SOUTHERN NEVADA HEALTH DISTRICT REGULATIONS GOVERNING LEAD IN CONSUMER PRODUCTS

WHEREAS, the Southern Nevada Health District (SNHD) is the public health entity for Clark County, Nevada, pursuant to Nevada Revised Statutes (NRS) Chapter 439, and 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 prevent and control public health hazards and nuisances and to protect and promote the public health and safety in the geographical area subject to the jurisdiction of the health district; and

WHEREAS, lead is a naturally occurring heavy metal element whose toxicity in humans has been well documented. Lead is a toxic substance that attacks many different organs and body systems. Lead adversely impacts neurological, cardiovascular, renal, gastrointestinal, reproductive [greater than ninety (90) percent passes from mother to fetus], skeletal, skin, and other body systems. Lead is widely present in the environment due to its natural occurrence and human activities that have introduced it into the general environment. This includes the use of leaded gasoline and paint and similar surface coatings used in homes. These paints and similar surface coatings are found on items such as pottery and ceramics, furniture, and on toys or other items used by children. In recent years, a number of other products have been identified, which present a risk of lead poisoning from sources other than paint or surface coatings. Some products are intended for use by children and others are simply used in or around the household or in recreation. These products include vinyl mini-blinds, vinyl lunchboxes or backpacks, crayons, figurines used as game pieces, and children's jewelry.

WHEREAS, the Board finds that lead-contaminated products do affect the health and the well being of the children residing in Southern Nevada, and finds that it is necessary to adopt SNHD Regulations Governing Lead in Consumer Products to prevent and control lead-related health hazards potentially originating from consumer products likely to be used by children, where lead content has been previously identified or is likely to be found, and

WHEREAS, the Health Authority recognizes the importance of proper identification and removal of lead-contaminated products from the consumer market, with the intent to reduce the likelihood of illness resulting from exposure to lead, and

WHEREAS, the businesses within Clark County who sell products or provide services in which lead is a component must do so in a manner that does not pose a health and safety hazard to the children of Southern Nevada,

WHEREAS, Nevada Revised Statutes 439.479, gives the health district authority to adopt regulations to ensure the enforcement of laws that protect public health and

safety associated with potentially lead-contaminated consumer products and to establish an administrative hearing process to address such concerns, and

WHEREAS, NRS 439.490 authorizes the health district to order the removal of the consumer product from access by children and to recover any of the costs associated with any actions required by the Health Authority to cause the removal to be completed.

WHEREAS, the Board believes that the following Regulations are designed to protect and promote the public health and safety, it does therefore publish, promulgate and order compliance within Clark County, Nevada with the substantive and procedural requirements hereinafter set forth.

INTENT AND SCOPE

Intent The purpose of these Regulations is to protect and promote the public health and safety through preventive measures and timely corrections of significant public health and environmental issues related to lead exposure in children.

Scope These Regulations establish definitions; set standards for the identification, notification, and recall of consumer products contaminated with lead, which are likely to be used by children; provide for enforcement actions; and include provisions for recovery of the direct and administrative costs associated with the identification, notification, and recall of lead-containing products.

SOUTHERN NEVADA HEALTH DISTRICT REGULATIONS GOVERNING LEAD IN CONSUMER PRODUCTS

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Section 1
DEFINITIONS

Summary of abbreviations of terms used in these Regulations

CPSA	**Consumer Product Safety Act**
CPSIA	**Consumer Product Safety Improvement Act of 2008**
CPSC	**United States Consumer Product Safety Commission**
DHO	**Deputy Health Officer**
DOT	**Department of Transportation**
EBL	**Elevated Blood Lead**
EHS	**Environmental Health Specialist**
° F	**Degrees Fahrenheit**
FDA	**United States Food and Drug Administration**
FHSA	**Federal Hazardous Substances Act**
FIFRA	**Federal Insecticide, Fungicide, Rodenticide Act**
µg/dl	**microgram(s) per deciliter**
µg/g	**microgram(s) per gram**
NAC	**Nevada Administrative Code**
NRS	**Nevada Revised Statutes**
ppm	**parts per million**
SNHD	**Southern Nevada Health District**

As used in these Regulations, unless the context otherwise requires, the following words and terms defined have the meanings ascribed to them in this document.

1.1 **"Approved"** defined. **Approved** means acceptable to the Health Authority based on conformance with any applicable, adopted Regulations, good public health practices, and recognized industry standards.

1.2 **"Banned hazardous substance"** defined. A **banned hazardous substance** is any toy or article intended for children, which is a hazardous substance or which bears or contains a hazardous substance in such a manner as to be susceptible of access by a child to whom such a toy or other article is entrusted.

1.3 **"Cease and Desist Order"** defined**.** A **Cease and Desist Order** is a written Order issued by the Health Authority which directs the responsible person to immediately stop doing or allowing a specific action to occur at a facility or any other similar location, which is causing, allowing, or creating the conditions that has or are likely to result in the occurrence of lead exposure or lead poisoning in a child. A Cease and Desist Order does not include an inherent direction to completely cease operating the entire facility, but may order the removal from sale or use any affected consumer products. A Cease and Desist Order may also instruct the responsible person to prevent access to areas where lead-

contaminated or lead-containing products, which cannot or are not likely to be removed, are present. Under certain circumstances, a Cease and Desist Order can include a timeframe to achieve compliance with the Order so long as there is not an imminent threat to public health or safety.

1.4 "Ceramic ware" defined. **Ceramic ware** consists of the following categories for the purposes of these Regulations:

1.4.1 Flatware—ceramic articles which have an internal depth as measured from the lowest point to the horizontal plane passing through the upper rim that does not exceed 25 mm.

1.4.2 Hollowware—ceramic articles which have an internal depth measured from the lowest point to the horizontal plane passing through the upper rim, greater than 25 mm.

1.4.2.1 *Small hollowware*—a capacity of less than 1.1 liter.

1.4.2.1.1 ***Cups and mugs:*** small ceramic hollowware vessels commonly used for consumption of beverages, for example, coffee or tea at above room temperature. Cups and mugs normally, but not exclusively, have a capacity of about 240 mL or 8 fl. oz. and are manufactured with a handle. Cups normally have a base and curved sides while a mug has cylindrical sides.

1.4.2.2 *Large hollowware*—a capacity of 1.1 liter or more.

1.4.2.2.1 ***Pitchers:*** large ceramic hollowware vessels (sometimes known as jugs) commonly used for the storage and dispensing of fruit and vegetable juices or other acidic beverages at or below room temperature which are normally manufactured without a lid but with a handle and lip spout. For the purpose of this guideline, creamers, coffeepots, and teapots are not considered to be pitchers. Depending on capacity, creamers, coffeepots and teapots will be considered small or large hollowware.

1.5 "Child care facility" defined. A **child care facility** is a licensed establishment operated and maintained for the purpose of furnishing care, during a day or overnight, for children under eighteen (18) years of age, in which the parents or guardians are not present.

1.6 "Children" defined. For the purposes of these Regulations, **children** are defined as people twelve (12) years of age and younger.

1.7 "Children's cosmetic" defined. **Children's cosmetics** are any cosmetics intended for use by children ages twelve (12) years and younger for dress-up play.

1.8 "Children's product" defined. **Children's product** means a consumer product designed or intended primarily for children twelve (12) years of age or younger. Examples include: toys; children's cosmetics; children's jewelry; or any product designed or intended by the manufacturer to help a child with sucking or teething, to facilitate sleep, relaxation, or the feeding of a child; or to be worn as clothing

by children; or child car seats. In determining whether a consumer product is primarily intended for a child twelve (12) years of age or younger, the following factors shall be considered:

- A statement by a manufacturer about the intended use of such product, including a label on such product if such statement is reasonable.
- Whether the product is represented in its packaging, display, promotion, or advertising as appropriate for use by children twelve (12) years of age or younger.
- Whether the product is commonly recognized by consumers as being intended for use by a child twelve (12) years of age or younger.
- The Age Determination Guidelines issued by the CPSC in September 2002, and any successor to such guidelines.

1.9 "Commerce" defined. **Commerce** means trade, traffic, commerce, or transportation between a place in a state and any place outside thereof, or which affects trade, traffic, commerce, or transportation between a place in a state and any place outside thereof.

1.10 "Concentration" defined. **Concentration** means the relative content of a specific substance contained within larger mass, such as the amount of lead [in micrograms per gram (µg/g) or parts per million (ppm) by weight] in a sample.

1.11 "Consumer product" defined. A **consumer product** is any article, or component part thereof, produced or distributed for sale to a consumer for use in or around a permanent or temporary household or residence, a school, in recreation, or otherwise, or for the personal use, consumption or enjoyment of a consumer in or around a permanent or temporary household or residence, a school, in recreation, or otherwise. This includes furniture, appliances, rugs, curtains, bed linens, wearing apparel, jewelry, toys, sports equipment, and electronics.

1.12 "Consumer product safety rule" defined. **Consumer product safety rule** means a consumer products safety standard described in section 2056(a) the CPSA, or a rule under this chapter declaring a consumer product a banned hazardous product.

1.13 "Distribute in commerce" or "distribution in commerce" defined. **Distribute in commerce** and **distribution in commerce** mean to sell in commerce, to introduce or deliver for introduction into commerce, or to hold for sale or distribution after introduction into commerce.

1.14 "Distributor" defined. A **distributor** is a person to whom a consumer product is delivered or sold for purposes of distribution in commerce, except that such term does not include a manufacturer or retailer of such product.

1.15 "Elevated blood lead (EBL) level" defined. An **elevated blood lead (EBL) level** is an excessive absorption of lead that is a confirmed concentration of lead in whole blood of 10 µg/dl (micrograms of lead per deciliter of whole blood) for a single venous test.

1.16 "Enforcement" defined. **Enforcement** means diligent effort to secure compliance, including review of plans and permit applications, response to complaints, issuance of Notices of Violation, Hold Orders, Cease and Desist Orders, and other legal processes.

1.17 "Food" defined. **Food** includes articles used for **food** or drink for man or other animals; chewing gum; and articles used for components of any such article. **(NRS 585.100)**

1.18 "Food and Drug Administration (FDA)" defined. The United States **Food and Drug Administration (FDA)** is the federal agency responsible for ensuring that foods are safe, wholesome and sanitary; human and veterinary drugs, biological products, and medical devices are safe and effective; cosmetics are safe; and electronic products that emit radiation are safe. The **FDA** also ensures that these products are honestly, accurately and informatively represented to the public.

1.19 "Furniture" defined. **Furniture**, as defined in these Regulations pertaining to lead, include **furniture** articles for consumer use that bear lead-containing paint or coatings include, but are not limited to beds, bookcases, chairs, chests, tables, dressers, desks, pianos, console televisions, and sofas. However, they do not include appliances such as ranges, refrigerators, dishwashers, clothes washers and dryers, air conditioners, humidifiers and dehumidifiers; fixtures such as bathroom fixtures, built-in cabinets, chandeliers, windows, and doors; or household items such as window shades, Venetian blinds, or wall hangings and draperies.

1.20 "Health Authority" defined. **Health Authority** means the officers and agents of the Southern Nevada District Board of Health and the SNHD.

1.21 "Health hazard" defined. **Health hazard** means any biological, physical, or chemical exposure, condition, or public nuisance that may adversely affect the health of a person.

1.22 "Health-Permitted facilities" defined. **Health-Permitted facilities** are those facilities or businesses, which have been issued a document by the Health Authority that authorizes a person to operate a business legally regulated by the Health Authority.

1.23 "Hold Order" defined. A **Hold Order** is a directive by the Health Authority to the Health Permit holder or responsible person to prohibit the use, serving, selling, or

moving from the establishment any consumer product, including candy and other food products, which is suspected or confirmed to be adulterated with lead or any other adulterant at concentrations prohibited by law or regulation. A **Hold Order** may be vacated or released only by the Health Authority who issued it.

1.24 "Import" or "importation" defined. The terms "import" and "importation" include reimporting a consumer product manufactured or processed, in whole or in part, in the United States.

1.25 "Lead" defined. **Lead** is a naturally occurring heavy metal element that is widely present in the environment due to both its natural occurrence and human activities. Lead toxicity in humans has been well documented and adversely impacts many body systems. Even low exposures to lead has been shown to severely affect the development of children under the age of six. There is no save level of lead for children.

1.26 "Lead-bearing substance" defined. A **lead-bearing substance** means any of the following if they contain an amount equal to or greater than the amount of lead by weight (as determined by regulation) which may pose a significant health hazard to humans:

- Soil;
- Dust on any permanent or non-permanent surface of the dwelling, residential building, child care facility, or school;
- Items, substances, and surfaces that are edible or chewable by or accessible to children, including toys, jewelry, furniture, or decorative objects;
- Food or other ingestible substances or items; and
- Paint or other surface coating material.

These Regulations regarding **lead-bearing substances** shall be based upon lead levels established, utilized, recommended, or offered as guidance by federal and state agencies as legally required, where established by law and regulation, or as best available control technology, when such becomes available.

1.27 "Lead-containing paint" defined. Lead-containing paint is paint or other similar surface coating materials containing lead or lead compounds and in which the lead content (calculated as lead metal) is in excess of 0.009 percent weight of the total nonvolatile content of the paint (90 ppm) or the weight of the dried paint film.

1.28 **“Lead-contaminated consumer product”** defined. A **lead-contaminated consumer product** is any consumer product which contains lead in levels which are in excess of those allowed for by law. Consumer products which have been deemed likely to be lead contaminated include, but are not limited to: painted products, toys, and furniture; certain food products such as Mexican-type tamarind or chile-containing candies, chile-containing snacks, or dried chiles (including their wrappers) or foods stored in lead-soldered cans; cosmetics; glazed pottery; folk remedies such as “azarcon,” “greta,” or “Nzu”; and children’s metallic or painted jewelry.

1.29 **“Lead hazard”** defined. A **lead hazard** is any lead-bearing substance that poses a significant health hazard to humans.

1.30 **“Lead poisoning”** defined. **Lead poisoning** is a medical condition caused by increased levels of the heavy metal lead in the body. Lead interferes with a variety of body processes and is toxic to many organs and tissues including the heart, bones, intestines, kidneys, and reproductive and nervous systems. It interferes with the development of the nervous system and is therefore particularly toxic to children, causing potentially permanent learning and behavior disorders. Symptoms include abdominal pain, headache, anemia, irritability, and in severe cases seizures, coma, and death.

1.31 **“Manufactured”** defined. **Manufactured** means to manufacture, produce, or assemble.

1.32 **“Manufacturer”** defined. A **manufacturer** is any person who manufactures or imports a consumer product.

1.33 **“Nuisance”** defined. A **nuisance** is anything, which is injurious to health, or offensive to the senses, so as to interfere with the comfort or endanger the health or safety of the public.

1.34 **“Operator”** defined. The **operator** is the person who holds the license of a Health-Permitted or other business or is responsible for the management of such a location at the direction of the owner.

1.35 **“Paint and other similar surface-coating materials”** defined. **Paint and other similar surface-coating materials** means any fluid, semi-fluid, or other material, with or without a suspension of finely divided coloring matter, which changes to a solid film when a thin layer. This definition does not include the glaze applied to ceramic tiles.

1.36 **“Person”** defined. **“Person”** includes individuals, firms, partnerships, associations, public or private institutions, municipalities, political subdivisions of the state of Nevada, governmental agencies, or public or private corporations.

1.37 **"Private labeler"** defined. A **private labeler** is an owner of a brand or trademark on the label of a consumer product which bears a private label. A consumer product bears a private label if the product (or its container) is labeled with the brand or trademark of a person other than a manufacturer of the product, the person with whose brand or trademark the product (or container) is labeled has authorized or caused the product to be so labeled, and the brand or trademark of a manufacturer of such product does not appear on such label.

1.38 **"Recall"** defined. A **recall** is a firm's removal or correction of marketed products, including its labeling and/or promotional materials, that SNHD considers to be in violation of these Regulations. SNHD can initiate legal action for example, seizure or other administrative or civil actions available to the Health Authority if the product was not recalled. Recall does not include market withdrawal or a stock recovery.

1.39 **"Responsible person"** defined. The **responsible person** is the individual designated by the operator as being responsible for compliance with these Regulations.

1.40 **"Retailer"** defined. A **retailer** is a person to whom a consumer product is delivered or sold for purposes of sale or distribution by such person to a consumer. For the purposes of these Regulations, the definition of **retailer** includes small businesses, resellers, crafters, and charities.

1.41 **"Risk of injury"** defined. **Risk of injury** means a risk of death, personal injury, or serious or frequent illness.

1.42 **"Third-party logistics provider"** defined. A **third-party logistics provider** is a person who solely receives, holds, or otherwise transports a consumer product in the ordinary course of business but who does not take title to the product.

1.43 **"Toys and other articles intended for use by children"** defined. **Toys and other articles intended for use by children** are those toys and other articles which are intended to be entrusted to or for use by children. This would not include all articles to which children might have access simply because they are present in a household.

Section 2
CONSUMER PRODUCTS

2.1 Children's products containing lead

2.1.1 Any children's product that contains lead exceeding 100 ppm shall be treated as a lead leaching product. This includes children's products that have lead containing-paint used in their manufacture. The lead limit for lead in surface-coating is currently 90 ppm. The lead limit in paint and surface coatings applies to:

2.1.1.1 Paint and other similar surface coatings,

2.1.1.2 Toys and other articles intended for use by children;

2.1.1.3 Certain furniture articles that are not otherwise exempt under the CPSIA and these Regulations.

2.1.2 When a children's product contains lead paint or a surface coatings where the total weight of such paint or surface coating is no greater than 10 mg or where such paint or surface coating covers no more than one square centimeter (1 cm^2) of surface area of the product, then the painted or coated surface may be analyzed using x-ray fluorescence technology or other alternative methods approved by the Health Authority. Such alternative methods for measurement shall not permit more than 2 µg of lead in a total weight of 10 mg or less of paint or other surface coating or in a surface area of 1 cm^2 or less.

2.2 Exclusion of inaccessible component parts

2.2.1 The limits established under **Section 2.1.1** shall not apply to any component part of a children's product that is not accessible to a child through normal and reasonably foreseeable use and abuse of such product. A component part is not accessible under this Section if the component part is not physically exposed because it has a sealed covering or casing and does not become physically exposed through reasonably foreseeable use and abuse of the product. Reasonably foreseeable use and abuse shall include swallowing, mouthing, breaking, or other children's activities, and the aging of the product.

2.2.2 For purposes of this Section, paint, coatings, or electroplating are not considered sufficient barriers to render lead in the substrate inaccessible to a child or to prevent absorption of any lead into the human body, through normal and reasonably foreseeable use and abuse of the product.

2.3 Ceramic ware

2.3.1 Some ceramic food wares have been found to leach significant quantities of lead from potential food contact surfaces. The metal is extractable by foods and can cause a wide variety of adverse health effects including the traditional effects of chronic lead poisoning under continued food use.

2.3.2 All ornamental or decorative ceramic ware for sale or distribution in Clark County that appears to be suitable for food use will be considered to be for food use unless it bears:

2.3.2.1 A conspicuous stick-on label on a surface clearly visible to consumers that states in legible script in letters at least one-eighth (0.125) inch in height one of the following messages:

2.3.2.1.1 "Not for Food Use. May Poison Food,"

2.3.2.1.2 "Not for Food Use. Glaze contains lead. Food Use May Result in Lead Poisoning," and/or

2.3.2.1.3 "Not for Food Use—Food Consumed from this Vessel (Plate) May be Harmful," or

2.3.2.2 A conspicuous and legible permanent statement of the message selected from **Section 2.3.2.1** molded or fired onto the exterior surface of the base or, when the ceramic ware is not fired after decoration, permanently painted onto the exterior surface of the base. This permanent statement shall be in letters at least one-eighth (0.125) inch in height, except that if insufficient space exists for the permanent statement in letters of such height, the statement shall be in the largest letters that will allow it to fit on the base of the piece, provided that the letters are at least one-sixteenth (0.062) inch in height; or

2.3.2.3 A hole is bored through the potential food-contact surface to prevent its use for food.

2.3.3 All ceramic ware articles for sale in Clark County that are suitable for use with foods and lack the marking specified in **Section 2.3.2**, shall not contain a level of lead per mL of leaching solution exceeding the table below by category specified. The determination of lead levels is based on the assessment of six items per testing unit, as shown in the following chart:

Category	Criteria	Guidelines micrograms/mL
Flatware	average of 6 units	3.0
Small Hollowware other than cups and mugs	any one of 6 units	2.0
Cups/mugs	any one of 6 units	0.5
Large Hollowware other than pitchers	any one of 6 units	1.0
Pitchers	any one of 6 units	0.5

2.4 Periodic reviews and further reductions

As the CPSC evaluates the best available scientific and technical information and periodically reviews and revises the downward allowable limits for lead in consumer products, these Regulations shall be modified to meet the most recent requirements promulgated by law.

Section 3
SAMPLING FOR POTENTIAL LEAD LEACHING PRODUCTS

3.1 Sampling for potential lead contamination

Samples may be taken from distributors and retailers for testing of lead content when the Health Authority is made aware that lead leaching products may be in the distribution stream or offered for sale in Clark County.

3.1.1 This may occur during an investigation of a child with an elevated blood lead level (EBL) where the child is reported to have been exposed to specific product(s) with a lead content exceeding that specified in **Section 2.1.1** or when information is received by the Health Authority that certain products have been identified as lead leaching products by other federal, state, or local entities.

3.1.2 At the discretion of the Health Authority, additional random sampling and testing of imported ceramicware and children's products may take place at any time.

3.1.3 Products sampled by the Health Authority shall be sent to a laboratory with experience testing materials for lead content and leachability, using testing methods approved by the Health Authority. These methods include but are not limited to the following: current editions of ASTM method C738, AOAC methods 973.32 and 973.82, or FDA Laboratory Information Bulletin Numbers 4123 and 4126 (US Food and Drug Administration, Division of Field Science, HFC-140, Rockville, MD 20857).

3.2 Product removal pending sample results

3.2.1 The remaining production lot of the sample taken pursuant to **Section 3.1**, inclusive, shall be temporarily removed from sale and distribution to retail outlets as appropriate.

3.2.2 The Health Authority shall issue a Hold Order for the remaining consumer products specified in **Sections 2.1 to 2.3**. This Hold Order shall remain in effect until the consumer products have been tested, the results have been received and reviewed by the Health Authority and the Health Authority has determined that the consumer products are not leaching lead at prohibited levels.

3.2.3 For the purposes of this **Section**, if the production lot cannot be determined for the remaining consumer products, then all similarly-labeled products shall be removed from sale or taken out of distribution,

as appropriate, and a Hold Order shall be issued for the remaining consumer products.

3.3 Sample results

3.3.1 The results of any testing shall be made public through the Health Authority website and other public notification methods, such as press releases, deemed appropriate by the Health Authority.

3.3.2 The operator of the retail outlet, distribution facility, and/or manufacturing facility shall be notified by the Health Authority, in writing, of the findings.

3.3.3 Any product held under a Hold Order specified in **Section 3.2,** which is found not to be leaching lead shall be released by the Health Authority in writing to the operator of the retail outlet, distribution facility, and/or manufacturing facility.

3.3.4 Any product which the Health Authority determines to be leaching lead in levels exceeding those identified in **Section 2.1.1** shall be declared a public nuisance.

Section 4
REMOVAL OF CONSUMER PRODUCTS LEACHING LEAD FROM DISTRIBUTION AND SALE

4.1 Hold Order continuance

Any consumer product, which has been declared a public nuisance by the Health Authority, as determined by the sample results in **Section 3.3**; shall have the Hold Order, specified in **Section 3.2,** continued.

4.2 Issuance of Notice of Violation

4.2.1 The operator of the distribution facility, and/or manufacturing facility, in addition to the retail outlet (if the sample was taken from a retail location) of the consumer product, shall be issued a Notice of Violation (NOV) of these Regulations. The NOV shall, in writing:

4.2.1.1 Identify the consumer product in question and any lot numbers or other distinguishing information;

4.2.1.2 Specify that the operator of the retail outlet, distribution facility, and/or manufacturing facility shall continue the Hold Order of the lead leaching consumer product;

4.2.1.3 Place a Hold Order on all lots and similarly labeled products sold and/or distributed in Clark County;

4.2.1.4 Require all retail sales of all lots and similarly labeled products cease immediately;

4.2.1.5 Require an immediate recall of all lead leaching product found in Clark County outlets;

4.2.1.6 Direct that the lead leaching product be removed from sale pending resampling, including, but not limited to the prohibition that the lead leaching products are not donated to charities or second hand stores for resale;

4.2.1.7 Order that Clark County outlets cease and desist additional sales of the lead leaching product until the lead leaching products are proven to the Health Authority to be manufactured with levels of lead below the CPSC currently-required limits of 90 ppm for lead in paint and surface coatings and 100 ppm for all other affected products using the procedures specified in **Section 3.1** of these Regulations.

4.2.1.8 Provide a name, business address, and telephone number of the EHS to contact regarding the NOV;

4.2.1.9 Specify the time period within which the actions described in the NOV must be completed.

4.3 Responsibility of the Retail Operator

In response to the NOV, the operator of the retail outlet (if the sample was taken from a retail location) shall:

4.3.1 Cease all sales of product placed on hold as specified in **Sections 3.2**.

4.3.2 Provide the Health Authority with documentation indicating the amount and location of the product in distribution at the time of the recall.

4.3.2.1 Post a notice, within two (2) business days of receipt of the NOV, in a conspicuous location near where the product was sold, for no less than thirty (30) consecutive days or as otherwise specified by the Health Authority. The form and content of the notice shall be approved by the Health Authority prior to its posting.

4.3.2.2 Immediately cease all additional sales of the lead-leaching product until the operator has received written approval from the SNHD to resume sales.

4.4 Responsibility of Manufacturing and/or Distribution Facility Operator

4.4.1 In response to the NOV, the operator of the distribution facility and/or manufacturing facility shall:

4.4.1.1 Cease all sales and distribution of the product and commence a recall of the lead-leaching product found in Clark County outlets.

4.4.1.2 Provide the Health Authority with documentation, within two (2) business days of receipt of the NOV, indicating the amount and location of the product in distribution at the time of the recall.

4.4.1.3 Post a notice, within two (2) business days of receipt of the NOV, at each retail outlet, in a conspicuous location near where the lead-leaching product was sold, for no less than thirty (30) consecutive days or as otherwise specified by the Health Authority. The form and content of the notice shall be approved by the Health Authority prior to its posting.

4.4.1.4 Immediately cease all additional distribution and sales of the product until the operator of the distribution facility and/or manufacturing facility until written approval from SNHD has been obtained as stipulated in **Section 4.2 et seq.**

4.5 Voluntary disposal of consumer products

4.5.1 Any consumer product under a hold order may be voluntarily disposed of by the operator of the retail outlet, distribution facility, and/or manufacturing facility.

4.5.1.1 The product shall be disposed of under the witness of a representative of the Health Authority, such as an Environmental Health Specialist (EHS).

4.5.1.2 Any costs incurred by the SNHD for witnessing the voluntary disposal of the product shall be paid to the SNHD, in advance, by the operator of the retail outlet, distribution facility, and/or manufacturing facility who is voluntarily disposing of the consumer products.

Section 5
PUBLIC NOTIFICATIONS FOR AND RETESTING OF LEAD-LEACHING CONSUMER PRODUCTS

5.1 Public and other notifications required

5.1.1 In addition to the signage, which is required to be posted at the retail outlet or manufacturing or distribution facility where the lead leaching product has been located as per **Section 4.3.2.1 and 4.4.1.3**; the public shall be notified by the Health Authority in the form of a press release for any occurrence where the Health Authority identified a lead leaching product as a public nuisance.

5.1.2 The Health Authority shall notify the appropriate Federal Authority whenever the Health Authority identifies a lead leaching product.

5.2 Retesting of lead leaching products

5.2.1 For any lead leaching product identified by the Health Authority, the manufacturer or distributor may request that the Health Authority test a subsequent sample of product.

5.2.2 The Health Authority shall select the product to be tested.

5.2.3 The cost of any subsequent sampling and testing shall be borne by the manufacturer or distributor requesting the additional testing.

5.3 Results of retested products

5.3.1 If the product, following retesting, is found to be not to be leaching lead, then the Health Authority shall provide the retail, manufacturer, and/or distributor with a letter or other written notification that the product has been retested and determined to be not leaching lead.

5.3.2 The letter or notification shall tell the retail outlet, manufacturing facility, and/or distribution facility that the sale and distribution of the product within Clark County, NV may resume.

5.3.3 If the product is found to remain leaching lead when retested, the retail outlet, operator of the distribution facility, and/or manufacturing facility may take corrective measures and continue to resubmit samples for testing until such tests prove the product to be not leaching lead.

5.4 Public posting of notices

5.4.1 The operator of the distribution facility, and/or manufacturing facility and/or retail outlet shall not remove the notice posted as required by **Section 4.3.2.1 and 4.4.1.3** until the 30 days, as specified, has expired.

5.4.2 The operator of the distribution facility, and/or manufacturing facility and/or retail outlet may place an additional notice adjacent to the recall notice required by **Section 4.3.2.1 and 4.4.1.3** that explains any subsequent actions taken by them and the results of any retesting.

Section 6
NOTICES OF VIOLATION AND ENFORCEMENT

6.1 Delivery of the NOV

An NOV may be served in any of the following ways:

6.1.1 By personal service thereof upon the operator of the retail outlet, distribution facility, and/or manufacturing facility, or

6.1.2 By sending the NOV by registered or certified mail, return receipt to the operator of the retail outlet, distribution facility, and/or manufacturing facility at the last known address.

6.2 Request for appeal

6.2.1 An opportunity for appeal for the NOV findings will be provided if a written request for an administrative hearing is filed with the Health Authority by the owner or responsible person, or their designee, within the period established in the NOV. A minimum of ten (10) business days must be allowed for the appeal request to be filed with the Health Authority by the owner or responsible person.

6.2.2 The Health Authority shall notify the owner or responsible person of said administrative hearing date within ten (10) business days following receipt of written request. The hearing date must be set on a date no later than 60 days from the request for a hearing.

6.2.3 Administrative Hearings provided for appeals for a NOV is limited to:

6.2.3.1 Whether substantial evidence exists for the issuance of the NOV, and

6.2.3.2 Whether the corrective action, as ordered, is reasonable.

6.3 Administrative Hearings

Administrative Hearings shall be conducted by a Health Authority Hearing Officer and in accordance with the following:

6.3.1 Any party may be represented by counsel.

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

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

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

6.3.5 The technical rules of evidence do not apply. However, all testimony and exhibits offered must be relevant and bear upon the matter in contention. Testimony or exhibits considered by the Hearing Officer as not meeting this criterion may properly be excluded. Unduly repetitious evidence will be excluded. Subject to these requirements, any part of the evidence may be received in written form when the interest of the parties will not be prejudiced substantially.

6.3.6 The Hearing Officer 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.

6.3.7 The Hearing Officer may question any witness to ensure the clarity and completeness of the testimony and the record.

6.3.8 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.

6.3.9 The decision of the Hearing Officer must be reduced to writing and shall be final upon mailing by certified mail, return receipt requested or personal service upon each party.

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

6.4 Health Authority additional legal remedy

6.4.1 Whenever the owner or responsible person fails to comply with the NOV, the Health Authority, in its discretion, may seek relief through a court of competent jurisdiction.

6.4.2 Whenever the owner or responsible person are operating without legal authority to do so or in a prohibited manner, such as from their unpermitted, unlicensed private residences, the Health Authority, under its authority granted by NRS Chapter 439, may initiate and conduct an investigation into the matter. The terms, conditions, and policies of other applicable statutes and ordinances are intended to be applied in conjunction with the enforcement of all other ordinances of the state, county, and its municipalities designed for the protection of the public health, safety, morals, and welfare. The fact that such statutes or ordinances are not specifically referred to in these Regulations in no manner precludes their application to facility permittees.

6.4.3 The Health Authority shall notify the appropriate Business Licensing and/or Code Enforcement Authorities of the revocation of any Health Permit.

Section 7
MISCELLANEOUS

7.1 Severability clause

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.

7.2 Effective date

7.2.1 These Regulations were adopted at a duly noticed public hearing on August 25, 2011.

7.2.2 These Regulations became effective upon approval by the Nevada State Board of Health on October 14, 2011.