

LRS 40:1472

PART V-A. REGULATION OF EXPLOSIVES

§1472.1. Construction of Part

A. The provisions of this Part are cumulative and shall not be construed as repealing or affecting any powers, duties, or authorities of the deputy secretary for public safety services of the Department of Public Safety and Corrections under any other law of this state; provided that with respect to the regulations of explosives as herein provided, in instances where the provisions of this Part may conflict with any other such law, the provisions of this Part control.

B. The provisions of this Part and regulations promulgated by the deputy secretary do not apply to the lawful purchase by a non-licensee or non-permittee twenty-one years of age or older of commercially manufactured black powder in quantities not to exceed five pounds, or quantities not to exceed twenty-five pounds if purchased by a member of a bona fide artillery unit of historical reenactors, if the black powder is intended to be used solely for sporting, recreational, or cultural purposes in antique firearms as defined in 18 U.S.C. 921(a)(16) or in antique devices as exempted from the term "destructive device" in 18 U.S.C. 921(a)(4).

Acts 1995, No. 1139, §1; Acts 1999, No. 1202, §1; Acts 2009, No. 391, §1.

§1472.2. Definitions

The following words used in this Part shall have the meanings respectively ascribed to them in this Section, including singular as follows:

(1) "Approved" shall mean approved by the office of the deputy secretary for public safety services of the Department of Public Safety and Corrections.

(2) "Artificial barricade" shall mean an artificial mound or revetted wall of earth of a minimum thickness of three feet.

(3) "Barricaded" shall mean that building containing explosives is effectively screened from a magazine, building, railway, or highway, either by a natural barricade or by an artificial barricade of such height that a straight line from the top of any sidewall of the building containing explosives to the eave line of any magazine or building, or to a point twelve feet above the center of a railway or highway, will pass through such intervening natural or artificial barricade.

(4) "Blaster" shall mean a person employed by a primary licensee who detonates or otherwise effects the explosion of an explosive or who is in immediate personal charge and supervision of one or more other persons engaged in such activity.

(5) "Combustible" means any material with a flash point above 140° F and less than 200° F.

(6) "Dealer-distributor" means a person engaged in the wholesale or retail business of buying and selling or distribution of explosives, provided that should a manufacturer make sales to users, such manufacturer shall not be required to obtain an additional license as a dealer.

(6.1) "Deputy secretary" means the deputy secretary for public safety services of the Department of Public Safety and Corrections.

(7) "Explosives" means any chemical compound, mixture, or device, the primary or common purpose of which is to function by explosion. The term includes but is not limited to dynamite and other high explosives, black powder in quantities in excess of five pounds, pellet powder, initiating explosives, detonators, safety fuses, squibs, detonating cord, igniter cord, and igniters. The term "explosives" further includes but is not limited to the following:

(a) "Binary" (phosphoric) means two or more unmixed, commercially manufactured prepackaged chemical substances including oxidizers, flammable liquids or solids, or similar substances that are not independently classified as explosives but which when mixed or combined form a mixture that is classified as an explosive and that is intended for blasting.

(b) "Blasting agent" means any material or mixture, consisting of fuel and oxidizer, intended for blasting, not otherwise defined as an explosive; provided, that the finished product, as mixed for use or shipment, cannot be detonated by means of a number eight test blasting cap when unconfined.

(c) "Detonator" means any device containing an initiating or primary explosive that is used for initiating detonation in another explosive material. A detonator may not contain more than ten grams of total explosives by weight, excluding ignition or delay charges. The term includes but is not limited to electric blasting caps of instantaneous and delay types, blasting caps for use with safety fuses, detonating cord delay connectors, and nonelectric instantaneous and delay blasting caps which use detonating cord, shock tube, or any other replacement for electric leg wires.

(d) The term "explosive" shall not include smokeless powder when used in sporting arms.

(8) "Factory building" shall mean any building or other structure, except magazines, containing explosives in which the manufacture of explosives or any processing involving explosives is carried on, and any building where explosives are used as a component part or ingredient in the manufacture of any article or device. The definition does not include private residences or shop buildings where the handloading of small arms ammunition is being carried on.

(9) "Flammable" means any material with a flash point of 140° F or less.

(9.1) "Handler" shall mean a person who touches, moves, or otherwise handles explosives but does not detonate or otherwise effect the explosion of explosives or explosives materials. The license issued to a handler shall not be used by a blaster or user who uses explosives as an ultimate consumer.

(10) "Highway" shall mean any public street or public road, public highway, alley, or thoroughfare. Public highways of Class A to D as applied to the American Table of Distances for Storage of Explosives are highways with an average traffic volume of three thousand or less vehicles per day as specified in American Civil Engineering Practice (Abbett, Vol. 1, Table 46, Section 3-74, 1956 Edition, John Wiley and Sons).

(11) "Inhabited building" shall mean any building or structure regularly used in whole or part as a place of human habitation, also any church, school, store, railway passenger station, airport terminal for passengers, and any other building or structure where people are accustomed to congregate or assemble, but excluding buildings or structures occupied in connection with the manufacture, transportation, storage, and use of explosives.

(12) "Local office" as applies to a user, means a structure, place of rental, such as an apartment or motel, or a movable such as a barge, ship, or vehicle, in the vicinity of the storage container.

(13) "Magazine" shall mean any building, structure, or device used for temporary or permanent storage of explosives. There shall be five types of magazines built and/or constructed in accordance with the rules and regulations promulgated pursuant to this Part. This definition does not apply to the storage of explosives in underground mining operations.

(14) "Manufacturer" means a person engaged in the manufacture, compounding, or combining of explosives.

(15) "Natural barricade" shall mean natural features of the ground such as hills, or timber of sufficient density that the surrounding exposures which require protection cannot be seen when the trees are bare of leaves.

(16) "Offshore" shall apply to any work performed at locations accessible only by air or water when the work location is totally surrounded by water and explosives are secured and attended.

(17) "Oxidizer" means a material that may, generally by yielding oxygen, cause or enhance the combustion of other materials.

(18) "Person" means any individual, corporation, company, association, firm, partnership, society, or joint stock company.

(19) "Primary licensee" is the responsible party holding a valid manufacturer, dealer-distributor, or user license.

(20) "Purchase" and its various forms as used shall include acquisition of any explosive by a person with or without consideration.

(21) "Railroad" shall mean any steam, electric, diesel electric, or other railroad or railway which carries passengers for hire.

(22) "Sale" and its various forms as used shall include delivery of an explosive with or without consideration.

(23) "Secured area" means any location that is either locked or under the immediate control of a licensee.

(24) "Temporary" shall mean no more than forty-eight hours.

(25) "Unauthorized persons" means those persons not employed by the licensed company or authorized by the licensed manufacturer, dealer-distributor, or user.

(26) "User" means a person who, as an ultimate consumer of an explosive, purchases the same from a dealer-distributor or manufacturer or means a dealer or manufacturer who uses an explosive as an ultimate consumer.

(27) "Vessel" means any description of watercraft used or capable of being used as a means of transportation on water.

Acts 1995, No. 1139, §1; Acts 1999, No. 1202, §1; Acts 2008, No. 898, §1; Acts 2009, No. 391, §1.

§1472.3. License; manufacturer, dealer-distributor, user, blaster, or handler of explosives

A.(1) It shall be unlawful for any person or business to acquire, sell, possess, store, engage in the use of, or otherwise handle explosives in this state, except in conformity with the provisions of this Part. Each manufacturer, dealer-distributor, user, blaster, or handler, as such words are defined in R.S. 40:1472.2, shall possess a valid and subsisting license issued by the deputy secretary. An applicant employed by a licensed manufacturer, shall be permitted to work and to perform duties that would otherwise require a license pursuant to this Part provided the following conditions are all met:

(a) The applicant has submitted a complete application for a handler license.

(b) The applicant has successfully completed the required training.

(c) The applicant has been drug screened and found free of controlled dangerous substances.

(d) The applicant is found to meet the suitability requirements for licensing as provided for in this Chapter.

(e) When the conditions in Subparagraphs (a), (b), and (c) of this Paragraph have been fulfilled and the department has preliminarily determined the applicant to be suitable for licensing, the department shall, within five days from receipt of application unless exigent circumstances dictate otherwise, inform the applicant as to his provisional status to begin work.

(f) During the period as provided for in Subparagraph (e) of this Paragraph a currently licensed manufacturer shall be responsible to ensure the applicant performs all activities regulated by this Chapter under their direct supervision or the supervision of a licensed designee in their employ. Such licensee shall direct, coordinate and control all activities of the applicant at all times while at work and shall not permit the applicant to work independently with explosives until fully licensed by the Department of Public Safety and Corrections.

(2) Any person who is solely engaged in the initiation of fireworks for public display and holds a valid pyrotechnic operator license or a pyrotechnic special effects operator license issued by the state fire marshal in accordance with R.S. 51:650 et seq. shall not be required to obtain a blaster's license issued pursuant to this Part.

(3) License holders shall be required to receive additional training as prescribed by the deputy secretary who shall approve all courses of instruction and all instructors of such courses in accordance with regulations adopted pursuant to this Part.

B. Each manufacturer, dealer-distributor, and user maintaining a Type 1, Type 2, Type 4, or Type 5 storage magazine as defined by regulations promulgated pursuant to this Part shall possess an additional license, as herein set forth, for each magazine. Type 3 portable magazines or "day boxes" used for taking detonators and other explosives from storage magazines to the blasting area are exempt from the licensing and location reporting requirements of this Subsection. The department shall assign to each magazine licensed pursuant to this Part a license number which shall be posted on the magazine in a manner prescribed by the department.

The exact location of such magazines shall be reported to the deputy secretary in the application for such license. Any change in such magazine locations shall be reported to the Department of Public Safety and Corrections, explosives control unit, in advance of the actual change in a manner prescribed by the department. Written notice of such location change shall be filed with the Department of Public Safety and Corrections, explosives control unit and the deputy secretary, not later than seven calendar days after such change is effected.

C.(1) Licenses shall be required for the following and the fees therefore are as follows:

	1 yr.	2yr.	3yr.	4 yr.
(a) Manufacturer	\$200	\$400	\$550	\$700
(b) Dealer-distributor	\$200	\$400	\$550	\$700
(c) User	\$100	\$200	\$250	\$300
(d) Magazine	\$50	\$100	\$150	\$200
(e) Blaster	\$50	\$100	\$150	\$200
(f) Handler	\$50	\$100	\$125	\$150

(2) License holders may renew their licenses ninety days prior to expiration. The department shall notify license holders of the expiration of their licenses at least sixty days prior to expiration.

(3) The nonrefundable fees in Paragraph (1) of this Subsection shall be submitted with the license application but shall not apply to Type 3 Magazines.

D. Such licenses shall be issued by the deputy secretary for a period not to exceed four years from the date of issuance. The department may issue blaster and handler licenses to qualified individuals who seek such a license and who are not, at the time of application, employed by a licensed manufacturer, dealer-distributor, or user.

E.(1) The forms of such licenses and applications shall be prescribed by the deputy secretary and shall require a photo of the applicant as well as such other information and data as the deputy secretary deems appropriate.

(2) To qualify for a license, an applicant shall:

(a) Make sworn application to the department. The providing of false or misleading information in the application or any documents submitted with the application shall be grounds for the denial or revocation of a license and shall subject the applicant to criminal prosecution.

Any license holder under this Section shall notify the department of any name or address change within thirty days of the change. Failure to timely notify the department of a name or address change may result in suspension of the license for up to thirty days.

(b) Agree in writing to hold harmless and indemnify the department, the state, or any peace officer for any and all liability arising out of the issuance or use of a license issued pursuant to this Part.

(c) Be twenty-one years of age or older.

(d) Not suffer from a mental or physical infirmity due to disease, illness, or retardation which prevents the safe handling of explosives.

(e) Not be ineligible to possess an explosives license by virtue of having been convicted of a felony.

(f) Not have been committed, either voluntarily or involuntarily, for the abuse of a controlled dangerous substance, as defined by R.S. 40:961 and 964, or been found guilty of or entered a plea of guilty or nolo contendere to a misdemeanor under the laws of this state or similar laws of any other state relating to a controlled dangerous substance within a five-year

period immediately preceding the date on which the application is submitted, or be presently charged under indictment or a bill of information for such an offense.

(g) Not have entered a plea of guilty or nolo contendere to or been found guilty of a crime of violence as defined in R.S. 14:2 at the misdemeanor level, unless five years have elapsed since completion of sentence or any other conditions set by the court have been fulfilled, or unless the conviction was set aside and the prosecution dismissed prior to the date on which the application is submitted.

(h) Not have been convicted of, have entered a plea of guilty or nolo contendere to, or not be charged under indictment or a bill of information for any crime of violence or any crime punishable by imprisonment for a term of one year or greater. A conviction, plea of guilty, or plea of nolo contendere for the purposes of this Paragraph shall include a dismissal and conviction set aside under the provisions of Code of Criminal Procedure Article 893.

(i) Not be a fugitive from justice.

(j) Not be a person whose prior activities, arrest or arrests, criminal record, reputation, habits, and associations pose a threat to public safety.

(k) Not be an unlawful user of or addicted to marijuana, depressants, stimulants, or narcotic drugs.

(l) Not have been adjudicated to be mentally deficient or been committed to a mental institution.

(m) Be a legal resident of the United States.

(n) Not have been discharged from the Armed Forces of the United States with a discharge characterized as "Under Other than Honorable Conditions", a "Bad Conduct Discharge", or a "Dishonorable Discharge". In the case of commissioned officers and warrant officers of the United States Armed Forces, the punishment of "Dismissal" rendered subject to a verdict of "guilty" at a trial by military court-martial is deemed to be disqualifying under this Paragraph. For the purposes of this Subparagraph, the United States Coast Guard is considered an armed force.

(o) Not have a history of engaging in violent behavior. There shall be a rebuttable presumption that an applicant has a history of engaging in violent behavior upon proof that, within a ten-year period immediately preceding the date of the application, the applicant has been arrested or charged on three or more occasions for any crime of violence as defined in R.S. 14:2(B), or has been arrested or charged on two or more occasions for any crime of violence that may be punished by death.

(p) Not have been determined by a judge of this state or any other state to be a credible threat to the physical safety of another, nor a person who is subjected to the provisions of an active protective order, or prohibited from possessing or receiving a firearm by law.

(3)(a) The deputy secretary shall revoke the license if at any time during the license period the license holder fails to satisfy any one of the qualification requirements provided for in Paragraph (2) of this Subsection.

(b) The department shall execute a thorough background investigation, including a criminal history check, of every applicant for the purpose of verifying the qualifications of the applicant pursuant to the requirements of this Section. For purposes of this Subparagraph, a background check shall be defined as a computer check of available online state records, as well as national records including but not limited to the federal Interstate Identification Index for a national identification and criminal history records check and which may include fingerprints of the applicant, if so requested by the department.

(c) Cost incurred by the department for processing Louisiana State Police and Federal Bureau of Investigation fingerprint cards shall be borne by the applicant.

(4)(a) Anyone who handles, moves, uses, manipulates, or otherwise detonates explosives and does so with a blood alcohol concentration of .02 percent or greater by weight of alcohol in the blood or when a blood or urine test confirms the presence of any abused or controlled substance that has been prescribed by a licensed medical practitioner shall constitute a violation of Careless Use of Explosives as found in R.S. 40:1472.18 and shall be cause for the immediate suspension of the person's explosive license issued pursuant to this Chapter.

(b) Anyone who handles, moves, uses, manipulates, or otherwise detonates explosives and does so with a blood alcohol concentration of .08 percent or greater by weight of alcohol in the blood or when a blood or urine test confirms the presence of any abused or controlled dangerous substance that was not prescribed by a licensed medical practitioner shall constitute a violation of Reckless Use of Explosives as found in R.S. 40:1472.19 and shall be cause for the person's explosives license issued pursuant to this Chapter to be revoked for life.

(5) The tested license holder may have a physician or a qualified technician, chemist, registered nurse, or other qualified person of his own choosing administer a chemical test or tests in addition to any administered at the direction of a law enforcement officer. The license holder shall be given the opportunity to telephone and request the qualified person to administer such test.

F. Repealed by Acts 2003, No. 161, §1.

G. No license shall be issued by the deputy secretary pursuant to an application therefore unless it shall be determined that the purpose for which the applicant seeks a license falls within the purview of this Part and that such purpose is not violative of any other laws of this state.

H. All explosives licensing fees collected pursuant to R.S. 40:1472.3 shall be dedicated to the Explosives Trust Fund for the use of the deputy secretary in the administration of this Part, and shall be deposited in a special fund to be established in the office of the state treasurer pursuant to the provisions of R.S. 40:1472.20.

I. It shall be unlawful for any person in an application for a license required by Subsection A or B of this Section to knowingly make a false statement therein. Whoever is convicted of violating the provisions of this Subsection shall be fined not less than fifteen hundred dollars nor more than ten thousand dollars or imprisoned with or without hard labor for not less than two years nor more than five years, or both.

J. Whoever is convicted of violating Subsection A of this Section shall be fined not less than five thousand dollars nor more than twenty thousand dollars or imprisoned with or without hard labor for not less than five years nor more than ten years, or both.

K. Whoever is convicted of violating Subsection B of this Section shall be fined not less than one thousand five hundred dollars nor more than ten thousand dollars or imprisoned with or without hard labor for not less than two years nor more than five years, or both.

L.(1) The provisions of this Part shall not apply to the use of commercially manufactured black powder by historical and cultural re-enactors sixteen years of age or older or the acquisition and use of commercially manufactured black powder by historical and cultural re-enactors twenty-one years of age or older, who have completed the Louisiana State Parks Black Powder Certification. The acquisition and possession of black powder shall be limited to quantities not to exceed the following:

(a) Twenty-five pounds for historical and cultural re-enactors who hold artillery designation with a bona fide unit of historical re-enactors.

(b) Five pounds for all other lawful purchasers.

(2) Persons acquiring commercially manufactured black powder in quantities in excess of five pounds shall produce evidence of current certification from Louisiana State Parks for participation in Louisiana historical and cultural reenactments.

(3) Black powder in excess of five pounds that is stored at a private residence shall be reported in writing by the homeowner, occupant, or resident, as the case may be, to the chief of a fire district or department of competent jurisdiction.

Acts 1995, No. 1139, §1; Acts 1999, No. 1202, §1; Acts 2003, No. 160, §1; Acts 2003, No. 161, §1; Acts 2003, No. 398, §1; Acts 2008, No. 898, §1; Acts 2009, No. 391, §1.

§1472.4. Possession without license prohibited; exceptions

A. No person shall possess an explosive unless he is the holder of a valid license required by the provisions of this Part, and possesses such explosives for the purpose set forth by the license.

B. There are hereby made the following exceptions:

(1) Contract and private carriers operating in interstate and intrastate commerce.

(2) Cultural and historical re-enactors who are members of a bona fide artillery unit and who have completed the Louisiana State Parks Black Powder Certification and possess commercially manufactured black powder in quantities of twenty-five pounds or less.

C. Whoever is charged and convicted of violating Subsection A of this Section shall be fined not less than one thousand five hundred dollars nor more than ten thousand dollars or imprisoned with or without hard labor for not less than two years nor more than five years, or both.

Acts 1995, No. 1139, §1; Acts 2003, No. 161, §1; Acts 2009, No. 391, §1.

§1472.5. Maintenance of records; inspection; notice of sale or delivery

A. All explosives manufactured in this state or transported into this state for distribution or sale in this state shall be legibly identified by marking all explosive material. The marks required by this Section must identify the manufacturer and the location, date, and shift of manufacture. The manufacturer shall place on each cartridge, bag, or other immediate container of explosives manufactured for sale or distribution the required mark which shall also be placed on the outside container, if any, used for their packaging.

B. Manufacturers and dealer-distributors shall keep accurate accounts of all inventories and sales of explosives.

C. All such sales shall be evidenced by an "Explosive Bill of Sale". The manufacturer or dealer-distributor shall retain the original and shall provide one copy to the purchaser, one copy to the deputy secretary, and one copy to the explosives control unit. Such bills of sale so delivered to purchasers shall bear the name of the manufacturer or dealer-distributor and the purchaser, date of sale, quantity sold, use for which the explosive is purchased, the address of the purchaser, and the date-shift code.

D. Should the purchase of explosives occur outside the state of Louisiana, then the purchaser shall notify the Department of Public Safety and Corrections, explosives control unit, of such delivery by forwarding thereto a copy of the bill of sale or bill of lading.

E. Manufacturers and dealer-distributors shall retain all records of inventories, invoices, sales tickets, and copies thereof and shall make the same available to any peace officer of this state, and the deputy secretary or his duly authorized representative at such intervals as the secretary shall deem appropriate.

F. Each user, as defined in this Part, shall keep an accurate written inventory of all explosives possessed by him and a record of the use of such explosives in a format approved by the deputy secretary. Such inventory and record of use shall be made available to any peace officer of this state, or the deputy secretary or his duly authorized representative at such intervals as the secretary shall deem appropriate.

G. All records required to be maintained under Subsections E and F of this Section shall require approval by the deputy secretary before they may be disposed of, and shall be turned over to the Department of Public Safety and Corrections upon the termination of the operations of a business which is required to keep such records.

H. Whoever is charged and convicted of violating any provision of this Section shall be fined not less than one thousand five hundred dollars nor more than ten thousand dollars or imprisoned with or without hard labor for not less than two years nor more than five years, or both.

I. All sales made to historical and cultural reenactors shall bear upon the sales invoice the roster or unit number of the individuals to be assigned by the dealer-distributor, for which a current roster must be maintained by the dealer-distributor and provided to the deputy secretary annually.

Acts 1995, No. 1139, §1; Acts 1999, No. 1202, §1; Acts 2008, No. 898, §1; Acts 2009, No. 391, §1.

§1472.6. Sales authorized only to licensees

A. No manufacturer or dealer-distributor shall sell any explosive unless the purchaser thereof is duly licensed under the provisions of this Part and authorized to purchase same and the explosives are to be used by the purchaser for a purpose covered by the purchaser's license, except that the provisions of this Subsection do not apply to lawful purchases by a non-licensee or non-permittee of commercially manufactured black powder in quantities not to exceed five pounds, or twenty-five pounds by a member of a bona fide unit of historical re-enactors, if the black powder is intended to be used solely for sporting, recreational or cultural purposes in antique firearms as defined in 18 U.S.C. 921(a)(16), or in antique devices as exempted from the term "destructive device" in 18 U.S.C. 921(a)(4).

B. Whoever is charged and convicted of violating Subsection A of this Section shall be fined not less than one thousand five hundred dollars nor more than ten thousand dollars or imprisoned with or without hard labor for not less than two years nor more than five years, or both.

Acts 1995, No. 1139, §1; Acts 2008, No. 898, §1; Acts 2009, No. 391, §1.

§1472.7. Reports of losses or thefts; illegal use or illegal possession

A. Any sheriff, police department, or peace officer of this state shall give immediate notice to the deputy secretary of any losses, thefts, illegal uses, or illegal possession of explosives within the purview of this Part, coming to his attention, and shall forward a copy of his final written report to the deputy secretary. Any manufacturer, dealer-distributor, user, blaster, handler, or historical and cultural re-enactor who knows that explosives in his possession have been lost, stolen, or otherwise misappropriated shall immediately notify the nearest sheriff's office or police department and the deputy secretary of such fact. In addition, each manufacturer, dealer-distributor, and user shall physically inspect all magazines at least one time every seven days to ensure security of the explosives.

B. Whoever is convicted of violating this Section shall be fined not less than one thousand five hundred dollars nor more than ten thousand dollars or imprisoned with or without hard labor for not less than two years nor more than five years, or both.

Acts 1995, No. 1139, §1; Acts 1999, No. 1202, §1; Acts 2008, No. 898, §1; Acts 2009, No. 391, §1.

§1472.8. Promulgation of regulations

A. The deputy secretary shall adopt, promulgate, and enforce rules and regulations setting forth minimum general standards covering manufacture, transportation including loading and unloading, use, sale, handling, and storage of explosives. The regulations shall be adopted in accordance with the provisions of the Administrative Procedure Act and shall be such as are reasonably necessary for the protection of the health, welfare, and safety of the public and persons possessing, handling, and using such materials and shall be in substantial conformity with generally accepted standards of safety concerning such subject matters. It is hereby declared that regulations in substantial conformity with the published rules and suggested standards of the Institute of Makers of Explosives in relation to said subject matters shall be deemed to be in substantial conformity with accepted standards of safety concerning such subject matters. All procedures with regard to the revocation, suspension, or denial of licenses shall be in accordance with the Administrative Procedure Act.

B.(1) The licensee, with the specific written approval of the deputy secretary, may use an alternate method or procedure in lieu of a method or procedure specifically prescribed in this Part and rules and regulations adopted pursuant to this Part.

(2) The deputy secretary may approve an alternate method or procedure, subject to certain conditions, when he finds that all of the following are true:

(a) Good cause is shown for the use of the alternate method or procedure.

(b) The alternate method or procedure is within the purpose of, and consistent with the effect intended by, the specifically prescribed method or procedure and that the alternate method or procedure is substantially equivalent to that specifically prescribed method or procedure.

(c) The alternate method or procedure will not be contrary to any provision of law and will not result in an increase in cost to the state of Louisiana or hinder the effective administration of this Part.

(3) When the licensee desires to employ an alternate method or procedure, he shall submit a written application to the deputy secretary. The application shall specifically describe the proposed alternate method or procedure and shall set forth the reasons for it. Alternate methods or procedures may not be employed until the application is approved by the deputy secretary. The licensee shall, during the period of authorization of an alternate method or procedure, comply with the terms of the approved application. Authorization of any alternate method or procedure may be withdrawn whenever, in the judgment of the deputy secretary, the effective administration of this Part is hindered by the continuation of the authorization. As used in this Paragraph, alternate methods or procedures include alternate construction or equipment.

Acts 1995, No. 1139, §1; Acts 1999, No. 1202, §1.

§1472.9. Civil penalties

A. After notice and an opportunity for a hearing held in accordance with the Administrative Procedure Act, the deputy secretary may assess a civil penalty not to exceed ten thousand dollars for each violation against any person he determines to have violated any rule or regulation adopted pursuant to this Part. In determining the amount of the penalty the deputy secretary shall take into account the nature, circumstances, extent, and gravity of the violation, the degree of culpability of the person violating the rule or regulation, the person's history of previous offenses, the person's ability to pay and the effect of the penalty on his ability to continue to operate, and any other matter that justice requires.

B. The secretary may refer any civil penalty assessed pursuant to this Section to the attorney general for collection. Before referral for collection, the secretary may compromise any penalty.

C. The secretary may deduct all or part of any civil penalty assessed under the provisions of this Section from any other monies owed by the department to the person assessed with the penalty.

D. All civil penalties collected pursuant to this Section shall be dedicated to the Explosives Trust Fund, as provided in R.S. 40:1472.20.

Acts 1995, No. 1139, §1; Acts 1999, No. 1202, §1.

§1472.10. Denial, revocation, suspension of license

A. A license may be revoked, suspended, or denied by the deputy secretary because of but not limited to the following:

- (1) Noncompliance with any order issued by the deputy secretary.
- (2) Licensee convicted of a felony.
- (3) Licensee advocates or knowingly belongs to any organization or group which advocates violent overthrow of or violent action against any federal, state, or local government or institution.
- (4) Licensee suffers from a mental or physical defect and in the judgment of the deputy secretary may be hazardous to himself or the public.
- (5) Violation by the licensee of the terms specified on the license or essential changes in the condition under which the license was issued.
- (6) Violation by the licensee of any of the provisions of this Part; however, except for violations deemed to constitute an immediate threat to public safety as provided under R.S. 40:1472.11. It shall be the policy of the deputy secretary to issue a ninety-day letter of noncompliance for such violations. Should a licensee receive two such letters of noncompliance within a period of twelve months, revocation or suspension procedures can be invoked.
- (7) The giving of any false information or the making of a misrepresentation to obtain a license.
- (8) Any violation of this Part deemed to constitute an immediate threat to public safety as provided in R.S. 40:1472.11.
- (9) The applicant for a license is a person who is currently under investigation for, or who has been criminally charged with, terrorist activity, a crime of violence as defined in R.S. 14:2(B)(1) through (16), (18) through (23), and (25) through (30), a crime involving the possession or use of a dangerous weapon as defined in R.S. 14:2(A), or a crime involving the manufacture or distribution of a controlled dangerous substance in violation of the Uniform Controlled Dangerous Substances Law.

B. The deputy secretary may invoke suspension of a license pending disposition of a felony charge which involves the use of explosives brought against a licensee.

Acts 1995, No. 1139, §1; Acts 1999, No. 1202, §1; Acts 2003, No. 272, §1.

§1472.11. Confiscation and disposal of explosives

A. Upon the violation of any provision of this Part which is deemed by the deputy secretary to constitute an immediate threat to public safety, the secretary shall have the power to:

- (1) Order the licensee to immediately correct such violation; or
- (2) Confiscate such explosives and dispose of them in any manner deemed appropriate to insure the safety of the public.

B. Such violation shall be cause for revocation or suspension of the violator's license without the issuance of a ninety-day noncompliance letter as provided in R.S. 40:1472.10(A)(6).

C. All costs incurred in the confiscation and disposal of unsafe explosives as provided in Subsection A of this Section shall be paid by the licensee.

Acts 1995, No. 1139, §1; Acts 1999, No. 1202, §1.

§1472.12. Unlawful storage of explosives

A. It is unlawful to store explosives within the boundaries of the state of Louisiana unless in a storage magazine properly licensed under R.S. 40:1472.3, except that the storage of commercially manufactured black powder by historical and cultural re-enactors of twenty-five pounds or less as authorized in this Part shall be stored in the factory-provided packages and boxes or in an approved day-box portable magazine.

B. Any person who violates the provisions of this Section shall upon conviction be fined not less than one thousand five hundred dollars nor more than ten thousand dollars or be imprisoned with or without hard labor for not less than two years nor more than five years, or both.

Acts 1995, No. 1139, §1; Acts 2009, No. 391, §1.

§1472.13. Abandonment of explosives

A. It is unlawful to abandon explosives or blasting caps in any field, culvert, ditch, waterway, or similar place.

B. Any person who violates the provisions of this Section shall upon conviction be fined not less than one thousand five hundred dollars nor more than ten thousand dollars or be imprisoned with or without hard labor for not less than two years nor more than five years, or both.

Acts 1995, No. 1139, §1.

§1472.14. Injunction

In addition to the penalties and other enforcement provisions of this Part, if a person is engaged in any of the businesses covered by this Part or any rule or regulation adopted or promulgated in pursuance thereto, the deputy secretary is authorized to resort to proceedings for injunction in the district court of the parish where such person shall reside or have his or its principal place of business, and therein apply for such temporary and permanent orders as the deputy secretary may deem necessary to restrain such person from engaging in any such businesses until such person shall have complied with the provisions of this Part and such rules and regulations.

Acts 1995, No. 1139, §1; Acts 1999, No. 1202, §1.

§1472.15. Exceptions

Nothing contained in this Part shall apply to the regular military forces of the United States, or to the duly organized military force of any state or territory thereof, or to police or fire departments in this state, provided they are acting within their respective official capacities and in the performance of their duties.

Acts 1995, No. 1139, §1.

§1472.16. Municipal ordinances, rules, and regulations

A. Nothing contained in this Part shall affect any existing ordinances, rules, and regulations pertaining to explosives of any incorporated city or town in this state which are not less restrictive than the provisions of this Part and the rules and regulations promulgated pursuant thereto, or affect, modify, or limit the power of such incorporated city or town to adopt ordinances, rules, and regulations pertaining to explosives within the respective corporate limits.

B. Every holder of a license issued by the deputy secretary shall obtain the specific approval of the explosives control unit before detonating any explosives in any congested area of the state, whether within the corporate limits of a city or town or not.

Acts 1995, No. 1139, §1; Acts 1999, No. 1202, §1.

§1472.17. Administration of Part; personnel

The deputy secretary is authorized to employ such persons as he may deem qualified, consistent with applicable civil service regulations, and incur such other expenses as may be required in connection with the administration of this Part.

Acts 1995, No. 1139, §1; Acts 1999, No. 1202, §1.

§1472.18. Careless use of explosives

A. No person shall store, handle, dispose, transport, transfer, load, unload, or use explosives or blasting agents, as defined by R.S. 40:1472.2, in a careless or imprudent manner without regard for the hazards or circumstances in which the explosives or blasting agents are being stored, handled, disposed, transported, transferred, loaded, unloaded, or used.

B. Whoever is convicted of violating this Section shall be guilty of a misdemeanor and fined not less than five hundred dollars and not more than two thousand dollars or imprisoned for not more than ninety days.

C. Any person in possession of an explosive license issued under R.S. 40:1472.3 upon conviction shall have such license revoked for one year from date of conviction.

Acts 1995, No. 1139, §1.

§1472.19. Reckless use of explosives

A. No person shall store, handle, dispose, transport, transfer, load, unload, or use explosives or blasting agents, as defined by R.S. 40:1472.2, in a manner that endangers or could endanger human life, health, or property.

B. Whoever is convicted of violating this Section shall be guilty of a felony and fined not less than five thousand dollars nor more than twenty thousand dollars or imprisoned with or without hard labor for not less than five years nor more than ten years, or both.

Acts 1995, No. 1139, §1.

§1472.20. Explosives Trust Fund

A. The Explosives Trust Fund is hereby established as a special fund in the state treasury to support the efforts of the Department of Public Safety and Corrections, office of state police, explosives control unit. After depositing the Bond Security and Redemption Fund, all funds collected pursuant to R.S. 40:1472.3(H) and 1472.9(D) shall be deposited in and credited to the Explosives Trust Fund.

B. The funds as specified in Subsection A of this Section shall be appropriated by the legislature and shall be used solely to support staffing, training, and the acquisition of equipment necessary for the handling of incidents involving the threat of or actual use of explosive or explosive devices which threaten the safety of the citizens of Louisiana. The amount of money deposited out of that collected pursuant to R.S. 40:1472.3(H) and 1472.9(D) shall not exceed one million dollars annually.

Acts 1999, No. 1202, §1.