

Title 15 - Mississippi Department of Health

Part 14 – General Sanitation

Subpart 70 – General Sanitation Regulations

CHAPTER 6 -- REGULATIONS FOR TANNING FACILITIES

Subchapter 1 Regulations of Tanning Equipment & Facilities

Rule 6.1.1 Purpose and Scope.

1. This Chapter provides for the registration of tanning equipment and tanning facilities and regulation of the maintenance and operation of tanning facilities.
2. In addition to the requirements of this Chapter, all registrants are subject to the applicable provision of other Chapters of these regulations.
3. Nothing in this Chapter shall be interpreted as limiting the intentional exposure of patients to ultraviolet radiation for the purpose of treatment or use commensurate with the licensed practitioner's use of a healing art.

Source: MS Code Ann. § 45-14-11

Rule 6.1.2 Definitions. The following terms are defined for purposes of this Chapter.

1. "Act" means the Mississippi Radiation Protection Law of 1976.
2. "Affected Party" means a tanning registrant whom an enforcement action has been taken by the Agency.
3. "Agency" means the Mississippi Department of Health.
4. "CFR" means Code of Federal Regulations.
5. "Complaint" is a written document submitted to the Agency addressing an existing or potential public health hazard.
6. "Consumer" means any member of the public who is provided access to a tanning facility in exchange for a fee or other compensation, or any individual who, in exchange for a fee or other compensation, is afforded use of a tanning facility as a condition or benefit of membership or access.
7. "EPA" means U. S. Environmental Protection Agency.
8. "FDA" means U.S. Food and Drug Administration.
9. "FTC" means Federal Trade Commission.

10. "Formal operator training" means a course of instruction pre-approved by the Agency conducted or presented under formal classroom conditions, a correspondence program, or through a computer based program by a person possessing adequate knowledge and experience to offer the curriculum, associated training and certification testing pertaining to and associated with the safe use of tanning equipment. Training shall cover ultraviolet radiation and the effects on the skin, photosensitivity, eye protection, equipment maintenance, FDA regulations and the provisions of this chapter.
11. "Healing arts" means the professional disciplines authorized by the laws of this state to use sources of radiation in the diagnosis or treatment of human or animal diseases.
12. "Individual" means any human being.
13. "Inspection" means an official examination or observation including but not limited to tests, surveys, and monitoring to determine compliance with rules, regulations, orders, requirements, and conditions of the Agency.
14. "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 Agency relating to this regulation.
15. "Medical Lamps" means any lamp that is specifically designed and labeled for medical use only.
16. "Minor" means any individual less than eighteen (18) years of age.
17. "Operator" means an individual designated by the Registrant to control operation of the tanning facility and to instruct and assist the consumer in the proper operation of the tanning equipment.
18. "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 the foregoing.
19. "Personal use" means operating a single tanning unit for individual purpose of cosmetic tanning. Personal use implies that the unit will not be used for any business purpose. Multiple tanning units cannot be used as personal use.
20. "Radiation" means ultraviolet radiation in these regulations.
21. "Radiation machine" means any device capable of producing radiation.
22. "Registrant" means any person who is registered with the Agency and is legally obligated to register with the Agency pursuant to these regulations and the Act.

23. "Registration" means registration with the Agency in accordance with regulations adopted by the Agency.
24. "Tanning device" means any equipment that emits radiation used during the process of skin tanning with a sun lamp product, such as any sun lamp product and any accompanying equipment, including but not limited to protective eyewear, timers, ballasts, starters, lamps, reflectors, cooling fans, acrylics, comfort pillows, and handrails.
25. "Tanning facility" means any location, place, area, structure or business which provides consumers access to tanning equipment for a fee, membership dues or any other compensation.
26. "These regulations" means all chapters of the Mississippi State Board of Health General Sanitation Regulations, Part 14-General Sanitation, Chapter 6, Regulations for Tanning Facilities.
27. "Ultraviolet radiation" means electromagnetic radiation with wavelengths in air between two hundred (200) nanometers and four hundred (400) nanometers.

Source: MS Code Ann. § 45-14-11

Rule 6.1.3 Exemptions.

1. General: The Agency may, upon application therefore or upon its own initiative, grant such exemptions or exceptions from the requirements of these regulations as it determines are authorized by law and will not result in undue hazard to public health and safety.
2. Equipment intended for purposes other than the deliberate exposure of parts of the living body to ultraviolet radiation, and which produce or emit ultraviolet radiation incidental to its proper operation are exempt from the provisions of this Chapter.
3. Radiation machines while in transit or storage incidental thereto are exempt from the provisions of this Chapter.
4. Any individual is exempt from the provisions of these rules to the extent that such individual owns a tanning device exclusively for personal use.
5. This chapter does not apply to a licensed health care professional who uses a tanning device for the treatment of patients, if that use is within the lawful scope of practice of the health care professional.

Source: MS Code Ann. § 45-14-11

Rule 6.1.4 Application for Registration of Tanning Facilities.

1. Each person having a tanning facility shall apply for registration of such facility with the Agency within thirty (30) days following the effective date of these regulations or thereafter prior to the operation of a tanning facility. Application for registration shall be completed on forms furnished by the Agency and shall contain all the information required by the form and the accompanying instructions.
2. The Agency shall require at least the following information on the Application for Registration of Tanning Facilities form:
 - a. Name, address and telephone number of the following:
 - i. the tanning facility;
 - ii. the owner(s) of the tanning facility
 - b. The manufacturer, model number, and type of each ultraviolet lamp or tanning equipment located within the facility.
 - c. Name of the tanning equipment supplier, installer, and service agent.
 - d. A signed and dated certification that the applicant has read and understands the requirements of these regulations.
 - e. A copy of operating and safety procedures unique to facility operation.
 - f. A copy of the certificate from a state approved training program showing satisfactory completion of Formal Operator Training.
3. Each applicant shall provide such additional information as the Agency may reasonably require.

Source: MS Code Ann. § 45-14-11

Rule 6.1.5 Issuance of Certificate of Registration.

1. Upon determination that an applicant meets the requirements of these regulations, the Agency shall issue a certificate of registration. The Certificate of Registration shall be displayed in a conspicuous location that is visible to the customer and on the premises of the tanning facility.
2. The Agency may incorporate in the certificate of registration at the time of issuance or thereafter by appropriate rule, regulation or order, such additional requirements and conditions with respect to the registrant's receipt, possession, use, and transfer of tanning equipment and tanning facilities as it deems appropriate or necessary.

3. No person shall operate a tanning facility until the Agency has issued the certificate of registration and been paid the appropriate fee.

Source: MS Code Ann. § 45-14-11

Rule 6.1.6 Expiration of Certificate of Registration. Except as provided in 6.1.7 (2), each certificate of registration shall expire at the end of the specified day in the month and year stated therein.

Source: MS Code Ann. § 45-14-11

Rule 6.1.7 Renewal of Certificate of Registration.

1. Application for renewal of registration shall be filed in accordance with 6.1.4.
2. In any case in which a registrant, not less than 30 days prior to the expiration of his existing certificate of registration, has filed an application in proper form for renewal, such existing certificate of registration shall not expire until the application status has been finally determined by the Agency.

Source: MS Code Ann. § 45-14-11

Rule 6.1.8 Report of Changes. The registrant shall notify the Agency in writing before making any change which would render the information reported pursuant to 6.1.4(2)(a), (b) and (c) contained in the application for registration and/or the certificate of registration, no longer accurate. This requirement shall not apply to changes involving replacement of designated original equipment lamp types with lamps which have been certified with the FDA as "equivalent" replacement of the lamps. The facility owner shall maintain manufacturer's literature demonstrating the equivalency of any replacement lamps.

Source: MS Code Ann. § 45-14-11

Rule 6.1.9 Transfer of Certificate of Registration. No certificate of registration shall be transferable from one person to another or from one tanning facility to another.

Source: MS Code Ann. § 45-14-11

Rule 6.1.10 Approval Not Implied. No person, in any advertisement, shall refer to the fact that their facility is registered with the Agency pursuant to the provisions of 1.4, and no person shall state or imply that any activity under such registration has been approved by the Agency.

Source: MS Code Ann. § 45-14-11

Rule 6.1.11 Denial, Suspension, or Revocation of Certificate of Registration. The Agency may, for good cause shown, deny, suspend or revoke a certificate of registration sought or issued pursuant to these regulations for any of the following reasons:

1. Failure of reports, plans or specifications to show that the tanning facility will be constructed, operated or maintained in accordance with the requirements of these regulations;
2. Submission of incorrect, false or misleading information in the application, reports, plans, or specifications;
3. Failure to construct, operate or maintain the tanning facility in accordance with the application, plans and specifications approved by the Agency except as such maintenance may involve the replacement of lamps by "equivalent" lamps which have been defined in 1.8;
4. Operation of the tanning facility in a way that causes or creates a nuisance or hazard to the public health or safety;
5. Violation of any rules, regulations, standards, or requirements adopted by the Agency;
6. Violation of any condition upon which the certificate of registration was issued;
7. Failure to allow duly authorized agents of the Agency to conduct inspections at reasonable hours and in a reasonable manner;
8. Failure to pay any registration or inspection fees within 30 days upon receipt of the invoice.
9. Failure of the tanning equipment to comply with the Federal Performance Standard for Sunlamp Products and Ultraviolet Lamps intended for use in Sunlamp Products 21 CFR 1040.20.

Rule 6.1.12 **Hearing:** If any certificate of registration is denied, suspended, or revoked, the applicant or registrant may request a hearing in accordance with Chapter 45-14-21, Mississippi Code of 1972, Annotated.

Source: MS Code Ann. § 45-14-11

Rule 6.1.13 **Construction and Operation of Tanning Facilities.** Unless otherwise ordered or approved by the Agency, each tanning facility shall be constructed, operated, and maintained to meet the following minimum requirements:

1. **Physical Facilities**

- a. The following warning sign shall be posted in the immediate proximity (within 1 meter) of each piece of tanning equipment and it shall be readily legible, clearly visible, and not obstructed by any barrier, equipment, or other item present so that the user can easily view the warning sign before energizing the tanning equipment:

DANGER - ULTRAVIOLET RADIATION

- b. Follow instructions.
- c. Avoid overexposure. As with natural sunlight, overexposure can cause eye and skin injury and allergic reactions. Repeated exposure may cause premature aging of the skin and skin cancer.
- d. Wear FDA compliant protective eyewear.
- e. **FAILURE TO USE PROTECTIVE EYEWEAR MAY RESULT IN SEVERE BURNS OR LONG-TERM INJURY TO THE EYES.**
- f. Medications or cosmetics may increase your sensitivity to the ultraviolet radiation. Consult a physician before using sunlamps, indoor tanning beds or booths if you are using medications or have a history of skin problems or believe yourself especially sensitive to sunlight.
- g. If you do not tan in the sun, you are unlikely to tan from the use of this product.
- h. The lettering on each warning sign shall be at least ten (10) millimeters high for all words showing in capital letters and at least five (5) millimeters high for all lowercase letters. A consumer notification providing the consumer the name and address of the Agency so that in case of an injury the consumer can contact the Agency.
- i. Only tanning equipment manufactured and certified to comply with 21 CFR Part 1040, Chapter 1040.20, "Sunlamp products and ultraviolet lamps intended for use in sunlamp products", shall be used in tanning facilities. Compliance shall be based on the standard in effect at the time of manufacture as shown on the device identification label required by 21 CFR Part 1010, Chapter 1010.3.
- j. Each tanning equipment shall have a timer which complies with the requirements of 21 CFR Part 1040, Chapter 1040.20(c)(2). The maximum timer interval shall not exceed the manufacturer's maximum recommended exposure time. No timer interval shall have an error greater than $\pm 10\%$ of the maximum timer interval for the product.
- k. The timer shall not automatically reset and cause radiation emission to resume for a period of greater than the unused portion of the timer cycle when emission from the tanning device has been interrupted.
- l. Each tanning device shall be equipped with a user or consumer accessible on/off switch and an emergency shut-off mechanism to allow manual termination of the UV exposure as required by 21 CFR 1040.20(c)(3).

- m. Each tanning device shall have labels as noted in 21 CFR 1040.20(d)(1)(i-vi).
- n. Tanning equipment shall meet the National Fire Protection Association's National Electrical Code.
- o. There shall be physical barriers to protect consumers from injury induced by touching or breaking the lamps.
- p. Additional requirements for stand-up booths:
 - i. There shall be physical barriers or other means such as handrails or floor markings to indicate the proper exposure distance between ultraviolet lamps and the consumer's skin.
 - ii. The construction of the booth shall be such that it will withstand the stress of use and the impact of a falling person.
 - iii. Access to the booth shall be of rigid construction. Doors shall open outwardly. Handrails and nonslip floors shall be provided.
- q. Tanning equipment electrical circuitry shall be approved by the Underwriter Laboratories (UL) or Electrical Testing Laboratories (ETL).

2. **Protective Eyewear**

- a. Each consumer shall be provided with protective eyewear and instructions for their use.
- b. Protective eyewear shall meet the requirements of 21 CFR Part 1040, Section 1040.20 (c)(4).
- c. Protective eyewear shall be properly sanitized before each use with a sanitizing agent which is registered by the EPA and mixed to the appropriate concentration. Exposure to the ultraviolet radiation produced by the tanning equipment itself is not considered a sanitizing agent.
- d. Tanning facility operators shall instruct the consumer in the proper utilization of the protective eyewear required by this section and each consumer shall wear the protective eyewear as instructed.

3. **Operation**

- a. A tanning registrant shall only allow operation of the tanning equipment by those who have successfully completed a formal operator training course that has been pre-approved by the Agency.

- b. Tanning equipment shall only be operated when a trained tanning operator is present at the tanning facility.
- c. Prior to initial exposure each consumer shall be provided the opportunity to read a copy of the warning specified in 6.1.12 (1)(a). The operator shall then request that the consumer sign a statement that the information has been read and understood. For illiterate or visually handicapped persons, the warning statement shall be read by the operator in the presence of a witness. Both the witness and the operator shall sign the statement.
- d. A record shall be kept by the facility operator of each consumer's total number of tanning visits and total accumulated exposure times.
- e. A written report of any tanning injury shall be forwarded to the Agency within five [5] working days of the occurrence or knowledge thereof. The report shall include:
 - i. The name of the affected individual;
 - ii. The name and location of the tanning facility involved;
 - iii. The nature and circumstance of the alleged injury;
 - iv. The name and address of health care provider, if any; and
 - v. Any other information considered relevant to the situation.
- f. No consumer under fourteen years of age shall be allowed to use a tanning device at a tanning facility unless the child's parent or legal guardian has provided written consent to the tanning facility and the parent or guardian is physically present at the facility the entire time the child uses the tanning device. The parent or guardian shall sign the consent form in the presence of the operator of the tanning facility and that consent may be revoked at any time by the parent or guardian. The parent or guardian shall be provided with the basic information required under 6.1.12.
- g. Consumers fourteen years of age or older but under eighteen years of age shall not be allowed to use a tanning device at a tanning facility unless the child's parent or legal guardian has provided written consent to the tanning facility. The parent or guardian shall sign the consent form in the presence of the operator of the tanning facility and that consent may be revoked at any time by the parent or guardian. The parent or guardian shall be provided with the basic information required under 6.1.12.
- h. Defective or burned-out lamps or filters or lamps at the end of their useful UV emitting life shall be replaced with a type intended for use in that device as specified on the product label on the tanning equipment, or, with lamps or

filters that are "equivalent" under the FDA regulations and policies applicable at the time of lamp manufacture.

- i. Each operator must be adequately trained by a pre-approved formal training course as required by the Agency. Proof of training must be maintained in the facility and available for inspection. Training shall include:
 - i. the requirements of these regulations;
 - ii. procedures for correct operation of the facility;
 - iii. recognition of injury or overexposure;
 - iv. manufacturer's procedures for operation and maintenance of tanning equipment;
 - v. emergency procedures in case of overexposure or injury;
 - vi. written material which covers the required subjects, such as a training manual; audio-visual presentations which cover the required subjects such as slides or videos; copies of the regulations and Title 21 CFR 1040.20; and a question and answer period for trainees;
 - vii. procedures for correct cleaning, sanitizing and operation of the tanning device including proper care and use of protective eyewear;
 - viii. biological effects of ultraviolet radiation, maximum allowable time of exposure, photosensitivity and determination of human skin types as it relates to compliant use of the FDA recommended exposure schedule;
 - ix. review and explanation of the lamp compatibility for tanning equipment.
- j. A list of operators trained in accordance with 6.1.12(3)(i) shall be maintained and available at the facility.
- k. A list of photosensitizing agents shall be posted in each area where tanning equipment is located and shall be explained to the consumer on their initial visit and periodically.

Source: MS Code Ann. § 45-14-11

Rule 6.1.14 Enforcement and Penalties. An injunction or other court order may be obtained prohibiting any violation of any provision of the Act or any regulation or order issued there under. Any person who willfully violates any provisions of the Act, or any regulation, or order issued there under, may be guilty of a misdemeanor and, upon conviction, may be punished by fine or imprisonment or both, as provided by Section 45-14-37 of the Act.

Source: MS Code Ann. § 45-14-11

Rule 6.1.15 **Communications.** All communications and reports concerning these regulations, and applications filed there under, should be addressed to the Office of Environmental Health at its office located at 570 East Woodrow Wilson Blvd., P. O. Box 1700, Jackson, Mississippi, 39215-1700.

Source: MS Code Ann. § 45-14-11