

FIRST REGULAR SESSION

SENATE BILL NO. 155

94TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR ENGLER.

Pre-filed December 4, 2006, and ordered printed.

TERRY L. SPIELER, Secretary.

0170S.02I

AN ACT

To amend chapter 319, RSMo, by adding thereto sixteen new sections relating to blasting and excavation, with penalty provisions.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Chapter 319, RSMo, is amended by adding thereto sixteen new sections, to be known as sections 319.300, 319.303, 319.306, 319.309, 319.312, 319.315, 319.318, 319.321, 319.324, 319.327, 319.330, 319.333, 319.336, 319.339, 319.342 and 319.345, to read as follows:

319.300. Sections 319.300 to 319.345 shall be known as the "Missouri Blasting Safety Act". The purpose of sections 319.300 to 319.345 shall be to foster the safe use of explosives in mining and construction by establishing and enforcing consistent statewide industry standards for licensing of blasters and persons using explosives. The provisions of sections 319.300 to 319.345 or any rules or regulations promulgated thereunder shall not be construed to amend, supersede, or conflict with any requirement of federal law or regulation governing the manufacturing, transporting, or storage of explosives.

319.303. As used in sections 319.300 to 319.345, the following terms shall mean:

(1) "Blaster", a person qualified to be in charge of and responsible for the loading and firing of an explosive or explosive material;

(2) "Blast", detonation of explosives;

(3) "Blasting", the use of explosives in mining or construction;

(4) "Blast site", the area where explosives are handled during loading of a bore hole, including fifty feet in all directions from the

10 perimeter formed by loaded holes. A minimum of thirty feet may
11 replace the fifty feet requirement if the perimeter of loaded holes is
12 marked and separated from nonblast site areas by a barrier. The fifty
13 feet or thirty feet distance requirements, as applicable, shall apply in
14 all directions along the full depth of the bore hole;

15 (5) "Board", the state blasting safety board created in section
16 319.324;

17 (6) "Bore hole", a hole made with a drill, auger, or other tool in
18 which explosives are placed in preparation for detonation;

19 (7) "Burden", the distance from an explosive charge to the
20 nearest free or open face at the time of detonation;

21 (8) "Business day", any day of the week except Saturday, Sunday,
22 or a federal or state holiday;

23 (9) "Deck", charge of explosives separated from other charges by
24 stemming;

25 (10) "Delay period", the time delay provided by blasting caps
26 which permits firing of bore holes in sequence;

27 (11) "Detonation", the action of converting the chemicals in an
28 explosive charge to gases at a high pressure by means of a self-
29 propagating shock wave passing through the charge;

30 (12) "Detonator", any device containing initiating or primary
31 explosive that is used for initiating detonation of another explosive
32 material. A detonator may not contain more than ten grams of total
33 explosives by weight, excluding ignition or delay charges. The term
34 includes, but is not limited to, electric blasting caps of instantaneous
35 and delay types, blasting caps for use with safety fuse, detonating cord
36 delay connectors, and non-electric instantaneous and delay blasting
37 caps which use detonating cord, shock tube, or any other replacement
38 for electric leg wires;

39 (13) "Explosives", any chemical compound, mixture, or device, the
40 primary or common purpose of which is to function by explosion,
41 including, but not limited to, dynamite, black powder, pellet powder,
42 initiating explosives, detonators, safety fuses, squibs, detonating cord,
43 igniter cord, and igniters; includes explosive materials such as any
44 blasting agent, emulsion explosive, water gel, or detonator. Explosive
45 materials determined to be within the coverage of sections 319.300 to
46 319.345 shall include all such materials listed in 18 U.S.C. Chapter 40,

47 as issued at least annually by the Department of Justice, Bureau of
48 Alcohol, Tobacco, Firearms and Explosives;

49 (14) "Firing", causing explosives to be detonated by the use of a
50 fuse or electric detonator;

51 (15) "Fire Protection official", an authorized representative of a
52 municipal fire department, fire protection district, or volunteer fire
53 protection association for the area where blasting occurs;

54 (16) "Fugitive from justice", any person who has fled from the
55 jurisdiction of any court of record to avoid prosecution for any crime
56 or to avoid giving testimony in any criminal proceeding. The term
57 shall also include any person who has been convicted of any crime and
58 has fled to avoid case disposition;

59 (17) "Initiation system", components of an explosive charge that
60 cause the charge to detonate, such as primers, electric detonators, and
61 detonating charge;

62 (18) "Loading", placing of explosives in a hole in preparation for
63 detonation;

64 (19) "Local government", a city, county, fire protection district,
65 volunteer fire protection association, or other political subdivision of
66 the state;

67 (20) "Person using explosives", any individual, proprietorship,
68 partnership, firm, corporation, company, or joint venture that is
69 required to hold authority to receive or use explosives under statutes
70 or regulations administered by the U.S. Department of Justice, Bureau
71 of Alcohol, Tobacco, Firearms and Explosives and who employs licensed
72 blasters;

73 (21) "Scaled distance", the linear distance, in feet, from the blast
74 to a specified location, divided by the square root of the maximum
75 weight of explosives, in pounds, to be detonated in any eight
76 millisecond period;

77 (22) "Seismograph", an instrument that measures ground
78 vibration and acoustic effects;

79 (23) "Spacing", the distance between adjacent bore holes;

80 (24) "Stemming", inert material that is placed above explosives
81 that have been placed in a blast hole in preparation for detonation or
82 vertically between columnar decks of explosives that have been placed
83 in a hole in preparation for detonation;

84 **(25) "Uncontrolled structure", any dwelling, public building,**
85 **school, church, commercial building, or institutional building, that is**
86 **not owned or leased by the person using explosives, or otherwise under**
87 **the direct contractual responsibility of the person using explosives.**

319.306. 1. Any individual who uses explosives in Missouri shall
2 **obtain a blaster's license, except those exempted in subsection 18 of**
3 **this section. A person using explosives shall not be required to hold a**
4 **blaster's license, but all blasting on behalf of a person using explosives**
5 **shall be performed only by licensed blasters. Applications for a**
6 **blaster's license or renewal of a blaster's license shall be on a form**
7 **designated by the Missouri division of fire safety, and shall contain the**
8 **following:**

- 9 **(1) The applicant's full name;**
- 10 **(2) The applicant's home address;**
- 11 **(3) The applicant's date of birth;**
- 12 **(4) The applicant's sex;**
- 13 **(5) The applicant's physical description;**
- 14 **(6) The applicant's driver's license number;**
- 15 **(7) The applicant's current place of employment;**
- 16 **(8) A listing of any other blasting license or certification held by**
17 **the applicant, to include the name, address, and phone number of the**
18 **regulatory authority that issued the license or certification;**
- 19 **(9) Any other information required to fulfill the obligations of**
20 **sections 319.300 to 319.345.**

21 **2. Any individual who has met the qualifications set forth in**
22 **subsection 4 of this section may apply for a blaster's license.**

23 **3. An applicant for a blaster's license shall submit an application**
24 **fee and two copies of the applicant's photograph with the application**
25 **submitted to the division of fire safety. The amount of such fee shall**
26 **be established by rule promulgated by the division of fire safety. The**
27 **fee established by rule shall be no greater than the cost of**
28 **administering this section, but shall not exceed one hundred dollars.**

29 **4. An applicant for a blaster's license shall:**

- 30 **(1) Be at least twenty-one years of age;**
- 31 **(2) Not have willfully violated any provisions of sections 319.300**
32 **to 319.345;**
- 33 **(3) Not have knowingly withheld information or has not made**

34 any false or fictitious statement intended or likely to deceive in
35 connection with the application;

36 (4) Have familiarity and understanding of relevant federal and
37 state laws relating to explosives materials;

38 (5) Not have been convicted in any court of, or plead guilty to,
39 a felony;

40 (6) Not be a fugitive from justice;

41 (7) Not be an unlawful user of any controlled substance in
42 violation of chapter 195, RSMo;

43 (8) Except as provided in subsections 11 and 13 of this section,
44 have completed an approved blaster's training course that meets the
45 requirements of subdivision (1) of subsection 14 of this section and has
46 successfully passed the licensing examination under the provisions of
47 subdivisions (1) to (5) of subsection 15 of this section;

48 (9) Have accumulated at least one thousand hours of experience
49 directly relating to the use of explosives within two years immediately
50 prior to applying for a blaster's license and shall provide signed
51 documentation from an employer, supervisor, or other responsible
52 party verifying the applicant's experience;

53 (10) Not have been adjudicated as mentally defective; and

54 (11) Be a citizen of the United States and not advocate or
55 knowingly belong to any organization or group that advocates violent
56 action against any federal, state, or local government, or against any
57 person.

58 5. Any individual holding a blaster's license under the provisions
59 of this section shall promptly notify the division of fire safety if he or
60 she has had any change of material fact relating to any qualification for
61 holding a blaster's license.

62 6. If the division of fire safety finds that the requirements for a
63 blaster's license have been satisfied, a license shall be issued to the
64 applicant.

65 7. A blaster's license shall expire three years from the date of
66 issuance. To qualify for a renewal of a blaster's license, an individual
67 will be required to provide documentation of completing eight hours of
68 training in an explosives-related course of instruction that is approved
69 by the division of fire safety, half of which shall have been completed
70 within the year prior to renewal. The remainder of such training for

71 renewal of the license may be acquired at any time during the three-
72 year period that a license is valid. Additional training beyond an
73 accumulated eight hours during any three-year period is not valid for
74 more than one subsequent renewal of the license.

75 8. Each license issued under the provisions of this section shall
76 provide documentation to the license holder in the form of a letter or
77 letter-sized certificate and a card that is approximately two inches by
78 three inches in size. Each shall specify a unique license number, the
79 name of the individual, his or her driver's license number, the
80 individual's photograph, the blaster's license's effective date and its
81 expiration date, and any other record-keeping information needed by
82 the division of fire safety. In addition, the card form of the license
83 shall contain a photographic image of the license holder.

84 9. Each individual required to have a blaster's license shall
85 provide documentation that he or she has a currently valid license to
86 a representative of the division of fire safety within two business days
87 of a written or verbal request. No enforcement action shall be taken
88 against any individual that cannot comply with such a request so long
89 as the division of fire safety's records provide documentation that the
90 individual has a valid blaster's license.

91 10. (1) A blaster's license issued under the provisions of this
92 section may be suspended or revoked by the division of fire safety upon
93 substantial proof that the individual holding the license has:

94 (a) Knowingly failed to monitor the use of explosives as provided
95 in section 319.309;

96 (b) Negligently or habitually exceeded the limits established
97 under section 319.312;

98 (c) Knowingly or habitually failed to create a record of blasts as
99 required by section 319.315;

100 (d) Had a change in material fact relating to their qualifications
101 for holding a blaster's license as described in subsection 4 of this
102 section;

103 (e) Failed to advise the division of fire safety of any change of
104 material fact relating to his or her qualifications for holding a blaster's
105 license; or

106 (f) Knowingly made a material misrepresentation of any
107 information by any means of false pretense, deception, fraud,

108 **misrepresentation, or cheating for the purpose of obtaining training or**
109 **otherwise meeting the qualifications of obtaining a license.**

110 **(2) The division of fire safety shall provide any notice of**
111 **suspension or revocation, as provided in subdivision (1) of this**
112 **subsection, in writing, sent by certified mail to the last known address**
113 **of the holder of the license. The notice may also be verbal, but this**
114 **does not eliminate the requirement for written notice. Upon receipt of**
115 **a verbal or written notice of suspension or revocation from the division**
116 **of fire safety, the individual holding the license shall immediately**
117 **surrender all copies of the license to a representative of the division of**
118 **fire safety and shall immediately cease all blasting activity.**

119 **(3) The individual holding the license may appeal any suspension**
120 **or revocation to the state blasting safety board established under**
121 **section 319.324 within forty-five days of the date written notice was**
122 **received. The division of fire safety shall immediately notify the**
123 **chairman of the board that an appeal has been received and a hearing**
124 **before the board shall be held. The board shall consider and make a**
125 **decision on any appeal received by the division of fire safety within**
126 **thirty days of the date the appeal is received by the division of fire**
127 **safety. The board shall make a decision on the appeal by majority vote**
128 **of the board and shall immediately notify the licensee of its decision in**
129 **writing. The written statement of the board's decision shall be**
130 **prepared by the division of fire safety or its designee and shall be**
131 **approved by the chairman of the board. The approved statement of the**
132 **board's decision shall be sent by certified mail to the last known**
133 **address of the holder of the license.**

134 **11. Any individual whose license has been expired for a period**
135 **of three years or less shall be required to successfully pass the**
136 **examination as provided in subdivisions (1) to (5) of subsection 15 of**
137 **this section and attend the eight hours of training required for renewal**
138 **of a license as minimum qualifications for submitting an application for**
139 **reinstatement of the license. Any individual whose license has been**
140 **expired for a period of more than three years shall meet the**
141 **qualifications set forth in subsection 4 of this section, including**
142 **completing twenty hours of training and passing the examination, prior**
143 **to applying for a blaster's license.**

144 **12. A license may be granted to applicants who within the last**

145 three years have held a valid license or certification from any other
146 source if all of the qualifications for obtaining the license or
147 certification meet or exceed the provisions of this section. It is the
148 duty of the division of fire safety to investigate the qualifications
149 required for obtaining a license or certification from any other
150 source. Licenses or certification held prior to the effective date of the
151 rule required by subsection 19 of this section shall be deemed to meet
152 requirements for this subsection, provided that they meet requirements
153 of the rule.

154 13. A license may be granted upon the application of an
155 individual employed as a blaster on or before December 31, 2000, and
156 who has accumulated one thousand hours of training or education
157 pertaining to blasting and experience working for a specific person
158 using explosives within two years immediately prior to applying for a
159 license. The application shall include a statement of hours of
160 experience in the form of an affidavit signed by the person using
161 explosives who has employed or contracted with the blaster for the
162 preceding two years. Such applicant also shall meet the requirement
163 of subdivisions (1), (2), (3), (4), (5), (6), (7), (10), and (11) of subsection
164 4 of this section. Any individual granted a license under this
165 subsection shall be limited to blasting performed for the person using
166 explosives submitting the affidavit required by this subsection. Such
167 licensee shall meet the requirements for continuing training required
168 by subsection 7 of this section.

169 14. (1) The division of fire safety or its authorized agent shall
170 offer annually at least two courses of instruction that fulfill the
171 training requirement of qualifying for a blaster's license and two
172 courses that fulfill the training requirement for renewal of a blaster's
173 license. In addition, any person may apply to the division of fire safety
174 for approval of a course of instruction that meets the training
175 requirement of obtaining a blaster's license or renewal of a blaster's
176 license. The application shall include a description of the
177 qualifications of the instructor, a description of instructional materials
178 to be used in the course, and an outline of the subject matter to be
179 taught, including minimum hours of instruction on each topic. The
180 division of fire safety shall review the application regarding the
181 knowledge and experience of proposed instructors, the total hours of

182 training and the adequacy of proposed training in subject matter with
183 regard to the provisions of sections 319.300 to 319.345. If the division
184 of fire safety determines that training proposed by the applicant is
185 adequate, a letter of approval shall be issued to the applicant. The
186 letter of approval shall be effective for a period of three years. If at
187 any time the division of fire safety determines that an approved
188 training course no longer meets the standards of this section, the letter
189 of approval may be revoked with written notice. The division of fire
190 safety or any person providing a course of instruction may charge an
191 appropriate fee to recover the cost of conducting such instruction.

192 (2) To be approved by the division of fire safety, a blaster's
193 training course shall contain at least twenty hours of instruction to
194 prepare attendees for obtaining a blaster's license the first time, or
195 eight hours of instruction to prepare attendees for obtaining a license
196 renewal.

197 (3) Any person providing training in a course of instruction
198 approved by the division of fire safety shall submit a list of individuals
199 that attended any such course to the division of fire safety within ten
200 business days after completion of the course.

201 (4) The division of fire safety shall maintain a current list of
202 persons who provide approved training and shall make this list
203 available by any reasonable means to professional and trade
204 associations, labor organizations, universities, vocational schools, and
205 others upon request.

206 15. (1) The division of fire safety shall approve a standard
207 examination or examinations for the purpose of qualifying an
208 individual to obtain a blaster's license. Each individual taking the
209 examination shall pay a fee to the division of fire safety, or the
210 division's agent, that is established by rule. Testing fees shall be no
211 greater than what is required to administer the testing provisions of
212 this section and shall not exceed fifty dollars per test.

213 (2) Except as provided in subsection 11 of this section, no
214 individual shall be allowed to take an examination for purposes of
215 obtaining a blaster's license unless that individual has completed a
216 training course approved by the division of fire safety. The individual
217 must have completed an approved course of instruction as provided in
218 subdivision (1) of subsection 14 of this section no longer than two years

219 prior to taking the examination. The examination may be administered
220 by any person approved to provide a course of instruction, as provided
221 in subdivision (1) of subsection 14 of this section, at the site of
222 instruction, provided that any such examination may, at the discretion
223 of the fire marshal, be conducted under the supervision of the state fire
224 marshal or his or her designee. The division of fire safety may also
225 administer such examinations at other times and locations.

226 (3) Standards for passing the examination shall be set by the
227 division of fire safety by rule.

228 (4) The division of fire safety or its authorized agent shall
229 provide a written statement within thirty days to the individual taking
230 the examination as to whether that individual passed or failed.

231 (5) Any individual failing to pass the examination may retake the
232 examination within six months without having to complete an
233 additional approved course of instruction. If the individual fails the
234 second examination, the person must complete another course of
235 instruction as required in subdivision (1) of subsection 14 of this
236 section before taking the examination again. No limit will be placed on
237 how many times any individual may take the examination, subject to
238 the provisions of this subdivision of this subsection.

239 (6) Individuals having previously taken an approved blaster's
240 training course, and passed an approved examination, and having
241 taken an approved blaster's renewal training course, or that have
242 obtained a blaster's license as provided in subsections 12 and 13 of this
243 section are eligible for renewal of a blaster's license after meeting the
244 requirements of subsection 7 of this section. The fee for renewal of a
245 license shall be the same as the fee specified in subsection 3 of this
246 section.

247 16. No individual shall load or fire explosives or direct, order, or
248 otherwise cause any individual to load or fire explosives in this state
249 unless that individual has a valid blaster's license or is under the direct
250 supervision and responsibility of an individual having a valid blaster's
251 license. For purposes of this section, "direct supervision" means the
252 supervisor is physically present on the same job site as the individual
253 who is loading or firing explosives. An individual without a blaster's
254 license who is loading or firing explosives while under the direct
255 supervision and responsibility of someone having a blaster's license

256 shall not be in violation of sections 319.300 to 319.345.

257 17. Persons found guilty of loading or firing explosives, or
258 directing, ordering, or otherwise causing any individual to load or fire
259 explosives in this state without having a valid blaster's license, or that
260 loads and fires explosives without being under the direct supervision
261 and responsibility of an individual holding a blaster's license as
262 provided in sections 319.300 to 319.345, shall be guilty of a class B
263 misdemeanor for the first offense or a class A misdemeanor for a
264 second or subsequent offense. Any individual convicted of a class A
265 misdemeanor under the provisions of sections 319.300 to 319.345 shall
266 be permanently prohibited from obtaining a blaster's license in this
267 state.

268 18. The requirement for obtaining a blaster's license shall not
269 apply to:

270 (1) Individuals employed by universities, colleges, or trade
271 schools when the use of explosives is confined to instruction or
272 research;

273 (2) Individuals using explosive materials in the forms prescribed
274 by the official U.S. Pharmacopoeia or the National Formulary and used
275 in medicines and medicinal agents;

276 (3) Individuals conducting training or emergency operations of
277 any federal, state, or local government including all departments,
278 agencies, and divisions thereof, provided they are acting in their
279 official capacity and in the proper performance of their duties or
280 functions;

281 (4) Individuals that are members of the armed forces or any
282 military unit of Missouri or the United States who are using explosives
283 while on official training exercises or who are on active duty;

284 (5) Individuals using pyrotechnics, commonly known as
285 fireworks, including signaling devices such as flares, fuses, and
286 torpedoes;

287 (6) Individuals using small arms ammunition and components
288 thereof which are subject to the Gun Control Act of 1968, 18 U.S.C.,
289 Section 44, and regulations promulgated thereunder;

290 (7) Any individual performing duties in underground mines
291 regulated by 30 CFR Part 48, Subpart A, 30 CFR Part 57, or performing
292 duties in coal mining regulated by 30 CFR Part 75, and 30 CFR Part 77

293 of the Code of Federal Regulations, as amended, or using explosives
294 within an industrial furnace;

295 (8) Any individual having a valid blaster's license or certificate
296 issued under the provisions of any requirement of the U.S. government
297 in which the requirements for obtaining the license or certificate meet
298 or exceed the requirements of sections 319.300 to 319.345;

299 (9) Individuals using agricultural fertilizers when used for
300 agricultural or horticultural purposes;

301 (10) Individuals handling explosives while in the act of
302 transporting them from one location to another;

303 (11) Individuals assisting or training under the direct
304 supervision of a licensed blaster;

305 (12) Individuals handling explosives while engaged in the
306 process of explosives manufacturing;

307 (13) Employees, agents, or contractors of rural electric
308 cooperatives organized or operating under chapter 394, RSMo; and

309 (14) Individuals discharging historic firearms and cannon or
310 reproductions of historic firearms and cannon.

311 19. The division of fire safety shall promulgate rules under this
312 section to become effective no later than July 1, 2008. Any individual
313 loading or firing explosives after the effective date of such rule shall
314 obtain a license within one-hundred eighty days of the effective date of
315 such rule. Any experience or training prior to the effective date of
316 such rule that meets the standards established by the rule shall be
317 deemed to comply with this section.

319.309. 1. Any person using explosives in the state of Missouri
2 shall calculate the scaled distance to the nearest uncontrolled
3 structure. If more than one uncontrolled structure is the same
4 approximate distance from the blast site, then the person using
5 explosives may select one representative structure for calculation of
6 scaled distance.

7 2. For the purposes of this section, the term "uncontrolled
8 structure" shall not apply to the following:

9 (1) Buildings in a state of disrepair or neglect which are not
10 being used as a permanent residence;

11 (2) Noncommercial storage sheds;

12 (3) Temporary structures;

13 **(4) Any unoccupied mobile recreational vehicle, trailer, or**
14 **camper;**

15 **(5) Agricultural barns, storage sheds, and animal shelters;**

16 **(6) Any building on mine property that is owned by the mine**
17 **operator or contained on property leased by the mine operator.**

18 **3. In any instance when the scaled distance value is fifty-five or**
19 **less, any person using explosives, except as provided in section 319.321,**
20 **shall use at least one seismograph calibrated to the manufacturer's**
21 **standard for use to record the ground vibration and acoustic levels that**
22 **occur from the use of such explosives or explosive materials. When**
23 **measuring ground vibration and acoustic levels, the seismograph shall**
24 **be placed in the proximity of the nearest uncontrolled structure or, at**
25 **the option of the person using explosives, closer to the blast site. If**
26 **more than one uncontrolled structure is the same approximate distance**
27 **from the blast site, then the person using explosives may select one**
28 **representative structure for placement of the seismograph.**

29 **4. Any person using explosives who is voluntarily using a**
30 **seismograph calibrated to the manufacturer's standard for use for all**
31 **blasting is exempt from the requirements of this section.**

319.312. 1. (1) Any person using explosives in the state of
2 **Missouri in which monitoring with a seismograph is required, as**
3 **provided in section 319.309, shall comply with ground vibration limits**
4 **based on the U.S. Bureau of Mines Report of Investigations 8507,**
5 **Appendix B.**

6 **(2) In lieu of the ground vibration limit established in**
7 **subdivision (1) of this subsection, the person using explosives may**
8 **submit a written request to the division of fire safety to use an**
9 **alternate compliance method. Such written request must be supported**
10 **by sufficient technical information, which may include but not be**
11 **limited to, documented approval of such method by other federal, state,**
12 **or local political subdivisions which regulate the use of**
13 **explosives. Upon submittal by the person using explosives of a request**
14 **to use an alternate compliance method, the state blasting safety board**
15 **shall issue a written determination as to whether the technical**
16 **information submitted provides sufficient justification for the alternate**
17 **method to be used as a method of demonstrating compliance with the**
18 **provisions of this section.**

19 **2. Any person using explosives in the state of Missouri in which**
20 **monitoring with a seismograph is required, as provided in section**
21 **319.309, shall limit acoustic values from blasting to one hundred thirty-**
22 **three decibels using a two hertz flat response measuring system based**
23 **on the Office of Surface Mining regulation 816.67(b)(1)(I).**

319.315. 1. Seismograph recordings of the ground vibration and
2 **acoustic levels created by the use of explosives, when required by**
3 **section 319.309, shall be retained for at least three years. Such**
4 **recordings shall be made available to the division of fire safety within**
5 **twenty-four hours of a request by any representative of the division of**
6 **fire safety. Each seismograph recording and the accompanying records**
7 **shall include the:**

8 **(1) Maximum ground vibration and acoustics levels recorded;**

9 **(2) Specific location of the seismograph equipment, its distance**
10 **from the detonation of the explosives, the date of the recording, and the**
11 **time of the recording;**

12 **(3) Name of the individual responsible for operation of the**
13 **seismograph equipment and performing an analysis of each recording;**
14 **and**

15 **(4) Type of seismograph instrument, its sensitivity and**
16 **calibration signal or certification date of the last calibration.**

17 **2. When seismograph recordings of the use of explosives are**
18 **required by section 319.309, a record of each such use of explosives**
19 **shall be made and retained for at least three years. The record shall be**
20 **completed by the end of the business day following the day in which**
21 **the explosives were detonated. Such records shall be made available**
22 **to the division of fire safety, upon request, within twenty-four hours of**
23 **the request. Each record shall include the:**

24 **(1) Name of the person using the explosives;**

25 **(2) Location, date, and time of the detonation;**

26 **(3) Name of the licensed blaster responsible for use of the**
27 **explosives;**

28 **(4) Type of material blasted;**

29 **(5) Number of bore holes, burden, and spacing;**

30 **(6) Diameter and depth of bore holes;**

31 **(7) Type of explosives used;**

32 **(8) Weight of explosives used per bore hole and total weight of**

33 **explosives used;**

34 **(9) Maximum weight of explosives detonated within any eight**
35 **millisecond period;**

36 **(10) Maximum number of bore holes or decks detonated within**
37 **any eight millisecond period;**

38 **(11) Initiation system, including number of circuits and the timer**
39 **interval, if a sequential timer is used;**

40 **(12) Type and length of stemming;**

41 **(13) Type of detonator and delay periods used, in milliseconds;**

42 **(14) Sketch of delay pattern, including decking;**

43 **(15) Distance and scaled distance, if required under the**
44 **provisions of 319.309, to the nearest uncontrolled structure;**

45 **(16) Location of the nearest uncontrolled structure, using the**
46 **best available information.**

47 **3. It shall be the duty of each licensed blaster and each person**
48 **using explosives to assure that the requirements of this section are**
49 **met. Any person using explosives shall provide properly calibrated**
50 **seismographic equipment at the closest practical proximity to the**
51 **nearest uncontrolled structure, or at the option of the person using**
52 **explosives the seismograph equipment may be located nearer to the**
53 **blast site on an approximate line between the nearest uncontrolled**
54 **structure and the blast site. Licensed blasters shall create the record**
55 **required in subsection 2 of this section and provide such record to the**
56 **person using explosives, who shall be responsible for maintaining**
57 **records required in this section.**

319.318. 1. Any person using explosives shall comply with the
2 **provisions of this section.**

3 **2. Provisions of federal law and regulation regarding the**
4 **manufacturing, transportation, distribution, and storage of explosives**
5 **shall be enforced by the appropriate federal agency and shall not be**
6 **subject to enforcement under sections 319.300 to 319.345.**

7 **3. Within sixty days after the effective date of sections 319.300 to**
8 **319.345, each person using explosives or intending to use explosives in**
9 **Missouri shall register with the state fire marshal. Any person using**
10 **explosives who is not required to register on the effective date, who**
11 **subsequently uses explosives in Missouri, shall register with the state**
12 **fire marshal prior to first using explosives in Missouri. The initial**

13 registration shall state the name of the person, address, telephone
14 number, facsimile number, e-mail address, and name of the principal
15 individual having responsibility for supervision of the use of
16 explosives. A fee of one hundred dollars shall be submitted with the
17 initial registration.

18 4. Each person using explosives that is required to register
19 under subsection 3 of this section shall by January thirty-first of each
20 year after registering, file an annual report with the state fire marshal
21 for the preceding calendar year.

22 (1) The initial annual report shall only include that portion of
23 the preceding calendar year after the date the person became subject
24 to the requirement to register under subsection 3 of this section.

25 (2) The report shall include:

26 (a) Any change or addition to the information required in
27 subsection 3 of this section;

28 (b) The name and address of the distributors from which
29 explosives were purchased;

30 (c) The total number of pounds of explosives purchased for use
31 in Missouri and the total number of pounds actually used in Missouri
32 during the period covered by the report. Persons required to report
33 annually shall maintain records sufficient to prove the accuracy of the
34 information reported.

35 (3) The person using explosives shall submit with the annual
36 report a fee per ton, as established under this section, based on the
37 amount of explosives used in Missouri. If the report of total pounds
38 used results in a portion of a ton, the cumulative total of the fee shall
39 be rounded to the nearest ton. The fee shall be five hundred dollars
40 plus one dollar and fifteen cents per ton of explosives used. The fee per
41 ton authorized under this subdivision may be adjusted by rule provided
42 the fee shall not exceed one dollar and fifty cents per ton. The state
43 blasting safety board shall review the fee schedule on a biennial basis
44 and make recommendations for adjustments.

45 5. (1) The state fire marshal may audit the records of any person
46 using explosives required to report annually under subsection 4 of this
47 section to determine the accuracy of the number of pounds of
48 explosives reported. In connection with such audit, the state fire
49 marshal may also require any distributor of explosives to provide a

50 statement of sales during the year to persons required to report under
51 subsection 4 of this section.

52 (2) It shall be a violation of sections 319.300 to 319.345 to fail to
53 register as required by subsection 3 of this section or knowingly report
54 false information in the reports required under subsections 3 and 4 of
55 this section. The state fire marshal may issue a notice of violation for
56 reporting false information. The notice of violation shall be subject to
57 the same procedures and rights of appeal as established in sections
58 319.324, 319.327, and 319.333. Upon conviction for knowingly filing a
59 false report, the person using explosives shall be subject to a penalty
60 as a class B misdemeanor. Conviction upon a second or subsequent
61 offense shall be subject to a penalty as a class A misdemeanor.

62 6. It shall be a violation of sections 319.300 to 319.345 for any
63 person using explosives to:

64 (1) Engage in blasting other than by a licensed blaster or an
65 individual working under the direct supervision of a licensed blaster;

66 (2) Fail to calculate the scaled distance, conduct monitoring of
67 vibration and noise levels, and conduct record keeping as required by
68 sections 319.300 to 319.345;

69 (3) Fail to carry a minimum of one million dollars in commercial
70 general liability insurance.

71 7. A violation of subsection 6 of this section shall be a class B
72 misdemeanor for the first offense, and a class A misdemeanor for a
73 second or subsequent offense.

319.321. Sections 319.309, 319.312, 319.315, and 319.318 shall not
2 apply to:

3 (1) Universities, colleges, or trade schools when confined to the
4 purpose of instruction or research;

5 (2) The use of explosive materials in the forms prescribed by the
6 official U.S. Pharmacopoeia or the National Formulary and used in
7 medicines and medicinal agents;

8 (3) The training or emergency operations of any federal, state,
9 or local government including all departments, agencies, and divisions
10 thereof, provided they are acting in their official capacity and in the
11 proper performance of their duties or functions;

12 (4) The use of explosives by the military or any agency of the
13 United States;

14 (5) The use of pyrotechnics, commonly known as fireworks,
15 including signaling devices such as flares, fuses, and torpedoes;

16 (6) The use of small arms ammunition and components thereof
17 which are subject to the Gun Control Act of 1968, 18 U.S.C., Section 44,
18 and regulations promulgated thereunder. Any small arms ammunition
19 and components thereof exempted by the Gun Control Act of 1968 and
20 regulations promulgated thereunder are also exempted from the
21 provisions of sections 319.300 to 319.345;

22 (7) Any person performing duties in underground mines
23 regulated by 30 CFR Part 48, Subpart A, 30 CFR Part 57, or performing
24 duties in coal mining regulated by 30 CFR Part 75, and 30 CFR Part 77
25 of the Code of Federal Regulations, as amended, or using explosives
26 within an industrial furnace;

27 (8) The use of agricultural fertilizers when used for agricultural
28 or horticultural purposes;

29 (9) The use of explosives for demolition of structures;

30 (10) The use of explosives by employees, agents, or contractors
31 of rural electric cooperatives organized or operating under chapter 394,
32 RSMo, and;

33 (11) Individuals discharging historic firearms and cannon or
34 reproductions of historic firearms and cannon.

319.324. 1. The state blasting safety board is hereby created and
2 assigned to the division of fire safety under the state fire
3 marshal. There shall be seven members of this board, as appointed by
4 the governor, with the advice and consent of the senate, to be
5 comprised of:

6 (1) One representative of a municipality who serves in the
7 capacity of director of public works or a similar position;

8 (2) One representative of a person using explosives that is
9 engaged in surface mining that is subject to the requirements of section
10 319.300 to 319.345;

11 (3) One representative of a person using explosives that is
12 engaged in construction;

13 (4) One person who is in the business of providing contract blast
14 monitoring services;

15 (5) Two persons who manufacture or distribute explosives; and

16 (6) The state fire marshal or his or her designee.

17 2. Each board member shall serve for a term of six years, except
18 for the members initially appointed one term shall be for one year, one
19 term shall be for two years, one term shall be for three years, one term
20 shall be for four years, one term shall be for five years, and one term
21 shall be for six years. Members appointed and serving shall serve until
22 their successor is named and shall be eligible for reappointment. The
23 state fire marshal or his or her designee shall be a standing member of
24 the board and shall have the power to vote.

25 3. Members of the board shall serve without compensation but
26 may be reimbursed by the division of fire safety for reasonable and
27 necessary expenses. Meetings of the board shall be held in facilities
28 arranged by the division of fire safety. Hearings of the board may be
29 held at a location in Missouri agreed upon by the state fire marshal and
30 the chairman of the board. Upon agreement by the licensee, the state
31 fire marshal, and the chairman of the state blasting safety board,
32 hearings may be conducted by conference call.

33 4. The board shall annually by January thirty-first elect a
34 chairman from one of the members other than the state fire marshal or
35 his or her designee. The chairman shall be elected by majority vote of
36 the board and shall preside over all meetings and hearings and perform
37 any specific duties set out in sections 319.300 to 319.345.

38 5. The state fire marshal or his or her designee shall perform the
39 duties of secretary of the board.

40 6. The board shall meet as needed at the call of the chairman or
41 upon written notice by the state fire marshal. The board shall meet at
42 least once each calendar year.

43 7. It shall be the duty of the board to:

44 (1) Advise the state fire marshal in the development of
45 application and registration forms, training and examinations, and
46 setting fees for the filing of required applications, registrations, and
47 reports;

48 (2) Approve or disapprove any examination for licensing of
49 blasters;

50 (3) Hold hearings and make decisions by majority vote upon
51 appeals under section 319.306 and upon notices of violation under
52 section 319.333;

53 (4) Approve or disapprove any rule proposed by the division of

54 fire safety for the administration of sections 319.300 to 319.345;

55 (5) Advise or assist the division of fire safety in any other matter
56 regarding administration or enforcement, within the scope and
57 requirements of sections 319.300 to 319.345.

58 8. For any matter upon which a hearing is held under
59 subdivision (3) of subsection 7 of this section, any referral of a notice
60 of violation or request for criminal or civil enforcement action or
61 injunctive relief shall be made by the state fire marshal to the attorney
62 general or a prosecuting attorney, only upon a majority vote by the
63 board.

319.327. 1. It shall be the duty of the division of fire safety to:

2 (1) Develop and distribute all forms, certificates, and printed
3 material necessary for carrying out duties relating to applications,
4 registrations, training, testing, and licensing required by sections
5 319.300 to 319.345;

6 (2) Publish, distribute, and administer an examination that tests
7 the knowledge of applicants for a blaster's license in the safe and
8 proper use of explosives. The examination may be given to applicants
9 by representatives of the division of fire safety, by persons approved
10 by the division of fire safety to provide training under section 319.306,
11 or by other persons designated by the division of fire safety;

12 (3) Upon approval by majority vote of the state blasting safety
13 board, promulgate any rule necessary for carrying out the purposes of
14 sections 319.300 to 319.345. No rule promulgated by the state fire
15 marshal shall duplicate, amend, supersede, or conflict with the
16 provisions of any statute, regulation, or policy established by:

17 (a) The U.S. Department of Justice, Bureau of Alcohol, Tobacco,
18 Firearms and Explosives;

19 (b) 18 U.S.C., Chapter 40, Importation, Manufacturing,
20 Distribution and Storage of Explosive Materials;

21 (c) The U.S. Department of Transportation;

22 (d) The federal Mine Safety and Health Administration; or

23 (e) The federal Occupational Safety and Health Administration;

24 (4) Investigate possible violations of sections 319.300 to 319.345
25 upon the complaint of any citizen that believes explosives are being
26 used in such a way to endanger the public's safety or property, or upon
27 any cause for the state fire marshal to believe that a violation is

28 occurring. To conduct such investigations, the state fire marshal shall
29 assign adequately trained personnel within the division of fire safety
30 to inspect blasting sites, examine records and seismograph recordings,
31 inspect blaster's licenses, inspect registration and reporting records
32 required by section 319.315, or determine if any other provision of
33 sections 319.300 to 319.345 has been violated. Such inspectors shall be
34 employees of the division of fire safety and may act on a full-time or
35 part-time basis. Any such inspector shall meet the requirements of
36 section 319.306 for being licensed as a blaster in the state of Missouri;

37 (5) Receive and provide information and assistance, in
38 cooperation with local governments, federal agencies, and agencies of
39 other states, in administration and enforcement of sections 319.300 to
40 319.345 and similar laws, regulations, and requirements in other
41 jurisdictions.

42 2. The division of fire safety may enforce any provision of
43 sections 319.300 to 319.345 by referral of violations to the attorney
44 general or a prosecuting attorney and may seek criminal penalties and
45 may seek injunctive relief. For any matter upon which a hearing is
46 held under subdivision (3) of subsection 7 of section 319.324, any
47 referral of a notice of violation or request for criminal or civil
48 enforcement action or injunctive relief shall be made by the state fire
49 marshal to the attorney general or a prosecuting attorney, only upon
50 a majority vote by the board.

319.330. There is hereby created in the state treasury the
2 "Missouri Explosives Safety Act Administration Fund", which shall
3 consist of all fees collected under sections 319.300 to 319.345,
4 appropriations of the general assembly, federal grants, and private
5 donations. The state treasurer shall be custodian of the fund. In
6 accordance with sections 30.170 and 30.180, RSMo, the state treasurer
7 may approve disbursements. Upon appropriation, money in the fund
8 shall be used solely for the administration of sections 319.300 to
9 319.345. Notwithstanding the provisions of section 33.080, RSMo, to the
10 contrary, any moneys remaining in the fund at the end of the biennium
11 shall not revert to the credit of the general revenue fund. The state
12 treasurer shall invest moneys in the fund in the same manner as other
13 funds are invested. Any interest and moneys earned on such
14 investments shall be credited to the fund. The state fire marshal shall

15 submit a report to the state blasting safety board and the public each
16 year that describes the revenue created by fees established under the
17 provisions of sections 319.300 to 319.345 and how the revenue was
18 expended to enforce the provisions of sections 319.300 to 319.345,
19 including the number of employees used and activities performed.

319.333. Any individual or person using explosives who the state
2 fire marshal or his or her representative determines, upon substantial
3 evidence, to be in violation of sections 319.300 to 319.345 may be issued
4 a notice of violation by the division of fire safety. Any hearings
5 regarding suspension or revocation of a blaster's license shall be
6 conducted under the provisions of subsection 10 of section 319.306,
7 rather than the provisions of this section. The notice of violation shall
8 be in writing and shall state the section or sections violated and the
9 circumstance of the violation, including date, place, person involved,
10 and the act or omission constituting the violation. The notice shall also
11 inform the person receiving the notice of the right to request a hearing
12 before the state blasting safety board. The recipient may request a
13 hearing within forty-five days of the date the notice was received. If
14 a hearing is requested, the state fire marshal shall immediately inform
15 the chairman of the board. The person receiving the notice, the state
16 fire marshal, and the chairman of the board shall establish a mutually
17 acceptable date and place for the hearing, which in no case shall be
18 more than thirty days after the hearing was requested. The hearing
19 shall be conducted as an uncontested case, although the person or the
20 state fire marshal may be represented by an attorney. Within fifteen
21 days of such hearing, the board shall notify the person of its decision
22 on the appeal, which may include upholding, modifying, or
23 disapproving the notice of violation. The board's action upon the
24 appeal shall be decided by majority vote. If the notice of violation is
25 upheld by the board, in whole or part, upon a separate majority vote of
26 the board, the person may be referred for enforcement action as
27 provided in section 319.327.

319.336. Any individual aggrieved by any official action of the
2 state blasting safety board or the division of fire safety affecting their
3 license status, including revocation, suspension, failure to renew, or
4 refusal to grant a license may seek a determination thereon by the
5 administrative hearing commission under the provisions of section

6 621.045, RSMo.

319.339. 1. Any person using explosives within Missouri shall
2 notify the division of fire safety in writing or by telephone at least two
3 business days in advance of first using explosives at a site where
4 blasting has not been previously conducted. If blasting will be
5 conducted at an ongoing project, such as a long term construction
6 project, or at a permanent site, such as a surface mine, the person shall
7 only be required to make one notice to the division of fire safety in
8 advance of the first use of explosives.

9 2. The notice required by this section shall state the name,
10 address, and telephone number of the person using explosives, the
11 name of the individual responsible for supervision of blasting, the date
12 or approximate period over which blasting will be conducted, the
13 location of blasting by street address, route, or other description, and
14 the nature of the project or reason for blasting.

15 3. This section shall not apply to any blasting required by a
16 contract with any agency of the state of Missouri, any federal agency,
17 or any political subdivision.

319.342. 1. Any person using explosives which will conduct
2 blasting within the jurisdiction of a municipality shall notify the
3 appropriate representative of the municipality in writing or by
4 telephone at least two business days in advance of blasting at that
5 location. An appropriate representative shall be deemed to be the city's
6 public works department, code enforcement official, or an official at
7 the main office maintained by the municipality. In any area where
8 blasting will be conducted, whether in a municipality or in an
9 unincorporated area, the person using explosives also shall notify the
10 appropriate fire protection official for the jurisdiction where blasting
11 will occur, which may be a city fire department, fire protection district,
12 or volunteer fire protection association. The notice required by this
13 section shall state the name, address, and telephone number of the
14 person using explosives, the name of the individual responsible for
15 supervision of blasting, the date or approximate period over which
16 blasting will be conducted, the location of blasting by street address,
17 route, or other description, and the nature of the project or reason for
18 blasting. If blasting will be conducted at an ongoing project, such as
19 a long term construction project, or at a permanent site, such as a

20 surface mine, the person shall only be required to make one notice to
21 the municipality or appropriate fire protection official in advance of
22 the first use of explosives. Any such ongoing projects or permanent
23 sites in existence at the time of the effective date of sections 319.300 to
24 319.345 shall not be required to provide notice as described in this
25 subsection.

26 2. Any person using explosives which will conduct blasting
27 within the jurisdiction of a municipality shall notify the owner or
28 occupant of any residence or business located within a scaled distance
29 of fifty-five feet from the site of blasting prior to the start of blasting
30 at any new location. One notification by mail, telephone, printed
31 notification posted prominently on the premises or the property of the
32 owner or occupant of the residence or business, or delivered in person
33 to any such owner or occupant meets the requirements of this
34 subsection. A municipality may provide the name, last known address,
35 and telephone number of the owners or occupants of any residence or
36 business that may be located within the scaled distance of fifty-five feet
37 from the site of blasting to the person using explosives upon request.

38 3. Any municipality or county may by ordinance:

39 (1) Require that a permit be obtained in addition to the notice
40 required by subsection 1 of this section, with such application for
41 permit being due no more than ten days prior to the first use of
42 explosives;

43 (2) Require that the application for the permit contain specific
44 information about the type of explosives to be used and their storage
45 location at the site where used;

46 (3) Require the applicant to demonstrate an acceptable plan for
47 signage or other means of informing the public of blasting in proximity
48 to public streets or highways and any request for temporary closing of
49 streets or routing of traffic;

50 (4) Specify the times of days blasting may be conducted, which
51 shall not be less than eight consecutive hours, and provide that blasting
52 may not be conducted on Sunday except upon application of the person
53 using explosives and approval by the municipality;

54 (5) Require that the applicant submit proof that the person using
55 explosives is registered with the division of fire safety and that blasting
56 will be conducted by a licensed blaster;

57 **(6) Require that the applicant submit proof of commercial**
58 **general liability insurance in an acceptable amount, which shall be no**
59 **less than one million dollars and no more than five million dollars;**

60 **(7) Require that the applicant conduct a pre-blast survey of any**
61 **uncontrolled structures within a scaled distance of fifty-five feet from**
62 **the blast site.**

63 **4. A permit for blasting under a municipal ordinance authorized**
64 **by subsection 3 of this section shall be granted by the municipality**
65 **upon satisfying the requirements of the ordinance and upon the**
66 **applicant's payment of a reasonable fee to cover the administration of**
67 **the permit system.**

68 **5. Any authorized representative of a municipality, county or an**
69 **appropriate fire protection official may:**

70 **(1) Require any person using explosives to show proof that he or**
71 **she is registered with the division of fire safety and blasting is being**
72 **conducted by an individual that is licensed under the provisions of**
73 **section 319.306;**

74 **(2) Request and be allowed access to the site of blasting by the**
75 **person using explosives and shall be allowed to observe blasting from**
76 **a safe location as designated by the blaster;**

77 **(3) Examine records of blasting required to be maintained by**
78 **sections 319.309 and 319.315. However, no municipality or fire**
79 **protection official shall require a person using explosives or a blaster**
80 **to surrender such records or a copy of such records to the municipality**
81 **or fire protection official;**

82 **(4) Report suspected violations of section 319.300 to 319.345 to**
83 **the division of fire safety.**

84 **6. Subsections 1, 2, 3, and 4 of this section shall not apply to any**
85 **blasting required by a construction contract with any agency of the**
86 **state of Missouri, any federal agency, or any political subdivision.**

87 **7. The state of Missouri hereby preempts existing regulation,**
88 **licensing, and inspection of persons using explosives, blasters, and**
89 **blasting by local governments, except as authorized in this section. It**
90 **shall be unlawful for any local government to impose any future**
91 **ordinance, order, permit or regulation upon persons using explosives**
92 **or blasters which duplicates, exceeds or conflicts with the requirements**
93 **of sections 319.300 to 319.345, unless such ordinance, order, permit, or**

94 regulation, in effect as of January 1, 2007, shall exclusively regulate the
95 use of explosives at the site of a quarry in any county with a charter
96 form of government and with more than two hundred fifty thousand but
97 fewer than three hundred fifty thousand inhabitants. For purposes of
98 this section, the term "quarry" shall include any place where rock, ore,
99 stone, or similar materials are excavated for sale or off-premise use. A
100 quarry shall not include the removal or relocation of rock, stone, or
101 earth incidental to the construction of residential, commercial, or
102 industrial buildings. Nothing in this section shall preempt the rights
103 and remedies afforded by the general assembly or common law to
104 persons damaged by blasting.

319.345. Any rule or portion of a rule, as that term is defined in
2 section 536.010, RSMo, that is created under the authority delegated in
3 sections 319.300 to 319.345, shall become effective only if it complies
4 with and is subject to all of the provisions of chapter 536, RSMo, and,
5 if applicable, section 536.028, RSMo. This section and chapter 536,
6 RSMo, are nonseverable and if any of the powers vested with the
7 general assembly pursuant to chapter 536, RSMo, to review, to delay
8 the effective date, or to disapprove or annul a rule are subsequently
9 held unconstitutional, then the grant of rulemaking authority and any
10 rule proposed or adopted after August 28, 2007, shall be invalid and
11 void.

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