APPROVED BY BOARD OF HEALTH
AUGUST 27, 2015

Southern Nevada Health District

Memorandum # 06-15

Date: August 27, 2015

To: **SOUTHERN NEVADA DISTRICT BOARD OF HEALTH**

From: **Daniel P. LaRubio, Jr., P.E., REHS,** *Environmental Health Engineer/Supervisor*
Paul L.Klouse, REHS, *Environmental Health Manager*
Jacqueline L. Reszetar, REHS, *Director of Environmental Health*
Joseph P. Iser, M.D., DrPH, MSc, *Chief Health Officer*

Subject: Amending the language of the *Southern Nevada Health District Regulations Governing the Sanitation of Used Mattresses, Bedding and Upholstered Furniture*

Since the Regulations were approved on September 27, 2007, by the Southern Nevada District Board of Health, there has only been one permitted Used Mattress Sanitization Facility that has an oven located in Clark County. New regulations were adopted by the DBOH on January 22, 2015, but were pulled from consideration based on the recommendation of the Nevada State Board of Health consideration due to inadequate dry-heat temperature standards.

Attachments:

Attachment A	Southern Nevada Health District Regulations Governing the Sanitation of Used Mattresses and Bedding
Attachment B	Public Notice
Attachment C	Fact Sheet
Attachment D	Workshop Agenda
Attachment E	Workshop Minutes
Attachment F	Workshop Sign In Sheets
Attachment G	Public Comments
Attachment H	Business Impact Statement

SOUTHERN NEVADA HEALTH DISTRICT
REGULATIONS GOVERNING THE SANITATION AND SAFETY OF USED MATTRESSES AND BEDDING

WHEREAS, the Southern Nevada Health District (SNHD) has been established by the County of Clark and the cities of Las Vegas, North Las Vegas, Henderson, Mesquite, and Boulder City as the public health authority for those entities, and pursuant to Nevada Revised Statutes (NRS) Chapter 439; has jurisdiction over all public health matters in the health district; and

WHEREAS, the Southern Nevada District Board of Health (Board) is the governing body of the SNHD, and is authorized to adopt regulations to regulate sanitation and sanitary practices in the interest of the public health, and to protect and promote the public health and safety in the geographical area subject to the jurisdiction of the Health District and is specifically authorized to adopt regulations regarding used mattresses and bedding as per NRS 444.030; and

WHEREAS, the Board finds that the sanitation and safety of used mattresses and bedding and the sanitation facilities for these articles does affect the public health, and finds that it is necessary to adopt the Regulations Governing the Sanitation and Safety of Used Mattresses and Bedding to promote and regulate the safety and sanitary condition of those articles and the facilities in which they are handled, sterilized, refurbished, and stored.

INTENT AND SCOPE

Intent The purpose of these Regulations is to protect and promote the public health, safety, and environment through preventive measures and timely correction of public health and environmental issues relating to used mattresses and bedding and the facilities for receipt, disassembly, sanitation, refurbishment, storage, and/or distribution of such articles.

Scope These Regulations set standards for the location, design, construction, operation, and maintenance of facilities for the receipt, disassembly, sanitation, refurbishment, storage, and/or distribution of used mattresses and bedding; list items prohibited from reuse or refurbishment; clarify approved sanitation processes.

Table of Contents

Section 1.0 Disinfection/Sterilization and Labeling Requirements

1.1 Disinfection/Sterilization and Labeling of Used Mattresses and Bedding (NRS 444.010)
1.2 Articles requiring Disinfection/Sterilization (NRS 439.200, 444.020 and NAC 444.001)
1.3 Methods of Disinfection/Sterilization (NRS 439.200,444.020 and NAC 444.002)
1.4 Approval of Disinfection/Sterilization process: Application; limitations (NRS 439.200, 444.020 and NAC 444.003)
1.5 Premises used for Disinfection/Sterilization Operation (NRS 439.200, 444.020 and NAC 444.004)
1.6 New covering required (NRS 439.200, 444.020 and NAC 444.005)
1.7 Permit required to reuse materials obtained from dumps, junkyards or hospitals (NRS 439.200, 444.020 and NAC 444.006).
1.8 Inspection Authority, Suspension,
1.9 Revocation of Registration

Section 2.0 Hearing Office Process

2.1 Environmental Health Hearing Officer Authority
2.2 Environmental Health Hearing Officer Selection
2.3 Adjudication by the Hearing Officer
2.4 Penalties levied by the Hearing Officer
2.5 Final Decisions of the Hearing Officer
2.6 Appeal of the Decisions of the Hearing Officer

Section 3.0 Miscellaneous

3.1 Severability clause

Section 1.0 Disinfection/Sterilization and Labeling Requirements

1.1 Disinfection/Sterilization and Labeling of Used Mattresses and Bedding (NRS 444.010)

1.1.1 It shall be unlawful for any person, business, firm, association, sole proprietor ship, partnership, LLC, or corporation to engage in the operation of manufacturing, making, or renovating, used mattresses and bedding in Clark County to sell or offer for sale any used mattress or bedding as described in NRS 444.010 to 444.040, inclusive, directly or indirectly, without causing said mattresses or bedding to be disinfected or sterilized, or to hold out for sale, at either wholesale or retail, such mattresses or bedding as described in section 1.2 that have not been disinfected/sterilized by an approved method as provided in section 1.3 and properly labeled as provided in section 1.1.2.

1.1.2 Used mattresses and bedding must be labeled with a tag affixed onto these products marking them as "Sterilized, Used" or alternate label, as approved by the Health Authority, and the name of the manufacturer, renovator, or dealer.

1.2 Articles requiring Disinfection/Sterilization (NRS 439.200, 444.020, NAC 444.001)

1.2.1 Quilted pads
1.2.2 Bunk quilts
1.2.3 Comforters
1.2.4 Mattresses
1.2.5 Mattress pads
1.2.6 Cushions
1.2.7 Pillows
1.2.8 Sheets
1.2.9 Blankets
1.2.10 Any other contaminated or soiled article of bedding
1.2.11 Materials used in the filling of any of the above or similar articles

1.3 Methods of Disinfection/Sterilization (NRS 439.200, 444.020, NAC 444.002)

1.3.1 Disinfection/Sterilization of the articles listed in Section 1.2 must be accomplished by one or more of the following methods, under the conditions outlined:

1.3.1.1 Thorough washing and disinfection/sterilization by prolonged boiling for at least 1 hour.

1.3.1.2 Steam delivered at equal to or greater than 15 pounds per square inch (PSI) of pressure for at least 30 minutes. A gauge

for registering steam pressure, visible from the outside of the room, must be provided where steam under pressure is used.

1.3.1.3 Two applications of streaming steam maintained for 1 hour each to be applied at intervals of not less than 6 hours or more than 24 hours will be accepted as an alternate for steam under pressure for disinfection of mattress materials or made-up mattresses. When streaming steam is employed, valved outlets must be provided near the bottom and top of the room used for this purpose.

1.3.1.4 Application of a chemical pesticide registered with or exempted by the United States Environmental Protection Agency and registered with the State Department of Agriculture. The chemical pesticide must:

(A) Have clearly stated on the label, or on printed matter included in each container or package, detailed instructions for its use in disinfecting used or secondhand articles;

(B) Have clearly stated on the label a statement that the pesticide is safe to use on bedding; and

(C) Be applied in a manner which ensures that the used or secondhand articles are disinfected.

1.3.1.5 Exposure to a dry heat environment for 1.25 hours at a temperature of 230° F or 205 ° F for 1.5 hours. All chambers shall be equipped with racks or devices and the articles to be sterilized/disinfected shall be so placed therein so that complete circulation of heat and gases around every article being sterilized/disinfected shall be attained.

1.3.1.6 An alternate method may be presented to the local health authority and may be approved based on review of the method.

1.3.1.7 All methods outlined in this section presuppose that the outside mattress covers have been inspected for and found to be free of filth, staining, or soiling under natural and ultraviolet light, OR that the mattress covers will be subsequently laundered using a chemical disinfectant or removed and replaced with new material;

1.4 Approval of Disinfection/Sterilization Operation: Application; limitations (NRS 439.200, 444.020, NAC 444.003)

1.4.1 A Disinfection/Sterilization Operation is defined as the location, method, and handling of used mattresses through an approved process as set forth in section1.3.

1.4.2 Before engaging in any Disinfection/Sterilization Operation process as described in 1.3, application for registration must be made to the

Southern Nevada Health District (SNHD), and the approved fee remitted as provided in section 1.4.5.

1.4.2.1 The application shall include:

(A) The name, mailing address, telephone number, and signature of the Person applying for registration, and the name, mailing address, and location of the disinfection/sterilization. If an application is made by a corporation, an LLC, or partnership, the names of the members or officers and signature of at least one member or officer, the corporate phone number, and address shall be provided.

(B) Information specifying whether the Disinfection/Sterilization Operation is owned by an association, corporation, individual, partnership, or other legal entity.

(C) The name, title, address, and telephone number of the person directly responsible for the Disinfection/Sterilization Operation

(D) The name, title, address, and telephone number of the person who functions as the immediate supervisor of the Person specified in Paragraph (C) of this Section including but not limited to the zone, district, or regional supervisor.

(E) The physical location of the Disinfection/Sterilization Operation including but not limited to street address, proof of ownership, Grant Bargain Sale Deed, lease agreement, or other legal document that establishes the standing of the applicant with respect to the property.

(F) The names, titles, and business addresses of:

(1) The Person's comprising the legal ownership as specified in Paragraph (B) of this Section, including the owners, managing members, and officers.

(2) The local authorized applicant, if one is required, based on the type of legal ownership. Authorization shall be in writing and shall be signed by the owner or corporate officer, managing member, or other authorized Person.

(G) A statement signed by the applicant that:

(1) Attests to the accuracy of the information provided in the application.

(2) Affirms that the applicant will:

(a) Comply with these Regulations.
(b) Allow the Health Authority access to the establishment for inspection during normal hours of operation and to any records needed to establish compliance with these Regulations.

1.4.2.2 In making application for approval of a Disinfection/Sterilization Operation, a complete statement must be made of the method to be employed for disinfection or alternate method and this statement must be accompanied by a plan, drawn to scale showing details of the installation. This plan must bear a title indicating clearly where the installation is to be made, the scale of the drawing, and signed by the applicant.

1.4.2.3 In making application for approval of a Disinfection/Sterilization Operation, a draft of an alternate proposed label must be accompanied.

1.4.3 Upon approval of the application and plans, the Disinfection/Sterilization Operation may be subject to site inspection to verify the contents of the application and plan.

1.4.4 Once approved a formal letter will be sent advising the applicant that the Disinfection/Sterilization Operation is registered. No further correspondence will be sent and no additional fees will be due unless a complaint regarding illness or injury is received.

1.4.5 If a complaint regarding illness or injury is received, an investigation will be conducted and a determination made as to the validity of the complaint. If a complaint is confirmed, a confirmed complaint fee will be charged.

1.4.6 The following fees are associated with the Disinfection/Sterilization Operation.

1.4.6.1 The Health District shall charge and collect $100 for reviewing initial applications, plans, and/or procedures for registration as a new Disinfection/Sterilization Operation;

1.4.6.2 The Health District shall charge and collect $75 for the one-time registration of a Disinfection/Sterilization Operation;

1.4.6.3 The Health District shall charge and collect $100 for reviewing changes, alterations, remodeling plans and/or altered or new procedures for a registered Disinfection/Sterilization Operation;

1.4.6.4 The Health District shall charge and collect the fee as adopted by the Board of Health for investigating and verifying non-compliance of a registered Disinfection/Sterilization Operation with these regulations;

1.4.6.5 These fees herein will remain in effect until superseded by adoption of a new schedule of fees by the Board of Health.

1.5 Premises used for Disinfection/Sterilization Operations. (NRS 439.200, NRS 444.020, NAC 444.004)

1.5.1 All premises, rooms, chambers and devices used for the purpose of disinfection/sterilization must be kept in a clean and orderly condition, free from accumulated dust, dirt and other filth and must be kept free of vermin.

1.6 New covering required. (NRS 439.200, 444.020, NAC 444.005)

1.6.1 Filthy, stained or soiled articles of bedding are not considered properly sterilized or disinfected unless the fabric covering the articles is laundered or replaced by a clean or new covering and the filling material subject to one of the disinfection/sterilization methods outlined in Section 1.3.1.

1.6.2 For the purposes of this regulation, articles will be considered filthy, stained or soiled if they have any discoloration of the covering or trimming visible under either natural or ultraviolet light.

1.7 Permit required to reuse materials obtained from dumps, junkyards or hospitals. (NRS 439.200, 444.020, NAC 444.006)

1.7.1 No articles or materials obtained from public dump grounds, junkyards or hospitals may be reused in the manufacturing, making or renovating of mattresses, bed coverings, pillows, cushions or any other similar bedding that may be used for sleeping purposes unless a special permit is obtained from the State Health Officer or his or her authorized agents.

1.8 Inspection (NRS 439.200, 444.030, NAC 444.004)

1.8.1 The Health Authority shall have the right to inspect any and all processes related to the sterilization/disinfection of mattresses, and storage of unsterilized and sterilized mattresses upon the premises of a registered disinfection/sterilization operation to determine compliance with these regulations;

1.8.2 The Health Authority shall be allowed to examine and obtain pertinent information regarding supplies purchased, received or used, pest control records, mattresses processed and sold, and any other record deemed necessary by the Health Authority.

1.8.3 Issuing Report and Obtaining Acknowledgment of Receipt at the conclusion of the inspection:

1.8.3.1 The Health Authority shall provide a copy of a completed inspection report, and the notice to correct violations, to a

person of person of suitable age and discretion at the registered Disinfection/Sterilization Operation;

1.8.3.2 Request a signed acknowledgement of receipt on the voucher.

1.8.3.3 State that an opportunity for appeal from any notice or inspection findings will be provided if a written request for a hearing is filed with the Health Authority within the period established at the time of notice of correction.

1.9 Suspension or Revocation of Registration, Reinstatement of Suspended Registration, Hearings

1.9.1 Registrations issued under the provisions of these Regulations may be suspended for failure to follow the provisions of these Regulations;

1.9.2 Whenever a registered Disinfection/Sterilization Operation or operator has failed to comply with any notice issued under the provisions of these Regulations, the registered Disinfection/Sterilization Operation or operator shall be notified in writing that the registration is, upon service of the notice, immediately suspended. The notice shall contain a statement informing the registered Disinfection/Sterilization Operation or operator that an opportunity for a hearing will be provided if a written request for a hearing is filed with the HEALTH AUTHORITY as soon as possible.

1.9.3 Any person whose registration has been suspended may, at any time, make application for reinspection for reinstatement. Within ten business days following receipt of a written request, including a statement signed by the applicant that in his opinion the conditions causing suspension of the registration has been corrected, the Health Authority shall make a reinspection. If the applicant is complying with the requirements of these Regulations, the registration shall be reinstated.

1.9.4 For serious or repeated violations of any of the requirements of these Regulations, or for interference with the Health Authority in the performance of their duties, the registration may be permanently revoked after an opportunity for a hearing has been provided by the Health Authority. Before taking such an action the Health Authority shall notify the registration holder, in writing, stating the reasons for which the registration is subject to revocation and advising the registration holder of the requirements for filing a request for a hearing. A registration may be suspended for cause pending its revocation or a hearing relative thereto.

1.9.5 Unless a request for a hearing is filed with the Health Authority by the registration holder within five days, the Health Authority may permanently revoke a registration after five days following service of the notice.

Section 2.0 Hearing Officer Process

2.1 Environmental Health Hearing Officer Authority

2.1.1 Health District in-house Counsel shall appoint an Environmental Health Authority Hearing Officer(s) who shall adjudicate alleged violations of statute related to the unauthorized or unpermitted operation of regulated entities or activities within the Health District's jurisdiction. The Hearing Officer(s) shall act independent of each other regarding decisions. The Hearing Officer(s) shall have a working knowledge of environmental issues, arbitration, law and/or engineering.

2.2 Environmental Health Hearing Officer Selection

2.2.1 Hearing Officer(s) shall be selected by the Health District in-house Counsel from qualified applicants to the Health District. Such individual(s) shall not be employees of the State or any political subdivision of the State, or any entity which is permitted or regulated by the Health Authority. The Hearing Officer(s) will be an independent contractor who serves at the pleasure of the District Board of Health, and will be paid in accordance with a fee schedule approved by the District Board of Health.

2.3 Adjudication by the Hearing Officer

2.3.1 Adjudication by the Hearing Officer(s) of alleged violations NRS 444.010 through NRS 444.040, or suspensions or revocations of registrations, shall be in accordance with the following:

2.3.2 All parties must be afforded an opportunity for a hearing after reasonable notice. The Notice must include a statement of the time, place and nature of the hearing; a reference to the particular sections of the statutes and regulations involved; and a short and plain statement of the matters asserted.

2.3.3 Any party may be represented by counsel.

2.3.4 Opportunity shall be afforded all parties to respond and present evidence and argument on all issues involved.

2.3.5 Each party may call and examine witnesses, introduce exhibits, cross examination of opposing witnesses on any matter relevant to the issues even though the matter was not covered in the direct examination, impeach any witness, regardless of which party first called him to testify, and rebut the evidence against it.

2.3.6 Every witness shall declare, by oath or affirmation, that he will testify truthfully. Unless limited by a specific statute, the Hearing Officer(s) may administer oaths or affirmations to witnesses appearing before him in the hearing.

2.3.7 Irrelevant, immaterial or unduly repetitious evidence must be excluded. Evidence may be admitted, except where precluded by statute, if it is of a type commonly relied upon by reasonable and prudent persons in the conduct of their affairs. Effect shall be given to the rules of privilege recognized by law.
Objections to evidentiary offers may be made and shall be noted in the record. Subject these requirements, when a hearing will be expedited and the interest of the parties will not be prejudiced substantially, any part of the evidence may be received in written form.

2.3.8 The Hearing Officer(s) may issue subpoenas to compel attendance of any person at the hearing, and require the production of books, records and other documents material to a hearing.

2.3.9 The Hearing Officer(s) may inquire of any witness following any segment of testimony.

2.3.10 Members of the public may testify in cases before the Hearing Officer(s).

2.3.11 All testimony shall be recorded verbatim, by human or electronic means. Any party requesting a transcript of any oral proceeding, or any part thereof, shall pay the cost thereof.

2.4 Penalties levied by the Hearing Officer

2.4.1 Except in cases involving the suspension or revocation of a registration, upon the Hearing Officer(s) finding a violation has occurred, the Hearing Officer(s) shall levy such penalty , an d require corrective action as he deem s appropriate to the violation, subject to the following:

(A) For a first offense, at least $250 but not more than $500 per day;
(B) For a second offense, at least $500, but not more than $1,000 per day;
(C) For a third offense, at least $1,000 but not more than $1500, per day;
(D) For any subsequent offense, at least $500 more than the most recent previous penalty levied by the Hearing Officer, per day.

2.4.2 Factors to be considered by the Hearing Officer(s) in determining the amount of any penalty imposed pursuant to subsection 4 herein includes but are not limited to the following:

(A) Economic benefit to the violator
(B) Gravity of the violation
(C) Environmental impact
(D) Public impact

2.5 Final Decisions of the Hearing Officer

2.5.1 The decision of the Hearing Officer(s) must be reduced to writing and shall be final 10 days after mailing to by certified mail, return receipt requested or personal service upon each party.

2.5.2 All penalties levied by the Hearing Officer(s) shall be paid to the Health District, and used only to pay for management of solid waste within the jurisdiction of the Health Authority.

2.5.3 Failure to comply with any order of the Hearing Officer(s) requiring corrective action constitutes a separate violation of these regulations, and subjects the responsible party to additional cases of alleged violations with separate and additional penalties thereof.

2.6 Appeal of the Decisions of the Hearing Officer

2.6.1 Any party aggrieved by a decision of the Hearing Officer(s) may seek judicial review of the decision of the Hearing Officer(s), in accordance with the provisions of NRS 233B.130(2), and NRS 233B.131 through 233B.150, inclusive.

Section 3.0 Miscellaneous

3.1 Severability clause

3.1.1 Should any section, paragraph, sentence, phrase, or provision of these Regulations be held invalid for any reason, the remainder of these Regulations shall not be affected.