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Document No. 3216

**DEPARTMENT OF LABOR, LICENSING AND REGULATION**

**office of state fire marshal**

Chapter 71

Statutory Authority: 1976 Code Sections 23-9-60 and 23-36-10 et seq.

71-8302. Explosives

**Synopsis:**

 The Office of State Fire Marshal is updating, revising, and reformatting SCRR 71-8302 regarding Explosives. The new SCRR 71-8302 complies with Federal Bureau of Alcohol Tobacco and Firearms requirements, uses a standardized format, simplifies wording, removes obsolete language and clarifies licensing and permitting requirements for the storage, handling, and use of explosives.

**Instructions**:

 Delete the current regulations 71-8302 Explosives (71-8302.1 through 71-8302.25) in their entirety. Replace with Subarticle 3 - Explosives (71-8302.1 through 71-8302.8) as printed below.

**Text:**

SUBARTICLE 3

EXPLOSIVES

71-8302. Explosives.

71-8302.1. General.

 A. The purpose of this regulation is to provide reasonable safety and protection to the public, public property, private property, and operators from the manufacture, transportation, handling, use, and storage of explosives in South Carolina.

 B. This regulation shall apply to the manufacture, transportation, handling, use, and storage of explosives in South Carolina.

 C. This regulation does not apply to the sale or storage of fireworks as regulated by the Board of Pyrotechnic Safety.

71-8302.2. Codes and Standards.

 A. NFPA 495 governs the use of explosives. All references to NFPA 495 found in these regulations refer to the edition adopted in SCRR 71-8300.2 and are modified by the following regulations as shown below.

71-8302.3. Licensing and Permitting Fees.

 A. All applications for licenses, tests, or permits must be accompanied by the appropriate fees.

 B. The Office of State Fire Marshal is responsible for all administrative activities of the licensing program. The State Fire Marshal shall employ and supervise personnel necessary to effectuate the provisions of this article and shall establish fees sufficient but not excessive to cover expenses, including direct and indirect costs to the State for the operation of this licensing program. Fees may be adjusted not more than once each two years, using the method set out in South Carolina Code 40-1-50(D).

 C. Fees shall be established for the following:

 1. Application

 2. Background Check

 3. Testing

 4. Licensing

 5. Permitting

 6. Inspection

 7. Renewal

 D. All fees are due at time of application for licenses, background checks, permits, testing, inspection or renewal.

 E. Applications for blasting permits shall be submitted to the Office of State Fire Marshal for approval 48 hours before the start of blasting operations. Applications submitted less than 48 hours before the start of blasting operations will be subject to a $200.00 special processing fee.

 F. All fees paid to the Office of State Fire Marshal are nonrefundable.

71-8302.4. Licenses and Permits.

 A. Classification of Licenses and Permits

 Class Category Blasting Permitted

1. A Unlimited All types of blasting

2. B General aboveground All phases of blasting operations in quarries, open

 pit mines, and aboveground construction

3. C General underground All phases of blasting operations in underground

 mines, shafts, tunnels, and drifts

4. D Demolition All phases of blasting in demolition projects

5. E Seismic All phases of blasting in seismic prospecting

6. G Special Special blasting as described on the permit

 B. Licenses

 1. No person shall be granted a license who has not successfully completed a written examination administered by the Office of State Fire Marshal covering the applicable codes, state laws and regulations for the license classification for which they are applying.

 2. Any applicant who fails the written examination is allowed one (1) re-test after a minimum seven (7) day waiting period. Any applicant who fails the re-test shall wait at least six (6) months before reapplying.

 3. Licenses are not transferable.

 4. The State Fire Marshal may accept determination of relief from disability incurred by reason of a criminal conviction that has been granted by the Director of the Bureau of Alcohol, Tobacco and Firearms, U. S. Department of the Treasury, Washington, D.C., pursuant to Section 55.142, Subpart H, Title 27, Code of Federal Regulations and Title 18 United States Code, Chapter 40, Section 845(b).

 5. New Applications for licensing shall:

 a. Submit a completed fingerprint card with their application for the Office of State Fire Marshal to conduct a criminal background check as part of the initial licensing application process.

 b. Provide the appropriate Federal licenses to handle and use explosives or explosive materials. Applicants must provide a copy of applicable Federal licenses with their application.

 c. Provide proof of insurance. The coverage company must be an insurer which is either licensed by the Department of Insurance in this State or approved by the Department of Insurance as a nonadmitted surplus lines carrier for risks located in this State. In the event the liability insurance is canceled, suspended, or nonrenewed, the insurer shall give immediate notice to the State Fire Marshal's Office.

 6. Each applicant for renewal shall each year:

 a. Submit an application for renewal.

 b. Have a SLED background check conducted by the Office of State Fire Marshal as part of the licensing renewal process.

 c. Provide a copy of their current Federal licenses for handling and using explosives or explosive material with their renewal application.

 d. Attend at least four (4) hours of continuing education acceptable to the Office of the State Fire Marshal. Certificates of training or other proof of training attendance must be provided when requested by the Office of State Fire Marshal.

 e. Provide proof of insurance. The coverage company must be an insurer which is either licensed by the Department of Insurance in this State or approved by the Department of Insurance as a nonadmitted surplus lines carrier for risks located in this State. In the event the liability insurance is canceled, suspended, or nonrenewed, the insurer shall give immediate notice to the State Fire Marshal's Office.

 C. Blasting Permits

 1. Blasting Permit Application Forms shall contain the information deemed appropriate by the Office of State Fire Marshal.

 2. Blasting Permit Application Forms shall be available on the State Fire Marshal’s Web site.

 3. No permit will be granted without submission of a complete Blasting Permit Application Form and payment of application fee.

 4. No variations from the terms of the blasting permit are allowed without authorization from the State Fire Marshal or his designee.

 D. Magazine Permits

 1. Magazine Permit Application Forms shall contain the information deemed appropriate by the Office of State Fire Marshal.

 2. Magazine Permit Application Forms shall be available on the State Fire Marshal’s Web site.

 3. Magazine permits expire at 12:01 AM on January 1 of each licensing cycle. Any magazine permit not renewed by December 31 shall incur a late fee of $100.00 (each).

 4. Magazine permits shall be visible on the exterior of all magazines. Defaced or destroyed permits will be reported to the SFM when discovered. The Office of State Fire Marshal may, at their discretion, charge the administrative costs of replacing the magazine permit.

 5. Each magazine shall be inspected and approved by the Office of State Fire Marshal before use.

 6. All magazines shall be placarded in accordance with NFPA 495.

71-8302.5. Records.

 A. Licensed blasters shall keep records of each blast. Blaster’s Log shall contain the following minimum data:

 1. Name of company or contractor;

 2. Location, date, and time of blast;

 3. Name, signature, and license number of blaster in charge of blast;

 4. Type of material blasted;

 5. Number of holes, burden and spacing;

 6. Diameter and depth of holes;

 7. Types of explosives used;

 8. Total amount of explosives used;

 9. Maximum amount of explosives per delay period of 8 milliseconds or greater;

 10. Method of firing and type of circuit;

 11. Direction and distance in feet to nearest dwelling house, public building, school, church, commercial or institutional building neither owned nor leased by the person conducting the blasting;

 12. Weather conditions;

 13. Type and height or length of stemming;

 14. Whether mats or other protections were used;

 15. Type of delay electric blasting caps used and delay periods used;

 16. Exact location of seismograph, if used, and the distance of seismograph from blast as indicated accurately by the person taking the seismograph reading;

 17. Seismograph records, where required including:

 a. Name of person and firm analyzing the seismograph record; and

 b. Seismograph reading;

 18. Maximum number of holes per delay period of eight milliseconds or greater.

 B. Blasters will provide a blast report on forms approved by the Office of State Fire Marshal and submit these forms within three working days of the blast when deemed necessary by the Office of State Fire Marshal.

 C. Blasting records shall be retained by the licensed blaster and available for inspection by SFM during normal work hours at their place of business. These blast records shall include as a minimum for each blast:

 1. Blasting Permit;

 2. Seismograph reports when used;

 3. Blaster’s Record/log;

 4. Pre-Blast Survey (if applicable).

 D. Magazine log shall be available for inspection by SFM upon request during normal work hours or hours of operation of the magazine.

71-8302.6. Blasting Safety and Operations.

 A. The contractor, operator, and the blaster are responsible for the conduct of blasting operations on any site.

 B. These regulations do not relieve the contractor, operator, blaster or other persons of their responsibility and liability under any other laws.

 C. The Office of State Fire Marshal may require the use of a seismograph on any blasting operation where damage to personal property has or may occur.

 D. A Seismograph shall be used on all blasting operations within 1500 feet of a building, where the scaled distances shown in NFPA 495 are not followed, or when directed by the State Fire Marshal.

 E. Operators must notify the State Fire Marshal within 24 hours of any fires or thefts involving explosives. The operators shall provide the State Fire Marshal with a copy of the report filed with the police department or the incident report from the fire department. Operators must also provide the State Fire Marshal’s Office with a copy of ATF Form 5400.5.

 F. The operator shall have their license in their possession when handling, possessing or using explosive materials and shall show their license when asked by any AHJ.

 G. A copy of the blasting permit shall be kept at the firing station.

 H. This section shall be followed for firing the blast:

 1. A warning signal shall be given before every blast. Warning signals shall comply with the following:

 a. Warning signal is a one (1) minute series of long horn or siren blasts five (5) minutes before the blast signal.

 b. Blast signal is a series of short horn or siren blasts one (1) minute before the shot.

 c. All clear signal is a prolonged horn or siren blast following the inspection of the blast area.

 2. The signal shall be made from an air horn, siren or other device, and must be loud enough to be clearly heard in all areas that could be affected by the blast or flyrock from the blast. The signal must be distinctive and unique so that it cannot be confused with any other signaling system that might occur on the site. A vehicle horn shall not be used as a signaling system.

71-8302.7. Explosives Investigations.

All costs incurred by the State Fire Marshal for investigations involving explosives or blasting operations shall be reimbursed to the State by the individual or company involved in the investigation. Such reimbursements will only apply when the individual or company has been found in violation of the State Explosives Control Act or these Regulations.

71-8302.8. Variances.

 A. This section provides licensees the opportunity to request variances of the regulations under specific conditions.

 1. The State Fire Marshal may grant variances when it can be demonstrated the variance improves safety or provides an equivalent level of safety as provided in the regulations and adopted codes.

 2. Such a variance may be modified or revoked by the State Fire Marshal.

 3. When applicable, these variances must also be approved by the U.S. Bureau of Alcohol, Tobacco, and Firearms.

**Fiscal Impact Statement:**

 There will be no additional cost incurred by the State or any political subdivision.

**Statement of Rationale:**

 The guidelines for Explosives are amended to conform to national guidelines and ensure public safety.