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**HEALTH AND SAFETY CODE - HSC**

**DIVISION 11. EXPLOSIVES [12000 - 12761]** ( *Division 11 enacted by Stats. 1939, Ch. 60.*  )

**PART 1. HIGH EXPLOSIVES [12000 - 12401]** ( *Part 1 repealed and added by Stats. 1967, Ch. 1497.*  )

**CHAPTER 1. Definitions and Scope [12000 - 12007]** ( *Chapter 1 added by Stats. 1967, Ch. 1497.*  )

**12000.** For the purposes of this part, "explosives" means any substance, or combination of substances, the primary or common purpose of which is detonation or rapid combustion, and which is capable of a relatively instantaneous or rapid release of gas and heat, or any substance, the primary purpose of which, when combined with others, is to form a substance capable of a relatively instantaneous or rapid release of gas and heat. "Explosives" includes, but is not limited to, any explosives as defined in Section 841 of Title 18 of the United States Code and published pursuant to Section 555.23 of Title 27 of the Code of Federal Regulations, and any of the following:

- (a) Dynamite, nitroglycerine, picric acid, lead azide, fulminate of mercury, black powder, smokeless powder, propellant explosives, detonating primers, blasting caps, or commercial boosters.
- (b) Substances determined to be division 1.1, 1.2, 1.3, or 1.6 explosives as classified by the United States Department of Transportation.
- (c) Nitro carbo nitrate substances (blasting agent) classified as division 1.5 explosives by the United States Department of Transportation.
- (d) Any material designated as an explosive by the State Fire Marshal. The designation shall be made pursuant to the classification standards established by the United States Department of Transportation. The State Fire Marshal shall adopt regulations in accordance with the Government Code to establish procedures for the classification and designation of explosive materials or explosive devices that are not under the jurisdiction of the United States Department of Transportation pursuant to provisions of Section 841 of Title 18 of the United States Code and published pursuant to Section 555.23 of Title 27 of the Code of Federal Regulations that define explosives.
- (e) Certain division 1.4 explosives as designated by the United States Department of Transportation when listed in regulations adopted by the State Fire Marshal.
- (f) For the purposes of this part, "explosives" does not include any destructive device, as defined in Section 16460 of the Penal Code, nor does it include ammunition or small arms primers manufactured for use in shotguns, rifles, and pistols.

(Amended by Stats. 2010, Ch. 178, Sec. 37. (SB 1115) Effective January 1, 2011. Operative January 1, 2012, by Sec. 107 of Ch. 178.)

**12001.** This part does not apply to any of the following:

- (a) Any person engaged in the transportation of explosives regulated by, and when subject to, the provisions of Division 14 (commencing with Section 31600) of the Vehicle Code.
- (b) Small arms ammunition of .75 caliber or less when designated as a division 1.4 explosive by the United States Department of Transportation.
- (c) Fireworks regulated under Part 2 (commencing with Section 12500) of this division, including, but not limited to, special effects pyrotechnics regulated by the State Fire Marshal pursuant to Section 12555.
- (d) Any explosives while in the course of transportation via railroad, aircraft, water, or highway when the explosives are in actual movement and under the jurisdiction of and in conformity with regulations adopted by the United States Department of Transportation, United States Coast Guard, or the Federal Aviation Agency. However, no explosives shall be sold, given away, or delivered except as provided in Section 12120.
- (e) Special fireworks classified by the United States Department of Transportation as division 1.3 explosives when those special fireworks are regulated under Part 2 (commencing with Section 12500) of this division, when a permit has been issued pursuant to regulations of the State Fire Marshal.

(f) (1) Black powder in quantities of 25 pounds or less in the hands of a retailer having a permit issued under Article 2 (commencing with Section 6066) of Chapter 2 of Part 1 of Division 2 of the Revenue and Taxation Code and in quantities of five pounds or less in the hands of all others and smokeless powder in quantities of 20 pounds or less used, possessed, stored, sold, or transported that is exempted under, or authorized by, the Federal Organized Crime Control Act of 1970 (Public Law 91-452) and applicable federal regulations thereunder.

(2) All cities, counties, and special districts and county service areas providing fire protection shall require retailers in possession of black powder to notify fire authorities.

*(Amended by Stats. 1998, Ch. 478, Sec. 2. Effective January 1, 1999.)*

**12002.** Except when transporting explosives on highways and at safe stopping places established under the provisions of Division 14 (commencing with Section 31600) of the Vehicle Code, this part does not affect the operation of provisions of any city, county, or city and county ordinance respecting the delivery, storage, and handling of explosives which are at least as restrictive as the provisions of this part.

*(Repealed and added by Stats. 1967, Ch. 1497.)*

**12003.** "Chief" means the Director of Forestry and Fire Protection and his or her authorized representatives, the chief of a fire department or fire protection agency maintained by a city, county, or city and county, or fire protection district and his or her authorized representatives, or the authorized representative of the United States Forest Service. In any area of the state in which there exists no organized fire protection agency responsible for the protection of the area, "chief," for the purpose of this part only, means the county sheriff and his or her authorized representatives.

On any property that is owned by the state, the "chief," for the purpose of this part, shall be the official of the fire protection agency responsible for the suppression of fires in the area. On any state property where there is no fire protection agency responsible for the suppression of fires, the "chief," for the purpose of this part, shall be the State Fire Marshal.

Upon request of the Director of Forestry and Fire Protection, the chief of a fire department or fire protection agency, or upon request of the county sheriff, the governing body of the area under the jurisdiction of the requesting chief or sheriff may designate any person as "chief" for the purposes of this part.

*(Amended by Stats. 1992, Ch. 427, Sec. 90. Effective January 1, 1993.)*

**12004.** For the purposes of this part, the term "person" shall mean any person, organization, firm, corporation, association, city, county, city and county, and state, and shall include any of their employees and authorized representatives.

*(Repealed and added by Stats. 1967, Ch. 1497.)*

**12005.** This part does not apply to the transportation and use of explosives by representatives of the California Highway Patrol, the State Bureau of Criminal Identification and Investigation, local police departments, sheriff's departments, and fire departments acting in their official capacity, nor shall this part apply to the transportation and use of explosives by any peace officer authorized to enforce the provisions of this part by Section 12020 when he is acting pursuant to such authority.

*(Amended by Stats. 1970, Ch. 1425.)*

**12005.5.** (a) This part shall not apply to the possession, handling, storage, transportation, or use of not more than 10 pounds of blasting agents (division 1.5 explosives), two pounds of division 1.1, 1.2, or 1.3 explosives, or 1,000 feet of detonating cord, or any combination thereof, by authorized employees of the Department of Transportation, acting within the scope of their employment, in the pursuit of seismic explorations.

(b) The Department of Transportation may not undertake that seismic exploration, unless the fire authority having jurisdiction in the area of the proposed seismic exploration has received a written notice from the department at least 48 hours prior to the commencement of the seismic exploration. The notice shall include the time and location of the proposed seismic exploration. In addition, the employee supervising the proposed seismic exploration, or his or her designated representative, shall consult with the fire authority to determine if the proposed handling, storage, transportation, or use of explosives would constitute an unreasonable hazard to life or property. If the fire authority determines that such a hazard would arise, the department shall not engage in that handling, storage, transportation, or use of explosives.

(c) The state shall be strictly liable for any injury to any person or property proximately caused by the handling, storage, transportation, or use of explosives by the Department of Transportation for the purpose of conducting seismic exploration. All claims for damages against the state arising under this section are governed by the procedures set forth in Part 3 (commencing with Section 900) and Part 4 (commencing with Section 940) of Division 3.6 of Title 1 of the Government Code.

*(Amended by Stats. 1998, Ch. 478, Sec. 3. Effective January 1, 1999.)*

**12006.** The provisions of this part and the regulations adopted by the State Fire Marshal pursuant to this part do not apply when the use, handling, possession, storage and transportation is subject to the requirements of the Division of Occupational Safety and Health, Department of Industrial Relations, except as the provisions of this part and the regulations adopted by the State Fire Marshal may extend beyond the scope or authority of the Division of Occupational Safety and Health, Department of Industrial Relations.

*(Amended by Stats. 1981, Ch. 714.)*

**12007.** (a) For the purposes of this part, the term “issuing authority” shall mean either the sheriff of a county, or the chief or other head of a municipal police department of any city or city and county, or the chief of a fire department or fire protection agency, and their authorized representatives, provided that, in the event the designated issuing authority is the chief of a fire department or fire protection agency, such fire department or fire protection agency is organized with regularly paid full-time personnel. The governing body of any county, city, or city and county shall designate one of the above as the issuing authority within its jurisdiction and shall notify the State Fire Marshal of the person so designated.

(b) If the governing body of any county, city, or city and county does not designate an issuing authority pursuant to subdivision (a), the State Fire Marshal shall designate the sheriff of the county as the issuing authority.

*(Amended by Stats. 1976, Ch. 1094.)*