

DELAWARE STATE FIRE PREVENTION COMMISSION

16 Delaware Code, Section 6604(1) (16 Del.C. §6604(1))

1 DE Admin. Code 708

FINAL

708 Fire Department and Ambulance Company Administrative Standards

ORDER

Pursuant to statutory authority: 16 Delaware Code, Section 6604(1) (16 Del.C. §6604(1)), the State Fire Prevention Commission ("Commission") issues this Final Order adopting amendments to existing regulations to make them consistent with changes in basic law, but which do not otherwise alter the substance of the regulations, as contemplated by 29 Del.C. §10113(b)(5), to correct statutory references in the Commission's Financial Audit Regulations, Chapter 1 of 1 DE Admin. Code 708, by changing each reference to 16 Del.C. §6622 to a reference to 16 Del.C. §6608.

At its public meeting on March 19, 2013, the Commission approved amendments to existing Rule 708 to make Rule 708 consistent with changes in basic law, but which do not otherwise alter the substance of Rule 708, as contemplated by 29 Del.C. §10113(b)(5), by making insertions as shown by underlining and deletions as shown by strike through.

IT IS SO ORDERED THIS 19TH DAY OF MARCH, 2013.

STATE FIRE PREVENTION COMMISSION

David Roberts, Chairman

Tom DiCristofaro, Commissioner

Alan Robinson, Vice-Chairman

Marvin C. Sharp, Jr., Commissioner

Bob Ricker, Commissioner

Charles Frampton, Jr., Commissioner

Ron Marvel

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Chapter 1 Financial Audit Regulations

1.0 General.

- 1.1 **Purpose.** To establish the minimum requirements related to the mandatory submission of financial audits by volunteer fire and ambulance companies in accordance with the provisions of 16 Del.C. ~~§6622~~ 6608.
- 1.2 **Scope.** These Regulations address the required types of audits, the reporting periods, procedures for reviewing the audits and the processes to be followed in the event a company fails to submit or submits an inadequate audit.
- 1.3 **Application.** These Regulations apply to all volunteer fire and ambulance companies and their approved subsidiaries (e.g. auxiliaries operating under the same tax identification number) in the State of Delaware and the Smyrna and Georgetown American Legion Ambulances and the Mid-Sussex Rescue Squad. These regulations do not apply to independent auxiliary organizations operating under a tax identification number that is separate from the fire or ambulance company's number.

2.0 Definitions.

- 2.1 **Review:** Financial data analysis that provides less assurance than a full audit, but more than a compilation (which provides no assurance). In a review, an auditor expresses limited assurance that the company's financial statements do not require any material modification for them to be in conformity with the provisions of generally accepted accounting principles ("GAAP"). (Ref. Business Dictionary.com)

3.0 Report Types.

- 3.1 Reports must be completed by an independent certified public accounting firm at a minimum "Review" level. The submission shall include, but not be limited to, the following:
 - 3.1.1 The Accountant's Report provided to the volunteer fire or ambulance companies by their independent accountant.

- 3.1.2 Financial statements, including:
 - 3.1.2.1 Statement of financial position (Balance sheet).
 - 3.1.2.2 Statement of revenue and expenses.
 - 3.1.2.3 Statement of cash flow.
 - 3.1.2.4 Notes to financial statements.
 - 3.1.2.5 Letter of observations and/or comments.
 - 3.1.2.6 Letter of representation.
- 3.1.3 The required documentation shall be submitted to the Commission with a cover sheet signed off on by the volunteer fire or ambulance company president verifying that he or she has reviewed the submission and all of the items required by subsections 3.1.1 and 3.1.2 are included.
- 3.2 A full financial audit may be required, in the Commission's discretion, if a fire department or ambulance company receives a second annual "Review" report that continues to indicate insufficient corrective actions have been taken to address inadequate financial management, lack of appropriate internal controls, and/or issues or trends that indicate possible financial failure of the company.
- 3.3 A fire department or ambulance company may voluntarily submit a full financial audit rather than a review level report if it chooses to do so.

4.0 Reporting Periods.

- 4.1 Any company whose fiscal year begins on or after January 1, 2009 must file no later than six and one-half months after the close of the company's fiscal year. Reports shall be submitted annually thereafter no later than six and one-half months after the close of the company's fiscal year. The report due date will be calculated by the Commission based on the information provided by the volunteer fire and/or ambulance company as to the close of its fiscal year.
- 4.2 No extensions will be granted except upon a showing of hardship. Requests for a hardship extension must be made in writing prior to the report due date. The request must specify in detail the nature of the hardship. A showing of hardship requires that the lack of compliance with this regulation is due to causes beyond the company's control. The Commission's decision on the extension request shall be final.

5.0 Report Compliance Committee.

- 5.1 The Commission shall appoint a Report Compliance Committee to review submissions. The Report Compliance Committee shall consist of at least of three (3) members who shall be appointed annually at the January meeting of the Commission. The members of the Report Compliance Committee shall have a professional background that includes auditing and financial experience.
- 5.2 The Report Compliance Committee will review the report(s) for compliance with the regulations and will look for any accountant comments that indicate inadequate financial management, lack of appropriate internal controls, and/or issues or trends that indicate possible financial failure of the company. The Report Compliance Committee shall report to the Commission as follows:
 - 5.2.1 Reports that are approved will be forwarded to the Commission with a recommendation for filing with no further action.
 - 5.2.2 Fire department and ambulance companies that fail to file the mandatory financial reports will be referred to the Commission with a recommendation for a hearing before the Commission for the imposition of civil penalties as provided in 16 **Del.C. §~~6622~~ 6608** (b) and any other penalties available under the Chapter.
 - 5.2.3 Any report showing financial irregularities will be referred to the Commission with a summary of the deficiencies and a recommendation for a hearing before the Commission to establish a written corrective action plan and/or the imposition of civil penalties as provided in 16 **Del.C. §~~6622~~ 6608** (b) and any other penalties available under the Chapter.
- 5.3 The Report Compliance Committee may require the volunteer fire or ambulance company to submit such additional documentation as may be necessary for clarification in order for the Report Compliance Committee to make a decision as to whether referral to the Commission for further action is warranted. Failure to comply with the Report Compliance Committee's request for additional documentation will result in referral to the Commission for a hearing.

6.0 Report Compliance Hearings.

- 6.1 The Commission shall schedule a hearing within thirty (30) days of receiving a referral from the Report Compliance Committee.

- 6.2 Notice of the time and place of the hearing shall be personally served, or sent by registered mail to the address provided by the fire department or ambulance company at the time of the report submission, with return requested, to the fire department or ambulance company at least twenty (20) days prior to the date fixed for the hearing.
- 6.3 Hearings will be conducted in accordance with the hearing procedures set forth in Regulation 701, Chapter 1, subsection 7.6.
- 6.4 The fire department or ambulance company that is the subject of the hearing will be provided with a copy of the Report Compliance Committee's report to the Commission.

7.0 Sanctions for Non-compliance.

- 7.1 Where the Commission has determined, upon notice and hearing, that a fire department or ambulance company failed to file or has filed incomplete reports or audits in violation of 16 ~~Del.C. §6622 6608~~, the Commission may impose a civil penalty of \$100 per day beginning on the date the report or audit was due. Each day a violation continues may be deemed a separate offense in the Commission's discretion resulting in penalties of up to \$5000 per reporting. The civil penalty is in addition to any other penalties provided for in the Chapter.
- 7.2 Where the Commission has determined, upon notice and hearing, that the reports or audits of a fire department or ambulance company indicate inadequate financial management, lack of appropriate internal controls, and/or issues or trends that indicate possible financial failure of the company the Commission may require a written corrective action plan. Failure to submit a written corrective action plan may result in the imposition of a civil penalty of \$100 per day. Each day a violation continues may be deemed a separate offense in the Commission's discretion resulting in penalties of up to \$5000 per reporting. The civil penalty is in addition to any other penalties provided for in the Chapter.
- 7.3 Continued failure to file reports or audits or to take corrective action may also result in the Commission referring the fire department or ambulance company to other regulatory agencies for review and possible action under their governing authority, including but not limited to, the Internal Revenue Service, the Delaware Division of Revenue and the State Auditor's Office.

8.0 Documents

- 8.1 Report and audit submissions filed with the Commission may be considered public records under the Freedom of Information Act ("FOIA"). The records will not be released except pursuant to a valid FOIA request or subpoena. The volunteer fire department or ambulance company will be given notice of the request. It will be the responsibility of the volunteer fire department or ambulance company to challenge the request in the appropriate court within the time specified by the Commission in the notice; otherwise, the records will be released.

12 DE Reg. 926 (01/01/09)

16 DE Reg. 1067 (04/01/13) (Final)