

CHAPTER 28
TANNING FACILITIES

Authority

N.J.S.A. 26:2D-81 et seq., particularly 26:2D-88.

Source and Effective Date

R.2009 d.37, effective January 20, 2009.
See: 40 N.J.R. 949(a), 41 N.J.R. 585(a).

Chapter Expiration Date

In accordance with N.J.S.A. 52:14B-5.1b, Chapter 28, Tanning Facilities, expires on January 20, 2016. See: 43 N.J.R. 1203(a).

Chapter Historical Note

Chapter 28, Tanning Facilities, was adopted as new rules by R.2009 d.37, effective January 20, 2009. See: Source and Effective Date.

Appendix A, Application for Tanning Facilities Registration, Appendix B, Tanning Facility Inspection Checklist, and Appendix C, Warning Statement and Tanning Authorization, were repealed and adopted as new rules by R.2010 d.088, effective June 21, 2010. See: 41 N.J.R. 2189(a), 42 N.J.R. 1184(a).

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SUBCHAPTER 1. GENERAL PROVISIONS

8:28-1.1 Purpose and scope

(a) The purpose of this chapter is to:

1. Implement N.J.S.A. 26:2D-81 et seq. (P.L. 1989, c. 234, amended and supplemented by P.L. 2006, c. 48); and
2. Establish minimum safety and sanitation standards for the operation of tanning facilities in order to protect the health and safety of consumers that patronize tanning facilities.

(b) The provisions of this chapter shall apply to all tanning facilities and the local boards of health for the municipalities in which the tanning facilities are located.

1. This chapter establishes the registration and inspection requirements for tanning facilities, standards for the operation of the facilities, and enforcement provisions.

8:28-1.2 Definitions

The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise:

“Act” means N.J.S.A. 26:2D-81 et seq. and this chapter.

“Commissioner” means the Commissioner of the New Jersey Department of Health and Senior Services, or his or her designee.

“Communicable disease” means diseases or conditions as defined in N.J.A.C. 8:57-1.

“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.

“Department” means the New Jersey Department of Health and Senior Services.

“EPA” means the U.S. Environmental Protection Agency.

“Equivalent” or “equivalency” means equal to the sunlamp product’s original equipment manufacturer’s specifications within irradiance tolerances allowed by the FDA.

1. Equivalent replacement parts are fully compatible with the sunlamp products for which they are used, and do not significantly alter the irradiance output of the sunlamp product at the consumer exposure distance, in accordance with the manufacturer’s specifications.

“FDA” means the U.S. Food and Drug Administration.

“Handholds” means a physical aid that will help to maintain consumer safety and proper exposure distance, constructed pursuant to N.J.A.C. 8:28-3.1(b)4 and 5.

“Inspection” means an official examination or observation including, but not limited to, tests, surveys, and monitoring to determine compliance with rules, orders, requirements and conditions of the Department, established pursuant to this chapter.

“Minor” means any individual less than 18 years of age.

“Operator” means a trained person, no less than 16 years of age, designated by the registrant to control operation of the tanning facility and to instruct and assist a consumer in the proper operation of the tanning equipment.

“Operator training” means a course of instruction 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, as established in N.J.A.C. 8:28-3.11.

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

“PHSSP” means the Public Health Sanitation and Safety Program in the Division of Consumers and Environmental Health at the New Jersey Department of Health and Senior Services.

“PHSSP mailing address” means the following mailing address for the Public Health Sanitation and Safety Program of the Department’s Consumer and Environmental Health Service, PO Box 369, Trenton, NJ 08625-0369.

“PHSSP webpage” means the internet webpage for the Public Health Sanitation and Safety Program of the Department’s Consumer and Environmental Health Service located at www.state.nj.us/health/eoh/phss.

“Protective eyewear” means any FDA-compliant device designed to be worn by users of a sunlamp product to reduce exposure of the eyes to radiation emitted by the product.

“Registrant” means any person who is registered with the Department and who is legally obligated to register with the Department pursuant to the provisions of the Act.

“Sunlamp product” means any electronic product designed to incorporate one or more ultraviolet lamps and intended for irradiation of any part of the living human body, by ultraviolet radiation within a range of wavelengths, specified by the manufacturer, to induce skin tanning.

“Tanning equipment” means any equipment used during the process of skin tanning with a sunlamp product, including, but not limited to, protective eyewear, timers, ballasts, starters, ultraviolet lamps, reflectors, cooling fans, acrylics, comfort pillows, and handholds.

“Tanning facility” or “facility” means any location, place, area, structure or business that, either as a sole service or in conjunction with other services, provides consumers with access to sunlamp products, ultraviolet lamps or other equipment intended to induce skin tanning through the irradiation of any part of the human body for cosmetic or non-medical purposes.

“Timer” means any device incorporated into a product that terminates radiation emission after a preset time interval.

“Ultraviolet lamp” means any lamp intended for use in sunlamp products that produces ultraviolet radiation within a range of wavelengths, specified by the manufacturer.

“Ultraviolet radiation” means electromagnetic radiation with wavelength in air between 200 nanometers and 400 nanometers.

SUBCHAPTER 2. REGISTRATION AND INSPECTION

8:28-2.1 Initial registration

(a) Any person that wants to operate a tanning facility within this State shall register the facility with the Department pursuant to the Act.

(b) If a person owns or operates more than one tanning facility, the person shall file a separate application for registration for each tanning facility.

(c) A person that owns or operates a tanning facility shall apply for registration of each facility with the Department as follows:

1. By April 20, 2009, for a facility in existence on January 20, 2009; and
2. Prior to operation of the facility, for a new facility established after January 20, 2009.

(d) Each applicant for registration shall complete an Application for Tanning Facilities Registration form, incorporated herein by reference, as set forth at chapter Appendix A.

(e) Each applicant shall submit with the registration application form an annual, non-refundable, registration fee, in accordance with the following fee schedule.

1. All sunlamp products provided in a tanning facility shall be subject to the registration fee schedule.
2. A tanning facility that provides up to and including 10 sunlamp products shall pay an annual fee of \$300.00.