

10-144

Chapter 223

**STATE OF MAINE RULES
RELATING TO TANNING FACILITIES**



**DEPARTMENT OF HEALTH & HUMAN SERVICES
MAINE CENTER FOR DISEASE CONTROL & PREVENTION
DIVISION OF ENVIRONMENTAL HEALTH
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STATE OF MAINE RULES RELATING TO TANNING FACILITIES
10-144 CMR, CHAPTER 223

SUMMARY

These rules describe the requirements for tanning facilities using ultraviolet lamps and regulates the maintenance and operation of tanning facilities.

BASIS STATEMENT:

These Rules provide minimum State requirements for tanning facilities to protect public health.

LAST AMENDED: May 1, 1991 2012

AUTHORITY: 22 M.R.S. § 674

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~~10-144~~ — ~~DEPARTMENT OF HUMAN SERVICES~~
~~DIVISION OF HEALTH ENGINEERING~~
~~CHAPTER 223: RULES RELATING TO TANNING FACILITIES~~
SECTION 1. PURPOSE AND SCOPE

- A. These rules, formerly established at 10-144 CMR, Chapter 220, Part T, provides for the registration of tanning facilities using ultraviolet lamps, and regulation of the maintenance and operation of tanning facilities.
- B. In addition to the requirements of this section, all facilities are subject to the applicable provisions of other sections of these regulations.
- C. Nothing in this section 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.

SECTION 2. DEFINITIONS

The following terms are defined for purposes of these rules this part:

- A. “Act” means 22 M.R.S.~~A.~~ Chapter e-160.
- ~~“Agency” means the Department of Human Services.~~
- B. “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.
- C. “CFR” means Code of Federal Regulations.
- D. “Department” means the Department of Health and Human Services.
- E. “Formal operator training” means a course of instruction pre-approved by the Department 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 effects on the skin, photosensitivity, eye protection, equipment maintenance, FDA regulations and the provisions of these rules.
- F. “Healing arts” means any discipline which involves the diagnosis or treatment of individuals by a practitioner who is licensed for that purpose by the State of Maine, and which discipline, prior to the effective date of these regulations, included the intentional exposure of individuals to sources of radiation for diagnosis or treatment.
- G. “Individual” means any human being.
- H. “Informal Training” means an operator trained by a formally trained operator of the same facility.
- I. “Injury” means physical damage or negative effects to the body, resulting from the use of tanning equipment.

J. "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.

K. "Minor" means any individual who is under 18 years of age.

L. "Mobile facilities" means any tanning equipment not used in a permanent facility.

M. "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. Under this definition, the term "operator" means any formally or informally trained individual who conducts one or more of the following activities:

- 1) Determine customer's skin type;
- 2) Determine the suitability for the use of a piece of tanning equipment by prospective customers;
- 3) Inform the customer of the dangers of ultraviolet radiation exposure, including photoallergic reactions and photosensitizing agents;
- 4) Assure that the customer reads and properly signs all forms required by these rules;
- 5) Maintain required customer exposure records;
- 6) Recognize and report customer injuries or alleged injuries to the Department;
- 7) Determine the customers' exposure schedule;
- 8) Set timers which control the duration of exposure; and
- 9) Instruct the customer in the proper use of protective eyewear.

N. "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.

O. "Personal Use" means operating a single tanning unit for the individual purpose of cosmetic tanning. Personal use implies that the unit will not be used for any business purpose. Multiple tanning units can not be used as personal use.

P. "Protective eyewear" means suitable devices that safeguard the eyes from ultraviolet radiation and allows adequate vision.

Q. "Radiation" for the purpose of this part means ultraviolet radiation.

R. "Radiation machine" means any device capable of producing radiation.

- S. "Registrant" means any person who obtains a registration from the Agency upon payment of the registration fee, and who is obligated to obtain such registration from the Department Agency pursuant to these regulations and the Act.
- T. "Registration" means registration with the Department Agency in accordance with regulations adopted by the Department Agency.
- U. "Sanitize" means the effective bactericidal treatment of surfaces of equipment and devices by an EPA or FDA registered product that provides a sufficient concentration of chemicals and enough time to reduce the bacterial count, including pathogens, to a safe level. Chemical germicides that are registered with EPA as hospital disinfectants when used at recommended dilutions and directions may be approved for sanitizing tanning equipment. The Department maintains a list of approved sanitizers.
- V. "Tanning equipment" means ultraviolet lamps and equipment containing ultraviolet lamps intended to induce skin tanning through the irradiation of any part of the living human body.
- W. "Tanning facility" means any location, place, area, structure or business which provides consumers access to tanning equipment.
- X. "These regulations" or "these rules" mean ~~both all parts of~~ the Maine Rules Relating to Radiation Protection, 10-144A CMR 220 and the Maine Rules Relating to Tanning Facilities, 10-144 CMR 223.
- Y. "Ultraviolet radiation" means electromagnetic radiation with wavelengths in air between two hundred (200) nanometers and four hundred (400) nanometers.

SECTION 3. EXEMPTIONS

- A. General. The Agency Department 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.
- B. Equipment intended for purposes other than the deliberate exposure of parts of the living human body to ultraviolet radiation, and which produce or emit ultraviolet radiation incidental to its proper operation, are exempt from the provisions of these rules ~~this Part~~.
- C. Equipment used for the intentional exposure of patients to ultraviolet radiation for the purpose of treatment or use commensurate with a licensed practitioner's use of a healing art are exempt from these rules ~~this Part~~.
- D. Equipment intended for home use and not employed in a profit making venture are exempt from these rules ~~this Part~~.
- E. Radiation machines while in transit or storage incidental thereto are exempt from provisions of these rules ~~this Part~~.

SECTION 4. APPLICATION FOR REGISTRATION OF TANNING FACILITIES

- A. ~~Each person operating a tanning facility shall apply for a registration of such facility with the Agency within ninety (90) days following the effective date of these regulations. All newly established tanning facilities shall submit the necessary registration to the Department within 30 days after the start of business. Applications for registration shall be completed on forms provided by the Department.~~
- B. ~~Beginning April 1, 1991, all newly established tanning facilities shall submit the necessary registration to the Agency within 30 days after the start of business. The application must be signed and dated, certifying that the applicant has read and understands the requirements of these regulations.~~
- C. ~~Application for registration shall be completed on forms provided for by the Agency. The application will be signed and dated certifying that the applicant has read and understands the requirements of these regulations.~~ ~~D. The Agency~~ Department shall require the following information on the Application for Registration of Tanning Facilities Form for new tanning facilities or renewal of an existing tanning facility:
- (1) Name, address and telephone number of the following:
 - (a) the tanning facility; and
 - (b) the owner(s) and manager(s) of the tanning facility;
 - (2) The manufacturer, model number, and serial number for each piece of tanning equipment located within the facility, as well as the type of each ultraviolet lamp for each piece of ~~or tanning equipment located within the facility~~;
 - (3) Name of the tanning equipment supplier, installer, and service agent;
 - (4) A copy of the following documents must ~~will~~ be included in the application;
 - (a) Operator training materials. (Manufacturer's information may be referenced);
 - (b) Operating and safety instructions or procedures developed for the facility;
 - (c) Information and/or instructions provided to users;
 - (d) Any posted warning signs or notices, if other than that specified in Section 7(A)(1)(a) ~~12.A.(1)~~.
 - (5) Mobile facilities shall provide the following additional information:
 - (a) Region of the state in which the facility will operate;

- (b) Locations and schedule at which the facility will operate;
 - (c) Contact person at each location; and
 - (d) Method of maintaining records.
- E.** Each applicant shall provide such additional information as the Department Agency may reasonably require, to protect ~~the~~ public health.
- F.** Each application shall include the yearly registration fee, as stated in sSection 9-14.

SECTION 5. Issuance of a CERTIFICATE OF REGISTRATION

- A. Issuance of New Certificate of Registration.** Upon determination that an applicant meets the requirements of Section 4, the Department Agency shall issue a certificate of registration, which is valid for one year.
- ~~(1) B.~~ 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 facilities, as it deems appropriate or necessary to protect the public health.
- ~~(2) C.~~ Except as provided in Section 4(A) ~~and 4(B)~~, no person shall operate a tanning facility until the Department Agency has issued the certificate of registration, pursuant to 22 MRS ~~A, § 677(2).~~
- B. 6. Expiration of the Certificate of Registration.** ~~A.~~ Except as provided in Section 5(C)(2) ~~7.B~~, each certificate of registration shall expire after 12 months of issuance, or upon an expiration date to be determined by the Department. ~~at the end of the specified day in the month and year stated therein.~~
- C. 7. Renewal of a Existing Certificate of Registration.**
- ~~(1) A.~~ Application for renewal of a certificate of registration shall be filed in accordance with Section 4.
- ~~(2) B.~~ In any case in which a registrant ~~not less than 30 days prior to the expiration of his existing registration~~ has filed an renewal application in proper form no later than 30 days prior to the expiration of its existing registration for renewal, such existing registration shall remain in effect until the Department has taken final action on its renewal application. ~~not expire, until the application status has been finally determined by the Agency.~~
- D.8. Report of Changes.**
- ~~(1) A.~~ The registrant shall notify the Department Agency in writing within 30 days of making any change which would render the information reported pursuant to Section 4(D) no longer accurate.
- ~~(2) B.~~ In addition to the requirement of 5(D)(1) 8(A), mobile facilities will notify the Department Agency by telephone within 5 days of any changes to the information provided under Section 4(C)(5).
- ~~(3) C.~~ This requirement shall not apply for changes involving replacement of designated original equipment lamp types with lamps which have been certified with the FDA as "equivalent" lamps under the FDA regulations and policies applicable at the time of replacement of the lamps. The facility owner shall maintain manufacturer's literature demonstrating the equivalency of any replacement lamps.

E. 9. Transfer of Certificate of a Registration.~~A.~~No certificate of registration shall be transferable ~~from one person to another. or from one tanning facility to another.~~ A person purchasing an existing business must submit a new application.

F.10. Approval Not Implied.~~A.~~No person, in any advertisement, shall refer to the fact that a facility is registered with the Agency pursuant to the provisions of Section 4, and no person shall state or imply that any activity under such registration has been approved by the Department Agency.

~~11-~~SECTION 6. DENIAL, SUSPENSION OR REVOCATION OF A REGISTRATION.

- A. The Department Agency may, for good cause shown, deny, seek to suspend or revoke a registration sought or issued, pursuant to these regulations, for any of the following reasons:
- (1) Submission of incorrect, false or misleading information in the application and reports;
 - (2) Failure to operate or maintain the tanning facility, in accordance with the application, approved by the Department Agency except as such maintenance may involve the replacement of lamps by "equivalent" lamps which have been defined in Section 5(D)(3) 8-B;
 - (3) Operation of the tanning facility in a way that causes or creates a nuisance or hazard to the public health or safety;
 - (4) Violation of any rules, regulations, standards, or requirements adopted by the Department Agency;
 - (5) Violation of any condition upon which the registration was issued;
 - (6) Failure to allow duly authorized agents of the Department Agency to conduct inspections at reasonable hours and in a reasonable manner; and
 - (7) Failure to pay any registration or inspection fees.
- B. **Notice of Violation:** Before instituting any proceeding to modify, suspend or revoke a certificate of registration or to take other action for alleged violations of any provision of these rules, the Department Agency will serve on the registrant a written notice of violation. The notice of violation will state the alleged violation and will require that the registrant submit a written explanation or statement in reply within 20 working ~~days~~ a written explanation or statement in reply, which includesing the following:
- (1) Corrective steps which have been taken to date;
 - (2) Schedule of corrective steps which will be taken; and
 - (3) The date when full compliance will be achieved.
- C. **Hearing:** If any certificate of registration is conditioned, denied, suspended, or revoked, the applicant or registrant may request a hearing within 10 working days of receipt of the written decision, in accordance with the Maine Administrative Procedures Act, 5 M.R.S., Chapter 375, Sub-chapter 4 and the Department's Administrative Procedures Manual, 10-144 C.M.R., Chapter 1. ~~A Such a~~ request for an administrative fair hearing should be made in writing and addressed to the Manager, Radiation Control Program.

In addition to recourse to an administrative hearing, an aggrieved Any applicant or registrant ~~who may request a hearing as set forth above~~ may also request an informal review of the Department's decision by writing to the Manager, Radiation Control Program. Such a request must be made within 10 working days of receipt of the decision. If an applicant or registrant is dissatisfied ~~with the decision of the informal review, an administrative fair,~~a hearing may be requested within 10 days of receipt of the informal review decision.

SECTION 7.12: OPERATION OF TANNING FACILITIES

A. Operation & Maintenance. Unless otherwise ordered or approved by the Department Agency, each tanning facility shall be operated and maintained to meet the following minimum requirements:

A. Physical facilities.

- (1) ~~(a)~~ A warning sign (with the exact text shown in Section 7(A)(3) below shown below) shall be posted conspicuously near the ~~on each piece of~~ tanning equipment; 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 ultraviolet light generating equipment;
- (2) ~~(a)~~ The lettering on each warning sign shall be at least ten (10) millimeters high for all words shown in capital letters, and at least five (5) millimeters high for all lower case letters.

DANGER - ULTRAVIOLET RADIATION

-Follow instructions.

-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.

-WEAR PROTECTIVE EYEWEAR; FAILURE TO USE PROTECTIVE EYEWEAR MAY RESULT IN SEVERE BURNS OR LONG-TERM INJURY TO THE EYES.

-Medications or cosmetics may increase your sensitivity to the ultraviolet radiation. Consult your physician before using sun lamp if you are using medications or have a history of skin problems or believe yourself especially sensitive to sunlight.

-Medications or cosmetics may increase your sensitivity to the ultraviolet radiation. Consult your physician before using sun lamp if you are using medications or have a history of skin problems or believe yourself especially sensitive to sunlight.

-If you do not tan in the sun, you are unlikely to tan from the use of this product.

- (3) ~~(b)~~ Only tanning equipment manufactured and certified to comply with 21 CFR Part 1040, Section 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, Section 1010.3.
- (4) ~~(e)~~ Each tanning equipment shall have a timer which complies with the requirements of 21 CFR Part 1040, Section 1040.20(c)(2).

- a. The timer shall be incorporated in the tanning device.
 - b. The maximum timer interval shall not exceed the manufacturer's maximum recommended exposure time.
 - c. No timer interval shall have an error greater than + 10% of the maximum timer interval for the product.
 - d. The timer shall not automatically reset and cause radiation emission to resume for a period greater than the unused portion of the timer cycle when emission from the tanning equipment has been interrupted.
- (5) Each piece of tanning equipment 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).
- (6) Each piece of tanning equipment shall have labels, as provided in 21 CFR 1040.20(d)(1)(i-vi).
- (7) ~~(d)~~ Tanning equipment shall meet the National Fire Protection Association's National Electrical Code.
- (8) ~~(e)~~ There shall be physical barriers to protect consumers from injury induced by touching or breaking the lamps.
- (9) ~~(f)~~ Additional requirements for stand-up booths:
- a. 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.
 - b. The construction of the booth shall be such that it will withstand the stress of use and the impact of a falling person.
 - c. Access to the booth shall be of rigid construction; doors shall open outwardly. Handrails and non-slip floors shall be provided.

B. Protective Eyewear goggles.

- (1) Protective eyewear must be worn while using tanning equipment.
- ~~b) Each consumer will be required to wear the protective goggles during tanning~~
- (2) ~~(a)~~ Each consumer shall be provided with protective eyewear goggles and instructions for their use. Selling eyewear or allowing use of properly cleaned eyewear satisfies the

~~meaning of “provided”. Consumers may provide their own eyewear. Protective goggles provided by the consumer must meet the requirements of 12(A)(2) (e)~~

- (3) Protective eyewear, whether provided by the facility operator or the consumer, goggles shall meet the requirements of 21 CFR Part 1040, Section 1040.20(c)(4).
- (4) Protective eyewear goggles shall be properly sanitized before each use by a trained facility operator. A sanitizing agent recommended by the product manufacturer shall be used. Exposure to the ultraviolet radiation produced by the tanning equipment itself is not considered a sanitizing agent.

C. Operation.

- (1) A tanning registrant shall allow operation of tanning equipment only by those who have successfully completed a formal or informal operator training course.
- (2) Tanning equipment shall be operated only when a trained operator is present at a tanning facility.~~(a) An operator must be present when tanning equipment is operated.~~
- (3) ~~(b)~~ Prior to initial exposure, each consumer shall be provided the opportunity to read a copy of the warning sign’s statement, which must satisfy the requirements of Section 7 (A)(1)(b). The operator shall request that the consumer sign a statement that that warning sign information, as well as any other information required by the facility, 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. following information;
 - ~~(i) A copy of the warning specified in Section 7(A)12.A.(1)(a).~~
 - ~~(ii) Information on photosensitizing drugs~~
 - ~~(iii) A recommended tanning schedule for that individual~~

~~Prior to the initial exposure the operator shall then request that the consumer sign a statement that the information required under 12.A.(3) 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.~~

- (4) A record shall be kept by the facility operator of each consumer's total number of tanning visits and tanning times. The records shall be maintained for 12 months after the last tanning visit. The consumer must initial the tanning visit and tanning time to validate the entry.
- (5) A copy of any written report of any tanning injury submitted to the facility's insurer shall be forwarded to the Department Agency within ~~five (5)~~ working days of its occurrence or knowledge thereof. The report shall include:
 - (a) the name of the affected individual;

- (b) the name and location of the tanning facility involved;
- (c) the nature of the injury;
- (d) name and address of health care provider, if any; and
- (e) any other information considered relevant to the situation.

(6) No minor under the age of 14 shall be allowed to use the tanning equipment. ~~For minors 14 years of age and older: facility unless the minor provides a consent form signed by the parent or legal guardian. The parent or guardian shall have been provided with the basic information required under Section 12.A.(1).~~

(a) The tanning facility operator must obtain written consent of the minor's parent or legal guardian and written acknowledgment by the minor and the parent or legal guardian that they have read and understood the information required by Section 7(A)(3) of these rules. Written consent and written acknowledgment must be executed in the presence of the operator of the tanning facility.

(b) The tanning facility operator must confirm the identification of the minor and the minor's parent or legal guardian.

(c) The parent's or legal guardian's written consent is effective for one year from the date of signature and may be revoked by the parent or legal guardian at any time.

(d) The parent or legal guardian must be present when minors 14 and 15 years of age are using the tanning equipment.

(7) Defective or burned-out lamps or filters shall be replaced with a type intended for use in that piece of tanning equipment, 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 the lamp's manufacturing date.

~~(8) — Emergency procedures in case of injury:~~

~~(i) A list of operators trained in accordance with Section 12.A.(3)(g) shall be maintained and available at the facility. Inclusion of an individual as an operator on this list will be considered proof of training.~~

(8) ~~(j)~~ Tanning beds and stand up booths shall be cleaned after each use with an approved sanitizer by the facility operator. A list of approved sanitizers will be maintained by the Department. The operator shall use a sanitizer that sanitizes to a safe level of microorganisms, as required by these rules. A clean paper towel shall be used each time the tanning equipment is used and sanitized. The ultraviolet light produced by the tanning equipment itself is not considered an adequate sanitizer. a disinfectant recommended by the manufacturer of the tanning device

D. Training.

- (1) The registrant shall ensure that all tanning equipment operators are adequately trained by formal and/or informal training.
- (2) At least one tanning equipment operator must be adequately trained by a pre-approved formal training course. Formal training is obtained by successfully attending a classroom course, completing a correspondence course, or online course, and receiving a certificate.
- (3) The Department shall maintain a list of pre-approved formal training course vendors.
- (4) ~~(h) Each operator must be adequately trained. Proof of training must be maintained in the facility and available for inspection.~~ Training shall include the following items listed below:
 - (a) The requirements of these regulations (informal training only);
 - (b) ~~(3)~~ Procedures for correct operation of the facility (informal training only);
 - (c) ~~(7)~~ Recognition of injury or overexposure;
 - ~~(4)~~ An understanding of and the ability to recognize skin types;
 - ~~(5)~~ An understanding of the effects of photosensitizing drugs and the possible adverse effects which may arise from tanning while taking such drugs;
 - ~~(6)~~ An understanding of exposure times and frequency;
 - (d) ~~(2)~~ Manufacturer's procedures for operation and maintenance of tanning equipment (informal training only);
 - (e) Emergency procedures in case of injury or overexposure;
 - (f) Procedures for correct cleaning, sanitizing, and operation of the tanning equipment. This training includes proper care and use of protective eyewear;
 - (g) 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;
 - (h) Review and explanation of the lamp compatibility for tanning equipment; and
 - (i) Courses which include written material which covers the required subjects, such as a training manual, audio-visual presentations on the required subjects (such as videos or slides), copies of Maine's Tanning Facility rules and 21 CFR Section 1040.20, and a question/answer period for trainees.
- (5) A list or log of operators trained in accordance with Section 7(D)(4) above shall be maintained and available at the facility. Inclusion of an individual as an operator on this list will be considered proof of training.

SECTION 8. ~~13.~~ ENFORCEMENT AND PENALTIES

A. Civil Penalties. In accordance with 22 M.R.S. § 690 (2), a civil penalty shall be assessed and enforced, as follows:

- (1) Any person who violates any licensing or registration provision of the Radiation Protection Act (“this Act”), or any rule or order issued under this Act, any term, condition or limitation of any license or registration certificate issued under this Act, or any person who commits any violation for which a license or registration certificate may be revoked, suspended or modified under these rules, is subject to a civil penalty.
- (2) A civil penalty shall be imposed by the Department, in the amount of \$200, for each violation. If any violation is a continuing violation, each day of the violation shall constitute a separate violation for the purpose of computing the applicable civil penalty. The Department may compromise, mitigate or remit the penalties. The maximum amount of a civil penalty may not exceed \$10,000 for each violation.
- (3) When the Department has reason to believe that a person has become subject to the imposition of a civil penalty under the provisions of 22 M.R.S. § 690 (2), the Department may notify the Attorney General or hold a public hearing. If a hearing is scheduled, the commissioner shall give at least 30 days' written notice to the alleged violator of the date, time and place of that hearing. The notice shall specify the act done or omitted to be done which is claimed to be in violation of law; identify the particular provisions of the section, rule, order or license involved in the violation; and advising of each penalty which the Department proposes to impose and its amount. The notice shall be sent by registered or certified mail by the Department to the last known address of the person.
- (4) Any hearing conducted under the authority of this subsection shall be in accordance with the provisions of the Maine Administrative Procedure Act, Title 5, chapter 375. At the hearing, the alleged violator may appear in person or by attorney and answer the allegations of violation and file a statement of the facts, including the methods, practices and procedures, if any, adopted or used by him/her to comply with 22 M.R.S., Chapter 160, and present such evidence as may be pertinent and relevant to the alleged violation.
- (4) After a notice of violation is served, a follow-up inspection will be conducted to confirm and/or assess corrective actions specified in the registrant’s written explanation or statement have been fulfilled. ~~Fines may be levied in accordance with 22 M.R.S. § subsection 690.~~
- (5) A penalty or penalties may be imposed for a violation or violations that are found to be uncorrected after a notice of violation has been served, and sufficient time has been allowed for correction.
- (6) A civil penalty may be immediately administered for non-payment of a registration fee, after 6 months of non-payment, and where repeated notices of late payment

have been received by the facility. The penalty amount is in addition to the registration fee.

(7) On the request of the Department, the Attorney General may institute a civil action to collect a penalty imposed pursuant to this subsection. Only the Attorney General may compromise, mitigate or remit such civil penalties as are referred to him for collection.

(8) All money collected from civil penalties shall be paid to the Treasurer of State for deposit in the General Fund. Money collected from civil penalties shall not be used for normal operating expenses of the Department, except as appropriations made from the General Fund in the normal budgetary process.

B. **Criminal Penalties.** In accordance with 22 M.R.S. § 690(1), criminal penalties may be assessed for intentional or knowing violation of the Radiation Protection Act, or a rule or order of the Department in effect, pursuant to the Radiation Protection Act. Criminal violation is a Class D crime, and also the result of the violation of a term, condition or limitation of a license or registration certificate issued under the Radiation Protection Act, or a violation for which a license or registration certificate may be revoked under these Rules.

SECTION 9. 14. FEES

- A. Yearly registration fees of \$40.00 per tanning facility shall be submitted with the initial application for registration or renewal of a tanning facility's registration. Starting in calendar year 2015, the yearly registration fee becomes \$50.00 per tanning facility, plus an equipment surcharge of \$20 per unit of tanning equipment. ~~After the effective date of these rules for facilities not registered previously, who were in existence yet did not obtain a registration, past fees will be assessed.~~
- B. No fee will be assessed for routine inspections or for the first follow-up inspection, to confirm corrective actions were taken in response to a notice of violation.
- C. A fee of \$25.00 per visit may be assessed for follow-up inspections, due to a failure to respond to a notice of violation, as authorized by ~~required under~~ Section 6 H.(B).
- D. A fee of \$25.00 per visit may be assessed for any additional inspections to insure compliance, notwithstanding the provisions of Sections 914.(A) and (B).

SECTION 10. 15. SEVERABILITY

If any provision, clause, section, sentence or paragraph of these regulations or the application thereof to any person shall be held to be invalid, such invalidity shall not affect the remaining provisions or applications of the regulations. The valid part of any provision, clause, section, sentence or paragraph shall be given independence from the invalid provisions or applications, and to this end these regulations are hereby declared to be severable.

~~16. — Effective Date. These rules become effective on March 1, 1991~~

~~LAST AMENDED EFFECTIVE DATE These rules become effective on March 1, 1991~~ 2012

EFFECTIVE DATE (ELECTRONIC CONVERSION): May 5, 1996;