

Regulation 61-106

Tanning Facilities

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Statutory Authority:

S.C. Code Sections 13-7-10, 13-7-40, and 13-7-45 et seq.

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**PART I
GENERAL PROVISIONS**

1.1 Purpose and Scope

1.1.1 These regulations provide for the registration and regulation of facilities and equipment that employ ultraviolet and other lamps for the purpose of tanning the skin of the human body through the application of ultraviolet radiation.

1.1.2 Nothing in these regulations shall be interpreted as limiting the intentional exposure of patients to ultraviolet radiation for the purpose of medical treatment or therapy prescribed and supervised by a physician who is licensed by the South Carolina Board of Medical Examiners.

1.2 Definitions:

As used in this regulation:

1.2.1 “Act” means Atomic Energy and Radiation Control Act, Section 13-7-10 et seq, 1976 Code of Laws of South Carolina.

1.2.2 “Affected Party” means a tanning registrant whom an enforcement action has been taken by the Department.

1.2.3 “Complaint” is a written document submitted to the Department addressing an existing or potential public health hazard.

1.2.4 “Consumer” means any individual who is provided access to a tanning facility that is required to be registered pursuant to provisions of this regulation.

1.2.5 “Department” means the South Carolina Department of Health and Environmental Control.

1.2.6 “Individual” means any human being.

1.2.7 “Inspection” means an official examination or observation, including, but not limited to, tests, surveys, and monitoring to determine compliance with rules, regulations, orders, or to investigate complaints or injuries.

1.2.8 “Investigation” means a visit by an authorized individual(s) to a registered or unregistered facility for the purpose of determining the validity of complaints or allegations received by the Department relating to this regulation.

1.2.9 “Minor” means any individual less than eighteen (18) years of age.

1.2.10 “Operator” means any individual designated by the registrant to operate or to assist and instruct the consumer in the operation and use of the tanning facility or tanning equipment. Under this definition, the term “operator” means any individual who conducts one or more of the following activities:

- 1) determining consumers’ skin type;
- 2) determining the suitability for use of a tanning device by prospective consumers;

- 3) informing the consumer of the dangers of ultraviolet radiation exposure including photoallergic reactions and photosensitizing reactions;
- 4) determining consumer use of potentially photosensitizing agents;
- 5) assuring the consumer reads and properly signs all forms required by these regulations;
- 6) reviewing, signing, and ensuring required documentation is completed for minors or illiterate or visually impaired consumers;
- 7) maintaining required consumer exposure records;
- 8) recognizing and reporting consumer actual or alleged ultraviolet radiation injuries to the registrant;
- 9) instructing the consumer in the proper use of protective eyewear; and
- 10) setting timers which control the duration of exposure.

1.2.11 “Person” means any individual, corporation, partnership, firm, association, trust, estate, public or private institution, group, agency, political subdivision of this state, any other state or political subdivision or agency thereof, and any legal successor, representative, agent or agency of these entities.

1.2.12 “Personal Use” means tanning equipment that is used solely by an individual and the individual’s immediate family or permanent residents of the individual’s place of residence. Immediate family is defined as the spouse, great-grandparents, grandparents, parents, brothers, sisters, children, grandchildren, great-grandchildren of either the owner of the tanning equipment or the spouse.

1.2.13 “Registrant” means any person who is registered with the Department as required by provisions of this regulation.

1.2.14 “Registration” means registering with the Department in accordance with provisions of this regulation.

1.2.15 “Sanitize” means the effective fungal, viral and bacterial treatment of surfaces of tanning equipment by an EPA- approved product that provides a sufficient concentration of chemicals and enough time to reduce the bacterial count, including pathogens, to an acceptable level.

1.2.16 “Tanning Equipment” means ultraviolet or other lamps and equipment containing such lamps intended to induce skin tanning through the irradiation of any part of the living human body with ultraviolet radiation.

1.2.17 “Tanning Facility” means any location, place, area, structure or business that provides consumers access to tanning equipment. For the purpose of this definition tanning equipment registered to different persons at the same location and tanning equipment registered to the same person, but at separate locations, shall constitute separate tanning facilities.

1.2.18 “Ultraviolet Radiation” means electromagnetic radiation with wavelengths in air between two hundred nanometers and four hundred nanometers.

1.3 Compliance with Other Laws:

The registrant shall comply with any other applicable federal, state and local regulations dealing with health, sanitation, safety standards and electrical standards.

1.4 Inspections:

All facilities are subject to inspection or investigation at any time, without prior notice, by individuals authorized by the Department. The inspection or investigation may be performed as a result of an injury, complaint, non payment of fees, or as the Department deems necessary.

1.5 Exemptions:

1.5.1 The Department may, upon application therefore or upon its own initiative, grant such exemptions or exceptions from the requirements of this regulation as it determines are authorized by law and will not result in undue hazard to public health and safety.

1.5.2 Any person is exempt from the provisions of this regulation to the extent that such person uses equipment other than tanning equipment that emits ultraviolet radiation incidental to its normal operation.

1.5.3 Any individual is exempt from the provisions of this regulation to the extent that such individual owns tanning equipment exclusively for personal use.

1.5.4 Tanning equipment, while in transit or storage incidental thereto, is exempt from the provisions of this regulation.

1.6 Additional Requirements:

The Department may, by order, impose upon any registrant such requirements in addition to those established in this regulation as it deems appropriate or necessary to minimize danger to public health and safety or property.

1.7 Violations:

The Department is authorized to assess monetary fines and or civil penalties for violations of the provisions of the Act or any regulation, temporary or permanent order, or final determination of the Department.

1.8 Enforcement Actions:

The Department may, upon proper notice to the registrant, impose a fine for failing to comply with these regulations or provisions of the Act, or when the Department deems a situation to constitute an existing or potential public health hazard.

1.9 Fees:

1.9.1 Application Fee:

1.9.1.1 Each registrant shall pay a nonrefundable initial application fee of fifty dollars upon submission of the "Application for Registration of Tanning Facilities" form.

1.9.2 Tanning Equipment Fee:

1.9.2.1 Each registrant shall pay fifty dollars for each piece of tanning equipment.

1.9.2.2 The tanning equipment fee shall be due upon initial assignment of a registration number and on July 15 of each year.

1.9.2.3 Payment of fees shall be made in accordance with the instructions of a “Statement of Fees Due” issued annually or monthly by the Department.

1.9.2.4 Fees required by Section 1.9 for tanning equipment that is issued during a calendar year shall be prorated for the remainder of that year based on the date of issuance of the registration.

1.9.2.5 Persons failing to pay the fees required by Section 1.9 within sixty days from the billing date shall also pay a penalty of fifty dollars. If the required fees are not paid within ninety days of the billing date, the registrant shall be notified that his / her registration is revoked, and that any activities permitted under the authority of the registration must cease immediately or monetary fines and/or civil penalties will be levied.

1.10 Material False Statement:

It shall be a violation of these regulations to make a material false statement to the Department regarding information contained in the application for registration, information pertaining to an inspection or any other information required by any provision of these regulations.

1.11 Communications:

All communications and reports concerning these regulations, and registrations filed thereunder, shall be addressed to the Department at:

SC Department of Health and Environmental Control
 Bureau of Radiological Health
 2600 Bull Street
 Columbia, SC 29201

1.12 Violations:

1.12.1 Assessment of monetary fines and or civil penalties will be based upon the severity of the public health risk:

Monetary and/or Civil Penalty Actions:	1 st Offense	2 nd Offense	3 rd Offense
Failure to register and/or pay any fee.	\$500.00	\$1,000.00	\$5,000.00
Ultraviolet radiation burn requiring medical attention and/or equipment-related injuries.	\$1,000.00	\$2,000.00	\$4,000.00
Unsanitary conditions of tanning or tanning-related equipment that could result in the transmission of communicable diseases.	\$1,000.00	\$2,000.00	\$4,000.00
Failure to provide and/or ensure use of Food and Drug Administration (FDA) approved equipment and eyewear.	\$500.00	\$1,000.00	\$1,500.00
Use of medical lamps and/or noncompliant lamps or filters.	\$1,000.00	\$2,000.00	\$3,000.00

Failure to operate a facility in a manner so as not to cause a potential overexposure to nonionizing radiation or potential transmission of a communicable disease or injury.	\$500.00	\$1,000.00	\$5,000.00
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1.12.2 Any person to whom an order is issued may appeal it pursuant to applicable law, including S.C. Code Title 44, Chapter 1; and Title 1, Chapter 23.

1.13 Severability:

If any provision of this regulation or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the regulation that can be given effect without the invalid provision or application, and to this end the provisions of the regulation are severable.

**PART II
REGISTRATION OF TANNING FACILITIES AND EQUIPMENT**

2.1 Purpose and Scope:

This Part describes the requirements of facilities and equipment that use ultraviolet and other lamps for the purpose of tanning the skin of the human body through the application of ultraviolet radiation.

2.2 Application for Registration of Tanning Facilities:

2.2.1 Each person acquiring or establishing a tanning facility shall register the tanning equipment prior to beginning operation of such a facility.

2.2.2 The registrant shall submit DHEC form 0826, Registration of Tanning Equipment, to SC DHEC, Bureau of Radiological Health, 2600 Bull Street, Columbia, SC 29201. Upon completion and receipt of DHEC form 0826, Registration of Tanning Equipment, the Department will issue a tanning facility registration number.

2.3 Issuance of Registration Document:

2.3.1 No person shall operate a tanning facility until the Department has issued a registration number or otherwise received notification from the Department.

2.3.2 Any facility found operating unregistered shall be subject to a Monetary Fine as described in Section 1.12.1, and/or Civil Penalties

2.4 Transfer of Registration:

No registration shall be transferred from one person to another or from one tanning facility to another tanning facility.

2.5 Report of Change:

The registrant shall report to the Department, within thirty days, any changes of status affecting the tanning equipment or facility. Report of change of status shall be made in writing and forwarded to the Department.

2.6 Denial, Suspension or Revocation of Registration:

2.6.1 The Department may deny suspend, or revoke a registration:

1. For any material false statement on DHEC Form 0826 Registration of Tanning Equipment; in the application for registration or in the statement of fact required by provisions of this regulation.

2. For falsification or alteration of records required to be kept by this regulation.

3. For operation of the tanning facility in a manner that causes or threatens to cause hazard to the public health or safety.

4. For failure to allow authorized representatives of the Department to enter the tanning facility at reasonable times for the purpose of determining compliance with the provisions of this regulation, or an order of the Department.

5. For failure to pay any fees.

6. For failure to correct violations.

7. For violation of, or failure to observe any of the terms and conditions of this regulation, or an order of the Department.

8. When the current owner of the tanning facility has one or more of the following at another salon: outstanding compliance issues, a poor compliance history, outstanding fees or penalties due, or unresolved enforcement action.

2.6.2 A Department decision involving the issuance, denial, suspension, or revocation of a registration may be appealed by an affected person pursuant to applicable law, including S.C. Code Title 44, Chapter 1; and Title 1, Chapter 23.

2.6.3 The Department may terminate a registration upon receipt of a written request for termination from the registrant.

PART III STANDARDS FOR THE TANNING FACILITY

3.1 Purpose and Scope:

This Part provides for the minimum public health requirements for tanning facilities that employ ultraviolet equipment for the purpose of tanning the skin of the human body through the application of ultraviolet radiation.

3.2 Ultraviolet Radiation Exposure:

3.2.1 Each registrant shall ensure that all individuals exposed to ultraviolet radiation will not be subjected to an overexposure of nonionizing radiation that results in a significant burning of the skin requiring medical attention.

3.2.2 A facility must be operated in a manner to prevent a potential overexposure to nonionizing radiation or potential transmission of a communicable disease or injury.

3.3 Sanitation:

3.3.1 The registrant shall ensure that the tanning equipment and protective eyewear required by this regulation are properly sanitized before each use. The sanitizer used shall be one intended and documented for use on the tanning equipment and protective eyewear. The sanitizer shall be mixed and used according to the manufacturer's instructions.

3.3.2 All surfaces of the tanning equipment must be maintained in a condition that does not compromise the effectiveness of sanitation.

3.3.3 A registrant shall not require a consumer to sanitize the tanning equipment or protective eyewear and shall not post any signs requesting such sanitation be performed by the consumer. However, this does not prevent a consumer from re-sanitizing the tanning equipment or protective eyewear if a consumer so chooses after the registrant has performed the sanitation.

3.4 Tanning Equipment:

3.4.1 The registrant shall use only tanning equipment manufactured in accordance with the specifications set forth in 21 CFR 1040.20, "Sunlamp products and ultraviolet lamps intended for use in sunlamp products." The nature of compliance shall be based on the standards in effect at the time of manufacture as shown on the device identification label required by 21 CFR 1010.3.

3.4.2 All tanning equipment must be maintained to prevent injury or burn.

3.5 Protective Eyewear:

3.5.1 If a consumer does not provide protective eyewear, the registrant shall have compliant protective eyewear available for each consumer to use during any use of tanning equipment.

3.5.2 If a consumer fails to provide compliant protective eyewear and chooses not to use the protective eyewear available from the registrant, then the consumer shall not be allowed to tan.

3.5.3 Prior to initial exposure, the tanning facility operator shall instruct the consumer in the proper utilization of the protective eyewear required by this regulation, to include use in accordance with the manufacturer's design, instructions and approval.

3.5.4 Tanning facility operators shall ensure all protective eyewear is in optimal condition.

3.5.5 Tanning facility operators shall ensure the protective eyewear used by the consumer is used in accordance with its design.

3.5.6 The protective eyewear in this regulation shall meet the requirements of 21 CFR 1040.20 (c) (4) (4-1-87 edition).

3.6 Replacement of Ultraviolet Lamps, Bulbs or Filters:

3.6.1 The registrant shall only use lamps that have been certified with the Food and Drug Administration (FDA) as "equivalent" lamps under the FDA regulations and policies applicable at the time of the replacement of the lamps. The format for the equivalency document shall be in compliance with 21 CFR 1040.20 and shall be in the form of User Instructions.

3.6.2 The registrant shall maintain manufacturer's literature demonstrating the equivalency of any replacement lamps that are not identified as original equipment. The documents for any lamps currently in use shall be kept at the facility and shall be readily available for Department review.

3.6.3 Defective lamps or filters shall be replaced before further use of the tanning equipment.

3.6.4 Lamps and bulbs designated for "medical use only" shall not be used.

3.7 Use of Tanning Equipment by Minors:

3.7.1 The registrant shall not allow minors to use tanning equipment unless the minor provides a consent form signed by the minor's parent or legal guardian while witnessed by an operator or the owner of the tanning facility. The witness shall provide his/her name, signature, title and date on the consent form.

3.8 Warning Sign:

3.8.1 The following warning sign shall be conspicuously posted in the immediate proximity of each piece of tanning equipment. It shall be legible, and clearly visible, unobstructed by any barrier, equipment, or other item so that the consumer can easily view the warning sign before energizing this tanning equipment:

If you receive any injury from the use of this tanning device, such as a burn or other physical injury, report this injury immediately to a tanning equipment operator and to the SC Department of Health and Environmental Control, Bureau of Radiological Health, 2600 Bull Street, Columbia, SC 29201, or contact the Department by telephone at (803) 545-4400.

PART IV OPERATOR TRAINING

4.1 Purpose and Scope:

This Part provides the minimum training requirements for tanning equipment operators who employ ultraviolet and other lamps for the purpose of tanning the skin of the human body through the application of ultraviolet radiation.

4.2 Minimum Operator Training Requirements:

4.2.1 The operator shall ensure the tanning equipment is not operated in a manner to cause overexposure or injury to the consumer. Tanning equipment operators shall be trained at a minimum in the following areas:

4.2.1.1 The required subjects shall include, but not be limited to:

4.2.1.2 The requirements of these regulations, R.61-106 "Tanning Facilities;"

4.2.1.3 The proper procedures for the use and instruction in the use of protective eyewear.

4.2.1.4 Recognition of injury or overexposure to ultraviolet radiation.

4.2.1.5 Examples and detailed explanations of tanning equipment manufacturers recommended exposure schedules.

4.2.1.6 The Potential photosensitizing agents, to include food, cosmetics and medications, and the possibility of photosensitivity and photoallergic reactions.

4.2.1.7 The Emergency procedures to be followed in case of an actual or alleged ultraviolet radiation injury.

4.2.1.8 Biological effects of ultraviolet radiation, to include the potential acute and long term health effects of ultraviolet radiation.

4.2.1.9 The human skin and the tanning process.

4.2.1.10 The public health reasons for avoiding overexposure and the dangers of overexposure.

4.2.1.11 Operator training must be documented and available to the Department for review.