

## **RULE TEXT**

### **19 NYCRR Part 204**

#### **Natural Organic Reduction**

Sections 204.1 to 204.14 of Title 19 are renumbered to sections 203.15 to 203.28.

The name of the renumbered section 203.15 is changed from “Purpose” to “Cremation certification course.”

The name of the renumbered section 203.16 is changed from “General requirements” to “Crematory operator course general requirements.”

The name of the renumbered section 203.17 is changed from “Approved entities” to “Organizations approved to offer crematory operator courses.”

The name of the renumbered section 203.18 is changed from “Request for approval of course of study” to “Request for approval of crematory operator course of study.”

The name of the renumbered section 203.19 is changed from “Subjects of study for crematory operator certification course” to “Subjects of study for crematory operator course.”

The name of the renumbered section 203.20 is changed from “Computation of instruction time” to “Crematory operator course computation of instruction time.”

The name of the renumbered section 203.21 is changed from “Attendance and examinations” to “Crematory operator course attendance and examinations.”

The name of the renumbered section 203.22 is changed from “Facilities” to “Crematory operator course facilities.”

The name of the renumbered section 203.23 is changed from “Examination requirement and record retention” to “Crematory operator course examination requirement and record retention.”

The name of the renumbered section 203.24 is changed from “Change in approved course of study” to “Change in approved crematory operator course of study.”

The name of the renumbered section 203.25 is changed from “Auditing” to “Crematory operator course auditing.”

The name of the renumbered section 203.26 is changed from “Suspensions and denials of course approval” to “Crematory operator course approvals and denials.”

The name of the renumbered section 203.27 is changed from “Certificate of completion” to “Crematory operator course certificate of completion” and amended as follows:

Evidence of successful completion of the course must be furnished to each crematory employee in certificate form. The certificate must indicate the following: name of the cemetery corporation; crematory operator certification course; a statement that the employee, who shall be named, has satisfactorily completed a course of study in the cremation subjects approved by the Division of Cemeteries in accordance with the provisions of chapter 579 of the Laws of 2006, and that his or her attendance record was satisfactory and in conformity with the law, and that such course was completed on a stated date. The certificate must be signed by the approved

organization and dated, and must have affixed thereto the official seal of the approved organization. Copies of such certification shall be filed with the Division of Cemeteries at [44 State Street, Albany, New York] its principal office.

The name of the renumbered section 203.28 is changed from “Fees” to “Crematory operator course fees.”

The name of Part 204 of Title 19 is changed from “Cremation Certification Course” to “Natural Organic Reduction.”

New sections 204.1 to 204.22 of Title 19 are added to read as follows:

### **Section 204.1. Definitions**

As used in this Part, the following terms have the following meanings:

- (a) *Aerobic* means the biochemical decomposition of organic matter primarily into stabilized solids and carbon dioxide by microorganisms in the presence of air.
- (b) *Bulking agent* means a material added to remains to increase porosity and facilitate aeration during composting.
- (c) *Cemetery board* means the New York State Cemetery Board.
- (d) *Cemetery corporation* shall have the same meaning set out in section 1502(a) of the N-PCL, including, pursuant to section 1503(a) of the N-PCL, religious corporations, municipal corporations, cemetery corporations owning cemeteries operated, supervised or controlled by or in connection with a religious corporation, and cemeteries belonging to a religious or municipal corporation or operated, supervised or controlled by or in connection with a religious corporation.
- (e) *Certified laboratory* means a laboratory certified by the Department of Health to conduct analysis under this Part, or an alternate laboratory authorized by the division to conduct such analysis. A laboratory that is itself, or whose owners, officers, directors and key employees are related parties, as defined in section 102(a)(23) of the N-PCL, to the natural organic reduction facility or its officers, directors and key employees, shall not be considered a certified laboratory.
- (f) *Non-reduced container* means a casket or other container which is not intended to be naturally organically reduced with human remains.
- (g) *Composting* means aerobic, thermophilic decomposition to produce a stable, humus-like material.
- (h) *Construction and demolition debris* means waste resulting from construction, remodeling, repair and demolition of structures, buildings and roads, including excavated material, demolition wastes, and construction wastes.
- (i) *Division* means the New York State Division of Cemeteries.
- (j) *Dry weight basis* means calculated on the basis of having been dried until reaching a constant mass.

- (k) *Funeral entity* means a person, partnership, corporation, limited liability company or other form of business organization providing funeral home services, or owning, controlling, conducting or affiliated with a funeral home, any subsidiary thereof or an officer, director or stockholder having a ten per centum or greater proprietary, beneficial, equitable or credit interest in a funeral home.
- (l) *Humus* means stable, degraded organic matter.
- (m) *Leak-proof* means designed and maintained to prevent the escape of liquids or other materials when a container is appropriately closed.
- (n) *Mature* means the characteristics of a soil conditioning material that render it harmless to plant growth when used as a topsoil or soil supplement and make it sufficiently stable that it will not generate nuisance odors during storage, handling, or ultimate use, as determined by the division.
- (o) *Natural organic reduction* means the contained, accelerated conversion of human remains to soil as a stable, humus like material. Natural organic reduction shall not include alkaline hydrolysis, promession, or other, similar processes that do not result in the conversion of human remains to soil. Natural organic reduction shall include the pulverization of bones and processing of other residue.
- (p) *Natural organic reduction facility* means a structure, room, or other space in a building or real property where natural organic reduction of a human body occurs and shall also mean the business or entity operating the facility, or both, as the context requires.
- (q) *Natural organic reduction identification number* means the identification number associated with the remains and used to track the remains throughout the natural organic reduction process.
- (r) *Natural organic reduction container* means an outer container or covering of the remains which is opaque and made of material which can be naturally organically reduced, or can be removed as the remains are covered with materials permitted by section 204.6 of this Part without exposing the remains.
- (s) *Naturally organically reduced remains* means the soil recovered after the completion of natural organic reduction process.
- (t) *Organic* means derived from living matter and is readily biodegradable.
- (u) *Pathogenic organisms* means disease-causing organisms including, but not limited to bacteria, viruses, protozoa and viable helminth ova.
- (v) *Person in control of disposition* means the person or persons who have the right to control the disposition of the remains of a decedent pursuant to section 4201 of the Public Health Law.

- (w) *Temporary storage facility* means a separately enclosed room, or a separately enclosed area within a room, that is designated for and used exclusively for the retention of human remains prior to natural organic reduction, the interior of which is not visible from any area accessible to the general public.
- (x) *Vector* means a carrier organism that is capable of transmitting a pathogen to another organism and includes, but is not limited to, flies and other insects, rodents, birds and vermin.
- (y) *Vector attraction* means the characteristic of materials that attracts rodents, flies, mosquitoes, vermin, or other organisms capable of transporting infectious agents.
- (z) *Vessel* means the chamber, container, or pod into which the remains are placed for natural organic reduction.

## **Section 204.2. Approval to operate a natural organic reduction facility**

- (a) *Application*. Only cemetery corporations are eligible to apply for approval to operate a natural organic reduction facility. A cemetery corporation seeking such approval must apply to the cemetery board and submit the following:
  - (1) a list of the directors, officers, employees, and certificate holders of the cemetery corporation;
  - (2) a certified survey of the site of the proposed natural organic reduction facility;
  - (3) the location within the county in which it will be situated, including street address and city or town or village;
  - (4) a business plan for the operation of the natural organic reduction facility to include:
    - (i) the number of expected natural organic reductions per year;
    - (ii) the number of natural organic reductions per year the facility is designed to complete;
    - (iii) the number of vessels;
    - (iv) the manufacturer of the vessels;
    - (v) capital costs;
    - (vi) financing;
    - (vii) anticipated insurance and costs;
    - (viii) anticipated natural organic reduction operator certificate course provider to be utilized and timeline for certification;
    - (ix) anticipated timeline to construct or retrofit facilities and begin operations;
    - (x) anticipated number of employees;
    - (xi) types of services provided;
    - (xii) anticipated pricing of services;
    - (xiii) for existing cemeteries, a report of past income, expenses, and fund balances; and
    - (xiv) such further information requested by the division or cemetery board.
  - (5) a description of the impact of the proposed natural organic reduction facility on other natural organic reduction facilities, if any, within the county or impact on the surrounding community;
  - (6) plans, designs, and costs of any structures to be erected or retrofitted for the natural organic reduction facility use;

- (7) a description of any approvals or permits required by state or local law. No natural organic reduction facility shall be approved until such other approvals or permits have been obtained by the facility; and
- (8) a draft plan of operations as set forth in section 204.3 of this Part.
- (b) *Further information.* Within 35 days following receipt of the information required by subdivision (a) of this section, the cemetery board or the division may request from the cemetery corporation any additional information or documentation and technical assistance deemed necessary to review such information. Such information shall not be deemed complete until the requested additional information has been received. If no such request is made, the submission shall be deemed complete on the thirty-fifth day after its receipt by the division.
- (c) *Determination.* The cemetery board shall approve or deny the proposed natural organic reduction facility within the timeframe set forth in section 1505-b of the N-PCL.
- (d) *Notification.* The cemetery board shall provide written notice of its determination to the cemetery corporation. If a negative determination is made, such notice shall state the reasons therefor. Notice shall be made by registered or certified mail addressed to the cemetery corporation at its principal office unless the cemetery corporation has opted to receive electronic notification.

### **Section 204.3. Facility operations**

- (a) *Plan of operations.* Every natural organic reduction facility shall maintain a written plan describing the process it uses for natural organic reduction and shall follow that plan. The plan shall specify and describe:
  - (1) the procedures to ensure the accurate identification of remains, including assigning a unique natural organic reduction identification number to the remains, accurately and legibly labelling the outside of each container or vessel, and placing a non-compostable identification tag with the remains in each container or vessel, bearing the decedent's name and natural organic reduction identification number, throughout the natural organic reduction process;
  - (2) a process flow diagram of the entire process, including all major equipment and flow streams;
  - (3) the processing duration, including the time period from acceptance of remains to completion of the natural organic reduction process and delivery of the naturally organically reduced remains;
  - (4) vessel specifications and dimensions, including width, length, height, and materials;
  - (5) the bulking agents added to the vessel to be used in the process of natural organic reduction;
  - (6) the storage facilities used for bulking agents;
  - (7) the procedure for reducing (including composting, turning, and adding additional air, water, or other materials) and processing remains;
  - (8) the procedures for pathogen reduction and vector attraction reduction;
  - (9) the procedures for accurately measuring and recording the temperature and any other necessary data of the remains;
  - (10) procedures to be followed if the resulting reduced remains do not satisfy the pathogen or pollutant testing requirements in section 204.8 of this Part;
  - (11) the methods that will be used to prevent run-on from entering and run-off from leaving the site and preventing the movement of organic matter into the soil under the site;

- (12) the method that will be used to determine product maturity, including proposed standards for maturity and the monitoring methods or other means that will be used to measure maturity;
  - (13) how the natural organic reduction facility will comply with article 15 of the N-PCL and this Part;
  - (14) the storage and receiving facility for recyclables (if applicable), residue, or other inorganic material removed from remains;
  - (15) a description of the air emission collection and control equipment, if used;
  - (16) a description of the method used to prevent surface water run-off and to prevent the escape of leachate;
  - (17) a spill plan that describes how an accidental release of remains or leachate will be minimized and addressed;
  - (18) an odor control and response plan that describes how odors will be controlled and monitored, and how any odor problems will be addressed;
  - (19) the method for removing naturally organically reduced remains from the natural organic reduction facility, including a description of how the reduced remains will be managed; and
  - (20) a sampling and analysis plan that describes how representative samples will be taken, how samples will be managed prior to acceptance at the laboratory, and the laboratories that will be used for analysis.
- (b) *No delays in processing.* Every natural organic reduction facility shall use its best efforts to begin the process of natural organic reduction of remains within 24 hours of accepting delivery of such remains. Absent good cause, such as the need to confirm the identity of the deceased human being, natural organic reduction of remains will commence within 48 hours after delivery is accepted. The natural organic reduction facility must document within the natural organic reduction log an explanation for the delay if natural organic reduction commences 48 hours after delivery of the remains is accepted.
- (c) *Odors.* Notwithstanding the foregoing, if any remains exhibit an objectionable odor either at delivery or at any time thereafter, natural organic reduction of such remains shall commence as soon as possible after they have been accepted by the natural organic reduction facility or as soon as possible after the objectionable odor is first detected.
- (d) *Remains to be rejected.* Natural organic reduction facilities shall not accept for natural organic reduction remains:
- (1) that have been embalmed;
  - (2) that contain a battery, battery pack, power cell, or radioactive implant;
  - (3) of a person whose cause of death, including the immediate cause or as a consequence of, as recorded on the decedent's death certificate, was active tuberculosis, Ebola, or a prion disease such as Creutzfeldt-Jakob Disease;
  - (4) of a person who is known or suspected to have been, at the time of their death, infected with any contagious disease which the New York State Department of Health has determined renders the remains unsuitable for natural organic reduction; or
  - (5) of a person who perished in or as a result of a radiologic incident or accident, unless a written release is provided by the New York State or local Department of Health or other state or federal agency in charge of the response to the radiological incident or accident.
- (e) *Removal of container.* Remains must be placed within the vessel in a natural organic reduction container. Once the remains are in the vessel, the natural organic reduction facility operator may remove the container so long as the remains are covered with bulking agents or other organic material for natural organic reduction as the container is removed, to prevent exposing the remains.
- (f) *Weight.* No natural organic reduction facility may impose a charge for the natural organic

reduction of the remains of a deceased human being based on the combined weight of the remains and any outer wrapper, container or permitted incidental material. A natural organic reduction facility may refuse to accept remains that are too large, either by weight, volume, or height, for its vessels.

#### **Section 204.4. Facility use, maintenance, design**

- (a) *Use of natural organic reduction facility.* A natural organic reduction facility shall be used exclusively for the natural organic reduction of human remains.
- (b) *Cleanliness.* A natural organic reduction facility shall be maintained in a clean, orderly and sanitary manner, with adequate ventilation.
- (c) *Privacy.* The area in which natural organic reductions occur and the temporary storage facility shall be separately enclosed areas and when fully closed, the interior of one area shall not be visible from within the other area.
- (d) *Temporary Storage Facility.* Every natural organic reduction facility shall have a temporary storage facility. Such temporary storage facility shall be adequately ventilated; shall comply with all applicable public health laws regarding the proper handling and storage of human remains and body fluids; shall be operated and maintained in a manner which protects the health and safety of natural organic reduction facility personnel; and shall be secure from access by anyone other than authorized persons.

#### **Section 204.5. Facility privacy and access**

- (a) *Privacy.* Entrances and exterior windows of the natural organic reduction facility shall be maintained at all times to secure privacy, including:
  - (1) doors shall be tight closing and rigid;
  - (2) windows shall be covered;
  - (3) entrances other than to the office or ceremony room shall be marked “private” or “authorized entry only” to preclude entry by unauthorized persons; and
  - (4) entrances shall be locked and secured when not actively attended by one or more authorized persons.
- (b) *Access.* No persons except authorized persons shall be admitted into the temporary storage facility while human remains are being stored and no persons except authorized persons shall be admitted into the area containing vessels for natural organic reduction while the remains of deceased human beings are being naturally organically reduced. Authorized persons shall enter and remain in the temporary storage facility or vessel area only as necessary to perform or assist with the performance of natural organic reduction facility business and operations. On admittance, authorized persons shall comply with all rules of the natural organic reduction facility and not infringe upon the privacy and dignity of the remains of deceased human beings.
- (c) *Dignity of ceremony room.* A natural organic reduction facility may also have a ceremony room available for viewings and ceremonies. The ceremony room shall be separated from the temporary storage facility. The temporary storage facility interior shall not be visible from the ceremony room. No persons except authorized persons shall be admitted into the ceremony room during the commencement of natural organic reductions of the remains.
- (d) *Authorized persons.* The following are authorized persons:
  - (1) registered funeral directors, undertakers, registered residents, and enrolled students of mortuary science;
  - (2) officers and directors of the natural organic reduction facility;
  - (3) authorized employees or agents of the natural organic reduction facility;

- (4) public officers acting in the discharge of their duties;
- (5) authorized instructors of funeral directing schools;
- (6) the person or persons in control of disposition;
- (7) members of the immediate family of the deceased and their authorized agents and designated representatives; and
- (8) other individuals authorized by the person or persons in control of disposition.

#### **Section 204.6. Facility process requirements**

- (a) *Permitted additions to vessel.* Natural organic reduction facilities may add the following, and only the following, to the remains within the vessel:
  - (1) Water, oxygen or air, and bulking agents (such as tree and shrub parts that have been chipped or shredded, similar woody vegetation that has been chipped or shredded, alfalfa, or straw).
  - (2) A non-compostable tag bearing the name of the decedent and natural organic reduction identification number.
  - (3) With the signed authorization of the person in control of disposition and with the permission of the natural organic reduction facility, other items may be added to the vessel provided that the items do not violate this Part, inhibit the natural organic reduction process, or create a risk to health or safety.
- (b) *Prohibited additions to vessel.* The following items and materials shall not be used as bulking agents and shall not be placed inside the vessel:
  - (1) Wood or other organic material that has been painted, glued, or chemically or pressure treated (without regard to whether such wood or other organic material shall or shall not have been chipped or shredded).
  - (2) Dimensional lumber (without regard to whether such lumber shall or shall not have been chipped or shredded).
  - (4) Construction and demolition debris (without regard to whether such debris shall or shall not have been chipped or shredded).
  - (5) Acids, alkaline agents, or other solvents.
  - (6) Insects, worms, or other animals.
  - (7) Materials that will not compost (other than a non-compostable tag as described in paragraph 2 of subdivision (a) of this section or a non-compostable item authorized and permitted pursuant to paragraph 3 of subdivision (a) of this section).
  - (8) Materials which, if present inside the vessel during all or part of the natural organic reduction process, would create a risk to health or safety.
  - (9) Any other material which the division may designate as inappropriate for use as a bulking agent.
- (c) Vessel requirements. The vessel shall:
  - (1) be leak-proof and capable of withstanding heating to the required temperature for the required period;
  - (2) enable accurate testing of temperature designed to measure from the coldest part of the interior of the vessel and the accurate collection of any other data required by the natural organic process used by the natural organic reduction facility;
  - (3) prevent vectors from entering the vessel; and



(4) control odor and emit air only in accordance with Part 201 of Title 6 NYCRR.

#### **Section 204.7. Facility operating and siting requirements**

- (a) *Public health.* Every natural organic reduction facility must at all times follow accepted policies and procedures with respect to infection control, including standard precautions developed by the Centers for Disease Control and Prevention and New York State Department of Health.
- (b) *Processing time.* The maximum processing time, from acceptance of the remains to distribution of the naturally organically reduced remains, is nine months. The division may approve a longer processing time for good cause, such as additional time necessary to satisfy the requirements of section 204.8 of this Part.
- (c) *Method of reduction.* The natural organic reduction facility must maintain the remains under aerobic conditions during the composting process to convert them to naturally organically reduced remains. Methods of natural organic reduction that result in a mature humus product must be followed.
- (d) *Run-off prevention.* The natural organic reduction facility must be constructed to prevent any ponding or discharge, prevent waste and leachate from being discharged into sewers, surface waters or groundwater; and must be operated in a manner that minimizes the generation of leachate and that does not drain, dump or discharge leachate.
- (e) *Siting requirements.* The natural organic reduction facility must be at least 200 feet from the nearest: surface water body such as lakes, rivers, and streams, potable water well, state-regulated wetland, residence, or place of business other than the cemetery itself. These minimum distance requirements may be reduced if means acceptable to the division are used to reduce the potential for odor transmission and accidental leachate run-off.
- (f) *Odor prevention.* The natural organic reduction facility must not produce odors that unreasonably impact sensitive receptors, such as residences, schools, or nursing homes, as determined by the division. The division can require additional action to address odor issues.

#### **Section 204.8. Pathogen and vector attraction reduction; testing**

- (a) *Pathogen reduction.* Natural organic reduction facilities must use one of the methods (and, where applicable, achieve the results) specified in this subdivision to reduce pathogen content before the naturally organically reduced remains leave the facility:
  - (1) maintain the temperature of the remains at 55° C or higher for at least 72 consecutive hours; or
  - (2) other methods or operating conditions as may be approved by the division if the division determines that pathogens are reduced to an extent equivalent to the reduction achieved by a method/result specified in this subdivision.
- (b) *Vector attraction reduction.* One of the vector attraction reduction methods or results specified in this subdivision must be used or achieved before the naturally organically reduced remains leave the natural organic reduction facility. Such a vector attraction reduction result must be achieved either after meeting the pathogen reduction requirements or at the same time as meeting the pathogen reduction requirements:

- (1) treat the remains by an aerobic process for a minimum of 14 days. Throughout such treatment time, the temperature of the remains must remain higher than 40° C and the average temperature of the remains must be higher than 45° C; or
  - (2) other methods or operating conditions as may be approved by the division if the division determines that vector attraction is reduced to an extent equivalent to the reduction achieved by a method/result specified in this subdivision.
- (c) *Pathogen Testing.* Prior to removal of the naturally organically reduced remains from the natural organic reduction facility, either the density of fecal coliform in the naturally organically reduced remains shall be less than 1,000 most probable number per gram of total solids (dry weight basis) or the density of salmonella sp. bacteria in the product must be less than 3 most probable number per 4 grams of total solids (dry weight basis). This analysis must be performed by a certified laboratory.
- (d) *Failure of Pathogen Testing.* If, after completion of the pathogen or vector attraction reduction methods described in subdivisions (a) and (b) of this section, a laboratory determines the naturally organically reduced remains do not meet the specified standards for pathogens in subdivision (c) of this section, then the natural organic reduction facility shall repeat a pathogen and vector reduction method described in this section, and have the naturally organically reduced remains retested for pathogens in accordance with subdivision (c) of this section.
- (e) *Pollutant Testing.* Prior to removal of the naturally organically reduced remains from the natural organic reduction facility, the naturally organically reduced remains shall be tested for pollutants. This analysis must be performed by a certified laboratory. Naturally organically reduced remains shall not contain pollutants that exceed the following thresholds, per maximum concentration mg/kg, dry weight:

- (1) Arsenic (As) 41
- (2) Cadmium (Cd) 10
- (3) Chromium (Cr-total) 1,000
- (4) Copper (Cu) 1,500
- (5) Lead (Pb) 300
- (6) Mercury (Hg) 10
- (7) Molybdenum (Mo) 40
- (8) Nickel (Ni) 200
- (9) Selenium (Se) 100
- (10) Zinc (Zn) 2,500

- (f) *Failure of Pollutant Testing.* If a certified laboratory determines the naturally organically reduced remains exceed any of the pollutant thresholds set forth in subdivision (e) of this section, then the natural organic reduction facility shall repeat the natural organic reduction process with additional bulking agents sufficient to reduce the concentration of

pollutants to acceptable levels. Upon completion of the natural organic reduction process, the natural organic reduction facility shall have a certified laboratory retest the naturally organically reduced remains for pollutants in accordance with subdivision (e) of this section.

**(g) *Repeated Failures of Pathogen or Pollutant Testing.***

- (1) If the naturally organically reduced remains have failed the pathogen testing requirements of subdivision (c) of this section, the natural organic reduction facility followed the procedures of subdivision (d) of this section and, upon retesting by a certified laboratory the naturally organically reduced remains again failed the pathogen testing requirements, the natural organic reduction facility shall:
    - (i) promptly notify the division and provide the division with the certified laboratory test results, its analysis of why the naturally organically reduced remains failed the pathogen testing requirements, and, if necessary, proposed adjustments to its operating procedures to mitigate future failures;
    - (ii) promptly notify the person in control of disposition; and
    - (iii) follow the procedure provided in its plan of operations under section 204.3(a) of this Part.
  - (2) If the naturally organically reduced remains have failed the pollutant testing requirements of subdivision (e) of this section and the natural organic reduction facility followed the procedures of subdivision (f) of this section and, upon retesting by a certified laboratory the naturally organically reduced remains again failed the pollutant testing requirements, the natural organic reduction facility shall:
    - (i) promptly notify the division and provide the division with the laboratory test results, its analysis of why the naturally organically reduced remains failed the pollutant testing requirements, and, if necessary, proposed adjustments to its operating procedures to mitigate future failures;
    - (ii) promptly notify the person in control of disposition; and
    - (iii) follow the procedure provided in its plan of operations under section 204.3(a) of this Part.
  - (3) The natural organic reduction facility shall not impose additional charges for having to repeat methods or testing described in this section or having to perform additional methods or testing in order to comply with this section.
- (h) Original copies of all laboratory testing results obtained pursuant to this section and documentation of all pathogen reduction and vector attraction results achieved pursuant to this section must be retained by the natural organic reduction facility and promptly provided to the person in control of disposition.

**Section 204.9. Natural organic reduction log, authorization form, facility records**

- (a) *Natural organic reduction log.* Every natural organic reduction facility shall maintain a natural organic reduction log which shall set forth for each delivery of human remains received by the natural organic reduction facility:
- (1) the name of the deceased;
  - (2) the place of death and the estimated combined weight of the remains and the container;
  - (3) the date and time the remains arrived at the natural organic reduction facility;

- (4) the natural organic reduction identification number;
  - (5) the name of the funeral director, undertaker or registered resident delivering the human remains and the name and address of the funeral entity which the funeral director, undertaker or registered resident represents;
  - (6) the date and time the remains were:
    - (i) placed in the vessel for natural organic reduction;
    - (ii) checked for temperature in accordance with section 204.6(c)(2) of this Part, including the temperature reading, and any other data necessary for the natural organic reduction process used by the natural organic reduction facility;
    - (iii) tested for pathogens and pollutants;
    - (iv) removed from the vessel;
    - (v) processed to pulverize any remaining skeletal remains; and
    - (vi) removed from the facility for scattering, burial, entombment or inurnment in a cemetery corporation as required under section 1518(i) of the N-PCL.
  - (7) if the natural organic reduction process commenced more than 48 hours from the time the natural organic reduction facility accepted delivery of the remains, a detailed explanation for the delay;
  - (8) the vessel number in which the remains were naturally organically reduced;
  - (9) the type of container in which the remains were received and in which the remains were placed into the vessel for natural organic reduction. If the remains were received in a non-reduced container, the time of disclosure made by the person in charge of disposition, the name of the person authorizing the opening of the non-reduced container, the name of licensed funeral director or registered resident who transferred the remains to a natural organic reduction container, and name of the witness;
  - (10) the name and contact information of the individual who received the naturally organically reduced remains from the facility; and
  - (11) the name and address of the cemetery corporation where the naturally organically reduced remains shall be scattered, buried, entombed or inurned.
- (b) The natural organic reduction log shall be retained in the permanent file of the natural organic reduction facility.
- (c) *Natural organic reduction permit and natural organic reduction authorization form.* No natural organic reduction facility shall naturally organically reduce the remains of any deceased human being without first receiving the natural organic reduction permit, as required pursuant to section 4145 of the Public Health Law, and the natural organic reduction authorization form, as required by section 1518(c)(1) of the N-PCL. The natural organic reduction authorization form shall satisfy the requirements of subdivision (d) of this section. In addition, all natural organic reduction facilities situated outside the City of New York must comply with section 4145(2)(b) of the Public Health Law pertaining to the receipt for the deceased human being.
- (d) Each natural organic reduction facility shall develop a natural organic reduction authorization form which, when properly filled in and signed, will be accepted by such natural organic reduction facility. Such form shall be substantially similar to the template as established by the division; shall be not more than three pages, single sided, in length, each such page to be not larger than 8 ½ inches by 11 inches; shall be printed in font not less than 6 points; and shall contain the following information (or, where applicable, shall contain spaces where the following information can be inserted by the person completing the form):
- (1) the name and address of the natural organic reduction facility;

- (2) a clear, concise description of the natural organic reduction process to be used by the natural organic reduction facility (including but not limited to identification of the amendments or bulking agents used in the vessel in natural organic reduction), a statement that natural organic reduction is an irreversible and final process, a statement that the process of natural organic reduction may take between 30 and 60 days, a statement that the resulting product is, on average, between one-half and one cubic yard of compost for a deceased adult, a statement that skeletal remains must be pulverized until no single fragment is recognizable as skeletal tissue as part of the natural organic reduction process, and a statement that natural organic reduction is not green burial of intact human remains;
  - (3) the name of the deceased as it appears on the natural organic reduction permit, the date and place of death;
  - (4) the last address, age, sex and approximate weight of the deceased, and type of container in which the remains of the deceased were delivered;
  - (5) the name of the funeral director and funeral entity that provided the natural organic reduction authorization to the natural organic reduction facility, and the funeral director's registration number;
  - (6) the name of the person in control of disposition of the remains of the deceased who signed the natural organic reduction authorization form, and the relationship between said person and the deceased;
  - (7) a statement attesting that the person in control of disposition who signed the natural organic reduction authorization form has the right to authorize the natural organic reduction of the remains of the deceased pursuant to section 4201 of the Public Health Law;
  - (8) authorization for the natural organic reduction facility to naturally organically reduce the remains of the deceased;
  - (9) a statement that the cause of death, including the immediate cause or as a consequence of, as recorded on the decedent's death certificate, was not active tuberculosis, Ebola, or a prion disease such as Creutzfeldt-Jakob Disease, the decedent did not perish in a radiological incident, the body of the deceased does not contain a battery, battery pack, power cell, radioactive implant, or radioactive device, and that any such materials were removed prior to the execution of the natural organic reduction authorization form;
  - (10) the name of the person authorized to retrieve the naturally organically reduced remains and deliver them to the cemetery corporation for scattering, burial, entombment or inurnment;
  - (11) the name of the cemetery corporation authorized to receive the naturally organically reduced remains from the natural organic reduction facility for scattering, burial, entombment or inurnment;
  - (12) the signature of the person in control of disposition attesting to the accuracy and completeness of the information and representations contained in the natural organic reduction authorization form and attesting to the authorization of and grant of permission for the natural organic reduction of the deceased; and
  - (13) the signature of the licensed, registered funeral director who obtained the natural organic reduction authorization as a witness to the execution of the natural organic reduction authorization form.
- (e) The completed natural organic reduction authorization form shall be retained in the permanent file of the natural organic reduction facility. Upon receipt of the natural organic reduction authorization form the natural organic reduction facility shall promptly send or transmit copies to the cemetery corporation authorized to receive the naturally organically

reduced remains from the natural organic reduction facility, if it is a different cemetery corporation than the natural organic reduction facility, and to the division at its principal office.

- (f) Upon receipt of the naturally organically reduced remains for scattering, burial, entombment or inurnment, the cemetery corporation, if it is a different cemetery corporation than the natural organic reduction facility, shall provide a receipt to the natural organic reduction facility. The receipt shall include the name of the deceased, the date the naturally organically reduced remains were received, and the anticipated date of scattering, burial, entombment or inurnment. The receipt shall be retained in the permanent file of the natural organic reduction facility.
- (g) All natural organic reduction facility records, including but not limited to records required by any federal, state or local government law or agency, as well as price lists, authorizations, pathogen reduction testing records, vector attraction reduction testing records, certified laboratory testing results, rules and regulations and other documents related to the practice of natural organic reduction, shall be open and available for inspection and copying during regular business hours by the division or its authorized representatives, in the discharge of their official duties.

#### **Section 204.10. Certification requirements**

- (a) All natural organic reduction facility employees, officers and directors whose function is to operate natural organic reduction equipment or handle naturally organically reduced remains within the natural organic reduction facility must be certified within one year of employment or any reclassification as a natural organic reduction facility operator. Any natural organic reduction facility employee, officer or director whose function is to operate natural organic reduction equipment or handle naturally organically reduced remains within the natural organic reduction facility and who is retained prior to June 28, 2023, must be certified by June 28, 2024. A natural organic reduction facility shall ensure that all employees, officers and directors operating natural organic reduction facility equipment or handling naturally organically reduced remains within the natural organic reduction facility have attended natural organic reduction classes and obtained the certificate required by this Part. Proof of certification under section 204.21 of this Part must be posted in the natural organic reduction facility and available for inspection at any time.
- (b) No certificate or renewal certificate to operate a natural organic reduction facility shall be issued to any employee, officer or director unless such employee, officer or director completes a certification class approved by the division of at least eight hours, except if otherwise approved by the division, and passes a written examination.
- (c) No offering of a course of study in the field of natural organic reduction operation for purposes of compliance with this Part shall be acceptable for credit unless such course of study has been approved by the division.
- (d) After the timeframes specified in subdivision (a) of this section, no employee, officer or director shall be allowed to conduct the daily operations of the natural organic reduction process or handle naturally organically reduced remains within the natural organic reduction facility until they have completed the certification course, passed the written examination, and possess a certificate of completion. Renewal of such certification shall be completed every five years from the date of certification.

**Section 204.11. Organizations prohibited from offering facility operator certification courses**

No course provider seeking the approval of a natural organic reduction certification course shall be affiliated or associated with, owned, operated or controlled by a funeral entity.

**Section 204.12. Request for approval of facility operator course of study**

(a) Applications for approval of a natural organic reduction certification course of study satisfying the requirements of this Part shall be made at least 90 days before the proposed course is to be conducted. The application shall be prescribed by the division to include, but not limited to, the following:

- (1) the name and business address of the course provider that will present the course;
- (2) if the course provider is a partnership, the names and home addresses of all the partners of the entity;
- (3) if the course provider is a corporation, the names and home addresses of persons who own five percent or more of the stock of the entity;
- (4) the name, business address, telephone number, resume and qualifications of each educational provider who will be teaching and grading the course for the course provider;
- (5) regional, geographic or virtual locations where classes will be conducted;
- (6) description of materials that will be distributed;
- (7) final examination to be presented for the certification course, including the answer key;
- (8) procedure for taking attendance, including entering codes to validate attendance and active listening for virtual courses; and
- (9) an outline of the course content and the number of hours devoted to each subject.

(b) *Educational provider qualification.* Each educational provider must:

- (1) be 18 years of age or over and of good moral character;
- (2) hold a high school diploma or equivalent;
- (3) possess instructional experience, academic achievement, and specialty or technical experience in the fields of natural organic reduction, cremation, mortuary science, cemetery operations, composting, public health, or environmental science; and
- (4) be capable of administering and grading written examinations following the natural organic reduction certification course.

**Section 204.13. Subjects of study for facility operator certification course**

The certification course under this Part shall be divided into two subject matter areas. One subject matter area will address applicable New York State statutes and regulations. Such statutes shall include all applicable sections of article 15 of the N-PCL relating to natural organic reduction with an emphasis on N-PCL, section 1518 and the New York State Public Health Law, sections 3441, 4144, 4145, 4200, 4201, 4202, 4210(a), 4216, and 4218. Such regulations shall include this Part and Part 201 of Title 6 NYCRR, the New York State Department of Environmental Conservation Air Quality Regulations. The course provider shall devote between 20 and 40 percent of the total time allotted for the course to the New York State statutes and regulations. The other subject matter area of the course shall address the general and technical aspects of natural organic reduction facility operations. The subject matter area shall include but not be limited to the natural organic reduction facility process, natural organic reduction equipment, operation of the vessel, taking accurate measurements, testing requirements, natural organic reduction terminology, natural organic reduction operator safety, and the identification and tracking of human remains. The course provider shall devote between 60 and 80 percent of the total time allotted for the course to the general and technical aspects of natural organic reduction facility operations.

#### **Section 204.14. Certification course computation of instruction time**

The certification course under this Part for natural organic reduction facility employees, officers and directors shall have a minimum of eight hours of instruction, unless otherwise approved by the division, to be provided by the course provider.

#### **Section 204.15. Certification course attendance and examinations**

- (a) An applicant to receive certification as a natural organic reduction facility operator shall not receive certification if they are absent from the classroom, whether physical or online, for a period totaling more than 10 percent of the time during any instructional period. No applicant shall be absent from the classroom except for a reasonable and unavoidable cause.
- (b) Any applicant who fails to attend the required scheduled class hours may, at the discretion of the course provider, make up the missed subject matter during subsequent courses presented by the course provider.
- (c) Final examinations may only be taken by an applicant who has satisfied the attendance requirements of this section.
- (d) Each applicant must attain a minimum score of 70 percent on the final examination, which may be in-person, take home, or online, as approved by the division, in order to obtain certification as a natural organic reduction facility operator. A failing grade on the final exam shall constitute failure of the course. All final exams are to be reviewed and graded by the course provider, and a copy of all tests with scores shall be provided to the division.
- (e) Individuals who complete a course of study that has not been approved by the division may file a request to the division for review and evaluation. Evidence of satisfactory course completion must be submitted by the applicant.

#### **Section 204.16. Certification course facilities**

Each course shall be presented in such premises or such facilities, whether physical or virtual, as



shall be necessary to properly present the course. Such premises or facilities shall be pre-approved by the division.

#### **Section 204.17. Certification course examination requirement and record retention**

- (a) All course providers shall retain the attendance records, the final examinations and a list of natural organic reduction facility employees, officers or directors who successfully complete each certification course for a period of five years after completion of each course. All such documents shall be available during normal business hours for inspection by authorized representatives of the division.
- (b) All examinations required for certification shall be returned to the course provider within two weeks after distribution if take home or online; they shall be returned immediately after completion if in person.

#### **Section 204.18. Change in approved course of study**

There shall be no change or alteration in any approved course of study, of any subject, in any instruction staff or course provider without prior written notice and approval by the division.

#### **Section 204.19. Certification course auditing**

A duly authorized representative of the division may audit any course offered and may verify attendance and inspect the records of attendance of the course at any time during its presentation or thereafter.

#### **Section 204.20. Certification course approvals, denials, suspensions and revocations**

Within 30 days after the receipt of an application for approval of a course offering, the division shall inform the course provider as to whether the certification course has been approved or whether additional information is needed to determine the acceptability of the certification course. The division may deny, suspend, or revoke the approval of a certification course of a course provider if the division determines that the course provider is not in compliance with the applicable law and rules, or if the certification course does not adequately reflect, present, or test current relevant knowledge regarding natural organic reduction practices. Anyone who objects to such denial, suspension or revocation shall have the opportunity to appeal to the Secretary of State or appointed designee within 30 days.

#### **Section 204.21. Certificate of course completion**

Evidence of successful completion of the course must be furnished to each natural organic reduction facility employee, officer or director in certificate form. The certificate must indicate the following: name of the cemetery corporation; operator certification course; a statement that the employee, who shall be named, has satisfactorily completed a course of study and final examination in the natural organic reduction subjects approved by the division; that the individual's attendance record was satisfactory and in conformity with the law; and that such course was completed on a stated date. The certificate must be signed by the course provider, dated, and have affixed thereto the official seal of the course provider. Copies of such certification shall be filed with the division at its principal office.

#### **Section 204.22. Certification course Fees**

Each course provider shall establish the registration fee for the certification course offered.