



# State Fire Marshal's Notice

September 2017

## ***Sparkular Fountain System and Similar Flame Effects***

It has come to the attention of the State Fire Marshal's Office that clarification is warranted on the applicability of existing Texas law to the *Sparkular Fountain System* and similar flame effect products. After reviewing the product information and observing a demonstration, the State Fire Marshal's Office has determined that this product falls within the definition of flame effects contained in the Texas Occupations Code. The following is offered as clarification and as a reminder of the importance to remain in complete compliance with all provisions, rules, regulations and/or statutes enacted to govern flame effects in Texas.

### **Applicability**

This notice applies to the use of flame effects for entertainment, exhibition, demonstration, or simulation before an assembly of 50 people or more.

§ 2154.253.(b) ~ Texas Occupations Code, Regulation of Fireworks

### **Flame Effects – defined**

§ 2154.253(a)(2) ~ Texas Occupations Code, Regulation of Fireworks

A stationary or hand-held device of solid, liquid, or gas, designed specifically to produce an open flame when ignited to display a thermal, physical, visual, or audible phenomenon as defined in NFPA Standard 160.

NFPA Standard 160 (2011) – Standard for the Use of Pyrotechnics Before an Audience

**3.3.11 Flame Effect.** The combustion of solids, liquids, or gases to produce thermal, physical, visual, or audible phenomena before an audience.

**3.3.11.1 Automatic Flame Effect.** A flame effect that is supervised and fired by an automatic control system.

**3.3.11.2 Manual Flame Effect.** A flame effect that is operated manually without the use of an automatic control system.

**3.3.11.3 Portable Flame Effects.** Flame effects that are designed and installed, either in a permanent or temporary installation, and that are designed to move or be moved in the course of operation or installation.

### **Licensed Operator**

At least one Texas licensed flame effect operator must be present on-site at all times where flame effects are used, discharged, or ignited.

§ 2154.156.(a) and 253(b)(5) & (6) ~ Texas Occupations Code, Regulation of Fireworks

### **Permit**

The licensee or the licensee's employer must obtain a permit from the local authority having jurisdiction. NFPA 160 requires a plan detailing the criteria for use and display of the flame effect.

§ 2154.253.(b) (3) and (7) ~ Texas Occupations Code, Regulation of Fireworks

### **Insurance**

General liability insurance policy in an amount of not less than \$1 million.

§ 2154.253.(b)(8) & 2154.207 ~ Texas Occupations Code, Regulation of Fireworks

### **Offense Committed**

Violation of this section constitutes a Class A misdemeanor offense.

§ 2154.253.(e) ~ Texas Occupations Code, Regulation of Fireworks