



## **Subpart 1208-1 Introduction, Purpose and Definitions**

### **Section 1208.1 Introduction and Purpose.**

Section 381 of the Executive Law authorizes the Secretary of State to promulgate rules and regulations prescribing minimum standards for administration and enforcement of the State Uniform Fire Prevention and Building Code (the Uniform Code) and the State Energy Conservation Construction Code (the Energy Code). This Part includes that portion of the rules and regulations promulgated pursuant to Section 381 of the Executive Law that relates to certification of code enforcement personnel who work for Local Governments, Counties or State Agencies that administer and enforce the Uniform Code and/or Energy Code.

Section 376-a of the Executive Law authorizes the Secretary of State to promulgate rules and regulations relating to training of personnel charged with enforcement of the Uniform Code and/or the Energy Code, including, but not limited to, rules and regulations relating to code enforcement training programs for such code enforcement personnel; the minimum courses of study, attendance requirements and equipment and facilities required for such code enforcement training programs; the qualifications for instructors for such code enforcement training programs; requirements of minimum basic training which code enforcement personnel must complete in order to be eligible for continued employment or permanent appointment and the time within which such basic training must be completed; and requirements for in-service training programs and advanced in-service training programs for code enforcement personnel. This Part includes the rules and regulations promulgated by the Secretary of State pursuant to Section 376-a of the Executive Law.

## **Section 1208.2 Definitions.**

In this Part, the following terms shall have the following meanings, unless a different meaning is clearly required by the context:

(a) “Adjunct Instructor” means a person certified pursuant to this Part as qualified to teach or present one specified Training Course.

(b) “Certified Code Enforcement Official” means a person who has been certified pursuant to this Part as having completed the applicable Basic Training Program described in this Part, who maintains such certification by satisfying the applicable In-Service Training Requirements and Advanced In-Service Training Requirements set forth in this Part, and whose certification has not been suspended or revoked. There are three levels of Certified Code Enforcement Officials: Level 1, Level 2 and Level 3.

(c) “Code Enforcement Official” means a person who performs any Enforcement Activity.

(d) “Department” means the Department of State.

(e) “Energy Code” means the New York State Energy Conservation Construction Code promulgated pursuant to Article 11 of the Energy Law.

(f) “Enforcement Activity” means any activity related to enforcement of the Uniform Code and/or Energy Code, excluding purely ministerial acts (such as signing permits, certificates of occupancy, orders, appearance tickets, or other similar documents in reliance on reviews, approvals and/or inspections performed by other persons) and secretarial and other clerical activities. There are three levels of Enforcement Activities: Level 1, Level 2, and Level 3.

(1) “Level 1 Enforcement Activities” include:

- (A) fire safety and/or property maintenance inspections of existing buildings and structures, and
  - (B) inspections of existing buildings and structures incidental to the issuance of an operating permit.
- (2) “Level 2 Enforcement Activities” include:
- (A) review and/or approval of plans incidental to the issuance of a permit for the construction or alteration of a one-family dwelling, two-family dwelling or multiple single family dwelling (townhouse), and
  - (B) construction inspections performed during and/or upon completion of the construction or alteration of a one-family dwelling, two-family dwelling or multiple single family dwelling (townhouse).
- (3) “Level 3 Enforcement Activities” include:
- (A) review and/or approval of plans incidental to the issuance of a permit for construction or alteration of a building or structure other than a one-family dwelling, two-family dwelling or multiple single family dwelling (townhouse),
  - (B) construction inspections performed during and/or upon completion of the construction or alteration of a building or structure other than a one-family dwelling, two-family dwelling or multiple single family dwelling (townhouse), and
  - (C) any other Enforcement Activity that is not a Level 1 or Level 2 Enforcement Activity.

(g) “Instructor” means a person certified pursuant to this Part as qualified to teach or present Training Courses.

(h) “Entity” means a corporation, limited liability company, partnership, limited partnership or other form of legal entity.

(i) “Local Government” means a city, town, or village.

(j) “Part 426” means Part 426 in Title 19 of the New York Codes, Rules and Regulations.

(k) “Part 434” means Part 434 in Title 19 of the New York Codes, Rules and Regulations.

(l) “Person” means an individual.

(m) “Registry number” means a number assigned by the Secretary to a person who has been certified as a Certified Code Enforcement Official.

(n) “Remote Participation” means participation in a Training Course by a Student who is not physically present at the time and place of the original presentation, such as by viewing a teleconference or internet transmission of the original presentation, or by viewing a recording of the original presentation.

(o) “Remote Participant” means a Student who participates in a Training Course by Remote Participation.

(p) “Secretary” means the Secretary of State.

(q) “State Agency” means “State agency” as that term is defined in part 1204 of the New York Codes, Rules and Regulations.

(r) “Student” means a person who takes a Training Course. The term includes any person who takes a Training Course, without regard to whether such person is or is not employed as a Code Enforcement Official when he or she takes the Training Course, and without regard to

amount of such person's experience (if any) as a Code Enforcement Official when he or she takes the Training Course.

(s) "Successfully complete" means:

- (1) with respect to a Basic Training Program:
  - (A) attend and participate in (in person or by Remote Participation) all class sessions in all Basic Training Courses included in the Basic Training Program, and
  - (B) achieve a passing score on each examination; and
- (2) with respect to any In-Service Training Course or Advanced In-Service Training Course:
  - (A) attend and participate in (in person or by Remote Participation) all class sessions, and
  - (B) achieve a passing score on each examination.

For the purposes of this definition, a Student who fails to achieve a passing score on an examination, receives permission from the Secretary to retake the examination, and achieves a passing score when he or she retakes the examination, will be deemed to have achieved a passing score on such examination. A Student will be permitted to retake an examination only if the Secretary grants such permission for good cause shown.

(t) "Training Course" means a course providing instruction in a topic specified in section 1208.6 or section 1208.7 of this Part or in a statement issued by the Secretary pursuant to subdivision (b) of section 1208.8 of this Part. There are three types of Training Courses: Basic Training Courses, In-Service Training Courses, and Advanced In-Service Training Courses. For each type of Training Course, there are three levels: Level 1, Level 2, and Level 3.

(u) “Training Course Provider” means the person or entity having overall responsibility for presenting a Training Course.

(v) “Uniform Code” means the State Uniform Fire Prevention and Building Code promulgated pursuant to Article 18 of the Executive Law.

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## **Subpart 1208-2 Minimum Training Requirements and Minimum Standards**

### **Section 1208.3 Minimum training requirements for Code Enforcement Officials.**

(a) General. Except as otherwise provided in subdivision (b) of section 1208.4 of this Part, no person shall perform any Enforcement Activity unless such person satisfies the minimum training requirements applicable to such Enforcement Activity, as specified in this section. If a person performs more than one Enforcement Activity, he or she must satisfy the minimum training requirements applicable to the highest level of Enforcement Activity he or she performs.

(b) Level 1. To satisfy the minimum training standards for a person who performs Level 1 Enforcement Activities, a person must be certified as at least a Level 1 Certified Code Enforcement Official pursuant to section 1208.5 or section 1208.16 of this Part, and must maintain such certification in the manner specified in section 1208.5 of this Part.

(c) Level 2. To satisfy the minimum training standards for a person who performs Level 2 Enforcement Activities, a person must be certified as at least a Level 2 Certified Code Enforcement Official pursuant to section 1208.5 of this Part, and must maintain such certification in the manner specified in section 1208.5 of this Part.

(d) Level 3. To satisfy the minimum training standards for a person who performs Level 3 Enforcement Activities, a person must be certified as a Level 3 Certified Code Enforcement Official pursuant to section 1208.5 or section 1208.16 of this Part, and must maintain such certification in the manner specified in section 1208.5 of this Part.

(e) More stringent training requirements. This section specifies minimum training requirements for persons who perform Enforcement Activities. Nothing in this section shall be

construed as preventing any Local Government, County or State Agency from imposing more stringent training requirements for its Code Enforcement Officials.

**Section 1208.4 Minimum standards for Local Governments, Counties and State Agencies.**

(a) General. No Local Government, County or State Agency responsible for administration and enforcement of the Uniform Code and/or Energy Code shall hire or otherwise use the services of a person to perform any Enforcement Activity unless:

- (1) such person shall have obtained certification as a Certified Code Enforcement Official pursuant to section 1208.5 or section 1208. 15 of this Part at or above the level required by that section for the highest level of Enforcement Activity such person performs;
- (2) such person shall have maintained such certification in the manner specified in section 1208.5 of this Part;
- (3) such certification shall not have been revoked; and
- (4) at the time such person performs any Enforcement Activity, such certification shall not be under suspension.

(b) Exceptions. Notwithstanding the provisions of section 1208.3 of this Part and subdivision (a) of this section:

- (1) a person who is hired by a Local Government, County, or State Agency to perform any Enforcement Activity, and who commences such employment prior to completion of the applicable Basic Training Program, may, at the discretion of such Local Government, County or State Agency, perform such Enforcement Activities during the period in which such person is

taking the applicable Basic Training Program, provided that such person has commenced such Basic Training Program and is progressing diligently toward completion of such Basic Training Program within the time required by subdivision (e) of section 1208.6 of this Part; and

- (2) if any Local Government or County establishes and maintains standards of code enforcement training which, in the opinion of the Secretary, are equal to or higher than those established by this Part, the Secretary may exempt Code Enforcement Officials employed by such Local Government or County from satisfaction of the training requirements established by this Part, provided that such Code Enforcement Officials satisfy the basic training requirements and continuing training requirements established by such Local Government or County. Any such exemption shall be in writing, signed by the Secretary or the Secretary's designee, and shall be subject to such terms and conditions as the Secretary may prescribe. Any such exemption may be revoked by the Secretary, in whole or in part, if in the opinion of the Secretary the standards of code enforcement training established and maintained by such Local Government or County are or become lower than those established by this Part.

(c) Other requirements. Nothing in this section shall be construed as negating or limiting the applicability of any other law, statute, rule, regulation or ordinance imposing any residency requirement or other requirement or limitation on the hiring of Code Enforcement Officials.

(d) Other minimum standards. This section specifies only those minimum standards that relate to training of Code Enforcement Officials. Nothing in this section shall be construed as

limiting the applicability of any minimum standard set forth in Part 1201, Part 1202, Part 1203 and/or Part 1204 of Title 19 of the New York Codes, Rules and Regulations.

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## **Subpart 1208-3 Certification of Code Enforcement Officials**

### **Section 1208.5 Certification of Code Enforcement Officials.**

(a) Level 1 Certified Code Enforcement Official. A person who successfully completes the Level 1 Basic Training Program described in subdivision (b) of section 1208.6 of this Part within the time required by subdivision (e) of that section shall be certified as a Level 1 Code Enforcement Official. To maintain such certification, such person must satisfy the Level 1 In-Service Training Requirements described in subdivision (b) of section 1208.7 of this Part and any and all Level 1 Advanced In-Service Training Requirements made applicable pursuant to section 1208.8 of this Part.

(b) Level 2 Certified Code Enforcement Official. A person who successfully completes the Level 2 Basic Training Program described in subdivision (c) of section 1208.6 of this Part within the time required by subdivision (e) of that section shall be certified as a Level 2 Code Enforcement Official. To maintain such certification, such person must satisfy the Level 2 In-Service Training Requirements described in subdivision (c) of section 1208.7 of this Part and any and all Level 2 Advanced In-Service Training Requirements made applicable pursuant to section 1208.8 of this Part.

(c) Level 3 Certified Code Enforcement Official. A person who successfully completes the Level 3 Basic Training Program described in subdivision (d) of section 1208.6 of this Part within the time required by subdivision (e) of that section shall be certified as a Level 3 Code Enforcement Official. To maintain such certification, such person must satisfy the Level 3 In-Service Training Requirements described in subdivision (d) of section 1208.7 of this Part and any and all Level 3 Advanced In-Service Training Requirements made applicable pursuant to section 1208.8 of this Part.

(d) Change in level of certification. A Certified Code Enforcement Official change the level of his or her certification pursuant to this subdivision. A Certified Code Enforcement Official may not change the level of his of her certification more than once in any eighteen month period.

(1) Increase in level of certification. A Certified Code Enforcement Official may increase the level of his or her certification (i.e., change from Level 1 to Level 2 or Level 3, or change from Level 2 to Level 3) by:

(A) notifying the Department in writing that he or she intends to increase his or her level of certification (such notification to be in writing and to specify the level to which certification is to be increased);

(B) completing the additional Basic Training Courses applicable to such higher level of certification within such time period as shall be prescribed by the Secretary (provided, however, that if the Certified Code Enforcement Official previously held such higher level of certification, he or she will not be required to take such additional Basic Training Courses if he or she takes an examination in each such additional Basic Training Course and achieves a passing grade on each such examination); and

(C) satisfying the In-Service Training Requirements applicable to the higher level of certification during the calendar year in which such increase is to take effect.

An increase in level of certification shall be effective when the Secretary issues a certificate confirming such increase. A Certified Code Enforcement Official who increases his or her level of certification must thereafter maintain such certification by satisfying the In-Service Training Requirements and Advanced In-Service Training Requirements applicable to such higher level.

- (2) Decrease in level of certification. A Certified Code Enforcement Official may decrease the level of his or her certification (i.e, change from Level 3 to Level 2 or Level 1, or from Level 2 to Level 1) by notifying the Department that he or she elects to decrease the level of his or her certification. Such notification shall be in writing; shall specify the level to which certification is to be decreased; and shall include the Certified Code Enforcement Official's certification and agreement that when the decrease in level of certification becomes effective, he or she will not perform any Enforcement Activities of any level higher than the level to which his or her certification is to be decreased. Such decrease in level of certification shall be effective when the Secretary issues a certificate confirming such decrease. A Certified Code Enforcement Official who decreases his or her level of certification must thereafter maintain such certification by satisfying the In-Service Training Requirements and Advanced In-Service Training Requirements applicable to such lower level.

**Section 1208.6 Basic Training Programs.**

(a) General. Except as otherwise provided in section 1208.16 of this Part, to be certified as a Certified Code Enforcement Official, a person must complete the applicable Basic Training Program described in subdivision (b), (c) or (d) this section within the time required by subdivision (e) of this section. Only Basic Training Courses which are:

- (1) developed and presented by the Department, or
- (2) approved and certified by the Secretary pursuant to this Part and taught or presented by Instructors or Adjunct Instructors approved and certified by the Secretary pursuant to this Part,

shall count toward completion of a Basic Training Program.

(b) Level 1 Basic Training Program. The Level 1 Basic Training Program includes a total of 60 hours of training in the following topics:

- Training program overview (1 hour)
- Historic role of codes (3 hours)
- New York State regulations (3 hours)
- Role of New York State in code enforcement practices (1.5 hours)
- Role of local government in code enforcement practices (2 hours)
- Legal issues (1.5 hours)
- Communication and the Code Enforcement Official (1 hour)
- Role of the media (1 hour)
- Record keeping (1 hour)
- The Court system (1 hour)
- Liability issues (1 hour)

Operational Permits (1 hour)

Review of the Code Books (2 hours)

Property and Occupancy classification (3 hours)

Type of construction (1 hour)

Building area (1 hour)

Fire Code administrative issues (1 hour)

Fire Code fire safety issues (1.5 hours)

Emergency planning (2 hours)

Fire service issues (1.5 hours)

Existing building systems (1.5 hours)

Existing fire rated construction (2 hours)

Existing interior finishes (1 hour)

Existing fire protection systems (4 hours)

Existing means of egress (2 hours)

Fire safety during construction (1 hour)

Occupancy specific issues (2 hours)

Tents and membrane structures (1 hour)

Hazardous materials (2 hours)

Reference standards (4 hours)

Property Maintenance Code (3 hours)

Exam (2.5 hours)

(c) Level 2 Basic Training Program. The Level 2 Basic Training Program includes a total of 90 hours of training, including the 60-hour Level 1 Basic Training Program described in subdivision (b) of this section and an additional 30 hours of training in the following topics:

Building planning (2 hours)

Energy (2 hours)

Foundation and footings (2 hours)

Floor assembly (2 hours)

Wall assembly (2 hours)

Roof assembly (1 hour)

Chimney assembly (1.5 hours)

Mechanical issues (1.5 hours)

Fuel gas issues (1 hour)

Plumbing issues (1.5 hours)

Electrical issues (2 hours)

Plan review (5 hours)

Swimming pools (1.5 hours)

Existing Residential construction (2.5 hours)

Exam (2.5 hours)

(d) Level 3 Basic Training Program. The Level 3 Basic Training Program includes a total of 120 hours of training, including the 60-hour Level 1 Basic Training Program described in subdivision (b) of this section, the additional 30 hours of training included in the Level 2 Basic Training Program described in subdivision (c) of this section, and an additional 30 hours of training in the following topics:

Energy (2 hours)

Mechanical issues (1 hour)

Fuel gas issues (1 hour)

Plumbing issues (1.5 hours)

Design Loads (1.5 hours)

Structural requirements and documentation (2 hours)

Foundation systems (1.5 hours)

Building Materials (1.5 hours)

Wood framing (1.5 hours)

Plan review (4 hours)

Occupancy and construction area (1.5 hours)

Mixed uses (1.5 hours)

Fire rated construction (2 hours)

Egress (1.5 hours)

Structural issues (1.5 hours)

Fire protection issues (2 hours)

Exam (2.5 hours)

(e) Time within which Basic Training Program must be completed. In general, a person must complete the entire Basic Training Program applicable to such person's proposed level of certification within 36 months of the date on which he or she attended the first Training Course included in that Basic Training Program. However, a person who is or who becomes employed as a Code Enforcement Official by a Local Government, County or State Agency prior to

completion of the applicable Basic Training Program must complete that Basic Training Program within the shorter of:

- (1) 36 months after the date on which he or she attended the first Training Course included in such Basic Training Program; or
- (2) the following time frame:
  - (A) 18 months after the date of his or her initial appointment as a Code Enforcement Official, if he or she is employed as such for more than 20 hours per week;
  - (B) 24 months after the date of his or her initial appointment as a Code Enforcement Official, if he or she is employed as such for between 10 and 20 hours per week); or
  - (C) 36 months after the date of his or her initial appointment as a Code Enforcement Official, if he or she is employed as such for less than 10 hours per week.

Failure to complete Basic Training Program within the time period established in this subdivision shall result in the forfeiture of any and all accrued basic code enforcement training credit.

However, the time period established in this subdivision for the completion of a Basic Training Program may be extended by the Secretary for good cause shown. An application for such an extension shall set forth the reason(s) why the applicant believes the extension should be granted. Any such extension shall be in writing, signed by the Secretary or the Secretary's designee, and shall be subject to such terms and conditions as the Secretary may prescribe.

(e) Waiver of specific Basic Training Courses. Upon application made by a person participating in a Basic Training Program, the Secretary may waive the requirement that such

person take any one or more of the Basic Training Courses included in such Basic Training Program, provided that such person has successfully completed a fire or code enforcement training course which, in the opinion of the Secretary, is equivalent to the Basic Training Course for which waiver is requested, and which is a New York State-sponsored course, a federally-sponsored course, a course offered by an accredited college, university or professional society acceptable to the Secretary, or a course offered by the International Code Council. Upon preliminary approval of an application for waiver, the applicant will be required to take an examination in the Basic Training Course for which waiver is requested. Failure to achieve a passing score on such examination will result in the denial of the waiver.

**Section 1208.7 In-Service Training Requirements.**

(a) General. To maintain certification, a Certified Code Enforcement Official must satisfy the applicable In-Service Training Requirements set forth in this section. Only In-Service Training Courses which are:

- (1) developed and presented by the Department, or
- (2) approved and certified by the Secretary pursuant to this Part and taught or presented by Instructors or Adjunct Instructors approved and certified by the Secretary pursuant to this Part,

shall count toward satisfaction of the In-Service Training Requirement.

(b) Level 1 In-Service Training Requirement. To maintain certification, a Level 1 Certified Code Enforcement Official must successfully complete of a minimum of 6 hours of in-service training during each calendar year, starting with the first calendar year following the calendar year in which he or she received certification as a Level 1 Certified Code Enforcement

Official and continuing every calendar year thereafter. The in-service training required during each calendar year shall total at least 6 hours of training, and shall include at least one hour of training in each of the following main topic areas:

- (1) Code enforcement practices and organization (suggested sub-topics in this main topic area include, but are not limited to: inspection techniques; building system technology; legal issues affecting the Code Enforcement Official; and the Code Enforcement Official and diplomacy);
- (2) Public policy considerations affecting building construction and maintenance (suggested sub-topics in this main topic area include, but are not limited to: historic preservation; handicap accessibility issues; energy conservation; temporary structures; fire inspections and fire protection features; review of the reference standards; and means of egress issues);
- (3) Occupancy classification and hazard recognition (suggested sub-topics in this main topic area include, but are not limited to: occupancy classification; fire safety issues; hazardous materials storage; solid fuel-burning equipment; and unvented heaters); and
- (4) Code interpretations and application (suggested sub-topics in this main topic area include, but are not limited to: Uniform Code update; legal interpretations; and technical bulletins).

(c) Level 2 In-Service Training Requirement. To maintain certification, a Level 2 Certified Code Enforcement Official must successfully complete of a minimum of 18 hours of in-service training during each calendar year, starting with the first calendar year following the calendar year in which he or she received certification as a Level 2 Certified Code Enforcement

Official and continuing every calendar year thereafter. The in-service training required during each calendar year shall total at least 18 hours of training, and shall include at least one hour of training in each of the main topic areas described in subdivision (b) of this section and at least one hour of training in each of the following additional main topic areas:

- (1) Residential building systems (suggested sub-topics in this main topic area include, but are not limited to: HVAC; plumbing; electrical; and fuel gas);
- (2) Residential fire protection issues (suggested sub-topics in this main topic area include, but are not limited to: smoke alarms/carbon monoxide detectors; residential sprinkler systems; and residential emergency vehicle access);
- (3) Residential construction and structural issues (suggested sub-topics in this main topic area include, but are not limited to: construction techniques; construction materials; design issues; and new technology in residential construction); and
- (4) Residential plan review and building specification (suggested sub-topics in this main topic area include, but are not limited to: plan review administration and plan review techniques).

(d) Level 3 In-Service Training Requirement. To maintain certification, a Level 3 Certified Code Enforcement Official must successfully complete of a minimum of 24 hours of in-service training during each calendar year, starting with the first calendar year following the calendar year in which he or she received certification as a Level 3 Certified Code Enforcement Official and continuing every calendar year thereafter. The in-service training required during each calendar year shall total at least 24 hours of training, and shall include at least one hour of

training in each of the main topic areas described in subdivision (b) of this section, at least one hour of training in each of the additional main topic areas described in subdivision (c) of this section, and at least one hour of training in each of the following additional main topic areas:

- (1) Commercial building systems (suggested sub-topics in this main topic area include, but are not limited to: HVAC; plumbing; electrical; and fuel gas);
- (2) Commercial fire protection issues (suggested sub-topics in this main topic area include smoke detection/carbon monoxide detectors; fire sprinkler systems; kitchen hood systems; standpipe systems; smoke control systems; and fire apparatus access)
- (3) Commercial construction and structural issues (suggested sub-topics in this main topic area include, but are not limited to: construction techniques; construction materials; design issues; and new technology in commercial construction); and
- (4) Commercial plan review and building specification (suggested sub-topics in this main topic area include, but are not limited to: plan review administration and plan review techniques)

**Section 1208.8 Advanced In-Service Training Requirements.**

(a) To maintain certification, a Certified Code Enforcement Official must successfully complete any and all Advanced In-Service Training Requirements made applicable to his or her level of certification pursuant to this section within the time established pursuant to this section.

Only Advanced In-Service Training Courses which are:

- (1) developed and presented by the Department, or

- (2) approved and certified by the Secretary pursuant to this Part and taught or presented by Instructors or Adjunct Instructors approved and certified by the Secretary pursuant to this Part,

shall count toward satisfaction of the Advanced In-Service Training Requirement.

(b) The Secretary may from time to time require Certified Code Enforcement Officials to receive advanced in-service training relating amendments or revisions of or to additions to the Uniform Code and/or Energy Code, other changes in law, development in construction technologies or techniques, or other matters which, in the opinion of the Secretary, warrant specific training. When such advanced in-service training is to be required, the Secretary shall issue a statement indicating that advanced in-service training is required and specifying, for each level of Certified Code Enforcement Official certification:

- (1) the topic areas in which advanced in-service training is required,
- (2) the minimum number of hours of training in each such topic area, and
- (3) the time within such advanced in-service training must be completed.

The topic areas to be covered in any advanced in-service training may include, but are not limited to, updates to the Uniform Code and/or Energy Code; changes in the International Codes source documents; New York State modifications to the International Codes; and New York State regulatory changes. Any statement issued by the Secretary pursuant to this subdivision shall be posted on the Department's website.

(c) Unless otherwise specified in the statement issued by the Secretary pursuant to subdivision (b) of this section, each hour of Advanced In-Service Training successfully completed by a Certified Code Enforcement Official shall count toward satisfaction of his or her

In-Service Training requirement for the calendar year in which such Advanced In-Service Training is received.

**Section 1208.9 Revocation of certification of Code Enforcement Officials.**

(a) Revocation for failure to satisfy In-Service Training Requirement or Advanced In-Service Training Requirement. Except as otherwise provided in subdivision (b) of this section, the Secretary shall revoke Certified Code Enforcement Official's certification if such person fails to satisfy the applicable In-Service Training Requirement specified in section 1208.7 of this Part during any calendar year or if such person fails to satisfy any applicable Advanced In-Service Training Requirement within the time specified in the statement issued by the Secretary pursuant to subdivision (b) of section 1208.8 of this Part.

(b) Extension of time. The Secretary may grant an extension of time in which to complete any applicable In-Service Training Requirement or Advance In-Service Training Requirement for good cause shown. An application for extension shall specify the reasons why the applicant believes the extension should be granted. Any extension shall be in writing, signed by the Secretary or the Secretary's designee, shall specify the extended time within which the training requirement must be satisfied, and shall be subject to such other terms and conditions as the Secretary may deem appropriate. The certification of the Certified Code Enforcement Official who receives such an extension shall not be revoked pursuant to subdivision (a) of this section during the extended time granted by the Secretary for satisfaction of the training requirement. However, if a Certified Code Enforcement Official who receives such an extension fails to satisfy the training requirement within the extended time granted by the Secretary, the Secretary shall revoke his or her certification upon the expiration of such extended time. No

person shall be entitled to receive more than one extension in any \_\_ year period unless the Secretary determines, for good cause shown, that more than one extension should be granted within such period.

(c) Other revocations. The Secretary may revoke a Certified Code Enforcement Official's certification if the Secretary determines, after notice and opportunity to be heard, that such Certified Code Enforcement Official:

- (1) did not actually attend and participate in (in person or by Remote Participation) any class session in any required Basic Training Course, In-Service Training Course, or Advanced In-Service Training Course; or
- (2) achieved a passing grade on the examination in any required Basic Training Course, In-Service Training Course, or Advanced In-Service Training Course by fraudulent or dishonest means.

(d) Re-certification. To be re-certified as a Certified Code Enforcement Official following revocation of certification pursuant to subdivision (a), (b) or (c) of this section, a person must repeat, and successfully complete, the applicable Basic Training Program described in section 1208.6 of this Part within the time period determined pursuant to subdivision (e) of that section. For the purposes of subdivision (e) of that section, date of such person's initial appointment as a Code Enforcement Official shall be deemed to be the date of revocation of his or her prior certification. The requirement that the Basic Training Program be repeated may be waived, at the discretion of the Secretary, if the person seeking re-certification takes an examination for each Basic Training Course for the desired level of re-certification level and achieves a passing score on each such examination. Upon re-certification, a new registry number shall be assigned.

## **Subpart 1208-4 Certification of Training Courses and Instructors**

### **Section 1208.10 Certification of Training Courses.**

(a) Types and Levels of Training Courses. There are three types of Training Courses: Basic Training Courses, In-Service Training Courses, and Advanced In-Service Training Courses. For each type of Training Course, there are three levels: Level 1, Level 2, and Level 3.

(b) Standards for certification of Training Courses. To be certified, a Training Course must satisfy each of the following requirements:

- (1) the Training Course must include instruction in a topic specified in the applicable subdivision of Section 1208.6 of this Part (in the case of a Basic Training Course), a topic specified in the applicable subdivision of section 1208.7 of this Part (in the case of an In-Service Training Course), or a topic specified in the applicable provision of the statement issued by the Secretary pursuant to subdivision (b) of section 1208.8 of this Part (in the case of an Advanced In-Service Training Course);
- (2) the Training Course must be taught or presented by an Instructor who has been certified to teach or present such Training Course pursuant to Section 1208.11 of this Part, or by an Adjunct Instructor who has been certified to teach or present such Training Course pursuant to Section 1208.12 of this Part;
- (3) the Training Course must maintain neutrality for products and manufacturers and must not contain product- or manufacturer-specific endorsements;

- (4) a system sufficient to monitor and record each Student's attendance and participation in each class session, the grade achieved by each Student on each examination, and each Student's success in completing the Training Course, must have been established; and
- (5) if Remote Participation in the Training Course will be permitted, a system sufficient to monitor, verify and record each Remote Participant's attendance and participation in each class session, the grade achieved by each Remote Participant on each examination, and each Remote Participant's success in completing the Training Course, must have been established.

(c) Application for certification of a Training Course. An application for certification of a Training Course must be submitted to the Department at least eight weeks prior to the date on which the Training Course is intended to be first presented. The application shall be accompanied by the following:

- (1) a recording (on CD, DVD, flash drive, or other medium acceptable to the Department) of a presentation of the Training Course;
- (2) a lesson plan for or a detailed outline of the Training Course;
- (3) a copy (on CD, DVD, flash drive, or other medium acceptable to the Division) of each video tape or other recording to be used as part of a Training Course, together with a written statement of the recording's title and a brief description of its content;

- (4) a copy of each handout to be provided to Students (each such copy to be provided to the Division in the format that will be used to distribute the handout to Students);
- (5) the name of each Instructor or Adjunct Instructor who will teach or present all or any part of the Training Course;
- (6) if Remote Participation in the Course will be permitted, such additional information as the Division may request with regard to the manner in which the remote presentations are to be made (in the case of a Course to be presented to some or all of the Students by internet transmission, such additional information shall include, but shall not necessarily be limited to, the URL for the Course, the import file specifications, and a “test” file), together with satisfactory evidence that a system sufficient to monitor and verify each Remote Participant’s participation in and successful completion of such Training Course has been established; and
- (7) such additional information and documentation regarding the Training Course, the Training Course Provider, and the Training Course’s Instructor(s), Adjunct Instructor(s), and manner of presentation as may be requested by the Department.

(d) Certification of Training Course. Upon approval of a Training Course, the Secretary shall issue a certificate attesting to such approval, specifying the Training Course’s type (Basic, In-Service, or Advanced In-Service) and level (Level 1, Level 2, or Level 3), and specifying the number of hours of training credit for which the Training Course has been approved. Such certification shall be subject to such terms and conditions as may be specified in the certificate,

and, if not sooner revoked, shall such certification shall expire upon the expiration date specified in the certificate (or, if no expiration date is specified in the certificate, on the \_\_ anniversary of the date on which the certificate was issued).

(e) Revocation of certification of Training Course. A certification of a Training Course issued pursuant to this section may be revoked by the Secretary if:

- (1) the Secretary determines that, for any reason (including but not limited to the adoption or proposed adoption of amendments or revisions of or additions to the Uniform Code and/or Energy Code), the Training Course is, or has become, or is about to become, irrelevant, incomplete, obsolete, or otherwise insufficient for the purpose of providing proper training of persons who are or who wish to become Code Enforcement Officials; or
- (2) any Instructor or Adjunct Instructor who teaches or presents all or any part of the Training Course dies, becomes incapacitated, resigns, retires, has his or her certification as an Instructor or Adjunct Instructor revoked, or otherwise becomes unable to teach or present the Training Course, and the Training Course Provider fails to provide a suitable replacement Instructor or Adjunct Instructor; or
- (3) the Secretary determines, after notice and opportunity to be heard, that:
  - (A) the application for certification of the Training Course contained any false or misleading statement; or
  - (B) the Training Course Provider, or any person or entity affiliated with the Training Course Provider, or any Instructor or Adjunct

Instructor teaching or presenting all or any part of the Training Course, has demonstrated incompetency or untrustworthiness.

(f) Courses developed by the Department. This section shall not apply to Training Courses which are developed by the Department and taught or presented by employee(s) of the Department.

### **Section 1208.11 Certification of Instructors.**

(a) Standards for certification of Instructors. To be certified as an Instructor, an applicant must satisfy each of the following requirements:

- (1) the applicant must have received certification as a Level 3 Certified Code Enforcement Official, and must have maintained such certification by satisfying all applicable Level 3 In-Service Training Requirements and all applicable Level 3 Advanced In-Service Training Requirements;
- (2) the applicant's certification as a Level 3 Certified Code Enforcement Official must not be revoked;
- (3) the applicant must have successfully completed a minimum of three hours of teacher training acceptable to the Department (such teacher training to be in addition to, and not part of, the Basic Training, In-Service Training and Advance In-Service Training required for certification as a Level 3 Certified Code Enforcement Official);
- (4) if applicable, the applicant must have the physical capacity to perform instructional duties incidental to the Training Course(s) the applicant proposes to teach;

- (5) the applicant must satisfy at least one of the following requirements:
- (A) the applicant must have at least three years of experience as a full-time Code Enforcement Official performing Level 3 Enforcement Activities; or
  - (B) the applicant must have been awarded an associate's degree (or a higher degree) in building construction or engineering, code administration, or inspection technology from an accredited educational institution acceptable to the Department, and the applicant must have at least one year of experience as a full-time Code Enforcement Official performing Level 3 Enforcement Activities; or
  - (C) the applicant must have at least \_\_\_ years of experience as a full-time training, technical, or field representative of the State of New York having duties or expertise specifically related to code enforcement programs;

and

- (6) for each Training Course which the applicant proposes to teach or present, the applicant must complete the qualifying procedure described in subdivision (c) of this section, and must receive a satisfactory evaluation from the Department's Instructor who participated in such qualifying procedure.

(b) Qualifying Procedure for Instructors. Upon preliminary approval of an application for certification of an Instructor, the applicant must participate in the qualifying procedure described

in this subdivision. With respect to each Training Course which the applicant proposes to teach, the applicant will be provided with the materials necessary to teach or present the Training Course and will participate in a minimum of three presentations of the Training Course, as follows:

- (1) first presentation - the applicant will observe the Training Course taught by an Instructor employed by the Department;
- (2) second presentation - the applicant will assist the Department's Instructor in teaching the Training Course; and
- (3) third presentation - the applicant will teach the Training Course with the Department's Instructor present.

Following the third presentation, the Department's Instructor will evaluate the applicant's proficiency to teach the Training Course.

(c) Certification as an Instructor. Upon approval of an application for certification as an Instructor and receipt of a favorable evaluation under subdivision (b) of this section, the Secretary shall issue a certificate certifying the applicant as an Instructor and specifying the Training Course(s) which the Instructor is certified to teach or present. Such certification shall be subject to such terms and conditions as may be specified in the certificate, and, if not sooner revoked, such certification shall expire upon the expiration date specified in such certificate (or, if no expiration date is specified in the certificate, on the \_\_\_ anniversary of the date on which the certificate was issued).

(d) Revocation of certification as an Instructor. A certification issued to an Instructor pursuant to this section may be revoked by the Secretary if:

- (1) the Instructor fails to maintain certification as a Level 3 Certified Code Enforcement Official, or the Instructor's certification as a Level 3 Certified Code Enforcement Official is revoked or reduced to a lower level; or
- (2) the Secretary determines, after notice and opportunity to be heard, that:
  - (A) the application for certification of the Instructor contained any false or misleading statement, or
  - (B) the Instructor has demonstrated incompetency or untrustworthiness.

(e) Instructors employed by the Department. This section shall not apply to Instructors who are employed by the Department.

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#### **Section 1208.12 Certification of Adjunct Instructors.**

(a) Standards for certification of Adjunct Instructors. To be certified as an Adjunct Instructor, an applicant must satisfy at least one of the following requirements:

- (1) the applicant must have special skills, training, knowledge or qualifications in the particular subject for which Adjunct Instructor certification is sought; or
- (2) the applicant must have a supervisory position in the occupational field of the particular subject for which Adjunct Instructor certification is sought; or
- (3) the applicant must have substantial teaching experience in the particular subject for which Adjunct Instructor certification is sought; or

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(4) the applicant must have a degree or certification in the particular subject for which Adjunct Instructor certification is sought.

(b) Certification as an Adjunct Instructor. Upon approval of an application for certification as an Adjunct Instructor, the Secretary shall issue a certificate certifying the applicant as an Adjunct Instructor and specifying the Training Course which the Adjunct Instructor is certified to teach or present. Such certification shall be subject to such terms and conditions as may be specified in the certificate, and, if not sooner revoked, such certification shall expire upon the expiration date specified in such certificate (or, if no expiration date is specified in the certificate, on the \_\_ anniversary of the date on which the certificate was issued).

(c) Revocation of certification as an Adjunct Instructor. A certification issued to an Adjunct Instructor pursuant to this section may be revoked by the Secretary if the Secretary determines, after notice and opportunity to be heard, that application for certification of the Adjunct Instructor contains any false or misleading statement, or that the Instructor has demonstrated incompetency or untrustworthiness.

(f) Adjunct Instructors employed by the Department. This section shall not apply to Adjunct Instructors who are employed by the Department.

## **Subpart 1208-5 Miscellaneous Provisions**

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### **1208.13 Applications.**

An application made under any provision of this Part for approval, certification, waiver, exemption or extension shall be in writing, shall be submitted to the Department on a form provided by or otherwise acceptable to the Department, and shall include or be accompanied by information and documentation establishing to the satisfaction of the Secretary that the applicant satisfies the criteria for the approval, certification, waiver, exemption or extension for which application is being made.

### **Section 1208.14 List of Certified Code Enforcement Officials.**

The Department shall be permitted, but shall not be required, to maintain a list of Certified Code Enforcement Officials, and to post such list on the Department's website. Such list may include the name of each Certified Code Enforcement Official, his or her level of certification, and, if applicable, the Local Government, County, or State Agency that employs such Certified Code Enforcement Official, together with such other information as the Department may determine to be relevant. The Secretary may omit from such list any Certified Code Enforcement Official who has failed to maintain his or her certification in the manner specified in this Part, or whose certification has been suspended or revoked.

### **Section 1208.15 Effective date.**

This Part shall take effect on January 1, 2012. On and after January 1, 2012, the provisions of this Part shall supercede any and all inconsistent provisions in Part 424 and any and all inconsistent provisions in Part 434. On and after January 1, 2012, in the event of a conflict

between any provision in this Part and any provision in Part 426 or Part 434, the provision in this Part shall control.

**Section 1208.16 Transitional provisions.**

(a) Persons who completed the Part 434 basic training program prior to December 31, 2011. A person who:

- (1) successfully completed the basic training program described in Part 434 at any time prior to December 31, 2010 and satisfied the in-service training requirements as described in Part 434 for calendar year 2011, or
- (2) successfully completed the basic training program described in Part 434 at any time during calendar year 2011,

may be certified as a Level 3 Code Enforcement Official. A person wishing to be certified as a Level 3 Code Enforcement Official pursuant to this subdivision shall submit a written request for such certification to the Department and, if requested by the Department, shall submit such documentation as may be necessary to establish that such person qualifies for certification pursuant to this subdivision. To maintain certification granted pursuant to this subdivision, the person receiving such certification must satisfy the Level 3 In-Service Training Requirements described in subdivision (d) of section 1208.7 of this Part for each calendar year, starting with calendar year 2012 and continuing every calendar year thereafter, and any and all Level 3 Advanced In-Service Training Requirements made applicable pursuant to section 1208.8 of this Part.

(b) Code Enforcement Officials who commenced employment prior to January 1, 1985.

A person who:

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- (1) commenced employment as a Code Enforcement Official prior to January 1, 1985,
- (2) successfully completed, prior to January 1, 2003, an examination based upon the subject areas contained in the basic training program as then described in Part 434,
- (3) obtained a certificate from the State Fire Administrator attesting to the satisfactory completion of such examination, and
- (4) satisfied the in-service training requirements as described in Part 434 for calendar year 2011,

may be certified as a Level 3 Code Enforcement Official. A person wishing to be certified as a Level 3 Code Enforcement Official pursuant to this subdivision shall submit a written request for such certification to the Department and, if requested by the Department, shall submit such documentation as may be necessary to establish that such person qualifies for certification pursuant to this subdivision. To maintain certification granted pursuant to this subdivision, the person receiving such certification must satisfy the Level 3 In-Service Training Requirements described in subdivision (d) of section 1208.7 of this Part for each calendar year, starting with calendar year 2012 and continuing every calendar year thereafter, and any and all Level 3 Advanced In-Service Training Requirements made applicable pursuant to section 1208.8 of this Part.

(b) Persons receiving “Code Compliance Technician” certification under Part 424. A person who:

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- (1) received “Code Compliance Technician” certification from the State Fire Administrator or by the Secretary pursuant to Part 426 at any time prior to December 31, 2011, and
- (2) maintained such certification in the manner specified in Part 426 at all times through and including December 31, 2011,

may be certified as a Level 1 Code Enforcement Official. A person wishing to be certified as a Level 1 Code Enforcement Official pursuant to this subdivision shall submit a written request for such certification to the Department and, if requested by the Department, shall submit such documentation as may be necessary to establish that such person qualifies for certification pursuant to this subdivision. To maintain certification granted pursuant to this subdivision, the person receiving such certification must satisfy the Level 1 In-Service Training Requirements described in subdivision (b) of section 1208.7 of this Part for each calendar year, starting with calendar year 2012 and continuing every calendar year thereafter, and any and all Level 1 Advanced In-Service Training Requirements made applicable pursuant to section 1208.8 of this Part.

(d) Persons receiving “Standard Code Enforcement Instructor” certification under Part 434. A person who:

- (1) received “Standard Code Enforcement Instructor” certification from the State Fire Administrator or the Secretary pursuant to Part 434 at any time prior to December 31, 2011,
- (2) was in good standing as a “Standard Code Enforcement Instructor” as of December 31, 2011, and

D (3) satisfies the requirements set forth in paragraphs (1) to (5) of subdivision (a) of section 1208.11 of this Part,

may be certified as an Instructor for the purposes of this Part. A person wishing to be certified as an Instructor pursuant to this subdivision shall submit a written request for such certification to the Department and, if requested by the Department, shall submit such documentation as may be necessary to establish that such person qualifies for certification pursuant to this subdivision. A person certified as an Instructor pursuant to this subdivision shall be issued a certificate similar to the certificate described in subdivision (d) of section 1208.11 of this Part, and shall be subject to the provisions of subdivision (e) of that section.

(e) persons receiving “Special Code Enforcement Instructor” certification under Part 434.

A person who:

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- (1) received “Special Code Enforcement Instructor” certification from the State Fire Administrator or the Secretary pursuant to Part 434 at any time prior to December 31, 2011,
  - (2) was in good standing as a “Special Code Enforcement Instructor” as of December 31, 2011, and
  - (3) satisfies at least one of the requirements set forth in subdivision (a) of section 1208.12 of this Part,

may be certified as an Adjunct Instructor for the purposes of this Part. A person wishing to be certified as an Adjunct Instructor pursuant to this subdivision shall submit a written request for such certification to the Department and, if requested by the Department, shall submit such documentation as may be necessary to establish that such person qualifies for certification pursuant to this subdivision. A person certified as an Adjunct Instructor pursuant to this

subdivision shall be issued a certificate similar to the certificate described in subdivision (c) of  
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section 1208.12 of this Part, and shall be subject to the provisions of subdivision (d) of that  
section.

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