

DELAWARE STATE FIRE PREVENTION COMMISSION

Statutory Authority: 16 Delaware Code, Section 6603 (16 Del.C. §6603)

PROPOSED PUBLIC NOTICE

Delaware State Fire Prevention Regulations, Part VIII, Fire Department and Ambulance Company Administrative Standards, Chapter 1 Financial Audit Regulations

The Delaware State Fire Prevention Commission will hold a public hearing pursuant to 16 Del.C. §6622 and 29 Del.C. §101 on Tuesday, October 21, 2008 at 1:00 P.M. in the Commission Chamber, Delaware State Fire School, Delaware Fire Service Center, 1463 Chestnut Grove Road, Dover, Delaware. The Commission is proposing new regulations as the result of the enactment of H.B. 329, codified at 16 Del.C. §6622. The new regulations will be included as Delaware State Fire Prevention Regulations, Part VIII, Fire Department and Ambulance Company Administrative Standards, Financial Audit Regulations.

Persons may view the proposed changes to the Regulations between the hours of 8:00 a.m. to 4:30 p.m., Monday through Friday, at the Delaware State Fire Prevention Commission, Delaware State Fire School, Delaware Fire Service Center, 1463 Chestnut Grove Road, Dover, Delaware, 19904. You can find the meeting announcement and proposed changes on the Delaware Website <http://www.delaware.gov/egov/calendar.nsf>. There will be a reasonable fee charge for copies of the proposed changes or the proposed changes may be retrieved from the webpage for free.

Persons may present their views in writing by mailing their views to the Commission at the above address prior to the hearing. The final date to submit written or oral comments shall be at the public hearing. If the number of persons desiring to testify at the public hearing is large, the amount of time allotted to each speaker may be limited.

The Commission will consider promulgating the proposed regulations immediately following the public hearing.

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.
- 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 Audit Types.

- 3.1 Audits must be completed by an independent certified public accounting firm at a minimum "Review" level. The audit submission shall include, but not be limited to, the following:
 - 3.1.1 The "Review" Opinion Letter 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 audit if it chooses to do so.

4.0 Audit Periods.

- 4.1 Any company whose fiscal year begins on or after January 1, 2009 must file an audit no later than six and one-half months after the close of the company's fiscal year. Audits shall be submitted annually thereafter no later than six and one-half months after the close of the company's fiscal year. The audit 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 audit 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 Audit Compliance Committee.

- 5.1 The Commission shall appoint an Audit Compliance Committee to review audit submissions. The Audit 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 Audit Compliance Committee shall have a professional background that includes auditing and financial experience.
- 5.2 The Audit Compliance Committee will review the audit for compliance with the regulations and will look for any auditor 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 Audit Compliance Committee shall report to the Commission as follows:
 - 5.2.1 Audits 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 audits 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 (b) and any other penalties available under the Chapter.
 - 5.2.3 Any audit 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 (b) and any other penalties available under the Chapter.

- 5.3 The Audit 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 Audit Compliance Committee to make a decision as to whether referral to the Commission for further action is warranted. Failure to comply with the Audit Compliance Committee's request for additional documentation will result in referral to the Commission for a hearing.

6.0 Audit Compliance Hearings.

- 6.1 The Commission shall schedule a hearing within thirty (30) days of receiving a referral from the Audit 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 audit 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 Commission Regulations, Part 1, Regulation 1-7.6.
- 6.4 The fire department or ambulance company that is the subject of the hearing will be provided with a copy of the Audit 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 audits in violation of 16 Del.C., §6622, the Commission may impose a civil penalty of \$100 per day beginning on the date the 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 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 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 Audit Documents

- 8.1 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.