

OAH USE ONLY

VOLUME:

ISSUE:

1. Rule-Making Agency: NC Board of Funeral Service	
2. Rule citation & name: 21 NCAC CHAPTER 34C .0303 - RECORDS OF CREMATION AND DELIVERY	
3. Action: <input checked="" type="checkbox"/> Adoption <input type="checkbox"/> Amendment <input type="checkbox"/> Repeal	
4. Was this an Emergency Rule: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No Effective date:	
5. Provide dates for the following actions as applicable: a. Proposed Temporary Rule submitted to OAH: March 13, 2019 b. Proposed Temporary Rule published on the OAH website: March 20, 2019 c. Public Hearing date: April 10, 2019 d. Comment Period: March 13, 2019 - April 12, 2019 e. Notice pursuant to G.S. 150B-21.1(a3)(2): March 13, 2019 f. Adoption by agency on: April 26, 2019 g. Proposed effective date of temporary rule [if other than effective date established by G.S. 150B- 21.1(b) and G.S. 150B-21.3]: May 24, 2019 h. Rule approved by RRC as a permanent rule [See G.S. 150B-21.3(b2)]:	
6. Reason for Temporary Action. Attach a copy of any cited law, regulation, or document necessary for the review. <input type="checkbox"/> A serious and unforeseen threat to the public health, safety or welfare. <input checked="" type="checkbox"/> The effective date of a recent act of the General Assembly or of the U.S. Congress. Cite: Session Law 2018-78, Sections 20 and 24 Effective date: <input type="checkbox"/> A recent change in federal or state budgetary policy. Effective date of change: <input type="checkbox"/> A recent federal regulation. Cite: Effective date: <input type="checkbox"/> A recent court order. Cite order: <input type="checkbox"/> State Medical Facilities Plan. <input type="checkbox"/> Other:	
Explain: On June 25, 2018, the North Carolina General Assembly passed Session Law 2018-78 [House Bill 529], "An Act Amending the Laws Pertaining to the Practice of Funeral Service." Among other things, House Bill 529 legalized alkaline hydrolysis as a permissible method of the final disposition of human remains in North Carolina. The General Assembly also tasked the Board with promulgating rules to regulate the practice of hydrolysis in the State. The Sections of House bill 529 pertaining to alkaline hydrolysis were assigned an effective date of October 1, 2018.	

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2019 APR 26 PM 2:15
OFFICE OF ADMIN HEARINGS

7. Why is adherence to notice and hearing requirements contrary to the public interest and the immediate adoption of the rule is required?

Temporary rules as cited are necessary to the public interest in assuring a systematic and consistent procedure for the inspection and examination of alkaline hydrolysis facilities in determining whether such facilities are in compliance with the applicable provisions of Session Law 2018-78. Without temporary rules, compliance inspections would be constrained and would create barriers to the proper enforcement of the law and regulation of these facilities to assure protection of the public's health, safety and welfare.

8. Rule establishes or increases a fee? (See G.S. 12-3.1)

☐ Yes

Agency submitted request for consultation on:
Consultation not required. Cite authority:

☒ No

9. Rule-making Coordinator:

Stephen E. Davis

Phone:

919 733-9380

E-Mail:

sdavis@ncbfs.org

Agency contact, if any:

Phone:

E-Mail:

10. Signature of Agency Head*:



* If this function has been delegated (reassigned) pursuant to G.S. 143B-10(a), submit a copy of the delegation with this form.

Typed Name:

Title:

E-Mail:

RULES REVIEW COMMISSION USE ONLY

Action taken:

Submitted for RRC Review:

☐ Date returned to agency:

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REQUEST FOR TECHNICAL CHANGE

AGENCY: North Carolina Board of Funeral Service

RULE CITATION: 21 NCAC 34C .0303

DEADLINE FOR RECEIPT: Friday, May 10, 2019

PLEASE NOTE: This request may extend to several pages. Please be sure you have reached the end of the document.

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends that the following technical changes be made:

In (a), are the contents of the forms set in lines 10? IF so, please consider providing some sort of introduction to the language and provide in list form. A suggestion is as follows:

- (a) All crematory or hydrolysis licensees shall complete receipts for human remains on Board forms. The receipts shall include the following information: The crematory or hydrolysis licensee shall furnish
1. the name of the crematory or hydrolysis licensee; licensee, full
 2. name of the decedent; decedent,
 3. date and time of death; death,
 4. date and time the human remains ~~was~~were delivered to the crematory or hydrolysis licensee; licensee,
 5. any affiliation by the person delivering remains with a funeral establishment or an individual licensed to practice funeral service under the provisions of G.S. 90-210.25(a2)(2), or any [such] affiliation with the crematory or hydrolysis licensee; and [licensee,]
 6. the name and signature of the employee or agent of the crematory or hydrolysis licensee who received the human remains. remains, and any other information the Board deems necessary as required by law.

Every crematory or hydrolysis licensee shall furnish this receipt to the person who delivers the human remains to the crematory or hydrolysis licensee.

Please note the list suggestion for (b), (c), and (d) as well.

In (a), (b), (c), and (d), delete or define "full" in "full name"

In (a), (b), (c), and (f), I don't understand the reference to 90-210.25(a2)(2). Do you need this reference? If so, do you mean 90-210.25(a2)?

In (a), (b), (c), and (d), what is meant by "any other information the Board deems necessary as required by law"? Please either provide this information or delete this language.

In (b) and (c), what is meant by "... evidence by signature, postal receipt or its equivalent"? Who are they providing this to? What is an equivalent of a postal receipt? Do you mean something like "the licensee shall provide..."

Amber May
Commission Counsel
Date submitted to agency: Tuesday, April 30, 2019

In (d), page 2, line 3, hydrolyzed is spelled "hyrodolyzed"

In (f), how long must they retain these forms?

In (a), (b), (c), and and (f), I don't understand the reference to 90-210.25(a2)(2). Do you need this reference? If so, do you mean 90-210.25(a2)?

In (f), what is the intent of lines 11-14? Specifically, what is meant by "unless otherwise permitted by this Rule? I'm not sure that I understand what is going on here.

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Amber May
Commission Counsel
Date submitted to agency: Tuesday, April 30, 2019

21 NCAC 34C .0303 is adopted as temporary amendment as follows:

21 NCAC 34C .0303 RECORDS OF CREMATION OR HYDROLYSIS AND DELIVERY

(a) All crematory or hydrolysis licensees shall complete receipts for human remains on Board forms. The crematory or hydrolysis licensee shall furnish the name of the crematory or hydrolysis licensee, full name of the decedent, date and time of death, date and time the human remains ~~was~~were delivered to the crematory or hydrolysis licensee, any affiliation by the person delivering remains with a funeral establishment or an individual licensed to practice funeral service under the provisions of G.S. 90-210.25(a2)(2), or any such affiliation with the crematory or hydrolysis licensee, the name and signature of the employee or agent of the crematory or hydrolysis licensee who received the human remains, and any other information the Board deems necessary as required by law. Every crematory or hydrolysis licensee shall furnish this receipt to the person who delivers the human remains to the crematory or hydrolysis licensee.

(b) All records documenting the release of human remains from a crematory or hydrolysis licensee to the person who receives the cremated or hydrolyzed remains shall be completed on Board forms. The crematory or hydrolysis licensee shall furnish the name of the crematory or hydrolysis licensee, the full name of the decedent, the date and time of release, the name of the person who received the cremated or hydrolyzed remains, the place where cremated or hydrolyzed remains were received, any affiliation by the person receiving remains with a funeral establishment or an individual licensed to practice funeral service under the provisions of G.S. 90-210.25(a2)(2) or other entity, the signatures of the person delivering the remains and the recipient of remains, any mailing or handling instructions, and any other information the Board deems necessary as required by law. Crematory and hydrolysis licensees must provide evidence by signature, postal receipt or its equivalent, of the receipt of the cremated or hydrolyzed remains.

(c) All records documenting the release of human remains from a funeral establishment or an individual licensed to practice funeral service under the provisions of G.S. 90-210.25(a2)(2) (“unaffiliated practitioner”) to the person who receives the cremated or hydrolyzed remains shall be completed on Board forms. The funeral establishment or unaffiliated practitioner shall furnish the name of the funeral establishment or unaffiliated practitioner, the full name of the decedent, the date and time of release, the person to whom the remains were released, the type of container in which the remains were released, the signatures of the parties delivering and receiving remains, any shipping or special handling instructions, and any other information the Board deems necessary as required by law. Funeral establishments must provide evidence by signature, postal receipt or its equivalent, of the receipt of the cremated or hydrolyzed remains. The provisions of this Paragraph shall not apply when the funeral establishment and crematory or hydrolysis licensee share common ownership and are physically located within one or more buildings on contiguous premises that would qualify the funeral establishment to use “crematory,” “crematorium,” “cremation center,” “hydrolysis facility,” or “hydrolysis center” in its operating name; provided, however, that the crematory or hydrolysis licensee shall comply with Paragraphs (a), (b), and (d) or (e) of this Rule.

(d) In order to track the human remains through the cremation or hydrolysis process from the time the remains are received at the crematory or hydrolysis licensee facility until the cremated or hydrolyzed remains are delivered, all crematory or hydrolysis licensees shall keep records on Board forms. The crematory or hydrolysis licensee shall furnish the name of the crematory or hydrolysis licensee, full name of the decedent, description of the cremation or

1 hydrolysis container used, time and date the decedent was placed into the crematory ~~or hydrolysis unit~~, person who
2 placed the deceased in the crematory or hydrolysis unit, time and date the cremated or hydrolyzed remains were
3 removed from the crematory or hydrolysis unit, type of container in which the cremated or hydrolyzed remains
4 were placed, time and date the cremated or hydrolyzed remains were processed, the name and signature of the person
5 who processed the cremated or hydrolyzed remains and placed them into a container, and any other information the
6 Board deems necessary as required by law.

7 (e) In lieu of the separate forms required by Paragraphs (a), (b), and (d) of this Rule, a crematory or hydrolysis licensee
8 may use a form prescribed by the Board that combines all information required by Paragraphs (a), (b), and (d) of this
9 Rule.

10 (f) The crematory or hydrolysis licensee shall retain the completed forms required by this Rule and shall produce all
11 crematory or hydrolysis forms for inspection or copying by the Board or its agents upon request. Unless otherwise
12 permitted by this Rule, the funeral establishment or individual licensed to practice funeral service under the
13 provisions of G.S. 90-210.25(a2(2)) shall retain the completed form required by Paragraph (c) of this Rule and shall
14 produce the form for inspection or copying to the Board or its agents upon request.

15
16 *History Note: Authority G.S. 90-210.127; 90-210.134(a); 90-210.136(d),(h);*

17 *Eff. July 1, 1991;*

18 *Amended Eff. September 1, 2009; August 1, 2004;*

19 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 19,*
20 *2017.*

21 *Temporary Amendment Eff. May 24, 2019.*



TEMPORARY RULE-MAKING FINDINGS OF NEED

[Authority G.S. 150B-21.1]

OAH USE ONLY

VOLUME:

ISSUE:

1. Rule-Making Agency: NC Board of Funeral Service	
2. Rule citation & name: 21 NCAC CHAPTER 34C .0306 - RETENTION OF RECORDS	
3. Action: <input checked="" type="checkbox"/> Adoption <input type="checkbox"/> Amendment <input type="checkbox"/> Repeal	
4. Was this an Emergency Rule: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No Effective date:	
5. Provide dates for the following actions as applicable: a. Proposed Temporary Rule submitted to OAH: March 13, 2019 b. Proposed Temporary Rule published on the OAH website: March 20, 2019 c. Public Hearing date: April 10, 2019 d. Comment Period: March 13, 2019 - April 12, 2019 e. Notice pursuant to G.S. 150B-21.1(a3)(2): March 13, 2019 f. Adoption by agency on: April 26, 2019 g. Proposed effective date of temporary rule [if other than effective date established by G.S. 150B- 21.1(b) and G.S. 150B-21.3]: May 24, 2019 h. Rule approved by RRC as a permanent rule [See G.S. 150B-21.3(b2)]:	
6. Reason for Temporary Action. Attach a copy of any cited law, regulation, or document necessary for the review. <input type="checkbox"/> A serious and unforeseen threat to the public health, safety or welfare. <input checked="" type="checkbox"/> The effective date of a recent act of the General Assembly or of the U.S. Congress. Cite: Session Law 2018-78, Sections 20 and 24 Effective date: <input type="checkbox"/> A recent change in federal or state budgetary policy. Effective date of change: <input type="checkbox"/> A recent federal regulation. Cite: Effective date: <input type="checkbox"/> A recent court order. Cite order: <input type="checkbox"/> State Medical Facilities Plan. <input type="checkbox"/> Other:	
Explain: On June 25, 2018, the North Carolina General Assembly passed Session Law 2018-78 [House Bill 529], "An Act Amending the Laws Pertaining to the Practice of Funeral Service." Among other things, House Bill 529 legalized alkaline hydrolysis as a permissible method of the final disposition of human remains in North Carolina. The General Assembly also tasked the Board with promulgating rules to regulate the practice of hydrolysis in the State. The Sections of House bill 529 pertaining to alkaline hydrolysis were assigned an effective date of October 1, 2018.	

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OFFICE OF ADMIN HEARINGS

7. Why is adherence to notice and hearing requirements contrary to the public interest and the immediate adoption of the rule is required?

Temporary rules as cited are necessary to the public interest in assuring a systematic and consistent procedure for the inspection and examination of alkaline hydrolysis facilities in determining whether such facilities are in compliance with the applicable provisions of Session Law 2018-78. Without temporary rules, compliance inspections would be constrained and would create barriers to the proper enforcement of the law and regulation of these facilities to assure protection of the public's health, safety and welfare.

8. Rule establishes or increases a fee? (See G.S. 12-3.1)

☐ Yes

Agency submitted request for consultation on:
Consultation not required. Cite authority:

☒ No

9. Rule-making Coordinator:

Stephen E. Davis

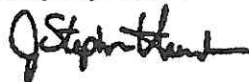
Phone:

919 733-9380

E-Mail:

sdavis@ncbfs.org

10. Signature of Agency Head*:



* If this function has been delegated (reassigned) pursuant to G.S. 143B-10(a), submit a copy of the delegation with this form.

Typed Name:

Title:

E-Mail:

Agency contact, if any:

Phone:

E-Mail:

RULES REVIEW COMMISSION USE ONLY

Action taken:

Submitted for RRC Review:

☐ Date returned to agency:

Print

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Reset

21 NCAC 34C .0306 is adopted as temporary amendment as follows:

21 NCAC 34C .0306 RETENTION OF RECORDS

A copy of all death certificates, authorizations, waivers, statements, reports and other documents required by G.S. 90-210.120 through G.S. 90-210.134 and by the rules in this Subchapter shall be retained by the crematory or hydrolysis licensee for a period of three years and shall, during that period, be subject to inspection by the Board or its agents.

History Note: Authority G.S. 90-210.127; 90-210.134(a); 90-210.136(d),(h);

Eff. July 1, 1991;

Amended Eff. January 1, 2009; July 1, 2004;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 19, 2017.

Temporary Amendment Eff. May 24, 2019.