

Title 20. Public Health and Welfare

Chapter I. Generally, Department of Health

Subchapter E. Environmental Health

Part 134. Rules Pertaining to Labeling of Bedding and the Germicidal Treatment of Used Bedding

Codification Notes. This part as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"SECTION 1. Authority and Purpose

1.1The following RULES PERTAINING TO LABELING OF BEDDING AND THE GERMICIDAL TREATMENT OF USED BEDDING are duly adopted and promulgated by the Arkansas State Board of Health pursuant to the authority expressly conferred by the laws of the State of Arkansas including without limitation, Act 96 of 1913 (A.C.A.20-7-109) and Act 1420 of 2013 (A.C.A.20-27-2706)"

"Section 9. Certification

This will certify that the foregoing Rules Pertaining to Bedding were adopted by the Arkansas Department of Health at the regular session of the Board of Health held at the Winthrop Rockefeller Institute, Petit Jean Mountain, Morrilton, Arkansas on the 23rd day of October, 2014.

Nathaniel Smith, MD, MPH Director and State Health Officer Arkansas Department of Health"

Subpart 1. Generally

20 CAR § 134-101. Purpose.

To establish minimum standards for:

- (1) Labeling of new and used bedding; and

(2) The germicidal treatment of used bedding.

Authority. Arkansas Code § 20-27-2705.

20 CAR § 134-102. Definitions.

As used in this part:

(1) "Bedding" means a mattress, upholstered spring, comforter, pad, cushion, pillow, box springs, foundation, or studio couch made, in whole or part, of new or secondhand fabric, filling materials, or other materials which can be used for sleeping or reclining purposes;

(2) "Department" means the Department of Health;

(3) "Manufacture" means the making of bedding out of new material;

(4) "New material" means any fabric, filling material, other material, or article of bedding that has not been previously used in the manufacturing, distributing, or retailing process or for which the legal title has not been transferred by a manufacturer, distributor, or retailer to a final purchaser, including by-products of any textile or manufacturing process that are free from dirt, insects, and other contamination;

(5) "Person" means:

(A) An individual;

(B) A sole proprietorship;

(C) A partnership;

(D) A limited liability company;

(E) A corporation;

(F) A joint venture;

(G) An association;

(H) A trust; and

(I) Any other entity and the agents, servants, and employees of the entity;

(6) "Renovator" means a person that repairs, makes over, recovers, restores, sanitizes, germicidally treats, cleans, or renews bedding;

(7) "Sanitizer" means a person that sanitizes, germicidally treats or cleans, but does not otherwise alter, any fabric, filling material, other materials, or article of bedding for use in manufacturing or renovating bedding;

(8) "Secondhand material" means any fabric, filling material, other material, or article of bedding that:

(A) Has been previously used for any purpose, including without limitation, floor samples from any source other than a seller's own business and factory-returned materials or bedding; or

(B) Is derived from a postconsumer or industrial waste and that may be used in place of new material in manufacturing or renovating bedding;

(9) "Secretary" means the Secretary of the Department of Health; and

(10) "Seller" means a person that offers or exposes for sale, barter, trades, delivers, consigns, leases, possesses with intent to sell, or disposes of bedding in any commercial manner at the wholesale, retail, or other level of trade.

Authority. Arkansas Code § 20-27-2705.

20 CAR § 134-103. Bedding labels.

(a) Label requirement.

(1)(A) The minimum size of the label shall not be less than two inches by three inches (2" x 3"), but may be larger as need demands.

(B)(i) All printing shall be in the English language, and the color of the print shall be black on a white label.

(ii) The minimum type size shall be one-eighth inch (1/8") in height in capital letters for the "Under Penalty of Law" section and the "All New Material" section.

(iii) The label material shall be Tyvek, Valeron, vellum cloth, or a material of comparable quality, which shall not flake out when abraded.

(iv) There shall be no printing on the back of the law label.

(C)(i) The description of the filling materials shall be the true generic name, grade, or definition.

(ii) When more than one (1) kind of filling is used, the percent by weight of each shall be listed in order of their predominance.

(D) The name and address of the manufacturer, importer, distributor, or vendor shall be listed.

(E)(i) Other information includes compliance requirement by United States Customs and Border Protection requirements to state "Made In.....".

(ii) If a product is made in the United States, either in whole or part of imported materials, the law label shall disclose these facts.

(F) The label shall be securely affixed to the article in a location which is clearly visible to the consumer.

(2) All bedding manufactured, renovated, sanitized, or sold by a seller within the state shall bear a clear and conspicuous label that explicitly states whether the bedding is made from all new materials or is made in whole or in part from secondhand materials.

(3) The label on bedding made from all new materials shall be white in color and shall state "ALL NEW MATERIAL".

(4)(A) The label on bedding made in whole or in part from secondhand materials shall be yellow in color and shall state, "SECONDHAND MATERIALS".

(B) The repairer or renovator of any bedding that is subsequently sold shall affix the secondhand material label which shall be attached to the bedding before delivery to the owner.

(5) All bedding containing material that is sanitized, germicidally treated, or cleaned in accordance with Arkansas Code § 20-27-2703(e)(1) shall bear a clear and conspicuous label that states the following:

"THIS BEDDING CONTAINS PREVIOUSLY USED MATERIALS THAT HAVE BEEN CLEANED AND SANITIZED IN AN APPROVED MANNER TO KILL GERMS AND INSECTS AND TO PREVENT INFECTION."

(6) In addition, such label shall state:

(A) The specific methods of sanitizing, germicidal treatment, or cleaning applied;

(B) The date on which the article was sanitized, treated, or cleaned;

(C) The name, address, and permit number of the person applying the sanitizing or cleaning; and

(D) Specifically, which materials or articles have been sanitized, treated, or cleaned.

(7) The labels shall also comply with rules adopted by the Department of Health regarding:

(A) Label dimension;

(B) Format;

(C) Informational content;

(D) Wording;

(E) Letter size;

(F) Material;

(G) Means of placement and affixing to the bedding; and

(H) Other relevant factors.

(8) Labels required by this section shall be permanently affixed.

(b) A person shall not remove, deface, or alter in whole or in part a label or any statement on a label with the intent to defeat the provisions of this section.

(c) A person shall not make a false or misleading statement on any label required under Arkansas Code § 20-27-2702.

(d) The Secretary of the Department of Health shall approve the form and size of labels, the fabric, of which the labels are made, and the wording and statements on labels provided for under Arkansas Code § 20-27-2702.

(e) Labels required under Arkansas Code § 20-27-2702 shall be securely attached to the article of bedding or filling material at the site of the manufacturer in a conspicuous place where the label can be easily examined.

(f) Labels required by this section shall have printing only on one (1) side.

(g) Advertising matter shall not be placed on any label or any other printed matter not required by the provisions of Arkansas Code § 20-27-2702.

(h) The following statements and headings shall be shown on labels:

(1) "UNDER PENALTY OF LAW THIS TAG SHALL NOT BE REMOVED EXCEPT BY THE CONSUMER" shall appear at the top of the label;

(2) Headings shall read "All New Material" when the bedding material is wholly new material;

(3) "Secondhand Material" when the bedding material in whole or in part is comprised of secondhand material;

(4) Description of filling material as provided in the applicable rules shall be included on the label;

(5) The registry number assigned or approved by the department shall be included on the label;

(6) Certification by the manufacturer that the materials in this article are described in accordance with law shall be included on the label; and

(7) For renovated articles, the name and address of the owner.

Authority. Arkansas Code § 20-27-2705.

20 CAR § 134-104. Bedding materials.

(a) The contents and uses and percentage of filling materials used in articles of bedding and in bulk form shall be stated on the label.

(b) Percentages shall be computed on the basis of avoirdupois weight of the filling material present and shall be designated on the label in order of predominance with the component with the largest content listed first.

(c) The Department of Health may:

(1) Establish grades, specifications, and tolerances for the kinds and qualities of materials that may be used in the manufacture, repair, or renovation of bedding comprised of new materials or secondhand materials; and

(2) Approve or adopt designations and rules which are not in conflict with any provisions of this section for the labeling of bedding filled with such materials.

(d) Bedding shall not be manufactured in whole, or in part, from any secondhand material unless such material has been sanitized, germicidally treated, or cleaned by a method approved by the department.

Authority. Arkansas Code § 20-27-2705.

20 CAR § 134-105. Disinfection of secondhand bedding.

(a) General requirements.

(1)(A) A person shall not sell, offer for sale, or include in a sale any article of second-hand bedding or any article of bedding manufactured in whole, or in part, from second-hand material, unless such bedding has been cleaned, stains and odors removed, and germicidally treated by a method approved by the Department of Health.

(B) Articles of bedding removed from a retail establishment to be used as bedding and returned to the establishment are considered second-hand bedding.

(2) A person shall not use in the manufacture, renovation, or repair of bedding any material which has been obtained from dump grounds, landfills, junk yards, or hospitals within or without the State of Arkansas.

(b) **Methods of treatment.** Disinfection of used or secondhand bedding must be by:

(1) Chemical spray.

(A) The application of a chemical pesticide registered with by the United States Environmental Protection Agency.

(B) The chemical pesticide must have:

(i) Clearly stated on the label, or on printed material included in each container or package, detailed instructions for its use in disinfecting used or secondhand articles;

(ii) Clearly stated on the label a statement that the pesticide is safe to use on bedding; and

(iii) An additive product which provides fluorescent particles when viewed under ultraviolet (black light) and magnification.

(C) The purpose for this requirement is to provide a uniform method for detection of the presence of germicidal treatment agent on articles of bedding by enforcement officials.

(D) Sanitizer shall follow all application, safety, storage, and disposal instructions provided by the product manufacturers;

(2) **Commercial laundry method.** Pillows, cushions, comforters, pads, or other similar items will be considered as having been germicidally treated when the filling materials and covering material or ticking are kept intact without opening and cleaned by a commercial laundry method; or

(3) Other methods of germicidal treatment may be used in treating bedding and materials provided it has been approved by the department.

Authority. Arkansas Code § 20-27-2705.

20 CAR § 134-106. Penalties.

(a) The Department of Health may, at its discretion, randomly conduct bedding and materials product tests and inspections of the premises of any bedding manufacturer, renovator, or sanitizer for the purpose of determining compliance with the provisions of Arkansas Code § 20-27-2704 and the department's rules adopted under Arkansas Code § 20-27-2704.

(b) If the department finds probable cause to believe that an article of bedding violates any provisions of Arkansas Code § 20-27-2704, it may embargo, remove, recall, condemn, destroy, or otherwise dispose of bedding found to violate any provisions of Arkansas Code § 20-27-2704.

(c)(1)(A)(i) The department may deny, suspend, or revoke an initial or renewal permit of any person that violates any provision of Arkansas Code § 20-27-2704.

(ii) Each day of a continuing violation constitutes a separate violation.

(B) A person who violates any provision of Arkansas Code § 20-27-2704 commits a Class A misdemeanor.

(2) The court may order restitution in addition to any other penalty provided in Arkansas Code § 20-27-2701 et seq.

(3) The department may petition for an injunction to restrain a continuing violation of Arkansas Code § 20-27-2704 or a threat of a continuing violation of Arkansas Code § 20-27-2704, provided such violation or threatened violation creates an immediate threat to public health and safety.

(4)(A) A manufacturer, renovator, or seller that knowingly attaches to bedding, or sells bedding bearing, a label stating that the product is made from all new materials, when the person has actual knowledge or reason to believe or suspect that such bedding is made in whole or in part from secondhand materials commits a Class A misdemeanor.

(B) Each bedding product that is found to be falsely labeled in this respect constitutes a separate violation.

Authority. Arkansas Code §§ 20-27-2704, 20-27-2705.

20 CAR § 134-107. Severability.

If any provisions of this part, or the application thereof to any person or circumstances, is held invalid, such invalidity shall not affect other provisions or applications of this part's applications, and to this end the provisions hereto are declared to be severable.

Authority. Arkansas Code § 20-27-2705.

20 CAR § 134-108. Repeal.

All rules and parts of rules in conflict herewith are hereby repealed.

Authority. Arkansas Code § 20-27-2705.