

R710. Public Safety, Fire Marshal.

R710-2. Rules Pursuant to the Utah Fireworks Act.

R710-2-1. Purpose.

The purpose of this rule is to establish the minimum safety standards for retail storage, handling, and sale of class C common state approved explosives indoor or outdoor; and requirements for licensing of importer, wholesaler, display operator, special effects operator, flame effects operator, and flame effect performing artist.

R710-2-2. Authority.

This rule is authorized by Section 53-7-204.

R710-2-3. Definitions.

(1) "AHJ" means authority having jurisdiction, and includes such county and municipal officers who are charged with the enforcement of state and municipal laws; consisting of all fire enforcement officials including designated staff from the Utah State Department of Public Safety.

(2) "Aerial device" means a cake that is a collection of mine/shell tubes that has a single covered fuse which is used to light several tubes in sequence. A cake may also be defined as an aerial repeater or multi-shot aerial and does not exceed more than 500 grams of pyrotechnic composition.

(3) "Bin" means a container or enclosed space for storing or displaying aerial fireworks that would reasonably limit the effect of the pyrotechnic material if ignited, and would not allow rapid spread of the fire to areas away from the immediate area of ignition.

(4) "Constant Visual Supervision" means that visual supervision is continually occurring or regularly recurring.

(5) "Covered fuse" means a fuse or designed point of ignition that is protected against accidental ignition by contact with a spark, smoldering item or small open flame.

(6) "Designated Store Employee" means a specific employee assigned that title or the employee who works at the work station where the measurement was taken to the aerial fireworks display.

(7) "Direct Line of Sight" means there is a clear unobstructed view to the aerial fireworks display.

(8) "Flame Effects" means Flame Effects Operator or Flame Effects Performing Artist.

(9) "Flame Effects Performing Artist" means a fire spinner, fire dancer or fire performer who is paid to perform professionally in a public location.

(10) "ICC" means International Code Council, Inc.

(11) "IFC" means International Fire Code, 2015 edition.

(12) "Licensed Operator" means any person who discharges, ignites, supervises, manages, oversees or directs the discharge of

display fireworks, special effects fireworks, flame effects or flame effects performing artist.

(13) "NAFAA" means the North American Fire Arts Association.

(14) "NFPA" means National Fire Protection Association.

(15) "Permanent structure" means a non-movable building, securely attached to a foundation, housing a business.

(16) "Person" means an individual, company, partnership or corporation.

(17) "Pre-packaged means that the product is wrapped in a clear plastic wrap or other equivalent material to prevent the fuse of the class C common state approved explosive from being accessible to the customer.

(18) "Resale" means the act of reselling class B or C explosives to a new party.

(19) "SFM" means the State Fire Marshal.

(20) "Tent" means a temporary structure, enclosure or shelter constructed of fabric or pliable material supported by any manner except by air or the contents it protects.

(21) "Temporary Stands and Trailers" means a non-permanent structure used exclusively for the sale of fireworks.

R710-2-4. General Requirements.

(1) No person shall engage in any type of retail storage or sale of class C common state approved explosives, without first having obtained a license to sell fireworks from the authority having jurisdiction, if required.

(2) If a municipality or county in which fireworks are offered for sale, requires a seller to obtain a license, it shall be available at the store or stand for presentation upon request to authorized public safety officials.

(3) All fireworks retail sales locations shall be under the direct supervision of a responsible person who is 18 years of age or older.

(4) Those selling fireworks at retail sales locations shall be at least 16 years of age or older.

(5) A salesperson shall remain at the sales location at all times unless suitable locking devices or secured metal storage containers are provided to prevent the unauthorized access to the merchandise by others.

(6) Class C common state approved explosives shall not be sold to any person under the age of 16 years, unless accompanied by an adult.

(7) All retail sales locations shall be kept clear of dry grass or other combustible material for a distance of at least 25 feet in all directions.

(8) Storage of class C common state approved explosives shall

not be located in residences to include attached garages.

(9) "No Smoking" signs shall be conspicuously posted at all sales and storage locations.

(10) A sign, clearly visible to the general public, shall be posted at all fireworks sales locations, indicating the legal dates for discharge of fireworks.

(11) All retail sales locations shall be equipped with an approved, portable fire extinguisher having a minimum 2A rating.

(12) Class C common state approved explosives shall only be stored, handled, displayed, and sold as packaged units with covered fuses.

R710-2-5. Indoor Sales.

(1) Display of class C common state approved explosives inside of buildings shall be so located to ensure constant visual supervision.

(2) In all retail sales locations in permanent structures, the area where class C common state approved explosives are displayed or stored shall be at least 50 feet from any flammable liquid or gas, or other highly combustible material.

(3) In permanent structures, retail sales displays of Class C common state approved explosives shall not be placed in locations that would impede egress from the building.

(4) Display of Class C common state approved explosives inside of buildings protected throughout with an automatic fire sprinkler system shall not exceed 25 percent of the area of the retail sales floor or exceed 600 square feet, whichever is less.

(5) Display of Class C common state approved explosives inside of buildings not protected with an automatic fire sprinkler system shall not exceed 125 pounds of pyrotechnic composition. Where the actual weight of the pyrotechnic composition is not known, 25 percent of the gross weight of the consumer fireworks, including packaging, shall be permitted to be used to determine the weight of the pyrotechnic composition.

(6) Display of Class C common state approved explosives inside of buildings shall not exceed a height greater than six feet above the floor surface.

(7) Rack storage of Class C common state approved explosives inside of buildings is prohibited.

R710-2-6. Temporary Stands, Trailers and Tents.

(1) Temporary stands, trailers and tents less than 200 square feet used for the retail sales of class C common state approved explosives shall be constructed in compliance with local rules, or if none, in accordance with nationally recognized practice. Tents having an area in excess of 200 square feet shall comply with IFC, Chapter 31.

(2) The general public shall not be allowed to enter a temporary stand or trailer.

(3) Each stand, trailer or tent less than 200 square feet shall have a minimum three foot wide unobstructed aisle, running the length of the stand, trailer or tent.

(4) All tents where customers enter inside shall have a minimum three foot wide unobstructed aisle and two separate exits located a reasonable distance apart and so located that if one is blocked the other will be available.

(5) The area used for sales of class C common state approved explosives in stands, trailers or tents shall be arranged to permit the customer to only touch or handle pre-packaged class C common state approved explosives. All non pre-packaged class C common state approved explosives shall be displayed in a manner which prevents the fireworks from being handled by the customer without the direct intervention of the retailer who shall be able to maintain visual contact with the customer.

(6) Temporary stands, trailers or tents for the sale of class C common state approved explosives shall be located at least 50 feet from other stands, trailers, tents, LPG, flammable liquid or gas storage and dispensing units.

(7) If the stand or trailer is used for the overnight storage of class C common state approved explosives, it shall be equipped with suitable locking devices to prevent unauthorized entry.

(a) Tents shall not be used for overnight storage of class C common state approved explosives unless on site security is provided.

(8) No person shall be allowed to sleep in any temporary stand, trailer or tent in which class C common state approved explosives are stored or sold.

(9) Stands, trailers or tents shall not be illuminated or heated by any device requiring an open flame or exposed heating elements.

(a) All heaters shall be approved by the AHJ.

(10) All illumination shall be installed in accordance with the temporary wiring section of the National Electric Code and approved by the AHJ.

R710-2-7. Display, Sale, and Signage of Aerial Devices.

(1) In addition to those requirements in Sections R710-2-4 through R710-2-6, all aerial devices shall be packaged and displayed for sale in a manner that would provide public safety by completing one of the following:

(a) provide constant visual supervision by direct line of sight by a designated store employee where the aerial display is not more than 25 feet from the designated employee's work station;

(b) provide constant visual supervision by direct line of sight by a store employee when all of the following requirements are

met:

(i) the aerial display shall not be more than 40 feet from the designated employee's work station.

(ii) the aerial devices are restrained by using at least one of the following methods:

(A) the aerial devices are placed in a bin or bins that meets the definition stated in Section R710-2-3; or

(B) the aerial device shall have an additional layer of packaging requiring that the additional layer of packaging be punctured or torn to gain access to the fuse cover; or

(C) place the aerial devices in an area that is physically separated from the public so that the customer cannot handle the aerial devices without the assistance of an employee.

(2) Where aerial devices are sold in permanent structures, the aerial device display shall be placed in a location that gives the customer access to the aerial devices just before the customer checks out and exits the store.

(3) Wherever aerial devices are sold, there shall be signage with a minimum font of one inch, to warn and inform the customer of the dangers of aerial devices and the signage shall state the following:

(a) aerial fireworks are designed to travel up to 150 feet into the air and then explode;

(b) aerial fireworks shall be placed on a hard level surface outdoors, in a clear and open area prior to ignition;

(c) anyone under the age of 16 shall not handle or operate aerial fireworks;

(d) ignition of aerial fireworks shall be a minimum of 30 feet from any structure or vertical obstruction;

(e) aerial fireworks shall not be ignited within 150 feet of the point of sale; and

(f) please read and obey all safe handling instructions before using aerial fireworks.

R710-2-8. Display Operator, Special Effects Operator, Flame Effects Operator, or Flame Effects Performing Artist Licenses.

(1) Application for a display operator, special effects operator, flame effects operator, or flame effects performing artist license shall be made in writing on forms provided by the SFM.

(2) Application for a license shall be signed by the applicant.

(3) Original licenses shall be valid from the date of issuance through December 31st of the year in which issued.

(a) Original licenses issued on or after October 1st, will be valid through December 31st of the following year.

(4) Application for renewal of license shall be made before January 1st of each year.

(a) Application for renewal shall be made in writing on forms

provided by the SFM.

(5) The SFM may refuse to renew any license pursuant to Section R710-2-10.

(a) The applicant, upon such refusal, shall also have those rights as are granted by Section R710-2-10.

(6) Every licensee shall notify the SFM, in writing, within 30 days of any change of his address or location.

(7) No licensee shall conduct his licensed business under a name other than the name which appears on his license.

(8) No license shall be issued to any person as licensee who is under 21 years of age.

(9) The holder of any license shall submit such license for inspection upon request of the SFM, his duly authorized deputies, or any authorized enforcement official.

(10) The applicant shall indicate on the application which license the applicant wishes to apply for:

- (a) Display Operator;
- (b) Special Effects Operator;
- (c) Flame Effects Operator; or
- (d) Flame Effects Performing Artist.

(11) Every person who wishes to secure a display licensed operator, special effects licensed operator, or flame effects licensed operator original license shall demonstrate proof of competence by:

(a) successfully passing an open book written examination and obtaining a minimum grade of 70%;

(i) the applicant is allowed to use the statute, the administrative rule, and the NFPA standard that applies to the certification examination;

(b) submit written verification with the application of having completed a display operators safety class, a special effects operators safety class, a flame effects operator safety class or demonstrate previous experience acceptable to the SFM; and

(c) submit written verification with the application that the applicant has worked with a licensed display operator, special effects operator, or a flame effects operator for at least three shows or demonstrate previous experience acceptable to the SFM.

(12) Every person who wishes to secure an original flame effects performing artist operator license shall demonstrate proof of competence by:

(a) Successfully passing an open book written examination and obtaining a minimum grade of 70%.

(b) The applicant is allowed to use the statute, the administrative rule, NFPA 160, and the Artisan and Performer Safety Standards prepared by the SFM.

(c) Submit written verification with the application of having received a flame effects performing artist safety class or

demonstrate previous experience acceptable to the SFM.

(d) Submit written verification with the application that the applicant has worked with a licensed flame effects performing artist for at least five training meetings or practice sessions or demonstrate previous experience acceptable to the SFM.

(13) Every holder of a valid license identified in Subsections R710-02-7(11) and R710-02-07(12) shall take a re-examination every five years, from date of original issuance.

(14) Applicants seeking an original license as stated in Subsection R710-2-8(11), may perform the various acts while under the direct supervision of a person holding a valid license for a period not to exceed 45 days.

(a) By the end of the 45-day period, the applicant shall have taken and passed the required examination and completed all other licensing requirements.

(15) At the end of the five-year period the licensed display operator, special effects operator, flame effects operator, or flame effects performing artist shall take a re-examination.

(a) The re-examination shall be open book and sent to the license holder at least 60 days before the renewal date.

(b) The re-examination shall focus on the changes in the last 5 years to the adopted standards.

(c) The license holder is responsible to complete the re-examination and return it to the division in time to renew and also comply with the requirements listed in Subsection R710-2-8(16).

(16) After the issuance of the original license, and each year thereafter, the display operator, special effects operator, flame effects operator, or flame effects performing artist shall complete a minimum of one of the following:

(a) complete one show or performance annually;

(b) attend an operator safety class or flame effects performing artist meeting annually; and

(c) work with another licensed display operator, special effects operator, flame effects operator, or flame effects performing artist with a show annually to demonstrate proof of competence.

(17) When the license has expired for more than one year, an application shall be made for an original license and the initial requirements shall be completed as required in Subsections R710-2-8(11) and R710-2-8(12).

(18) Every person who wishes to secure a display operator, special effects operator, flame effects operator, or flame effects performing artist license shall be at least 21 years of age.

(19) Every licensed display operator, special effects operator, flame effects operator, or flame effects performing artist shall complete an After Action Report within ten working days after the conclusion of any show and send it to the State Fire Marshal.

(a) If there are more than one licensed operator involved in the show, only one After Action Report needs to be sent to the State Fire Marshal for that show.

R710-2-9. Importer or Wholesaler License.

(1) Application for an importer or wholesaler license shall be made in writing on forms provided by the SFM.

(2) Application for a license shall be signed by the applicant.

(a) If the application is made by a partnership, it shall be signed by all partners.

(b) If the application is made by a corporation or association, it shall be signed by a principal officer.

(3) Original licenses shall be valid from the date of issuance through December 31st of the year in which issued.

(a) Original licenses issued on or after October 1st, will be valid through December 31st of the following year.

(4) The SFM may refuse to renew any license pursuant to Section R710-2-10.

(a) The applicant, upon such refusal, shall also have those rights as are granted by Section R710-2-10.

(5) Every licensee shall notify the SFM within 30 days of any change of address or location.

(6) No licensee shall conduct his licensed business under a name other than the name which appears on his license.

(7) No license shall be issued to any person as licensee who is under 21 years of age.

(8) The holder of any license shall submit such license for inspection upon request of the SFM, his duly authorized deputies, or any authorized enforcement official.

R710-2-10. Adjudicative Proceedings.

(1) All adjudicative proceedings performed by the agency shall proceed informally as set forth herein and as authorized by Sections 63G-4-202 and 63G-4-203.

(2) The issuance, renewal, or continued validity of a license may be denied, suspended or revoked, if the SFM, or his authorized deputies finds that the applicant, licensee, person employed for, the person having authority and management of a concern commits any of the following violations:

(a) the person or applicant is not the real person in interest;

(b) the person of applicant provides material misrepresentation or false statement on the application;

(c) the person or applicant refuses to allow inspection by the AHJ;

(d) the person or applicant for a license does not possess the qualifications of skill or competence to conduct operations for which application is made, as evidenced by failure to pass the written

examination, demonstrate practical skills or complete the safety class;

(e) the person or applicant has been convicted of one or more federal, state or local laws;

(f) failure to accurately complete the After Action Report;

(g) the person or applicant has been convicted of a violation of the adopted rules or been found by a Board administrative proceeding to have violated the adopted rules;

(h) any offense or finding of unlawful conduct, or there is or may be, a threat to the public's health or safety if the applicant or person were granted a license or certificate of registration; or

(i) there are other factors upon which a reasonable and prudent person would rely to determine the suitability of the applicant or person to safely and competently engage in the practice of being an importer, wholesaler, display operator, special effects operator, flame effects operator or flame effects performing artist.

(3) A person may request a hearing on a decision made by the AHJ, by filing an appeal to the board within 20 days after receiving final notice from the AHJ.

(4) All adjudicative proceedings, other than criminal prosecution, taken by the AHJ to enforce the Utah Fire Prevention and Safety Act, and these rules, shall commence in accordance with Section 63G-4-201.

(5) The board shall act as the hearing authority, and shall convene as an appeals board after timely notice to all parties involved.

(6) The board shall direct the SFM to issue a signed order to the parties involved giving the decision of the board within a reasonable time of the hearing pursuant to Section 63G-4-203.

(7) Reconsideration of the board's decision may be requested in writing within 20 days of the date of the decision pursuant to Section 63G-4-302.

(8) After a period of three years from the date of revocation, the board shall review the submitted written application of a person whose license or certificate of registration has been revoked.

(a) After timely notice to all parties involved, the board shall convene to review the revoked persons application, and that person shall be allowed to present themselves and their case before the board.

(b) After the hearing, the board shall direct the SFM to allow the person to complete the licensing or certification process or shall direct that the revocation be continued.

(9) Judicial review of all final board actions resulting from informal adjudicative proceedings shall be conducted pursuant to Section 63G-4-402.

R710-2-11. Amendments and Additions.

(1) The following are amendments and additions to the codes and standards adopted to regulate class C common state approved explosives, placement and discharge of display fireworks, and importer, wholesaler, display or special effects operator licenses.

(2) IFC, Chapter 56, Sections 5601.2.1 and 5601.2.2 are deleted, and rewritten to read as follows: (a) For the following periods of time: June 1 through July 31; December 1 through January 5; and 30 days before and up to 5 days after the Chinese New Year; class C common state approved explosives may be stored for retail sale as follows:

(i) the retail seller shall notify the local fire authority to where the class C common state approved explosives are to be stored;

(ii) class C common state approved explosives shall not be stored in residences to include attached garages; and

(iii) The local fire authority shall approve the storage site of the class C common state approved explosives and may use the following guidelines for acceptable places of storage:

(A) in self storage units where the owner allows it;

(B) in a temporary stand or trailer used for the retail sales of Class C common state approved explosives, which must be locked or secured when not open for business;

(C) in a locked or secured truck, trailer, or other vehicle at an approved location;

(D) in a locked or secured container, garage, shed, barn, or other building, which is detached from an inhabited building;

(E) a wholesalers warehouse;

(F) an approved Group M occupancy;

(G) in a locked or secured metal container adjacent to the temporary stand, trailer or tent that is acceptable to the authority having jurisdiction; or

(H) any other structure or location approved by the authority having jurisdiction.

(b) During all other periods of time, except those stated in Subsection R710-2-11(2)(a), the storage, use, and handling of fireworks are prohibited, except as follows:

(i) the storage and handling of fireworks are allowed as required in IFC, Chapter 56 and these rules; and

(ii) the use of fireworks for display is allowed as set forth in IFC, Chapter 56 and these rules.

R710-2-12. Fire Department Displays.

(1) As required in Subsection 53-7-223(1) and as allowed for fire departments in Subsection 53-7-202(9)(b), the fire department's involvement in the discharge of display fireworks is allowed only for the discharge of display fireworks in that fire departments community or communities it has a contract to protect.

(2) Within 10 working days after the conclusion of a fireworks

display, the fire chief or an assigned fire department member shall complete an After Action Report and send it to the State Fire Marshal.

(3) Any fire department member that will be involved in the discharge site as defined in NFPA 1123, shall complete a fireworks display safety class and examination on-line yearly to be allowed in the discharge area during the display.

(a) A copy of the completed certificate shall be sent to the SFM yearly to be placed in the fire department file.

(4) Any fireworks purchased by a community or fire department outside of the State of Utah shall require the securing of an annual importers license as required in Section 53-7-224.

KEY: fireworks

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