

Text of Final Regulation

13 VAC 5-51-71. Section F-107.0. Fees.

A. F-107.1. Local: Fees may be levied by the local governing body in order to defray the cost of enforcement and appeals under the SFPC.

B. F-107.2. State: Fees for permits issued by the State Fire Marshal's office shall be as follows:

1. \$50 per year per site to possess, store and dispose of explosives and blasting agents.
2. \$75 per year per city or county to use explosives and blasting agents.
3. No fee for the manufacture and sale of fireworks, explosives and blasting agents.

C. F-107.2.1 Additional fees: The applicant shall pay all additional fees charged by other agencies for fingerprinting and for obtaining a national criminal history record check through the Central Criminal Records Exchange to the Federal Bureau of Investigation.

~~C.D.~~ F-107.3. Fee schedule: The local governing body may establish a fee schedule. The schedule shall incorporate unit rates, which may be based on square footage, cubic footage, estimated cost of inspection or other appropriate criteria.

~~D.C.~~ F-107.4. Payment of fees: A permit shall not be issued until the designated fees have been paid.

Exception: The fire code official may authorize delayed payment of fees.

13 VAC 5-51-81. Section F-108.0. Permits.

A. F-108.1. Prior notification: The fire code official may require notification prior to (i) activities involving the handling, storage or use of substances, materials or devices regulated by the SFPC; (ii) conducting processes which produce conditions hazardous to life or property; or (iii) establishing a place of assembly.

B. F-108.2. Permits required: Permits may be required by the code official as permitted under the SFPC in accordance with Table F-108.2 except that the fire code official shall require permits for the manufacturing, storage, handling, use, and sale of explosives. An application for a permit to manufacture, store, handle, use, or sell explosives shall only be made by an individual certified as a blaster in accordance with Section F-3003.5, or by a person who has been issued a Background Clearance Card in accordance with Section F-3001.2.3.1.

Exception: Such permits shall not be required for the storage, handling, or use of explosives or blasting agents by the Virginia Department of State Police provided notification to the fire code official is made annually by the Chief Arson Investigator listing all storage locations.

C. Add Table F-108.2 as follows:

Table F-108.2

PERMIT REQUIREMENTS

(to be filled in by local jurisdiction)

Section	Description	Permit required	Permit fee	Inspection fee
F-402.3	Candles - assembly/educational occupancies			
F-403.4	Open burning			
F-404.2	Remove paint with torch			
F-601.4	Assembly/educational occupancies			
F-801.2	Airports, heliports & helistops			
F-901.2	Flammable liquids, bowling lanes			
F-1001.2	Crop ripening & color processes			

F-1101.2	Dry Cleaning			
F-1201.2	Dust explosion hazard			
F-1301.2	Flammable finishes			
F-1401.2	Fumigation - insecticidal			
F-1501.2	HPM facilities			
F-1601.2	Lumber yard - woodworking plants			
F-1701.2	Matches - bulk storage			
F-1801.2	Oil/gas wells			
F-1901.2	Organic coatings			
F-2001.2	Tents/air-supported structures			
F-2102.1	Wrecking yard, junk yard, waste material- handling			
F-2103.1	Waste handling			
F-2201.2	Welding or cutting			
F-2205.2	Storage of welding cylinders			
F-2207.1	Calcium carbide			
F-2208.1	Acetylene generators			
F-2208.7	Acetylene cylinder storage			
F-2301.2	Hazardous materials			
F-2401.2	Aerosol products			
F-2501.2	Cellulose nitrate plastics			
F-2601.2	Combustible fibers			

F-2701.2	Compressed gases			
F-2801.2	Corrosives			
F-2901.2	Cryogenic liquids			
F-3001.2	Blasting/explosives			
F-3101.2	Fireworks			
F-3201.2	Vehicle repair shop			
F-3201.2	Flammable and combustible liquids - storage, handling, use, processing			
F-3201.2	Flammable and combustible liquids - tanks and equipment			
F-3301.2	Flammable solids			
F-3401.2	Highly toxic and toxic solids and liquids			
F-3501.2	Irritants, sensitizers and other health hazards			
F-3601.2	Liquefied petroleum gases			
F-3701.2	Organic peroxides			
F-3801.2	Liquid and solid oxidizers			
F-3901.2	Pesticides			
F-4001.2	Pyrophoric materials			
F-4101.2	Radioactive materials			
F-4201.2	Unstable (reactive) materials			
F-4301.2	Water-reactive materials			

D. F-108.3. Application for permit: Application for a permit shall be made on forms prescribed by the fire code official.

E. F-108.4. Issuance of permits: Before a permit is issued, the fire code official shall make such inspections or tests as are necessary to assure that the use and activities for which application is made comply with the provisions of this code.

F. F-108.5. Conditions of permit: A permit shall constitute permission to store or handle materials or to conduct processes in accordance with the SFPC, and shall not be construed as authority to omit or amend any of the provisions of this code. Permits shall remain in effect until revoked or for such period as specified on the permit. Permits are not transferable.

G. F-108.6. State Fire Marshal: Permits will not be required by the State Fire Marshal except for the manufacturing, storage, handling, use, and sale of explosives in localities not enforcing the SFPC.

Exception: Such permits shall not be required for the storage, handling, or use of explosives or blasting agents by the Virginia Department of State Police provided notification to the State Fire Marshal is made annually by the Chief Arson Investigator listing all storage locations.

H. F-108.7. Annual: The enforcing agency may issue annual permits for the manufacturing, storage, handling, use, or sales of explosives to any state regulated public utility.

Exception: Such permits shall not apply to the storage, handling, or use of explosives or blasting agents pursuant to the provisions of Title 45.1 of the Code of Virginia.

I. F-108.8. Approved plans: Plans approved by the fire code official are approved with the intent that they comply in all respects to this code. Any omissions or errors on the plans do not relieve the applicant of complying with all applicable requirements of this code.

J. F-108.9. Posting: Issued permits shall be kept on the premises designated therein at all times and shall be readily available for inspection by the fire code official.

K. F-108.10. Suspension of permit: A permit shall become invalid if the authorized activity is not commenced within six months after issuance of the permit, or if the authorized activity is suspended or abandoned for a period of six months after the time of commencement.

L. F-108.11. Revocation of permit: The fire code official may revoke a permit or approval issued under the SFPC if conditions of the permit have been violated, or if the approved application, data or plans contain misrepresentation as to material fact.

13 VAC 5-51-130. BNFPC Section F-202.0. General Definitions.

A. Add the following definitions:

Background Clearance Card: See Section F-3002.0

Blaster, restricted: See Section F-3002.0.

Blaster, unrestricted: See Section F-3002.0.

DHCD: The Virginia Department of Housing and Community Development.

Local government, local governing body or locality: The governing body of any county, city, or town, other political subdivision and state agency in this Commonwealth charged with the enforcement of the SFPC under state law.

State Fire Marshal: The State Fire Marshal as provided for by § 36-139.2 of the Code of Virginia.

State Regulated Care Facility (SRCF): A building or part thereof occupied by persons in the care of others where program regulatory oversight is provided by the Virginia Department of Social Services; Virginia Department Mental Health, Mental Retardation and Substance Abuse Services; Virginia Department of Education or Virginia Department of Juvenile Justice (Use Groups R-2, R-3 and R-4 only).

TRB: The Virginia State Building Code Technical Review Board.

USBC: The Virginia Uniform Statewide Building Code (13 VAC 5-61-10 et seq.)

B. Change the following definition to read:

Code official or fire code official: The officer or other designated authority charged with administration and enforcement of this code, or a duly authorized representative. For the purpose of this code, the term "code official" or "fire code official" shall have the same meaning as used in § 27-98.1 of the Code of Virginia.

13 VAC 5-51-150. BNFP Chapter 30. Explosives, Ammunition and Blasting Agents, ~~Section F-3001.0. General.~~

A. Change subsection F-3001.1 to read:

F-3001.1. Scope: The equipment, processes and operations involving the manufacture, possession, storage, sale, maintenance, and use of explosive materials shall comply with the requirements of this code, NFPA 495 and DOTn 49 CFR listed in Chapter 44 of this code, except that the year edition of NFPA 495 referenced shall be 1996.

B. Change exceptions to subsection F-3001.1 to read:

Exception: This chapter shall not apply to the following:

1. The use of explosives by federal or state military agencies or federal, state or municipal agencies while engaged in normal or emergency performance of duties.
2. The manufacture and distribution of explosive materials to or storage of explosive materials by military agencies of the United States.
3. The use of explosive materials in medicines and medicinal agencies in the forms prescribed by the U.S. Pharmacopeia or the National Formulary.
4. Pyrotechnics such as flares, fuses and railway torpedoes.

5. Common fireworks in accordance with Chapter 31.
6. The possession and use of not more than 15 pounds (7 kg) of smokeless powder and 1,000 small arms primers for hand loading of small arms ammunition for personal use.
7. The storage, handling, or use of explosives or blasting agents pursuant to the provisions of Title 45.1 of the Code of Virginia.

C. Change subsection F-3001.2 to read:

F-3001.2. Approval required: Approval shall be required for the following conditions or operations:

1. The manufacture, possession, storage, sale or other disposition of explosive materials.
2. The use of explosive materials.
3. The operation of a terminal for handling explosive materials.
4. The delivery to or receipt of explosive materials from a carrier at a terminal between the hours of sunset and sunrise.

D. Add exception to subsection F-3001.3 to read:

Exception: A bond is not required for blasting on real estate parcels of five or more acres conforming to the definition of "real estate devoted to agricultural use" or "real estate devoted to horticultural use" in § 58.1-3230 of the Code of Virginia and conducted by the owner of such real estate.

E. Add Sections F-3001.2.3, F-3001.2.3.1, F-3001.2.3.2, and F-3001.2.3.3 to read:

Section F-3001.2.3 Background investigations: The Fire Official shall not issue a permit to manufacture, store, handle, use or sell explosives or blasting agents to any individual applicant who is not certified by the Department as a blaster or who is not in the possession of a Background Clearance Card, or to designated persons representing an applicant that is not an individual and

who is not in possession of a Background Clearance Card. The Department shall process all applicants for a blaster certification and designated persons for compliance with § 27-97.2 of the Code of Virginia and will be the sole provider of Background Clearance Cards and blaster certifications.

Section F-3001.2.3.1 Background Clearance Card: A Background Clearance Card may be issued upon completion of the following requirements:

1. Any firm or company manufacturing, storing, using or selling explosives in the Commonwealth shall provide the name of a designated person or persons who will be a representative of the company and be responsible for (i) ensuring compliance with state law and regulations relating to blasting agents and explosives and (ii) applying for permits from the fire official.
2. Using a form provided by the Department, all individual applicants and all designated persons representing an applicant that is not an individual, shall submit to a background investigation, to include a national criminal history record check, for a permit to manufacture, store, handle, use or sell explosives, and for any applicant for certification as a blaster.
3. Each such applicant shall submit fingerprints and provide personal descriptive information to the Department to be forwarded through the Central Criminal Records Exchange to the Federal Bureau of Investigation for the purpose of obtaining a national criminal history record check regarding such applicant.

Section F-3001.2.3.2 Issuance of a Background Clearance Card: The issuance of a Background Clearance Card shall be denied if the applicant or designated person representing an applicant has been convicted of any felony, whether such conviction occurred under the laws of the

Commonwealth, or any other state, the District of Columbia, the United States or any territory thereof, unless his civil rights have been restored by the Governor or other appropriate authority.

Section F-3001.2.3.3 Revocation of a Background Clearance Card or blaster certification: After issuance of a Background Clearance Card or blaster certification, subsequent conviction of a felony will be grounds for immediate revocation of a Background Clearance Card or blaster certification, whether such conviction occurred under the laws of the Commonwealth, or any other state, the District of Columbia, the United States or any territory thereof. The Card or certification shall be returned to the Department immediately. An individual may reapply for his Background Clearance Card or blaster certification if his civil rights have been restored by the Governor or other appropriate authority.

F. Add to BNFPC Section F-3002.0. Definitions, the following definition to read:

Background Clearance Card: An identification card issued to an individual that is not a certified blaster and is representing himself or acting as a representative of a company, corporation, firm or other entity, solely for the purpose of submitting an application to the fire code official for a permit to manufacture, use, handle, store, or sell explosive materials.

13 VAC 5-51-170. BNFPC Section F-3003.0. General Requirements, BNFPC Section F-3005.0. Transportation of Explosives and BNFPC Section F-3009.0. Blasting.

A. Add subsection F-3003.5 to read:

F-3003.5. Certification of blasters: Persons engaging in the use of explosives or blasting agents shall be certified as a restricted or unrestricted blaster by the DHCD or shall be supervised on-site by a person properly certified by the DHCD as a restricted or unrestricted blaster. Certificates will be issued upon proof of successful completion of an examination approved by the DHCD and a background investigation for compliance with § 27-97.2 of the Code of Virginia. The applicant

for certification shall be at least 21 years of age and shall submit proof to the DHCD of the following experience:

1. For certification as a restricted blaster, at least one year under direct supervision by a certified unrestricted blaster, certified restricted blaster or other person approved by the DHCD.
2. For certification as an unrestricted blaster, at least one year under direct supervision by a certified unrestricted blaster or other person approved by the DHCD.

Exception: The owner of real estate parcels of five or more acres conforming to the definition of "real estate devoted to agricultural use" or "real estate devoted to horticultural use" in § 58.1-3230 of the Code of Virginia when blasting on such real estate.

B. Add subsection F-3003.5.1 to read:

F-3003.5.1. Fee for certification: The fee for obtaining a certificate or renewal of a certificate for unrestricted or restricted blaster from DHCD shall be \$30.

C. Add subsection F-3003.5.1 to read:

F-3003.5.1.1 Additional fees: The applicant shall pay all additional fees charged by other agencies for fingerprinting and for obtaining a national criminal history record check through the Central Criminal Records Exchange to the Federal Bureau of Investigation.

~~C-D.~~ Add subsection F-3003.5.2 to read:

F-3003.5.2. Renewal of blaster certificate or Background Clearance Card: A certificate for an unrestricted or restricted blaster shall be valid for three years from the date of issuance. A Background Clearance Card shall be valid for three years from the date of issuance. Renewal of the unrestricted blaster certificate will be issued upon proof of at least 16 hours of continued training or education in the use of explosives within three consecutive years and a background investigation for compliance with § 27-97.2 of the Code of Virginia. Renewal of the restricted

blaster certificate will be issued upon proof of at least eight hours of continued training or education in the use of explosives within three consecutive years. and a background investigation for compliance with § 27-97.2 of the Code of Virginia. Renewal of a Background Clearance Card will be issued upon the completion of a background investigation for compliance with § 27-97.2 of the Code of Virginia.

~~D.E.~~ Add subsection F-3003.6 to read:

F-3003.6. Reports of stolen explosives: Any person holding a permit for the manufacture, storage, handling, use, or sale of explosives issued in accordance with this code shall report to the office of the chief arson investigator for the Commonwealth and the code official as well as the chief local law-enforcement official any theft or other unauthorized taking or disappearance of any explosives or blasting devices from their inventory. An initial verbal report shall be made within three days of the discovery of the taking or disappearance. A subsequent written report shall be filed within such time, and in such form, as is specified by the chief arson investigator.

~~E.F.~~ Add subsection F-3003.7 to read:

F-3003.7. Report of injuries or property damage: Any person holding a permit for the use of explosives issued in accordance with this code shall report any injuries to any person or damage to property arising from the use of explosives under the permit to the code official where there is local enforcement of this code and to the State Fire Marshal.

~~F.G.~~ Change Section F-3005.0. Transportation of Explosives. to read:

F-3005.1.Regulations. Under § 10.1-1450 of the Code of Virginia, the Virginia Waste Management Board shall promulgate regulations designating the manner and method by which hazardous materials shall be loaded, unloaded, packed, identified, marked, placarded, stored and transported.

F-3005.2. Enforcement. Under § 10.1-1451 of the Code of Virginia and the Regulations Governing the Transportation of Hazardous Materials (9 VAC 20-110-10 et seq.) the Department of State Police and all other law-enforcement officers of the Commonwealth who have satisfactorily completed the course in Hazardous Materials Compliance and Enforcement as prescribed by the U.S. Department of Transportation in federal safety regulations and safety inspection procedures pertaining to the transportation of hazardous materials, shall enforce the provisions of Article 7 (§10.1-1450 et seq.) of Chapter 14 of Title 10.1 of the Code of Virginia, and any rule or regulation promulgated herein. Those law-enforcement officers certified to enforce the provisions of this article, and any regulation promulgated under such article, shall annually receive in-service training in current federal safety regulations and safety inspection procedures pertaining to the transportation of hazardous materials.

Exception: A fire code official may require an attended or unattended, parked vehicle that contains explosives to be moved to an approved location.

~~G.H.~~ Add subsection F-3009.12 to read:

F-3009.12. Blast records: A record of each blast shall be kept and retained for at least three years and shall be available for inspection by the code official. The record shall contain the following minimum data:

1. Name of contractor;
2. Location and time of blast;
3. Name of certified blaster in charge;
4. Type of material blasted;
5. Number of holes bored and spacing;
6. Diameter and depth of holes;

7. Type and amount of explosives;
8. Amount of explosive per delay of 8 milliseconds or greater;
9. Method of firing and type of circuit;
10. Direction and distance in feet to nearest dwelling, public building, school, church, commercial or institutional building;
11. Weather conditions;
12. Whether or not mats or other precautions were used;
13. Type of detonator and delay period;
14. Type and height of stemming; and
15. Seismograph record where indicated.

Exception: Subdivisions 8 and 13 of this section are not applicable to restricted blasters.