

The proposed adoptions (cited as 02 NCAC 61 .0104, .0110) and amendments (cited as 02 NCAC 61 .0101, .0102, .0105 and .0108) will be published in the NC Register on **April 18<sup>th</sup>, 2022**. The comment period will end on **June 17<sup>th</sup>, 2022**.

Written comments may be submitted during the open comment period to James W. Burnette, Jr., 1090 Mail Service Center, Raleigh, NC 27699-1090; email [james.burnette@ncagr.gov](mailto:james.burnette@ncagr.gov).

Any person may request a public hearing on the proposed rules by submitting a request in writing no later than 15 days following publication in Register to James W. Burnette, Jr., Director, NCDA&CS Structural Pest Control and Pesticides Division, 1090 Mail Service Center, Raleigh NC 27699-1090.

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02 NCAC 61 .0101 is proposed for amendment as follows:

## CHAPTER 61 - SANITATION OF BEDDING

### 02 NCAC 61 .0101 DEFINITIONS

The following definitions shall apply throughout these Rules:

- (1) "Chemical Method" means a process accomplished by application of a disinfectant registered by the U.S. Environmental Protection Agency and labeled as a disinfectant for bedding.
- ~~(1)~~(2) "Chief Financial Officer" means the officer or employee with primary bookkeeping responsibility for a business that ~~manufactures~~ manufactures, ~~or sanitizes~~ sanitizes, sells or offers to sell bedding in this State or manufactures and sells or offers to sell bedding to be sold in this state.
- (3) "Division" means the Structural Pest Control and Pesticides Division of the N.C. Department of Agriculture and Consumer Services.
- (4) "Dry Heat Method" means a process accomplished by conduction, where heat is absorbed by the exterior surface of an item and then passed inward to the next layer.
- ~~(2)~~(5) "Person" means an individual, corporation, company, partnership, or other legal entity.

*History Note: Authority G.S. 106-65.107;  
Eff. April 1, 1984;  
Amended Eff. January 1, 1988;  
Transferred from 15A NCAC 18B .0201 Eff. May 1, 2012;  
Readopted Eff. January 1, 2021;  
Amended Eff. August 1, 2022.*

02 NCAC 61 .0102 is proposed for amendment as follows:

### 02 NCAC 61 .0102 AUTHORIZED SANITIZING PROCESSES

- ~~(a) In the dry heat process, secondhand or previously used bedding must be heated at a temperature of 230 degrees F. for a period of two hours. The chamber in which this process is performed must be insulated sufficiently to ensure maintenance of a uniform temperature of 230 degrees F. Articles to be sanitized must be placed on racks, or other devices provided therein so that a minimum space of six inches is left around each item being sanitized, and between the item and the walls, floor, ceiling, and other items. Loose materials to be sanitized must be placed on tiers or slats, or in other arrangements that permit an even distribution of heat throughout the material. A thermometer that has been checked for accuracy within one degree F. must be placed within the chamber at a point where it can be read at all times through a window for that purpose.~~
- ~~(b) In the washing process, the bedding shall be boiled for two hours and washed with a soap or detergent. After drying, the bedding shall be free from dirt, marks, stains, or other offensive odors or materials.~~

(a) The dry heat process may be used to sanitize secondhand mattresses, innersprings, or similar covered in whole or in part by a porous material or fabric. In order to properly sanitize using the dry heat process:

- (1) The bedding must be heated to a temperature of 230 degrees F. for a period of two hours. All chambers shall be insulated to ensure maintenance of uniform temperature of 230 degrees Fahrenheit and shall be tightly sealed to prevent any leakage of gases. Materials to be sanitized must be placed on racks, or other devices provided therein so that a minimum space of six inches is left around each item being sanitized, and between the item and the walls, floor, ceiling, and other items;
- (2) Loose materials to be sanitized must be placed on tiers or slats, or in other arrangements that permits an even distribution of heat throughout the material; and
- (3) A thermometer that has been checked for accuracy within one-degree Fahrenheit must be placed within the chamber at a point(s) where it can always be easily read to determine the temperature accuracy of the equipment.

(b) The chemical method of sanitizing is authorized if performed in accordance with the requirements of this Rule. Only those products evaluated and registered by the US Environmental Protection Agency (EPA) and the Division, as approved for use as disinfectants of articles of bedding shall be used. The product used must clearly state, on the label or on printed materials included on each container or package, detailed instructions for its use in disinfecting articles of bedding. It is a violation of this Rule to use an unregistered product, or to use a registered product in a manner inconsistent with its label or accompanying printed material, in the sanitizing process.

(c) In the washing process, the bedding shall be boiled for two hours and washed with a soap or detergent. After drying, the bedding shall be free from dirt, marks, stains, or other offensive odors or materials.

*History Note: Authority G.S. 106-65.107;  
Eff. April 1, 1984;  
Amended Eff. January 1, 1985;  
Transferred from 15A NCAC 18B .0202 Eff. May 1, 2012;  
Readopted Eff. January 1, 2021;  
Amended Eff. August 1, 2022.*

02 NCAC 61 .0104 is proposed for adoption as follows:

#### **02 NCAC 61 .0104 RECORDKEEPING FOR SANITIZATION**

(a) A person who sanitizes previously used material or bedding shall keep a record of the kind of material and bedding which has been sanitized, that is available for inspection by the Division.

(b) The record shall be retained on the business premises and/or with each mobile unit for not less than two years and shall be made available for inspection by the Division upon request.

(c) The record shall include the following:

- (1) the date of sanitization;
- (2) the sanitization method used;
- (3) the kind of materials and types of items sanitized;
- (4) the unit number of bedding articles sanitized;
- (5) a list of all chemicals, including EPA Reg. numbers, total amount applied per application used in the pre- and post-sanitizing process; and
- (6) the name of the person and/or company performing the sanitization.

*History Note: Authority G.S. 106-65.107;  
Eff. August 1, 2022.*

02 NCAC 61 .0105 is proposed for amendment as follows:

**02 NCAC 61 .0106 .0105 STORAGE OF SECONDHAND OR PREVIOUSLY-USED MATERIALS**

When secondhand bedding or previously-used materials that have not been sanitized are stored in a bedding manufacturing establishment, a sanitizing business, a retail outlet, a distribution warehouse, or in the same room with new or sanitized bedding or bedding materials, the secondhand bedding or previously-used materials must be segregated at all times from the new or sanitized bedding or bedding ~~materials.~~ materials:

- (1) by partitions that are free of holes, cracks, or other openings. The top of the partitions must be at least one foot higher than the level of the unsanitized ~~materials.~~ materials; or
- (2) by complete separation by a minimum of six feet.

*History Note: Authority G.S. 106-65.98; 106-65.107;  
Eff. April 1, 1984;  
Transferred from 15A NCAC 18B .0205 Eff. May 1, 2012;  
Readopted Eff. January 1, 2021;  
Amended Eff. August 1, 2022.*

02 NCAC 61 .0108 is proposed for amendment as follows:

**02 NCAC 61 .0109 .0108 LICENSE FEES AND APPLICATIONS**

(a) Applications for a license shall be on a form provided by the Division and shall include the following information:

- (1) the name of the business;
- (2) the physical address for the plant or operation;
- (3) the name, title, mailing address, and telephone number and email address if available, for the contact person for the license; and
- (4) the type of bedding items the business ~~manufactures.~~ manufactures, sanitizes or renovates.

(b) The applicant shall submit a verification from the applicant's chief financial officer that he has examined the records of the applicant and that the information provided in accordance with G.S. 106-65.103 correctly reflects the information contained in the records of the applicant. However, if the Division has reason to believe that the information provided is incomplete, misleading or incorrect, the Division may require the applicant to obtain a certification of the required information by an independent Certified Public Accountant licensed to practice in North Carolina.

(c) License fees, in accordance with G.S. 106-65.103, shall be paid in full on March 1 of each year or in quarterly installments on March 1, June 1, September 1, and December 1 of each year. Applicants who have not operated for a full calendar year may owe additional fees or be due a refund for the first year's operation, depending on the business volume eligible for stamp exemption fee payment. Application forms for making the determination of fee payment owed or refunded shall be furnished by the Division. When the requirements of G.S. 106-65.103(a) can be met, the option described by G.S. 106-65.103(b) will no longer be available to the applicant.

(d) Applicants who have gone out of business in the initial year of their operation and who have paid the license fee in accordance with G.S. 106-65.103 may apply for a refund for the remainder of the calendar year upon providing verified proof of the bedding units sold or manufactured in North Carolina during the operating portion of the calendar year.

(e) All forms may be obtained from the Division at [www.ncagr.gov/SPCAP/Sleep/beddinglicense.htm](http://www.ncagr.gov/SPCAP/Sleep/beddinglicense.htm).

*History Note: Authority G.S. 106-65.103; 106-65.107;  
Eff. April 1, 1984;  
Amended Eff. September 1, 1990; January 1, 1988;  
Transferred from 15A NCAC 18B .0208 Eff. May 1, 2012;  
Readopted Eff. January 1, 2021;  
Amended Eff. August 1, 2022.*

02 NCAC 61 .0110 is proposed for adoption as follows:

**02 NCAC 61 .0111 ~~.0110~~ DURABLE MATERIALS FOR TAGS**

In addition to the requirements set forth in G.S. 106-65.99, identifying tags shall be of linen, muslin, white vellum cloth, or other durable ~~cloth~~ material of comparable quality that will not flake when abraded and shall not be easily torn, abraded. Paper or plastic face tags shall not be allowed. Tags shall be printed or stamped on one side only in colorfast black letters that will not fade or wash out. Tags shall be so located that the information contained thereon is visible to the purchaser at all times and shall be securely attached or sewn ~~sewed~~ to the ~~pillows, mattresses, sleeping bags, comforters, and other articles of bedding~~. Tags shall not be altered or defaced in any manner. The labeling requirements of another governmental unit may appear on the tag.

*History Note: Authority G.S. 106-65.99; 106-65.107;  
Eff. April 1, 1984;  
Amended Eff. January 1, 1988;  
Transferred from 15A NCAC 18B .0210 Eff. May 1, 2012;  
Readopted Eff. January 1, 2021;  
Amended Eff. August 1, 2022.*