

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

There will be a hearing before the Commissioner of Commerce and Insurance or her designee to consider the promulgation of amendments of rules pursuant to Tennessee Code Annotated §§ 62-102-113, 68-120-106, 68-120-113 and 68-120-118. The hearing will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, Tennessee Code Annotated § 4-5-204, and will take place in Room 160 on the 1st floor of the Davy Crockett Tower, located at 500 James Robertson Parkway in Nashville, Tennessee at 9 a.m. (Central Time) on the 16th day of April, 2008.

Any individuals with disabilities who wish to participate in these proceedings (to review these filings) should contact the Department of Commerce and Insurance to discuss any auxiliary aids of services needed to facilitate such participation. Such initial contact may be made no less than ten (10) days prior to the scheduled meeting date (the date the party intends to review such filings), to allow time for the Department of Commerce and Insurance to determine how it may reasonably provide such aid or service. Initial contact may be made with Don Coleman, the Department's ADA Coordinator, at 500 James Robertson Parkway, 5th Floor, Nashville, Tennessee 37243 at (615) 741-0481.

For a copy of the entire text of this notice of rulemaking hearing, contact: Emmett H. Turner, Assistant Commissioner for the Division of Fire Prevention at 500 James Robertson Parkway, Davy Crockett Tower, 3rd Floor, Nashville, Tennessee 37243, telephone (615) 741-2981.

Substance of Proposed Rules

Chapter 0780-02-16

Fire Prevention, Building, Plumbing and Mechanical Inspector Certification Standards and Qualifications

Amendments

Rule 0780-02-16-.01 General Requirements 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) Whenever any application or document is sent to the State Fire Marshal's Office regarding certification, mailing by certified mail to the State of Tennessee, Department of Commerce and Insurance, Division of Fire Prevention, will be required.
- (2) The applicant as candidate for certification shall show proof satisfactory to the Division that he or she understands applicable building, fire, plumbing, mechanical, or fuel gas codes, through the regulations set out herein. Post application matters not specifically addressed in these rules will be at the discretion of the Division.
- (3) A certification will be valid for a period of three (3) years to start on the calendar date of issuance; and to expire at 12:00 p.m. Noon on that calendar date three (3) years later. Certifications for mechanical and plumbing inspectors issued prior to the effective date of Tenn. Code Ann. § 68-120-118 shall expire three (3) years from the effective date of certification required by Tenn. Code Ann. § 68-120-118.
- (4) Whenever the certification holder performs inspections pursuant to this chapter, the holder shall carry in his or her possession a certification identification card issued by the Division.
- (5) A building or fire inspector applicant for certification has up to twelve (12) months from July 1, 1994, for those employed on this date, or twelve (12) months from their date of employment for those hired after this date to satisfy the requirements for certification, therefore, all requirements for certification must be met within this time frame or excused for just cause by the Division.

- (6) A plumbing or mechanical inspector applicant for certification has up to twelve (12) months from July 1, 2008, for those employed on this date, or twelve (12) months from their date of employment for those hired after this date to satisfy the requirements for certification, therefore, all requirements for certification must be met within this time frame or excused for just cause by the Division.
- (7) Municipalities and counties shall notify the state fire marshal within sixty (60) days after any new code official subject to certification is hired. The notice shall be on a form provided by the fire marshal for this purpose and shall contain the name of the newly hired official and the date of employment.
- (8) Persons who do fire prevention inspections or pre-fire planning inspections need not be certified unless part of their regular duties also includes fire code or building code inspections.
- (9) The purpose of this certification requirement will be to establish uniform minimum requirements designed to increase the level of competency and reliability of code enforcement personnel, to the level that will enhance each local government's ability to protect the lives and property of its citizens from improper construction, fire, and related hazards.

Authority: T.C.A. §§ 68-102-113, 68-120-106, 68-120-113, and 68-120-118.

Rule 0780-02-16-.02 Definitions 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) "Department" shall mean the Tennessee Department of Commerce and Insurance.
- (2) "Division" shall mean the Division of Fire Prevention, also known as the State Fire Marshal's Office.
- (3) "Chapter" refers to Tennessee Code Annotated Section 68-120-101, et. seq.
- (4) "Certification" shall mean that designation or certificate, to be conferred on the candidate by the State Fire Marshal after making application and showing a satisfactory requisite of understanding of applicable building, fire, plumbing, mechanical, or fuel gas codes.
- (5) "Elective Hours" means courses that are not directly related to the inspector's area of certification, but provide information that is valuable to the inspector. Elective hours are approved at the discretion of the Division.
- (6) "Building Code Inspection" means an inspection for the purpose of enforcing and determining compliance with the building code and as a result of which citations for failure to comply may be issued or other remedies or measures for enforcement of the building code may be invoked.
- (7) "Building Code Official" means the officers and their duly authorized representatives who have as part of their regular duties the performance of building code inspection, or the resolution of conflicts relative to application of the building code. The official's status shall be determined by job duties rather than job title.
- (8) "Fire Code Inspection" means an inspection for the purpose of enforcing and determining compliance with the fire code and as a result of which citations for failure to comply may be issued or other remedies or measures for enforcement of the fire code may be invoked.

- (9) "Fire Code Official" means the officers and their duly authorized representatives who have as part of their regular duties the performance of fire code inspections, or the resolution of conflicts relative to application of the fire code. The official's status shall be determined by job duties rather than job title.
- (10) "Fire Prevention Inspection" means an inspection conducted by fire department personnel other than a fire code official as defined herein. This inspection is advisory in nature (i.e. maintenance and housekeeping) by the fire department personnel. This inspection may result in a fire code inspection.
- (11) "Pre-Fire Planning Inspection" means a walk-through inspection for the purpose of determining building layout and other building conditions to aid fire fighters if a fire occurs.
- (12) "Mechanical Code Inspection" means an inspection for the purpose of enforcing and determining compliance with the mechanical and fuel gas codes as a result of which citations for failure to comply may be issued or other remedies or measures for enforcement of the mechanical and fuel gas codes may be invoked.
- (13) "Mechanical Code Official" means the officers and their duly authorized representatives who have as part of their regular duties the performance of mechanical or fuel gas code inspection, or the resolution of conflicts relative to application of the relevant code. The official's status shall be determined by job duties rather than job title.
- (14) "Plumbing Code Inspection" means an inspection for the purpose of enforcing and determining compliance with plumbing codes as a result of which citations for failure to comply may be issued or other remedies or measures for enforcement of the plumbing codes may be invoked.
- (15) "Plumbing Code Official" means the officers and their duly authorized representatives who have as part of their regular duties the performance of plumbing code inspection, or the resolution of conflicts relative to application of the relevant code. The official's status shall be determined by job duties rather than job title.

Authority: T.C.A. §§ 68-102-113, 68-120-106, 68-120-113, and 68-120-118.

Rule 0780-02-16-.03 Registration 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) Any person required to be certified should contact the Division in order to obtain information detailing the steps that they must take.
- (2) An applicant for certification shall contact the Division's office in Nashville, Tennessee, and obtain the required application form to be filled out completely and returned to that office with the required fee of forty-five (\$45.00) dollars.
- (3) The applicant must show proof of successful completion of a recognized and accepted training course and/or examination which will test their knowledge and skills of building inspection, fire safety inspection, plumbing inspection, or mechanical inspection.
- (4) The Division will issue a certificate and identification card upon its assurance that the candidate has satisfied all certification requirements. The certificate and identification card will be mailed to the business address given on the application form and will be valid for a period of three (3) years from the date of issuance.

Authority: T.C.A. §§ 68-102-113, 68-120-106, 68-120-113, and 68-120-118.

Rule 0780-02-16-.04 Acceptable Standards, Organizations and Courses 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:

The Division will accept certification by the following as providing the appropriate level of standards and qualifications necessary for certification under this Chapter. The Division will determine the acceptable certification needed for the code enforcement discipline in which the applicant performs.

- (1) International Code Council (ICC);
- (2) National Fire Protection Association (N.F.P.A.);
- (3) Council of American Building Officials (C.A.B.O.);
- (4) Other appropriate professional building and fire code organizations which the Division sees fit to recognize; or,
- (5) Successful completion of an equivalent examination administered at the discretion of the Division.

Authority: T.C.A. §§ 68-102-113, 68-120-106, 68-120-113, and 68-120-118.

Rule 0780-02-16-.05 Standards and Qualifications 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:

In order to enable the candidate to acquire the knowledge and skills required to attain certification, the Division will establish or contract for training courses which meet the minimum standards and qualifications necessary for certification under this chapter. These training courses will be made available to local government employees with building code inspection, or fire safety inspection enforcement responsibilities.

Authority: T.C.A. §§ 68-102-113, 68-120-106, 68-120-113, and 68-120-118.

Rule 0780-02-16-.06 Re-Certification 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) Certification is valid for three (3) years. In order to obtain re-certification, the candidate must submit a fee of thirty-five (\$35.00) dollars to the Division office along with their re-certification application form properly filled out. The Division will send each candidate for re-certification an application form at least sixty (60) days prior to the date of expiration of the original certificate. The application for re-certification will be mailed by the Division to the last known business address, unless the candidate has requested otherwise.
- (2) Applicants for re-certification will have up to sixty (60) days following the expiration of their certification to fulfill all requirements for re-certification. All applications filed during this late recertification period must be accompanied by a late penalty fee of ten (\$10.00) dollars in addition to the thirty-five (\$35.00) dollars re-certification fee. Certifications are invalid during this period and inspections may not be performed.
- (3) Re-certification requirements can be met through one of the following three methods:
 - (a) Attendance and successful completion of Division approved training courses

and seminars which provide classroom hours. Courses should be approved in advance to receive credit; however, the Division, in its discretion, may approve a course after it is given. Organizations are encouraged to submit seminars and programs for approval by the Division for classroom hours toward re-certification. There will be a minimum requirement of thirty-six (36) classroom hours of continuing education in order to obtain re-certification by this method. Certificate holders must take the following number of hours directly related to the area(s) of certification:

- 1 certification 24 hours in the area of certification and 12 elective hours
- 2 certifications 18 hours in each area of certification
- 3 certifications 9 hours in each area of certification and 9 elective hours
- 4 certifications 9 hours in each area of certification

The Division will not be responsible for training expenses incurred by the candidate.

- (b) Successful completion of an examination administered at the discretion of the Division.
- (c) Successful completion during the previous three (3) years of the next higher level of certification offered by a recognized and approved certifying organization as listed in Rule 0780-02-16-.04.

Authority: T.C.A. §§ 68-102-113, 68-120-106, 68-120-113, and 68-120-118.

The notice of rulemaking hearing set out herein was properly filed in the Department of State on this the 29th day of February, 2008. (FS 02-31-08; DBID 831)