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Sequence Number: 05-25-15
Rule ID(s): 5955
File Date: 05-26-15
Effective Date: 08-24-15

Proposed Rule(s) Filing Form

Proposed rules are submitted pursuant to Tenn. Code Ann. §§ 4-5-202, 4-5-207, and 4-5-229 in lieu of a rulemaking hearing. It is the intent of the Agency to promulgate these rules without a rulemaking hearing unless a petition requesting such hearing is filed within ninety (90) days of the filing of the proposed rule with the Secretary of State. To be effective, the petition must be filed with the Agency and be signed by twenty-five (25) persons who will be affected by the amendments, or submitted by a municipality which will be affected by the amendments, or an association of twenty-five (25) or more members, or any standing committee of the General Assembly. The agency shall forward such petition to the Secretary of State.

Pursuant to Tenn. Code Ann. § 4-5-229, any new fee or fee increase promulgated by state agency rule shall take effect on July 1, following the expiration of the ninety (90) day period as provided in § 4-5-207. This section shall not apply to rules that implement new fees or fee increases that are promulgated as emergency rules pursuant to § 4-5-208(a) and to subsequent rules that make permanent such emergency rules, as amended during the rulemaking process. In addition, this section shall not apply to state agencies that did not, during the preceding two (2) fiscal years, collect fees in an amount sufficient to pay the cost of operating the board, commission or entity in accordance with § 4-29-121(b).

Agency/Board/Commission:	Department of Commerce and Insurance
Division:	Fire Prevention
Contact Person:	Joseph Underwood, Chief Counsel for Fire Prevention
Address:	500 James Robertson Parkway
Zip:	37243
Phone:	615-741-3899
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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 to accommodate multiple chapters. Please enter only ONE Rule Number/Rule Title per row)

Chapter Number	Chapter Title
0780-02-20	Fire Department Recognition
Rule Number	Rule Title
0780-2-20-.01	Definitions
0780-2-20-.02	General Requirements
0780-2-20-.03	Registration
0780-2-20-.04	Standards and Qualifications
0780-2-20-.05	Recognized Fire Departments
0780-2-20-.06	Renewal
0780-2-20-.07	Withdrawal of Recognition

(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>)

Chapter 0780-02-20
Fire Department Recognition

Table of Contents is amended by repealing "Standards and Qualifications", deleting the language "of Registration" from Rule 0780-2-20-.06 and by adding Rule 0780-2-20-.07 Nonrenewal, revocation or suspension of certificate of recognition, and shall appear as follows:

TABLE OF CONTENTS

0780-2-20-.01 Definitions	0780-2-20-.05 Recognized Fire Departments
0780-2-20-.02 General Requirements	0780-2-20-.06 Renewal
0780-2-20-.03 Registration	0780-2-20-.07 Nonrenewal, revocation or suspension of certificate of recognition
0780-2-20-.04 Repealed	

Rule 0780-02-20-.01 Definitions is amended by deleting "Division" as a defined term and renumbering following items after its deletion, adding a citation to the definition of "Recognition" and adding a definition for "State Fire Marshal," so as amended, shall read:

- (1) Career fire department shall mean a fire department consisting of only paid firefighters.
- (2) Combination fire department shall mean a fire department consisting of any mixture of career and volunteer firefighters.
- (3) New Fire Department shall mean any fire department formed after July 1, 2003.
- (4) Recognized fire department shall mean a fire department that has obtained a certificate of recognition from the Department of Commerce and Insurance, State Fire Marshal's Office, which includes a municipality, county or political subdivision operating as a fire department, or an organization, agency, or entity operating as a fire department.
- (5) Recognition shall mean that designation to be conferred on the fire department by the State Fire Marshal's Office after making application and meeting all the requirements found in T.C.A. § 68-102-301 et seq.
- (6) State Fire Marshal shall mean the Division of Fire Prevention at the Department of Commerce and Insurance.
- (7) Volunteer fire department shall mean a fire department consisting of only un-paid firefighters.

Authority: T.C.A. §§ 68-102-303 and 68-102-304.

Rule 0780-02-20-.02 General Requirements is amended by deleting it in its entirety and substituting with the following, so as amended, shall read:

- (1) No municipality, county, political subdivision, organization, agency or entity shall operate a fire department within the State of Tennessee unless it has been duly recognized by the State Fire Marshal.
- (2) No new fire department may be established or recognized in Tennessee without the approval of the local elected governing body. This approval shall include the geographical territory to be covered by the new fire department.
- (3) No governmental unit, person, organization, agency or entity shall receive or solicit money from any source, including local, state, or federal government, for the purpose of operating a fire department

unless the governmental unit, person, organization, agency, or entity maintains a valid certificate of registration from the State Fire Marshal.

Authority: T.C.A. §§ 68-102-303, 68-102-304, and 68-102-306.

Rule 0780-02-20-.03 Registration is amended by deleting it in its entirety and substituting with the following, so as amended, shall read:

- (1) The municipality, county, political subdivision, organization, agency or entity desiring to operate a fire department shall file an application with the State Fire Marshal and submit a fee of fifty dollars (\$50.00).
- (2) Registration will be valid for three (3) years from the date of issuance.

Authority: T.C.A. §§ 68-102-303 and 68-102-304.

Rule 0780-2-20-.04 Standards and Qualifications is repealed.

Rule 0780-2-20-.05 Recognized Fire Departments is amended by deleting it in its entirety and substituting with the following, so as amended, shall read:

- (1) A recognized fire department shall notify the State Fire Marshal's Office within thirty (30) days of the termination, resignation or appointment of a new fire chief.
- (2) The municipality, county, political subdivision, organization, agency or entity filing the notification must be in compliance with T.C.A. § 68-102-108 and properly designate an Assistant to the Commissioner unless appointed pursuant to T.C.A. § 68-102-109.
 - (a) Within ten (10) days after the appointment of a new Assistant to the Commissioner, the person vacating the office shall return the certificate and card of appointment to the State Fire Marshal's Office in Nashville.
 - (b) Within thirty (30) days after the appointment of a new Assistant to the Commissioner, the name and contact information for the new Assistant to the Commissioner shall be submitted to the State Fire Marshal.

Authority: T.C.A. §§ 68-102-108, 68-102-303, 68-102-304 and 68-102-305.

Rule 0780-2-20-.06 Renewal of Registration is amended by deleting the language "of Registration" from the heading of the rule, so as amended, the heading of the rule shall read "Renewal." The rule is further amended by deleting the rule in its entirety and substituting with the following, so as amended, shall read:

- (1) Before the three (3) year period of the certificate of recognition has expired, the fire department must submit a fee of fifty dollars (\$50.00) to the State Fire Marshal along with a renewal application properly completed to obtain renewal of the certificate of recognition. The application for renewal must include verification of the geographical territory to be covered by the department.
- (2) The fire department shall submit the renewal application at least thirty (30) days prior to expiration of the fire department's certificate of recognition.
- (3) The State Fire Marshal will send each recognized fire department a renewal notice approximately six (6) months prior to expiration of the three (3) year recognition period.
- (4) All fire departments shall notify the State Fire Marshal within thirty (30) days of any change in geographical territory to be covered by such fire department.
 - (a) The fire department shall provide proof of the approval of the local elected governing body of any change in territorial boundaries.

- (b) The fire department shall provide the State Fire Marshal with a written description or geographic description of territorial boundaries.

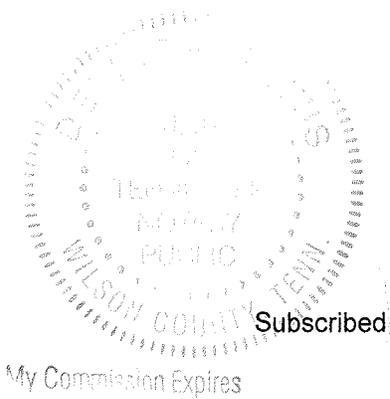
Authority: T.C.A. §§ 68-102-303 and 68-102-304.

Rule 0780-02-20-.07 Nonrenewal, Revocation, or Suspension of Certificate of Recognition is added as a new section and shall read:

- (1) The State Fire Marshal may refuse to issue or renew, and revoke or suspend any application for or certificate of recognition for any recognized fire department if:
 - (a) The fire department has violated any provision of this chapter or any other state or federal law, or has violated any regulation duly promulgated by the State Fire Marshal;
 - (b) The fire department fails to renew its certification;
 - (c) The fire department fails to submit the required fee; or,
 - (d) The local elected governing body withdraws recognition of the fire department.
- (2) The State Fire Marshal will notify the local elected governing body within thirty (30) days of refusing to renew, revoking or suspending any certificate of recognition of a fire department.
- (3) The local elected governing body will notify the State Fire Marshal within thirty (30) days of withdrawing approval of the fire department.
- (4) The local elected governing body must send the State Fire Marshal an updated geographical territory to be covered by the remaining recognized fire department(s) no more than thirty (30) days after a fire department has lost its recognized status.
- (5) The Uniform Administrative Procedures Act, compiled in title 4, chapter 5, will govern all matters and procedures respecting the hearing and judicial review of any contested case arising under this rule.

Authority: T.C.A. §§ 68-102-101, 68-102-303, 68-102-304 and 68-102-306.

I certify that this is an accurate and complete copy of proposed rules, lawfully promulgated and adopted by the Commissioner on 2/13/15 (date as mm/dd/yyyy), and is in compliance with the provisions of T.C.A. § 4-5-222. The Secretary of State is hereby instructed that, in the absence of a petition for proposed rules being filed under the conditions set out herein and in the locations described, he is to treat the proposed rules as being placed on file in his office as rules at the expiration of ninety (90) days of the filing of the proposed rule with the Secretary of State.



Date: 2/13/15

Signature: Julie Mix McPeak

Name of Officer: Julie Mix McPeak

Title of Officer: Commissioner of Commerce & Insurance

Subscribed and sworn to before me on: 2/13/15

Notary Public Signature: Nerest M Lewis

My commission expires on: 2/15/16

All proposed 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.

Herbert H. Slatery III
Herbert H. Slatery, III
Attorney General and Reporter
4/27/2015 Date

Department of State Use Only

Filed with the Department of State on: 05-26-15

Effective on: 08-29-15

Tre Hargett
Tre Hargett
Secretary of State

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RDA 1693

Regulatory Flexibility Addendum

Pursuant to T.C.A. §§ 4-5-401 through 4-5-404, prior to initiating the rule making process as described in T.C.A. § 4-5-202(a)(3) and T.C.A. § 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)

The proposed rule will not affect small businesses.

Impact on Local Governments

Pursuant to T.C.A. §§ 4-5-220 and 4-5-228 “any rule proposed to be promulgated shall state in a simple declarative sentence, without additional comments on the merits of the policy of the rules or regulation, whether the rule or regulation may have a projected impact on local governments.” (See Public Chapter Number 1070 (<http://state.tn.us/sos/acts/106/pub/pc1070.pdf>) of the 2010 Session of the General Assembly)

The proposed rule may have an impact on local governments.

Additional Information Required by Joint Government Operations Committee

All agencies, upon filing a rule, must also submit the following pursuant to T.C.A. § 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;

The proposed rule sets forth criteria for refusal to renew or issue certificate of recognition for fire departments. Under current statutes and rules, there are no criteria for refusal to renew or issue certificates of recognition, but the Attorney General opined that the Commissioner does have the authority.

- (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;

N/A

- (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;

Full-time, volunteer and combination fire departments in Tennessee.

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

Attorney General Opinion No. 10-119 (2010).

- (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;

None.

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

Peyton Bullen, Director of Policy and Programs, Department of Commerce and Insurance.

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

Peyton Bullen, Director of Policy and Programs, Department of Commerce and Insurance; Joseph Underwood, Chief Counsel for Fire Prevention, Department of Commerce and Insurance

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

Peyton Bullen, Director of Policy and Programs, Department of Commerce and Insurance, 500 James Robertson Parkway, Peyton.Bullen@tn.gov, 615-532-7840; Joseph Underwood, Chief Counsel for Fire Prevention, Department of Commerce and Insurance, 500 James Robertson Parkway, Joseph.Underwood@tn.gov, 615-741-3899.

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

None.

**FIRE DEPARTMENT RECOGNITION
CHAPTER 0780-2-20**

TABLE OF CONTENTS

0780-2-20-.01 Definitions	0780-2-20-.05 Recognized Fire Departments
0780-2-20-.02 General Requirements	0780-2-20-.06 Renewal of Registration
0780-2-20-.03 Registration	0780-2-20-.07 Nonrenewal, revocation or
0780-2-20-.04 Standards and Qualifications <u>Repealed</u>	<u>suspension of certificate of</u> <u>recognition</u>

0780-2-20-.01 DEFINITIONS.

- (1) Career fire department shall mean a fire department consisting of only paid firefighters.
- (2) Combination fire department shall mean a fire department consisting of any mixture of career and volunteer firefighters.
- ~~(3) Division shall mean the Division of Fire Prevention, also known as the State Fire Marshal's Office.~~
- ~~(4)~~ (3) New Fire Department shall mean any fire department formed after July 1, 2003.
- ~~(5)~~ (4) Recognized fire department shall mean a fire department that has obtained a certificate of recognition from the Department of Commerce and Insurance, State Fire Marshal's Office, which includes a municipality, county or political subdivision operating as a fire department, or an organization, agency, or entity operating as a fire department.
- ~~(6)~~ (5) Recognition shall mean that designation to be conferred on the fire department by the State Fire Marshal's Office after making application and meeting all the requirements found in T.C.A. § 68-102-301 et seq.
- ~~(6)~~ (6) State Fire Marshal shall mean the Division of Fire Prevention at the Department of Commerce and Insurance.
- (7) Volunteer fire department shall mean a fire department consisting of only un-paid firefighters.

Authority: T.C.A. §§ 68-102-303 and 68-102-304. **Administrative History:** Original rule filed June 8, 2004; effective August 22, 2004.

0780-2-20-.02 GENERAL REQUIREMENTS.

- ~~(1) Any application or document regarding a certificate of recognition for the State Fire Marshal's Office shall be sent to the State of Tennessee, Department of Commerce and Insurance, Division of Fire Prevention, 500 James Robertson Parkway, Third Floor, Nashville, Tennessee 37243. No municipality, county, political subdivision, organization, agency or entity shall operate a fire department within the State of Tennessee unless it has been duly recognized by the State Fire Marshal.~~
- ~~(2) Recognition will be valid for a period of three (3) years, beginning on the calendar date of issuance and expiring at 12:00 p.m. on that calendar date three (3) years later.~~

No new fire department may be established or recognized in Tennessee without the approval of the local elected governing body. This approval shall include the geographical territory to be covered by the new fire department.

- (3) ~~All new fire departments formed after July 1, 2003 shall notify the State Fire Marshal's Office within thirty (30) days of any change in geographical territory to be covered by such fire department. The fire department shall provide proof of the approval of the local elected governing body of any change in territorial boundaries. The fire department shall provide the State Fire Marshal's Office with a written description or geographic description of territorial boundaries.~~
No governmental unit, person, organization, agency or entity shall receive or solicit money from any source, including local, state, or federal government, for the purpose of operating a fire department unless the governmental unit, person, organization, agency, or entity maintains a valid certificate of registration from the State Fire Marshal.

Authority: T.C.A. §§~~68-102-108(c)~~, 68-102-303, 68-102-304, and ~~68-102-108(e)~~ 68-102-306. **Administrative History:** Original rule filed June 8, 2004; effective August 22, 2004.

0780-2-20-.03 REGISTRATION.

- (1) ~~The applicant shall contact the Division in writing to obtain information concerning the application process and to obtain a certificate of recognition as a recognized fire department at the address listed in rule 0780-2-20-.02(1).~~
The municipality, county, political subdivision, organization, agency or entity desiring to operate a fire department shall file an application with the State Fire Marshal and submit a fee of fifty dollars (\$50.00).
- (2) ~~The applicant shall contact the Division's Office in Nashville to obtain the required application form. The applicant shall fill out the application completely and submit it to the Division with a nonrefundable application fee of fifty dollars (\$50.00).~~
Registration will be valid for three (3) years from the date of issuance.

Authority: T.C.A. §§ 68-102-303 and 68-102-304. **Administrative History:** Original rule filed June 8, 2004; effective August 22, 2004.

0780-2-20-.04 STANDARDS AND QUALIFICATIONS, REPEALED

- ~~(1) The application must show proof of the following:~~
- ~~(a) The application form must be signed by the highest ranking official of the fire department, and the form must be notarized.~~
 - ~~(b) All new and existing fire departments must be in compliance with Tenn. Code Ann. § 68-102-108 by obtaining the proper designation as an Assistant to the Commissioner of Commerce and Insurance.~~
 - ~~(c) All new and existing fire departments must be in compliance with requirements of Tenn. Code Ann. §68-102-111.~~
 - ~~(d) After July 1, 2003 and before a new fire department is established or recognized within Tennessee, the new fire department must obtain approval of the local elected governing body. The approval shall include the geographical territory to be covered by such new fire department.~~

~~Authority: T.C.A. §§ 68-102-303, 68-102-304, 68-102-306, 68-102-108, and 68-102-111. Administrative History: Original rule filed June 8, 2004; effective August 22, 2004.~~

0780-2-20-.05 RECOGNIZED FIRE DEPARTMENTS.

- (1) A recognized fire department shall notify the State Fire Marshal's Office within thirty (30) days ~~after of the termination, resignation or a appointment of a new fire chief, is appointed.~~
 - ~~(a) The fire department shall submit to the State Fire Marshal's Office the new fire chief's name, address and adequate documentation to establish such person's claim of office.~~
 - (b2) The board of directors of a for-profit or not-for-profit fire department or the highest appointed authority of the city or county must place in writing the name of the person who is designated the Assistant to the Commissioner by virtue of his or her office including the fire chief and fire marshal. The name of the Assistant to the Commissioner and the person's current title shall be included. The letter shall include the official name of the fire department and mailing address of the fire department at which the Assistant to the Commissioner will work. The municipality, county, political subdivision, organization, agency or entity filing the notification must be in compliance with T.C.A. § 68-102-108 and properly designate an Assistant to the Commissioner unless appointed pursuant to T.C.A. § 68-102-109.
 - (a) Within ten (10) days after the appointment of a new Assistant to the Commissioner, the person vacating the office shall return the certificate and card of appointment to the State Fire Marshal's Office in Nashville.
 - (b) Within thirty (30) days after the appointment of a new Assistant to the Commissioner, the name and contact information for the new Assistant to the Commissioner shall be submitted to the State Fire Marshal.
 - ~~(c) Within ten (10) days after the appointment of a new Assistant to the Commissioner, the person vacating the office shall surrender the certificate of appointment to the Department of Commerce and Insurance, Division of Fire Prevention.~~

~~Authority: T.C.A. §§ 68-102-108, 68-102-303, and 68-102-304 and 68-102-305. Administrative History: Original rule filed June 8, 2004; effective August 22, 2004.~~

0780-2-20-.06 RENEWAL OF REGISTRATION.

- (1) ~~Before the three (3) year period of the certificate of registration recognition has expired, the applicant for renewal fire department must submit a fee of fifty dollars (\$50.00) to the Division State Fire Marshal along with a recognition renewal application form properly completed to obtain renewal of the certificate of recognition. The application for renewal must include verification of the geographical territory to be covered by the department.~~
- (2) The fire department shall submit the renewal application at least thirty (30) days prior to expiration of the fire department's certificate of recognition.
- (3) ~~The Division State Fire Marshal will send each applicant for renewal an application recognized fire department a renewal notice form approximately six (6) months prior to expiration of the three (3) year recognition period.~~
- (4) All fire departments shall notify the State Fire Marshal within thirty (30) days of any change in geographical territory to be covered by such fire department.

(a) The fire department shall provide proof of the approval of the local elected governing body of any change in territorial boundaries.

(b) The fire department shall provide the State Fire Marshal with a written description or geographic description of territorial boundaries.

Authority: T.C.A. §§ 68-102-303 and 68-102-304. **Administrative History:** Original rule filed June 8, 2004; effective August 22, 2004.

0780-2-20-.07 NONRENEWAL, REVOCATION, OR SUSPENSION OF CERTIFICATE OF RECOGNITION

(1) The State Fire Marshal may refuse to issue or renew, and revoke or suspend any application for or certificate of recognition for any recognized fire department if:

(a) The fire department has violated any provision of this chapter or any other state or federal law, or has violated any regulation duly promulgated by the State Fire Marshal;

(b) The fire department fails to renew its certification;

(c) The fire department fails to submit the required fee; or

(d) The local elected governing body withdraws recognition of the fire department.

(2) The State Fire Marshal will notify the local elected governing body within thirty (30) days of refusing to renew, revoking or suspending any certificate of recognition of a fire department.

(3) The local elected governing body will notify the State Fire Marshal within thirty (30) days of withdrawing approval of the fire department.

(4) The local elected governing body must send the State Fire Marshal an updated geographical territory to be covered by the remaining recognized fire department(s) no more than thirty (30) days after a fire department has lost its recognized status.

(5) The Uniform Administrative Procedures Act, compiled in title 4, chapter 5, will govern all matters and procedures respecting the hearing and judicial review of any contested case arising under this rule.

Authority: T.C.A. §§ 68-102-101, 68-102-303, 68-102-304 and 68-102-306.