

APPENDIX II-G

COVER SHEET FOR FINAL PROPOSAL

Notice Number 2021-136 Rule Number Saf-C 6900

<p>1. Agency Name & Address:</p> <p>Department of Safety Division of Fire Safety 110 Smokey Bear Blvd. Concord, NH 03301</p>	<p>2. RSA Authority: <u>RSA 21-P:14, IX</u></p> <p>3. Federal Authority: <u>N/A</u></p> <p>4. Type of Action:</p> <p><input type="checkbox"/> Adopt</p> <p><input type="checkbox"/> Amendment (only if Initial Proposal was filed before 9/27/20.)</p> <p><input type="checkbox"/> Repeal</p> <p><input type="checkbox"/> Readoption</p> <p><input checked="" type="checkbox"/> Readoption w/amendment</p>
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5. Short Title: **Proximate Audience Pyrotechnics, Flame Effects, and Special Effects Rules**

6. Contact person for copies and questions:

Name: **David M. Hilts, Esq**

Title: **Senior Staff Counsel**

Address: **Department of Safety
33 Hazen Drive
Concord, NH 03305**

Phone #: **(603) 227-4032**

7. The rulemaking notice appeared in the Rulemaking Register on **December 30, 2021**

**SEE THE INSTRUCTIONS--PLEASE SUBMIT ONE COPY OF THIS COVER SHEET
AND ONE COPY OF THE FOLLOWING:
(optional to number correspondingly)**

8. The "Final Proposal-Fixed Text," including the cross-reference table required by RSA 541-A:3-a, II as an appendix.

9. Yes ☐ N/A ☐ Incorporation by Reference Statement(s) because this rule incorporates a document or Internet content by reference for which an Incorporation by Reference Statement is required pursuant to RSA 541-A:12, III.

10. Yes ☒ N/A ☐ The "Final Proposal-Annotated Text," indicating how the proposed rule was changed because the text of the rule changed from the Initial Proposal pursuant to RSA 541-A:12, II(d).

11. Yes ☐ N/A ☐ The amended fiscal impact statement because the change to the text of the Initial Proposal affects the original fiscal impact statement (FIS) pursuant to RSA 541-A:5, VI.

Notice Number 2021-136

Rule Number Saf-C 6900

1. Agency Name & Address:

**Department of Safety
Division of Fire Safety
110 Smokey Bear Blvd.
Concord, NH 03301**

2. RSA Authority: **RSA 21-P:14, IX;
RSA 153:5-c**

3. Federal Authority: **N/A**

4. Type of Action:

Adoption

Repeal

Readoption

Readoption w/amendment **X**

5. Short Title: **Proximate Audience Pyrotechnics, Flame Effects, and Special Effects Rules**

6. (a) Summary of what the rule says and of any proposed amendments:

This proposal readopts with amendment Saf-C 6900, Proximate Audience Pyrotechnics and Flame Effect Rules, which govern the procedures to apply for and obtain a permit to use pyrotechnic effects, special effects, or flame effects in the performing arts in conjunction with theatrical, musical, and other similar productions before a proximate audience, along with the appropriate fees; the requirements once a permit has been issued; the authority of the state fire marshal to require standby fire personnel or an approved fire watch in certain circumstances; the procedure to apply for and obtain a license to display pyrotechnic effects, special effects or flame effects before a proximate audience, along with appropriate fees; the requirements for a written competency test and background investigation for licensure; the procedures to apply for and obtain an apprentice license; and the procedures for denying, suspending, and revoking a license. The heading of the chapter is also being changed to “Proximate Audience Pyrotechnics, Flame Effect and Special Effect Rules.” The Saf-C 6900 rules were scheduled to expire on December 29, 2021, but they are subject to extension under RSA 541-A:14-a.

This proposal is essentially a straight readoption of the Saf-C 6900 rules from a substance standpoint, and the amendments are a variety of housekeeping activities: making terminology consistent, clarifying existing terms, incorporating forms by reference, and referring to the State Fire Code instead of specific materials incorporated in the State Fire Code by RSA 153:1, VI-a.

6. (b) Brief description of the groups affected:

This proposal affects all individuals seeking to obtain permits to display proximate audience pyrotechnic effects, flame effects, and special effects; individuals seeking to obtain licensure, including apprentice and renewal licensure, to conduct displays of proximate audience pyrotechnic effects, flame effects, and special effects; employers of such individuals; and the Department of Safety, Division of Fire Safety.

6. (c) Specific section or sections of state statute or federal statute or regulation which the rule is intended to implement:

RULE	STATUTE
Saf-C 6901.01-6901.09	RSA 541-A:7
Saf-C 6901.10	RSA 21-P:14, IX; RSA 541-A:7
Saf-C 6901.11-6901.20	RSA 541-A:7
Saf-C 6902.01 & 6902.02	RSA 21-P:14, IX; RSA 153:5-c

Saf-C 6903.01-6905.01	RSA 153:5-c
Saf-C 6906.01-6907.01	RSA 21-P:14, IX
Saf-C 6908.01 & 6908.02	RSA 21-P:14, IX; RSA 541-A:30
Saf-C 6908.03	RSA 21-P:14, IX; RSA 541-A:30, III

7. Contact person for copies and questions including requests to accommodate persons with disabilities:

Name: **David M. Hilts, Esq.** Title: **Senior Staff Counsel**
Address: **Department of Safety** Phone #: **(603) 227-4032**
33 Hazen Drive Fax#: **(603) 271-1033**
Concord, NH 03305 E-mail: **David.M.Hilts@dos.nh.gov**

TTY/TDD Access: Relay NH 1-800-735-2964
or dial 711 (in NH)

8. Deadline for submission of materials in writing or, if practicable for the agency, in the electronic format specified: **February 24, 2022 at 4:15 p.m.**

☐ Fax ☒ E-mail ☐ Other format (specify):

9. Public hearing scheduled for:

Date and Time: **Friday, February 16, 2022 at 2:00 p.m.**
2d Floor Conference Room
Place: **Department of Safety**
33 Hazen Drive
Concord, NH 03305

10. Fiscal Impact Statement (Prepared by Legislative Budget Assistant)

FIS # 21:141, dated December 22, 2021

Fiscal Impact Statement for Department of Safety, Division of Fire Safety, rules governing Readoption of Proximate Audience Pyrotechnics and Flame Effects Rules. [Saf-C 6900]

1. **Comparison of the costs of the proposed rule(s) to the existing rule(s):**

There is no difference in cost when comparing the proposed rules to the existing rules.

2. **Cite the Federal mandate. Identify the impact on state funds:**

No federal mandate, no impact on state funds.

3. **Cost and benefits of the proposed rule(s):**

A. **To State general or State special funds:**

None.

B. **To State citizens and political subdivisions:**

None.

C. **To independently owned businesses:**

None.

11. Statement Relative to Part I, Article 28-a of the N.H. Constitution:

This proposal does not create a new program or responsibility or expand or modify an existing program or responsibility, and this proposal does not mandate or assign a program or responsibility to any political subdivision in such a way as to increase the costs a political subdivision must pay. Therefore, this proposal does not violate Part I, Article 28-a of the N.H. Constitution.

CONSENT/EDIT

Readopt with amendment Saf-C 6900, effective 12-29-11 (Doc. #10067), to read as follows:

CHAPTER Saf-C 6900 PROXIMATE AUDIENCE PYROTECHNICS, FLAME EFFECTS, AND SPECIAL EFFECTS RULES

PART Saf-C 6901 DEFINITIONS

Saf-C 6901.01 “Apprentice operator” means a person engaged in learning and assisting in the loading, handling, use, mixing, device wiring to any system already connected to a firing control system or mechanism, testing, discharging, firing, or rendering safe of pyrotechnic effects, special effects, or flame effects before a proximate audience and who is at all times under the direction of an operator.

Saf-C 6901.02 “Assistant” means a person who works under the direct supervision of an operator, but who is not involved in the use, mixing, device wiring to any system already connected to a firing control system or mechanism, testing, discharging, firing, or rendering safe of any pyrotechnic effect, special effect, flame effect, device, or equipment.

Saf-C 6901.03 “Authority having jurisdiction (AHJ)” as used in any code adopted by reference means the state fire marshal or the local fire official, as provided for by law.

Saf-C 6901.04 “Building” means any structure used or intended for supporting or sheltering any use or occupancy.

Saf-C 6901.05 “Commissioner” means the commissioner of the state of New Hampshire department of safety.

Saf-C 6901.06 “Endorsement” means a specific subject matter competency approved by the state fire marshal that is attached to a license for the display of pyrotechnic effects, special effects, or flame effects before a proximate audience.

Saf-C 6901.07 “Fire watch” means the assignment of personnel to an area for the following express purposes:

- (a) Notifying the fire department, building occupants, or both, of an emergency;
- (b) Preventing the occurrence of a fire;
- (c) Extinguishing small fires; or
- (d) Protecting the public from fire or other life safety dangers.

The term includes “standby fire personnel”.

Saf-C 6901.08 “Flame effect” means the combustion of flammable solids, liquids, or gases to produce thermal, physical, visual, or audible phenomena before an audience.

Edit: Change to "National Fire Protection Association (NFPA)" means the National Fire Protection Association."

Saf-C 6901.09 "Inhabited building" means a building or structure regularly used in whole or in part as a place of human habitation. The term includes any church, school, railway passenger station, airport terminal for passengers, and any other building or structure where persons are accustomed to congregate or assemble.

Saf-C 6901.10 "License", as used in RSA 21-P:14, IX, means the document issued by the state fire marshal that authorizes a person to display pyrotechnic effects, special effects, or flame effects before a proximate audience, performers, or support personnel.

Saf-C 6901.11 "NFPA" means the National Fire Protection Association.

Saf-C 6901.12 "Operator" means a person responsible for safety and who controls, initiates or otherwise creates pyrotechnic effects, special effects, or flame effects. Such person is also responsible for the proper storage, loading, handling, use, mixing, device wiring, testing, discharging, firing, and rendering safe of any pyrotechnic effect, special effect, flame effect, device, or equipment, as well as setting up and removing pyrotechnic or flame effect materials and devices after a performance.

Saf-C 6901.13 "Performance based design option" means an approved alternative method of achieving prescriptive code requirements, in accordance with the state fire code.

Saf-C 6901.14 "Proximate audience" means persons or spectators that are closer to the display of pyrotechnic effects, special effects, and flame effects than permitted by Saf-C 5000.

Saf-C 6901.15 "Pyrotechnic effect" means a special effect created through the use of pyrotechnic materials or devices.

Saf-C 6901.16 "Pyrotechnic material" means a chemical mixture used in the entertainment industry to produce visible or audible effects by combustion, deflagration, or detonation. Such chemical mixtures predominantly consist of solids capable of producing a controlled, self-sustaining and self-contained exothermic chemical reaction that results in heat, gas, sound, light, or a combination of those effects. The chemical reaction functions without external oxygen.

Saf-C 6901.17 "Special effect" means a pyrotechnic effect that is limited to pyrotechnic smoke, flash paper, and flash pots, and group 1 flame effects as described in the state fire code.

Saf-C 6901.18 "Stage" means a space within a building used for entertainment and the utilization of drops, scenery, or other stage effects.

Saf-C 6901.19 State fire code" means "New Hampshire Fire Code" or "state fire code" as defined in RSA 153:1, VI-a, namely, "the adoption by reference of the Life Safety Code 2015 edition and the Uniform Fire Code NFPA 1, 2015 edition, as published by the National Fire Protection Association and as amended by the state board of fire control and ratified by the general court pursuant to RSA 153:5. The provisions of any other national code, model code, or standard referred to within a code listed in this definition shall be included in the state fire code unless amended in accordance with RSA 153:5."

Saf-C 6901.20 “State fire marshal” means the state fire marshal of the state of New Hampshire, or his or her designee.

Saf-C 6901.21 “Structure” means that which is built or constructed.

PART Saf-C 6902 COMPLIANCE WITH STATE FIRE CODE

Saf-C 6902.01 Compliance With State Fire Code. All persons using pyrotechnic effects, special effects, or flame effects in the performing arts in conjunction with theatrical, musical, or any similar productions before a proximate audience, performers, or support personnel shall comply with the requirements of the state fire code.

PART Saf-C 6903 PERMITS TO DISPLAY PYROTECHNIC EFFECTS, FLAME EFFECTS, OR SPECIAL EFFECTS BEFORE A PROXIMATE AUDIENCE

Saf-C 6903.01 Permit Required. No person shall use pyrotechnic effects or flame effects in the performing arts in conjunction with theatrical, musical, or any similar productions before a proximate audience, performers, or support personnel without having obtained a permit from the state fire marshal.

Saf-C 6903.02 Permit Exceptions.

(a) Any person who uses special effects, as defined in Saf-C 6901.17, in the performing arts in conjunction with theatrical, musical, or any similar productions before a proximate audience, performers, or support personnel shall not be required to obtain a permit from the state fire marshal, if in compliance with the following:

- (1) Local permit requirements have been met;
- (2) The licensing requirements set forth in Saf-C 6906 have been met; and
- (3) The person has notified the local fire official of the following, prior to conducting any special effect:
 - a. Date and time of each event;
 - b. Physical location of each event;
 - c. A detailed written plan of where the special effect(s) will occur;
 - d. Type of special effect(s) to be utilized;
 - e. The location of all material to be utilized or stored as part of the event; and
 - f. Material safety data sheets (MSDS) on all material to be utilized or stored as part of the event.

(b) Any group or organization involved in the reenactment of military or historic war battles before a proximate audience shall not be required to obtain a permit from the state fire marshal, if in compliance with the following:

- (1) Proof of successful registration with the NH secretary of state's office of status as a non-profit organization;
- (2) Proof of current and sufficient liability insurance coverage;
- (3) Proof of written safety procedures;
- (4) Copy of a valid permit for the storage of explosives pursuant to Saf-C 1600, if applicable;
- (5) Proof of training for all personnel relative to their specific functions and safety; and
- (6) The sponsoring organization shall provide the local fire official the following prior to conducting any reenactment:
 - a. Date and time of each reenactment;
 - b. Physical location of each reenactment;
 - c. A detailed written plan of the reenactment, including the estimated number of shots to be fired; and
 - d. The location of any on-site bulk storage of explosives or explosive material, other than on the battlefield.

See editorial comment on form.

Saf-C 6903.03 Permit Application and Plan.

(a) Any person who requests a permit pursuant to Saf-C 6903.01 shall submit an application on form DSFS 79, "Application for Proximate Audience Permit," (rev. 12/21), along with a written plan, to the state fire marshal's office, within 10 business days prior to the date of the production.

(b) An applicant shall submit a written plan, along with form DSFS 79, that includes the following:

- (1) A diagram of the grounds or facility where the production will be held, including an indication of:
 - a. The point at which all pyrotechnic effect or flame effect devices will be fired and their distance to the audience;
 - b. The fallout radius for each device used during the production;

c. The lines behind which the audience will be contained; and

d. The location of all pyrotechnic materials or other explosives stored on the premises;

(2) The point of on-site assembly of all pyrotechnic effect or flame effect devices;

(3) The manner and place of storage of all pyrotechnic effect or flame effect devices and materials;

(4) Any MSDS for the effect(s) to be utilized;

(5) Proof of insurance or financial responsibility for each event;

(6) A detailed description of how each effect will be displayed and from what location;

(7) A cue sheet indicating when each effect will be displayed or utilized in conjunction with the performance;

(8) Number and types of all devices and materials to be used;

(9) Experience of the operator with the devices and materials set forth in (b)(6) and (8) above;

(10) A description of the general responsibilities of all apprentice(s) and assistant(s);

(11) A copy of any licenses held by the operator, including pyrotechnic effects, flame effects, fireworks, or explosives;

(12) A copy of the valid place of assembly permit, if the location of the production is required to be a licensed place of assembly in accordance with RSA 155:18; and

(13) Current inspection records for the automatic fire sprinkler system and fire alarm system, if the location of the performance is within any structure or building.

(c) For the purposes of (b)(13) above, if the location of the performance or display is within a structure or building and the structure or building does not have an automatic fire sprinkler system and fire alarm system, a permit shall not be issued unless designed pursuant to an approved performance based design option, as defined in Saf-C 6901.13.

(d) Upon receipt of the application and plan, the state fire marshal shall review the information and determine if it meets the requirements of this section.

Saf-C 6903.04 Permit Application Approval.

(a) If the state fire marshal determines that the application and plan meet the requirements of Saf-C 6903.03, the state fire marshal shall issue a permit that authorizes the person to use pyrotechnic effects,

special effects, or flame effects in accordance with the plan submitted, including any special requirements for the performance established by the local fire official or the state fire marshal.

(b) The permit shall be signed by the state fire marshal and be provided to the applicant.

(c) Prior to the performance or event, the state fire marshal shall schedule a demonstration and inspection of the effect(s) with the local fire official and the operator.

Saf-C 6903.05 Permit Application Denial.

(a) If the state fire marshal determines that the application and plan or the inspection pursuant to Saf-C 6903.04(c) does not meet the requirements of Saf-C 6903.03(a) and (b), the state fire marshal shall deny issuance of a permit and notify the applicant, in writing, of the reason(s) for the denial.

(b) Reasons(s) for the denial of a permit shall include the following:

- (1) Details of the application and plan are not specific, including the effects to be utilized, the location of any effects, and the manner in which the effects will be operated;
- (2) Details of the application, plan, effects to be utilized, location of any effects, and the manner in which the effects will be operated have been changed without prior notification or approval;
- (3) The licensed operators, apprentices, or assistants have been changed without prior notification or approval;
- (4) The conduct or operating practices of any operator, apprentice, or assistant is deemed a threat to public safety, the performers, support personnel, or themselves;
- (5) The display of pyrotechnic effects or flame effects is being conducted by a person who is not licensed by the state fire marshal pursuant to Saf-C 6906;
- (6) Additional requirements set forth by the state fire marshal have not been met;
- (7) Additional requirements set forth by the local fire official have not been met; or
- (8) There is no approved fire watch or standby fire personnel, as set forth in Saf-C 6904.

Saf-C 6903.06 Permit Requirements. Upon issuance of a permit pursuant to Saf-C 6903.04, the following requirements shall be met:

(a) All pyrotechnic effect or flame effect materials or devices shall be supervised or attended from the time the materials or devices enter the premises until the time the materials or devices have been fired or otherwise rendered safe for removal and storage by the operator;

(b) All pyrotechnic materials or devices shall be stored in a type 4 magazine that is listed by the manufacturer for that use, or sealed in a shipping container that has been labeled or marked in accordance with the requirements of the US Department of Transportation;

(c) The amount and type of materials being stored in the magazine shall be in accordance with the listing provided by the manufacturer;

(d) The magazine shall meet the storage requirements set forth in 27 CFR, Subpart K, as well as the construction and locking requirements set forth in Saf-C 1600;

(e) The magazine shall be locked at all times, if unattended, in a locked room or if outside, a locked vehicle; that is:

(1) Free of accumulated combustible or flammable materials;

(2) Free of exposed ignition sources; and

(3) Located away from any means of egress, egress component, or other means of escape from any building or structure;

(f) The overall weight of pyrotechnic materials or other explosives shall not exceed 50 pounds within any building or structure;

(g) All fuel gas cylinders or containers shall be stored in accordance with the state fire code;

(h) All containers storing fuel for use with a flame effect system shall not exceed 20 pounds within any building or structure or other confined or limited egress space;

(i) All containers storing fuel for use with a flame effect system shall not exceed 100 pounds when utilized outside or remote from any inhabited building or structure;

(j) All flame effect systems, equipment, and devices utilizing propane or other similar flammable gas or liquid, shall not be disconnected during a performance, unless the operator can positively confirm that all flammable gases or liquids have been removed from the system, equipment, or device, and that the appropriate safety devices are in place and functional within the system, equipment, or device in order to prevent any release of the material being utilized; and

(k) Members of the audience shall be separated from flame effects by double the height of the flame effects or as outlined in the state fire code, whichever is more restrictive.

PART Saf-C 6904 FIRE WATCH

Saf-C 6904.01 Fire Watch Required.

(a) The state fire marshal shall require an approved fire watch when potentially hazardous conditions or a reduction in a life safety feature exists due to the following factors:

- (1) Type of performance, display, exhibit, contest, or activity;
- (2) Impairment to a fire protection feature; and
- (3) Number of persons present.

(b) The owner, agent, or lessee shall employ one or more qualified persons as standby fire personnel, to be on duty at a required event, as determined by the authority having jurisdiction. Prior to the start of the performance or event, the standby fire personnel shall inspect the fire equipment or appliances provided, to ensure that they are in the proper place and in good working order.

(c) Standby fire personnel shall keep diligent watch for any fire(s) during the period of time the location is open to the public and during the performance and take appropriate measures for the extinguishment of any fire(s) that may occur.

(d) Standby fire personnel shall be subject to any orders of the authority having jurisdiction at all times and shall be identifiable and on duty during the following periods of time:

- (1) When the location is open to the public;
- (2) While the performance or event is being conducted; and
- (3) Until normal operating conditions have been resumed, as determined by the authority having jurisdiction.

(e) All standby fire personnel shall have a means of communicating or transmitting an alarm in the event of a fire or other emergency.

(f) The operator shall provide the fire watch with the following equipment:

- (1) At least 2 multipurpose dry chemical fire extinguishers with a minimum 10-A 60 B:C rating; and
- (2) Two pressurized water fire extinguishers.

(g) Events utilizing a single stage shall be required to have a minimum of 3 qualified standby fire personnel assigned to the display in the following manner:

- (1) One standby fire fighter assigned stage “left”;
- (2) One standby fire fighter assigned stage “right”; and
- (3) One standby fire fighter, familiar with the particular pyrotechnic display, assigned to the operator.

(h) Events utilizing more than one stage shall be required to have a minimum of 2 additional standby fire personnel assigned to each additional stage. Portable fire extinguishers, as set forth in (f) above, shall be provided for each additional stage.

(i) The premises where pyrotechnic effect or flame effect materials or devices are handled, used or stored shall be maintained in a neat and orderly condition and shall be free of any condition that might create a fire hazard.

(j) Immediately after each performance and prior to the removal of any property related to the performance, the standby fire personnel shall verify with the operator that all devices have been fired. Any unfired pyrotechnic effect or flame effect materials or devices shall be disposed of in accordance with the manufacturer's recommendations.

(k) Notwithstanding any other rule to the contrary, the state fire marshal shall have the right to increase or reduce the number of standby fire personnel for any event utilizing pyrotechnic effects or flame effects before a proximate audience, performers, or support personnel, if after reviewing the application, he or she determines that such an increase or reduction of standby fire personnel is in the best interest of public safety.

(l) The operator shall contact the local fire official and the state fire marshal's office at least 10 business days prior to the event to confirm what fire or life safety measures are required.

PART Saf-C 6905 FEES

Saf-C 6905.01 Permit Fees.

(a) A permit fee of \$250 shall be charged by the department for the following:

- (1) Any display utilizing only pyrotechnic effects on a single stage; or
- (2) Any display utilizing only flame effects on a single stage.

(b) A permit fee of \$400 shall be charged by the department for the following:

- (1) Any display utilizing both pyrotechnic effects and flame effects;
- (2) Any display utilizing pyrotechnic effects, flame effects, or both, on more than one stage;
- (3) Any display utilizing pyrotechnic effects, flame effects, or both, on more than one level of the building separate from the stage;
- (4) Any display utilizing pyrotechnic effects, flame effects, or both, on any motorized vehicle or motorized stage equipment; or
- (5) Any application consisting of 10 or more performances or events.

- (c) The applicant shall pay the permit fee prior to the issuance of the permit.

PART Saf-C 6906 PROXIMATE AUDIENCE OPERATOR LICENSES

Saf-C 6906.01 License Required.

(a) The display of pyrotechnic effects, special effects, or flame effects before a proximate audience, performers, or support personnel shall not be permitted unless the display is directly supervised by a person who has obtained a license from the state fire marshal.

(b) The licensed operator shall ensure that the display is in compliance with the requirements of the state fire code, and shall be responsible for the safe handling and display of all pyrotechnic effects, special effects, or flame effects utilized during the event.

Saf-C 6906.02 License Requirements for the Reenactment of Military or Historic War Battles. Any group or organization involved in the reenactment of military or historic war battles before a proximate audience shall be deemed licensed pursuant to this section upon meeting the requirements of Saf-C 6903.02(b).

Saf-C 6906.03 License Requirements. Any person who requests a license pursuant to Saf-C 6906.01 shall meet the following minimum requirements:

- (a) Be at least 21 years of age;
- (b) An applicant shall be a citizen of the United States, legally residing in this country, or working in this country on a valid work visa;
- (c) Appear in person at the department of safety, division of fire safety, to obtain a photo identification;
- (d) Successfully pass a written competency test, as set forth in Saf-C 6906.05;
- (e) Submit a completed application, as set forth in Saf-C 6906.04;
- (f) Successfully pass a background investigation, as set forth in Saf-C 6906.06;
- (g) Submit the applicable license fee, as set forth in Saf-C 6907.01;
- (h) Have been present and assisted a NH licensed pyrotechnic effect, special effect, or flame effect operator, as set forth in (i) below, with at least 10 separate displays of pyrotechnic effects, special effects, or flame effects before a proximate audience, performers, or support personnel; and
- (i) Provide the recommendation of at least 2 NH licensed operators who shall each:
 - (1) Hold a valid license for the display of pyrotechnic effects, special effects, or flame effects before a proximate audience, performers, or support personnel;

- (2) Complete and submit form DSFS 93, “Endorsements for Proximate Audience License” (rev. 12/21), attesting that the applicant was present and assisted each operator with at least 5 separate displays of pyrotechnic effects, special effects, or flame effects before a proximate audience, performers, or support personnel; and
- (3) Attach a copy of the approved permit corresponding with each display listed on the DSFS 93 form; and
- (4) Sign and date the form, and in doing so, shall certify the following under the penalties of unsworn falsification pursuant to RSA 641:3: “I certify that I have read the foregoing and affirm that every statement contained herein is true and correct. I also certify that I am familiar with all state laws, regulations and local ordinances relating to the use and handling of these materials for the location in which I intend to conduct displays of special effects, pyrotechnic effects, or flame effects.”

Saf-C 6906.04 License Application Requirements.

- (a) An applicant shall complete and submit DSFS 92, “Application for Proximate Audience License” (rev. 12/21).
- (b) The applicant shall sign and date form DSFS 92 under the penalty of unsworn falsification, pursuant to RSA 641:3, and in doing so, shall certify the following: “I certify that I have read the foregoing and affirm that every statement contained herein is true and correct. I also certify that I am familiar with all state laws, regulations and local ordinances relating to the use and handling of these materials for the location in which I intend to conduct displays of special effects, pyrotechnic effects, or flame effects.”
- (c) The applicant shall complete and submit a DSSP 256 form “Criminal Record Release Authorization Form” to authorize the department to obtain the applicant’s criminal record.
- (d) An incomplete application shall be returned to the applicant, along with an explanation. The applicant may resubmit.

Saf-C 6906.05 Competency Test.

- (a) A person who requests a license pursuant to Saf-C 6906.01 shall be given a written competency test by the state fire marshal or his or her designee to determine the applicant’s knowledge of the rules and NFPA code requirements for the display of pyrotechnic effects, special effects, or flame effects before a proximate audience, performers, or support personnel.
- (b) In order to successfully pass the competency test, an applicant shall attain a score of 80% or higher.
- (c) If an applicant cannot read or write, the state fire marshal or his or her designee shall orally administer the competency test.

(d) If an applicant fails the competency test, he or she shall be permitted to retake the test 2 additional times, within 6 months of the initial test. A retest shall be given no less than 15 business days after the previous test was taken.

(e) In accordance with (d) above, if an applicant fails to pass the competency test or does not retest within the time frame, he or she shall be required to submit a new application, along with the appropriate fee.

(f) The date, time, and location of the written competency test shall be scheduled by the state fire marshal.

Saf-C 6906.06 Background Investigation.

(a) A person who requests a license pursuant to Saf-C 6906.01 or Saf-C 6906.12 shall be given a thorough background investigation by the state fire marshal to determine the applicant's knowledge and qualifications in the safe use, handling, and storage of pyrotechnic effects, special effects, or flame effects before a proximate audience, performers, or support personnel.

(b) The background investigation shall consist of the following:

- (1) Reviewing the application;
- (2) Confirming that all of the information submitted with the application is true;
- (3) Interviewing endorsers, current employers, and previous employers;
- (4) Interviewing operators who have worked directly with the applicant;
- (5) Conducting a criminal record check; and
- (6) Checking with other public safety agencies that might have had interaction with the applicant pertaining to pyrotechnic effects, special effects, or flame effects before a proximate audience, performers, or support personnel.

(c) The state fire marshal, upon reviewing the background investigation, shall determine whether the applicant is knowledgeable and qualified in the safe use, handling, and storage of pyrotechnic effects, special effects, or flame effects before a proximate audience, performers, or support personnel.

Saf-C 6906.07 License Approval.

(a) If the state fire marshal, after reviewing the application, the competency test, and the background investigation, determines that the applicant is knowledgeable and qualified in the safe use, handling, and storage of pyrotechnic effects, special effects, or flame effects, he or she shall issue a license to the applicant to set up, load, and remove pyrotechnic effects, special effects, or flame effects before a proximate audience, performers, or support personnel.

(b) A license shall be valid for a period of 3 years from the date of issuance, unless the license is suspended or revoked prior to the date of expiration.

(c) A license shall not be transferred.

Saf-C 6906.08 License Renewal.

(a) For a renewal of a license, an applicant shall submit the following:

- (1) A completed form DSFS 92, as set forth in Saf-C 6906.04; and
- (2) The applicable license renewal fee, as set forth in Saf-C 6907.01.

(b) A renewal application pursuant to (a) above shall include documentation of at least 10 hours of safety training or NFPA code update training in each endorsement field of pyrotechnic effects, special effects, and flame effects safety training, including:

- (1) Name, address, and telephone number of the organization providing the safety training;
- (2) Date and location of the safety training;
- (3) Name of instructor(s) and evaluator(s);
- (4) Description of the safety training;
- (5) Total number of hours of the safety training; and
- (6) A copy of the attendance form or training certificate, if any.

(c) If a renewal application is filed with the state fire marshal's office, no sooner than 60 days prior to the expiration of the existing license, the renewal license shall become effective on the date of expiration of the existing license.

(d) If a renewal application is filed more than 30 days after the previous license has expired, a renewal license shall not be issued, and the applicant shall be required to file an application for a new license.

(e) A renewal application for a pyrotechnic effect, special effect, or flame effect operator license shall include documentation that the applicant has supervised or operated at least 3 displays of pyrotechnic effects, special effects, or flame effects for each endorsement held on the valid license during the licensing period.

Saf-C 6906.09 Requirements for Applicants Licensed by Another Jurisdiction. A person who is currently licensed and in good standing by another jurisdiction, whose licensing standards meet or exceed the standards of these rules, may apply to the state fire marshal's office for a NH license. All of the requirements set forth in Saf-C 6906.03 shall apply except for the provisions set forth in Saf-C 6906.03(a)(8) and (9).

Saf-C 6906.10 Operator Responsibilities.

(a) The operator shall determine that the area where pyrotechnic effects, special effects, or flame effects are to be utilized are safe and free of any material that could readily ignite a fire, that audience barriers are in place, and that the area is in compliance with the requirements of these rules.

(b) The operator shall ensure that all assistants, apprentices, and other personnel pertaining to a performance have received proper training in the following:

- (1) The performance of their duties;
- (2) Relevant laws, rules, and NFPA requirements relative to pyrotechnic effects, special effects, and flame effects before a proximate audience, performers, and support personnel;
- (3) All safety hazards associated with the particular performance or event; and
- (4) Communications with any required fire watch personnel.

Saf-C 6906.11 Accident Reporting.

(a) All licensed operators shall immediately report any accident or incident involving the setup, handling, use, display, or removal of pyrotechnic effects, special effects, or flame effects that has caused property damage, personal injury, or death, to the state fire marshal's office.

(b) All notifications pursuant to (a) above shall be made to the state police communications center at (603) 271-3636.

(c) Any operator who has conducted a display resulting in damage to property, injury, or death shall submit a detailed written report of the incident to the state fire marshal within 48 hours of the incident.

(d) Upon receipt of a report pursuant to (a) above, the state fire marshal shall conduct an investigation.

Saf-C 6906.12 Apprentice License.

(a) No person shall assist an operator with setting up, loading, handling, use, mixing, device wiring, testing, discharging, firing, or rendering safe of pyrotechnic effects, special effects, or flame effects, or participate in a training program to become licensed as an operator pursuant to Saf-C 6906.01 (a), without having obtained an apprentice license from the state fire marshal.

(b) For the purposes (a) above, a person shall be considered an apprentice, if he or she is not licensed as an operator in this state and regardless of his or her level of experience or previous licensure in this state or any other jurisdiction.

(c) All apprentices shall comply with the requirements of the state fire code.

(d) A licensed operator shall be responsible for the conduct and work performed by any apprentice.

(e) Any person who requests an apprentice license shall meet the requirements set forth in Saf-C 6906.03(a), except for(e), (h) and (i), and submit the application set forth in Saf-C 6906.04.

(f) A person who has obtained an apprentice license, who has fulfilled the requirements of Saf-C 6906.03(e),(h) and (i), and who has paid the appropriate fee shall be permitted to obtain the particular operator license the person qualifies for, as set forth in Saf-C 6907.

(g) An apprentice license shall be valid for a period of 3 years and renewed in accordance with the requirements set forth in Saf-C 6906.08.

(h) An apprentice license shall be denied in accordance with the requirements set forth in Saf-C 6908.01.

(i) An apprentice license shall be suspended or revoked in accordance with the requirements set forth in Saf-C 6908.02 or Saf-C 6908.03.

PART Saf-C 6907 LICENSE FEES

Saf-C 6907.01 License Fees.

(a) The following license fees shall be charged by the department:

(1) For a new license, \$200, which shall include the competency test and the background investigation;

(2) For each of the following endorsements, \$100:

a. Pyrotechnic effects before a proximate audience;

b. Flame effects; or

c. Special effects;

(3) For an apprentice license, \$200, which shall include the background investigation. This fee shall be applied to a new license application, if the apprentice license is valid;

(4) For each renewal license, \$100; and

(5) For each of the following renewal endorsements, \$100:

a. Pyrotechnic effects before a proximate audience;

- b. Flame effects; or
- c. Special effects.

PART Saf-C 6908 DENIAL, SUSPENSION OR REVOCATION OF LICENSE

Saf-C 6908.01 Denial of License.

(a) The state fire marshal shall deny an application for a new or renewal license for any of the following:

- (1) Failure to comply with any of the licensing requirements set forth in these rules;
- (2) The applicant is under 21 years of age;
- (3) Failure to comply with any lawful order of the department relative to explosives, pursuant to RSA 158:9-e, IV and RSA 158:9-f, II;
- (4) The applicant is under indictment for, or has been convicted of a crime punishable by imprisonment for more than one year for acts of violence, fraud, or dishonesty, such as but not limited to murder, assault, subversive activities, terrorism, extortion, explosives or embezzlement;
- (5) The applicant has a current restraining order or petition for domestic violence;
- (6) The applicant is a fugitive from justice;
- (7) The applicant unlawfully uses or is addicted to alcohol, narcotics, or controlled drugs;
- (8) The applicant advocates, or knowingly belongs to an organization that advocates a violent overthrow of, or violent action against any federal, state, or local government;
- (9) The applicant has a mental or physical defect that would interfere with his or her ability to safely use pyrotechnic effects, special effects, or flame effects;
- (10) The applicant gave false information or made any misrepresentation in order to obtain a license; or
- (11) The applicant is not a citizen of the United States, does not legally reside in this country, or does not have a valid work visa.

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(b) An applicant who has been denied a license may request a hearing within 10 days of the date of denial before the bureau of hearings, pursuant to Saf-C 200.

(c) All hearings shall be conducted by the bureau of hearings in accordance with the requirements of Saf-C 200.

Saf-C 6908.02 Suspension of License.

(a) A license shall be suspended, after a hearing, for any of the following:

- (1) Failure to comply with any of the requirements of these rules;
- (2) Failure to comply with a lawful order of the state fire marshal;
- (3) Failure to comply with a lawful order of the local fire official pertaining to pyrotechnic effects, special effects, or flame effects before a proximate audience, performers, or support personnel;
- (4) Failure to comply with the requirements of the state fire code;
- (5) Operating or discharging any pyrotechnic effect, special effect, or flame effect before a proximate audience, performers, or support personnel without a permit or after a permit has been denied;
- (6) Failure to report any accident, injury, fire, explosion, death, or other incident resulting from the use of pyrotechnic effects, special effects, or flame effects before a proximate audience, performers, or support personnel; or
- (7) Failure to comply with any lawful order of the department relative to explosives, pursuant to RSA 158:9-e, IV and RSA 158:9-f, II.

(b) A license shall be revoked, after a hearing, for any of the following:

- (1) The licensee has a second or subsequent offense of any of the acts set forth in (a) above;
or
- (2) The licensee gave false information or made any misrepresentation in order to obtain or renew a license.

(c) All suspension or revocation hearings shall be conducted by the bureau of hearings, in accordance with the requirements of Saf-C 200.

Saf-C 6908.03 Immediate Suspension. In accordance with RSA 541-A:30, III, if the state fire marshal determines that public health, safety, or welfare requires emergency action, an immediate suspension of a license may be ordered pending an adjudicative hearing, which shall occur not later than 10 working days after the date of the suspension of the license. The adjudicative hearing shall be conducted in accordance with the requirements of Saf-C 200.

APPENDIX

RULE	STATUTE
Saf-C 6901.01-6901.09	RSA 541-A:7
Saf-C 6901.10	RSA 21-P:14, IX; RSA 541-A:7
Saf-C 6901.11-6901.20	RSA 541-A:7
Saf-C 6902.01 & 6902.02	RSA 21-P:14, IX; RSA 153:5-c
Saf-C 6903.01-6905.01	RSA 153:5-c
Saf-C 6906.01-6907.01	RSA 21-P:14, IX
Saf-C 6908.01 & 6908.02	RSA 21-P:14, IX; RSA 541-A:30
Saf-C 6908.03	RSA 21-P:14, IX; RSA 541-A:30, III