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Division of Publications**

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Rulemaking Hearing Rule(s) Filing Form

Rulemaking Hearing Rules are rules filed after and as a result of a rulemaking hearing. TCA Section 4-5-205

Agency/Board/Commission:	Department of Commerce & Insurance
Division:	Fire Prevention
Contact Person:	Joseph M. Underwood, Assistant General Counsel for Fire Prevention
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Revision Type (check all that apply):

- Amendment
 New
 Repeal

Rule(s) Revised (ALL chapters and rules contained in filing must be listed here. If needed, copy and paste additional tables. Please enter only ONE Rule Number/RuleTitle per row)

Chapter Number	Chapter Title
0780-02-15	Blasting Standards
Rule Number	Rule Title
0780-02-15-.03	Registration and Fees

Chapter Number	Chapter Title
0780-02-21	Fireworks
Rule Number	Rule Title
0780-02-21-.05	Continuing Education
0780-02-21-.07	Permits

(Place substance of rules and other info here. Statutory authority must be given for each rule change. For information on formatting rules go to <http://state.tn.us/sos/rules/1360/1360.htm>)

Rulemaking Hearing Rules of
Department of Commerce and Insurance
Division of Fire Prevention

Chapter 0780-02-15
Blasting Standards

Amendments

Rule 0780-02-15-.03 Registration and Fees is amended by deleting the language of the rule in its entirety and substituting instead the following language so that, as amended, the rule shall read:

- (1) The Department shall have the following four (4) classifications of registration:
 - (a) Blaster;
 - (b) Limited Blaster;
 - (c) Handler; and
 - (d) Firm.
- (2) An applicant for registration as a blaster shall:
 - (a) Submit a completed application on a form as prescribed by the Department along with a non-refundable application fee of fifteen dollars (\$15.00);
 - (b) Pass the examination prescribed by the Department;
 - (c) Provide proof of having obtained one (1) year previous practical experience under the supervision of a registered, experienced blaster; and
 - (d) Pay a registration fee of three hundred dollars (\$300.00).
- (3) An applicant for registration as a limited blaster shall:
 - (a) Submit a completed application on a form as prescribed by the Department along with a non-refundable application fee of fifteen dollars (\$15.00);
 - (b) Pass the examination prescribed by the Department;
 - (c) Provide proof of having obtained one (1) year previous practical experience under the supervision of a registered, experienced limited blaster; and
 - (d) Pay a registration fee of two hundred dollars (\$200.00).
- (4) An applicant for registration as a handler shall:
 - (a) Submit a completed application on a form as prescribed by the Department along with a non-refundable application fee of fifteen dollars (\$15.00);
 - (b) Pay a registration fee of one hundred dollars (\$100.00); and

- (c) Certify, by means of the applicant's signature, knowledge of storage, security and accountability regulations established by applicable statutes, rules, and adopted standards.
- (5) An applicant for registration as a firm shall:
 - (a) Submit a completed application on a form as prescribed by the Department along with a non-refundable application fee of fifteen dollars (\$15.00);
 - (b) Pay a registration fee of seven hundred fifty dollars (\$750.00); and
 - (c) Submit proof of insurance required by Tenn. Code Ann. § 68-105-112.
- (6) An applicant for registration by reciprocity shall submit a completed application a form as prescribed by the Department. The application must be accompanied by a non-refundable application fee of fifteen dollars (\$15.00), the registration fee required by this chapter and a letter of good standing from the reciprocal state. The registration fee will be determined by the above-referenced classification scheme.
- (7) A certificate of registration shall expire three (3) years following the date of its issuance or renewal and is invalid on that date unless renewed. Each registrant shall be required to renew by submitting a completed application as prescribed for the same to the Department, along with a renewal fee of three hundred dollars (\$300.00) for blasters, two hundred dollars (\$200.00) for limited blasters, one hundred dollars (\$100.00) for handlers, and seven hundred fifty dollars (\$750.00) for firms.
- (8) An applicant for renewal of a blaster's, limited blaster's or handler's registration shall also submit proof of having obtained the continuing education credits, required in rule 0780-02-15-.05 of this chapter during the preceding renewal period.
- (9) A late fee of twenty-five dollars (\$25.00) will be assessed against a registrant who renews registration late, but before one (1) year after the date of its expiration. A completed application on a form as prescribed by the Department must be submitted along with the applicable renewal fee to the Department.
- (10) A registrant who fails to renew registration within one (1) year after expiration shall reapply for registration, pay the applicable fee and take the examination approved by the Department.
- (11) The Department will issue to each registrant a pocket identification card.
- (12) An applicant who fails an examination for registration may retake the examination after thirty (30) days after the test date without paying another application fee. An applicant who fails the examination twice shall reapply and pay the required application fee.
- (13) Registration certificates or pocket identification cards that have been lost, misplaced or destroyed may be replaced upon submission of a fee of fifteen dollars (\$15.00).
- (14) No registration issued under this chapter may be assigned or transferred.
- (15) The Department may designate a third party to administer and charge a reasonable fee for each examination or reexamination administered to applicants for blaster's and limited blaster's registrations.
- (16) Any application that remains pending for twelve (12) months will expire. Refundable fees will be refunded if a written request is made to the Department within six (6) months of the expiration of the application.

Authority: T.C.A. §§ 68-105-106, 68-105-108, 68-105-112, 68-105-113, 68-105-114, 68-105-116, and 68-105-121.

Chapter 0780-02-21
Fireworks

Amendments

Rule 0780-02-21-.05 Continuing Education is amended by adding the following language as a new paragraph so that, as amended, the paragraph shall read:

- (10) Registrants may obtain continuing education training for renewal by retaking and passing the appropriate examination for the certification desired; provided, however, that the registrant provides valid documentation of proof of taking and earning a passing score on the appropriate examination, and submits this information along with the completed renewal form and renewal fee prior to the expiration date for such certification.

Authority: T.C.A. §§ 68-102-113, 68-104-208(d)(2), and 68-104-214.

Rule 0780-02-21-.07 Permits is amended by adding the following language as new paragraphs so that, as amended, the paragraphs shall read:

- (2) An expedited permit fee of fifty dollars (\$50) will be charged, in addition to the regular display permit fee, for any public display permit application that is received by the state fire marshal's office within ten (10) days prior to the date of the display. An application is considered received on the date that both the completed application and appropriate fee are received by the state fire marshal.
- (3) The state fire marshal may issue a multiple display permit, for a fee not to exceed four hundred dollars (\$400), to an exhibitor, sponsor, or operator that is conducting multiple displays that are essentially identical at a single location. A multiple display permit may be issued for multiple displays, performed on different dates, but are the same in regards to the display items, location, site arrangement, and emergency personnel locations. A multiple display permit expires one (1) year after issuance.

Authority: T.C.A. §§ 68-102-113, 68-104-102(c), 68-104-211(a) and 68-104-212.

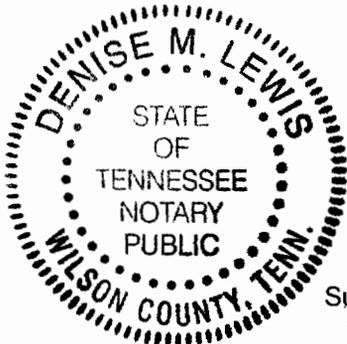
I certify that this is an accurate and complete copy of rulemaking hearing rules, lawfully promulgated and adopted by the Department of Commerce & Insurance (board/commission/other authority) on 04/06/2009 (mm/dd/yyyy), and is in compliance with the provisions of TCA 4-5-222.

I further certify the following:

Notice of Rulemaking Hearing filed with the Department of State on: 10/31/08

Notice published in the Tennessee Administrative Register on: 11/15/08

Rulemaking Hearing(s) Conducted on: (add more dates). 12/17/08



My Commission Expires MAR

Date: 4/6/09

Signature: Leslie A. Newman

Name of Officer: Leslie A. Newman

Title of Officer: Commissioner Department of Commerce & Insurance

Subscribed and sworn to before me on: 4/6/09

Notary Public Signature: Denise M. Lewis

My commission expires on: 3/5/12

All rulemaking hearing rules provided for herein have been examined by the Attorney General and Reporter of the State of Tennessee and are approved as to legality pursuant to the provisions of the Administrative Procedures Act, Tennessee Code Annotated, Title 4, Chapter 5.

Robert E. Cooper, Jr.

Robert E. Cooper, Jr.
Attorney General and Reporter

5-8-09

Date

Department of State Use Only

Filed with the Department of State on: 5/15/09

Effective on: 7/29/07

Tre Hargett

Tre Hargett
Secretary of State

SECRETARY OF STATE
PUBLICATIONS

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Public Hearing Comments

One copy of a document containing responses to comments made at the public hearing must accompany the filing pursuant to T.C.A. §4-5-222. Agencies shall include only their responses to public hearing comments, which shall be summarized. No letters of inquiry from parties questioning the rule will be accepted. When no comments are received at the public hearing, the agency need only draft a memorandum stating such and include it with the Rulemaking Hearing Rule filing. Minutes of the meeting will not be accepted. Transcripts are not acceptable.

No oral or written comments were received during the rulemaking hearing.

Regulatory Flexibility Addendum

Pursuant to Public Chapter 464 of the 105th General Assembly, prior to initiating the rule making process as described in § 4-5-202(a)(3) and § 4-5-202(a), all agencies shall conduct a review of whether a proposed rule or rule affects small businesses.

(If applicable, insert Regulatory Flexibility Addendum here)

Regulatory Flexibility Analysis - Methods of Reducing Impact of Rules on Small Businesses:

1. Overlap, duplicate, or conflict with other federal, state, and local governmental rules:

There will be no overlap, duplication, or conflict with other federal, state or local governmental rules.

2. Clarity, conciseness, and lack of ambiguity in the rule or rule:

The rules are clear in purpose and intended execution, and they are not open to different interpretations.

3. Flexible compliance and/or reporting requirements for small businesses:

In order to ensure the health, safety and welfare of the citizens of Tennessee, it is imperative that small businesses are held to the same standards as larger businesses regarding compliance with all state blasting requirements.

4. Friendly schedules or deadlines for compliance and/or reporting requirements:

The proposed rules will allow the Department to issue expedited fireworks permits within ten (10) days of a public display. There are no changes in the proposed rules regarding schedules or deadlines for compliance and/or reporting requirements pertaining to the blasting program.

5. Consolidation or simplification of compliance or reporting requirements:

These fee increases are intended to reflect the three (3) year registration period for licensing/renewals for all categories of licenses involving blasting activities (handlers, limited blasters, blasters, and blasting firms). Moreover, these fee increases will allow the program to be self-sufficient. There are no changes in the proposed rules in regards to consolidation or simplification of compliance or reporting requirements for the fireworks program.

6. Performances standards for small businesses:

There are no changes in the proposed rules in regards to performances standards for small businesses.

7. Barriers or other effects that stifle entrepreneurial activity, curb innovation, or increase costs:

The Division does not anticipate that these rules will stifle entrepreneurial activity or curb innovation. There will be an increase in costs for applicants and licensees for handlers, limited blasters, blasters, and blasting firms; however, this increase is needed to make the blasting program self-sufficient. These fees have not been increased since 2003.

Economic Impact Statement:

1. Types of small businesses directly affected:

Small businesses involved in blasting activities will be affected by these rules since they involve increases in registration fees. Small businesses involved with fireworks will likely not be significantly affected by the proposed rules which expand the manner in which a licensee may obtain continuing education credits, and establishes the fees for the Department to issue expedited permits and multiple display permits issued by the Department.

2. Projected reporting, recordkeeping, and other administrative costs:

There is no foreseeable alteration in small business recordkeeping that will result from the promulgation of these rules.

3. Probable effect on small businesses:

The effect on small businesses by these proposed rules is expected to be minimal due to the fact that the respective small businesses are already regulated by the State.

4. Less burdensome, intrusive, or costly alternative methods:

The proposed changes and additions to the existing rules are minimally burdensome and intrusive to small businesses. The necessary costs to small businesses to implement the changes required by the proposed changes and additions to the rules are offset by the protections provided to the citizens of Tennessee.

5. Comparison with federal and state counterparts:

There are no federal counterparts to the issues addressed by these rules.

6. Effect of possible exemption of small businesses:

In order to ensure the health, safety and welfare of the citizens of Tennessee, it is imperative that small businesses are held to the same standards as larger businesses.

Additional Information Required by Joint Government Operations Committee

All agencies, upon filing a rule, must also submit the following pursuant to TCA 4-5-226(i)(1).

- (A)** A brief summary of the rule and a description of all relevant changes in previous regulations effectuated by such rule;

Chapter 0780-02-15 Blasting Standards

The amendments to Blasting Standards (Chapter 0780-02-15) increase registration fees. The amendments to rule 0780-02-15-.03 [Registration and Fees] allow the Department to increase registration fees for blasters, limited blasters, handlers, and blasting firms. The registration fee increases for blasters from \$120 to \$300, for limited blasters from \$75 to \$200, for handlers from \$30 to \$100, and for blasting firms from \$150 to \$750. These increases are significant; however, the current registration period is for three (3) years. Thus, the fee per year for each registration is similar to other licensing programs within the Department. However, the non-refundable application fee for all registrations will remain at its current level of fifteen dollars (\$15). The fee increases for the certifications should continue to ensure that the blasting program is self-sufficient.

Chapter 0780-02-21 Fireworks

The amendments to Fireworks rules (Chapter 0780-02-21) are for implementing recently passed legislation. The amendments to rule 0780-02-21-.05 [Training; Continuing Education] are necessary so that the rule will accurately reflect Tenn. Code Ann. § 68-104-208(d) as amended by Chapter 1076 of the Public Acts of 2008. The updated statute provides that operators will be able to obtain continuing education credit by retaking and passing the appropriate examinations required for initial certifications. An amendment to rule 0780-02-21-.07 [Permits] adds necessary language reflecting Tenn. Code Ann. § 68-104-211(a) as amended by Chapter 1076 of the Public Acts of 2008. The new law authorizes the state fire marshal to establish by rule an expedited permit fee, which may not exceed twice the amount of the regular permit fee. The state fire marshal may charge applicants the expedited permit fee in addition to the regular permit fee for applications that are submitted within ten (10) days of a public display. The other amendment to rule 0780-02-21-.07 adds the requirements for a multiple display permit pursuant to Tenn. Code Ann. § 68-104-212.

- (B)** A citation to and brief description of any federal law or regulation or any state law or regulation mandating promulgation of such rule or establishing guidelines relevant thereto;

There are no federal counterparts to the issues addressed by these rules; however, Chapter 1076 of the Public Acts of 2008 which amended Tenn. Code Ann. §§ 68-104-208(d) and 68-104-211(a), required amending the fireworks rules.

- (C)** Identification of persons, organizations, corporations or governmental entities most directly affected by this rule, and whether those persons, organizations, corporations or governmental entities urge adoption or rejection of this rule;

Small businesses involved in blasting activities will be affected by these rules since they involved an increase in registration fees. Small businesses involved with blasting will likely not be significantly affected by the proposed rules which allow the Department to outsource the administration of the licensing examinations to a third party.

- (D)** Identification of any opinions of the attorney general and reporter or any judicial ruling that directly relates to the rule;

I am unaware of any opinion of the attorney general or any judicial ruling that directly relates to these rules.

- (E)** An estimate of the probable increase or decrease in state and local government revenues and expenditures, if any, resulting from the promulgation of this rule, and assumptions and reasoning upon which the estimate is based. An agency shall not state that the fiscal impact is minimal if the fiscal impact is more than two percent (2%) of the agency's annual budget or five hundred thousand dollars (\$500,000), whichever is less;

These rules are expected to have a minimal fiscal impact on the Department; the fees for approval of the certifications, licenses and permits should continue to ensure that the programs are self-sufficient.

- (F)** Identification of the appropriate agency representative or representatives, possessing substantial knowledge and understanding of the rule;

Chris Bainbridge, Director for Administrative Services Section, and Joseph Underwood, Staff Attorney for the Division, have substantial knowledge and understanding of these rules.

- (G)** Identification of the appropriate agency representative or representatives who will explain the rule at a scheduled meeting of the committees;

Chris Bainbridge, Director for Administrative Services Section, and Joseph Underwood, Staff Attorney for the Division, will explain the rules at any scheduled meeting of the Government Operations Committee.

- (H)** Office address and telephone number of the agency representative or representatives who will explain the rule at a scheduled meeting of the committees; and

Chris Bainbridge and Joseph Underwood may be reached at the Department of Commerce and Insurance, 500 James Robertson Parkway, 5th Floor, Davy Crockett Tower, Nashville, Tennessee 37243, (615) 253-3664 or (615) 741-3899.

- (I)** Any additional information relevant to the rule proposed for continuation that the committee requests.