

## TEXT OF RULE

Part 434, Part 435, and Part 1208 of Title 19 of the Official Compilation of Codes, Rules and Regulations of the State of New York are repealed. Title 19 of the Official Compilation of Codes, Rules and Regulations of the State of New York is amended by adding a new Part 1208 to read as follows:

**EFFECTIVE January 1, 2015**

**PART 1208 - MINIMUM STANDARDS FOR CODE ENFORCEMENT  
TRAINING IN THE STATE OF NEW YORK**

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

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

### **Section 1208-1.1 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 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: 1) qualifications of staff, including requirements for certification of such staff, and 2) minimum basic training and in-service training requirements for personnel charged with administration and enforcement of the Uniform Code and/or the Energy Code. This Part shall apply to personnel who work for local governments, counties or State agencies that administer and enforce the Uniform Code and/or the 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 1208-1.2 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 or more specified in-service training courses.

(b) “Building safety inspector” means a person who performs fire safety and property maintenance inspections on existing buildings.

(c) “Certified building safety inspector” means a person who has been certified pursuant to this Part as having successfully completed the applicable basic training program described in section 1208-3.2(b) of this Part and whose certification has not been revoked or become inactive.

(d) “Certified code enforcement official” means a person who has been certified pursuant to this Part as having successfully completed the applicable basic training program described in section 1208-3.2(c) of this Part and whose certification has not been revoked or become inactive.

(e) “Code enforcement official” means a person who performs any enforcement activity.

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

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

(h) “Enforcement activity” means any activity related to administration and/or enforcement of the Uniform Code and/or the Energy Code, excluding purely ministerial acts (such as signing permits, certificates of occupancy, orders, appearance tickets, or similar documents in reliance on reviews, approvals and/or inspections performed by other persons)

and secretarial and other clerical activities. Special Inspections as defined in the Uniform Code are not considered an enforcement activity. There are two levels of enforcement activities:

building safety inspector and code enforcement official:

(1) “Building safety inspector enforcement activities” include:

(i) fire safety and/or property maintenance inspections of existing buildings and structures.

(2) “Code enforcement official enforcement activities” include:

(i) building safety inspector enforcement activities;

(ii) review and/or approval of plans incidental to the issuance of a permit for the construction or alteration of buildings and structures;

(iii) construction inspections performed during and/or upon completion of the construction or alteration of buildings and structures; and

(iv) any other enforcement activity that is not also a building safety inspector enforcement activity.

(i) “Instructor” means a person certified pursuant to this Part as qualified to teach or present training courses.

(j) “Local government” means a village, town (outside the area of any incorporated village) or city.

(k) “Online training course” means a training course in which at least one student is not physically present at the place of the course presentation, but participates at a remote location by viewing, hearing, and interacting with the course presentation by internet transmission, webinar, teleconference, or other similar means.

(l) “Part 426” means Part 426 of Title 19 of the Official Compilation of Codes, Rules and Regulations of the State of New York.

(m) “Part 434” means the former Part 434 of Title 19 of the Official Compilation of Codes, Rules and Regulations of the State of New York.

(n) “Person” means an individual.

(o) “Professional development electives” means training courses that are not included within the descriptions set forth in paragraphs (1), (2), and (3) of subdivision (a) of section 1208-3.3 of this Part, but whose subject matter advances the professional development of an individual code enforcement official or building safety inspector. Professional development electives include, but are not limited to, classes in the following topics: zoning, planning, ethics, management, communications, hazards, writing skills, time management, records management, media relations and other topics that contribute to the professional development of a code enforcement official or building safety inspector as determined by the Secretary.

(p) “Registry number” means a number assigned by the Secretary to a person who has been certified as a certified building safety inspector or as a certified code enforcement official.

(q) “Remote participant” means a student who participates in an online training course at a remote location..

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

(s) “Standard instructor” means a person certified pursuant to this Part as qualified to teach or present one or more specified basic training courses.

(t) “Student” means a person who attends or participates in a training course. The term includes any person who attends a training course, without regard to whether such person is or is not employed as a building safety inspector or as a code enforcement official when he or she attends the training course, and without regard to amount of such person’s experience (if any) as a building safety inspector or as a code enforcement official when he or she attends the training course.

(u) “Successfully complete” means:

(1) with respect to a basic training program:

(i) attend and participate (in person or, in the case of an online training course, remotely) in all class sessions in all basic training courses

included in the basic training program, and

(ii) achieve a passing score on each examination; and

(2) with respect to any in-service training course or advanced in-service training

course:

(i) attend and participate (in person or, in the case on an online training course, remotely) in all class sessions, and

(ii) achieve a passing score on each examination, if required.

(v) “Training course” means a course providing instruction in a topic specified in section 1208-3.2 or section 1208-3.3 of this Part or in a statement issued by the Secretary pursuant to subdivision (b) of section 1208-3.4 of this Part. There are three types of training courses: basic training courses, in-service training courses, and advanced in-service training courses.

(w) “Training course provider” means the person or entity having overall responsibility for presenting a training course.

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

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

### **Section 1208-2.1 Minimum training requirements for building safety inspectors and code enforcement officials.**

(a) General. Except as otherwise provided in subdivision (b) of section 1208-2.2 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. There are two levels of enforcement activities: building safety inspector and code enforcement official. If a person performs more than one level of enforcement activity, he or she must satisfy the minimum training requirements applicable to each level of enforcement activity he or she performs.

(b) Building safety inspector. To satisfy the minimum training requirements for a person who performs building safety inspector enforcement activities, a person must be certified as a building safety inspector pursuant to section 1208-3.1 or section 1208-5.4 of this Part, and must maintain such certification in the manner specified in section 1208-3.1 of this Part.

(c) Code enforcement official. To satisfy the minimum training requirements for a person who performs code enforcement official enforcement activities, a person must be certified as a code enforcement official pursuant to section 1208-3.1 or section 1208-5.4 of this Part, and must maintain such certification in the manner specified in section 1208-3.1 of this Part.

(d) 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 building safety inspectors or code enforcement officials.

**Section 1208-2.2 Minimum standards for local governments, counties and State agencies.**

(a) General. Building Safety Inspectors and Code Enforcement Officials designated by Local Governments, counties or State agencies for administration and enforcement of the Uniform Code, Energy Code, or portions thereof, shall be certified pursuant to 1208-3.1 or 1208-5.4 of this Part. A local government, county or State agency responsible for administration and enforcement of the Uniform Code and/or the Energy Code shall provide the opportunity for training and certification for the designated building safety inspector and/or code enforcement official pursuant to this Part.

(b) Exceptions. Notwithstanding the provisions of section 1208-2.1 of this Part and subdivision (a) of this section:

(1) A person who has commenced, but not completed, the building safety inspector basic training program described in subdivision (b) of section 1208-3.2 of this Part may, during such person's basic training period (as that term is defined in paragraph 3 of this subdivision), perform building safety inspector enforcement activities on behalf of the local government, county or State agency by which such person is employed, provided that (i) such local government, county or State agency designates such person to perform building safety inspector enforcement activities on behalf of such local government, county or State agency and (iii) such person is progressing toward completion of the building safety inspector basic training program at a rate which, in the judgment of the local government, county or State agency by which such person is

employed, will assure that such person will complete such program within such person's basic training period. If such person fails to complete the building safety inspector basic training program within his or her basic training period, he or she shall not be permitted to perform any building safety inspector enforcement activities until and unless he or she does successfully complete such program.

(2) A person who has commenced, but not completed, the code enforcement official basic training program described in subdivision (c) of section 1208-3.2 of this Part may, during the such person's basic training period (as that term is defined in paragraph 3 of this subdivision), perform code enforcement official enforcement activities on behalf of the local government, county or State agency by which such person is employed, provided that (i) such local government, county or State agency designates such person to perform code enforcement official enforcement activities on behalf of such local government, county or State agency and (iii) such person is progressing toward completion of the code enforcement official basic training program at a rate which, in the judgment of the local government, county or State agency by which such person is employed, will assure that such person will complete such program within such person's basic training period. If such person fails to complete the code enforcement official basic training program within his or her basic training period, he or she shall not be permitted to perform any code enforcement official enforcement activities until and unless he or she does successfully complete such program.

(3) For the purposes of paragraphs 1 and 2 of this subdivision, the term basic training period shall mean the period within which a person must complete a basic

training course, as determined in accordance with subdivision (d) of section 1208-3.2 of this Part.

(4) 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 building safety inspectors and/or code enforcement officials employed by such local government or county from satisfaction of the training requirements established by this Part, provided that such building safety inspectors and/or 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 building safety inspectors and/or code enforcement officials.

(d) Other minimum standards. This section specifies only those minimum standards that relate to training of building safety inspectors and 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 Official Compilation of Codes,  
Rules and Regulations of the State of New York.

## **Subpart 1208-3 Certification of Building Safety Inspectors and Code Enforcement Officials**

### **Section 1208-3.1 Certification of building safety inspectors and code enforcement officials.**

(a) Certified building safety inspector. A person who successfully completes the building safety inspector basic training program described in subdivision (b) of section 1208-3.2 of this Part within the time required by subdivision (d) of that section shall be certified as a building safety inspector. To maintain such certification, such person must satisfy the building safety inspector in-service training requirements described in subdivision (b) of section 1208-3.3 of this Part and any and all advanced in-service training requirements made applicable pursuant to section 1208-3.4 of this Part.

(b) Certified code enforcement official. A person who successfully completes the code enforcement official basic training program described in subdivision (c) of section 1208-3.2 of this Part within the time required by subdivision (d) of that section shall be certified as a code enforcement official. To maintain such certification, such person must satisfy the code enforcement official in-service training requirements described in subdivision (c) of section 1208-3.3 of this Part and any and all advanced in-service training requirements made applicable pursuant to section 1208-3.4 of this Part.

(c) Increase in level of certification. A certified building safety inspector may change his or her certification to certified code enforcement official by:

- (1) notifying the Department in writing that he or she intends to change his or her level of certification to certified code enforcement official;

(2) completing the additional basic training courses required for certification as a code enforcement official within such time period as shall be prescribed by the Secretary (provided, however, that if the certified building safety inspector previously held certification as a code enforcement official, 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).

A change in level of certification shall be effective when the Secretary issues a certificate confirming such change. A certified building safety inspector who changes his or her level of certification to certified code enforcement official must thereafter maintain such certification by satisfying the in-service training requirements and advanced in-service training requirements applicable to a certified code enforcement official.

(d) Decrease in level of certification. A certified code enforcement official may change his or her certification to building safety inspector by notifying the Department that he or she elects to decrease the level of his or her certification. Such notification shall be in writing and shall include the certified code enforcement official's agreement that when the decrease in level of certification becomes effective, he or she will not perform any enforcement activities other than those defined as building safety inspector enforcement activities. Once the notification is received by the Department, the status of the individual's certification as a code enforcement official shall be inactive. A certified code enforcement official who changes his or her certification to certified building safety inspector must thereafter maintain such certification by satisfying the in-service training requirements and advanced in-service training requirements required for certified building safety inspectors.

**Section 1208-3.2 Basic training programs.**

(a) General. Except as otherwise provided in section 1208-5.4 of this Part, to obtain certification as a certified building safety inspector or as a certified code enforcement official, a person must complete the applicable basic training program described in subdivision (b) or (c) of this section within the time required by subdivision (d) of this section. Only basic training courses which are (i) developed and presented by the Department, or (ii) approved and certified by the Secretary pursuant to this Part and taught or presented by instructors approved and certified by the Secretary pursuant to this Part, shall count toward completion of a basic training program. The Department may from time to time designate any basic training course(s) as prerequisite(s) for any other basic training course(s), and if the Department makes any such designation, a student will not be permitted to take a basic training course unless such student shall have satisfied all prerequisite requirements applicable to such basic training course.

(b) Building safety inspector basic training program. The building safety inspector basic training program includes at least 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 building safety inspector (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 and the role of the BSI and CEO in providing post disaster assistance (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 (4 hours)

(c) Code enforcement official basic training program. The code enforcement official basic training program includes not less than a total of 120 hours of training, including the 60-hour building safety inspector basic training program described in subdivision (b) of this section and at least an additional 60 hours of training in the following topics:

Residential construction:

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)

Commercial construction:

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)

(d) 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 18 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 building safety inspector or 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 (i) 18 months after the date on which he or she attended the first training course included in such basic training program or (ii) 18 months after the date of his or her initial appointment as a building safety inspector or as a code enforcement official. Failure to complete a 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. 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) supporting such a grant of an extension. 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 submits proof of having 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 course offered by an accredited college, university, professional society, or by the International Code Council, or other state or nationally recognized organization. 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.

(f) For the purposes of this section, a student who obtains a waiver of the requirement that he or she take a particular course included in a basic training program pursuant

to subdivision (e) of this section shall be deemed to have attended and participated in such course and to have achieved a passing score on the examination in such course.

(g) A student will be permitted to retake an examination only if the Secretary grants such permission for good cause shown.

**Section 1208-3.3 In-service training requirements.**

(a) General. To maintain certification, a certified building safety inspector or a certified code enforcement official must satisfy the applicable in-service training requirements set forth in this section. In-service training courses shall count towards satisfaction of the in-service training requirement if they 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, or

(3) approved and certified by the Secretary pursuant to this Part as an online training course, or

(4) accepted by the Secretary pursuant to this Part as a professional development elective, or

(5) accepted as professional certification by the International Code Council or another nationally recognized organization in any of the following categories: “Code enforcement,” “Energy,” “Fire,” “Green building,” “Commercial, residential or special inspector,” or “Plans examiner,” or similar category as determined by the Secretary.

Certification in each category shall be deemed to be the successful completion of 8

hours of in-service training for each professional certification received for the calendar year in which such professional certification was obtained.

(b) Building safety inspector in-service training requirement. To maintain certification, a certified building safety inspector must successfully complete a minimum of 6 hours of in-service training each calendar year following the calendar year in which he or she received certification as a certified building safety inspector. The in-service training required during each calendar year shall include at least three hours of in-service training in training courses that are included within the descriptions set forth in paragraphs (1), (2), and (3) of subdivision (a) of this section and address subjects included in the main topic area of code enforcement and administration:

(1) Code enforcement and administration (suggested sub-topics include, but are not limited to):

(i) Code enforcement practices and organization (suggested sub-topics include, but are not limited to: inspection techniques; building system technology; legal issues affecting the building safety inspector; and the building safety inspector and diplomacy);

(ii) Public policy considerations affecting building construction and maintenance (suggested sub-topics 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);

(iii) Occupancy classification and hazard recognition (suggested sub-topics include, but are not limited to: occupancy classification; fire safety issues;

hazardous materials storage; solid fuel-burning equipment; and unvented heaters); and

(iv) Code interpretations and application (suggested sub-topics include, but are not limited to: Uniform Code update; legal interpretations, and technical bulletins).

(c) Code enforcement official in-service training requirement. To maintain certification, a certified code enforcement official must successfully complete a minimum of 24 hours of in-service training each calendar year following the calendar year in which he or she received certification as a certified code enforcement official. The in-service training required during each calendar year shall include at least twelve hours of in-service training in training courses that are included within the description set forth in paragraphs (1), (2), and (3) of subdivision (a) of this section. A minimum of three hours in the main topic area described in subdivision (b) of this section (“code enforcement and administration”), and at least three hours of training in each of the following additional main topic areas:

(1) Uniform Fire Prevention and Building Code (suggested sub-topics include, but are not limited to):

(i) Building systems (suggested sub-topics include, but are not limited to: HVAC; plumbing; electrical; and fuel gas);

(ii) Fire protection issues (suggested sub-topics include smoke detection/carbon monoxide detectors; fire sprinkler systems; kitchen hood systems; standpipe systems; smoke control systems; and fire apparatus access)

(iii) Construction and structural issues (suggested sub-topics include, but are not limited to: construction techniques; construction materials; design issues; and new technology in commercial construction);

(iv) Plan review and building specification (suggested sub-topics include, but are not limited to: plan review administration and plan review techniques);

(2) Energy Conservation Construction Code (suggested sub-topics include, but are not limited to: building science, thermal envelope, mechanical systems, lighting systems, and compliance methods).

(d) In addition to satisfying the required minimum number of In-service training hours in the topic areas specified in subdivisions (b) and (c) of this section, the remaining training hours may be completed through professional development electives as provided in paragraph (4) of subdivision (a) of this section or by obtaining a professional certification as provided in paragraph (5) of subdivision (a) of this section.

(1) Code enforcement officials or building safety inspectors receiving annual in-service training from a professional development elective as provided in paragraph (4) of subdivision (a) of this section, or by obtaining a professional certification as provided in paragraph (5) of subdivision (a) of this section, either in whole or in part, shall submit to the Department a professional development elective record form, as prescribed by the Department, which shall state the training hours earned for the calendar year and any additional information as required by the Department. Individuals receiving in-service training credit for a professional development elective shall at the request of the Department provide documentation sufficient to confirm completion of such training course. Failure to submit adequate documentation shall result in a forfeit of the in-

service training credit obtained for such training course and will result in a review to determine whether an individual's certification should be designated as inactive or be revoked.

(2) Each code enforcement official or building safety inspector who receives annual in-service training credit by attending a professional development elective or by obtaining a professional certification shall maintain, or ensure access by the Department to, a record of completed in-service training which includes: title of the course, detailed description of the course, the number of contact hours completed, a certificate of completion issued by the sponsor, the sponsor's name, attendance verification, and the date and location of the course. Such records shall be retained by the building safety inspector or code enforcement official for at least three years from the date of completion and shall be available for review by the Department.

(3) Code enforcement officials or building safety inspectors receiving all of their annual in-service training by attending and completing training courses that are included within the descriptions set forth in paragraphs (1), (2), and (3) of subdivision (a) of this section shall not be required to maintain documentation regarding such In-service training.

(e) A review board shall be appointed by the Secretary for the purpose of assisting the Department on matters pertaining to professional development electives such as recommending elective courses that should be approved, recommending approved elective categories, recommending action on appeals in regards to electives, recommending revocations as a result of inadequate documentation of completion of professional development electives and other

duties as determined by the Secretary. The board shall be composed of not less than three code enforcement officials and two building safety inspectors.

**Section 1208-3.4 Advanced in-service training requirements.**

(a) To maintain certification, a certified building safety inspector or a certified code enforcement official must successfully complete all advanced in-service training requirements made applicable to his or her category 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 satisfy an advanced in-service training requirement.

(b) The Secretary may from time to time require a certified building safety inspector or a certified code enforcement official to receive advanced in-service training, not to exceed 24 hours annually, relating to amendments, revisions, or additions to the Uniform Code and/or the 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 building safety inspector certification or code enforcement official certification:

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

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 building safety inspector or 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 1208-3.5 Inactive status of certification of building safety inspectors and code enforcement officials.**

(a) Inactive certification status for failure to satisfy in-service training requirement or advanced in-service training requirement. The Secretary shall designate a certified building safety inspector's certification or a certified code enforcement official's certification as inactive, if such person fails to satisfy the applicable in-service training requirement specified in section 1208-3.3 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 1208-3.4 of this Part.

(1) Adjustments and/or conditions to in-service training requirement or advanced in-service training requirement. The Secretary may grant an adjustment and/or conditions to an in-service training requirement specified in section 1208-3.3 of this Part or to an advanced in-service training requirement declared pursuant to section 1208-3.4 of this Part provided that the certified building safety inspector or certified code enforcement official documents his or her request for adjustment and/or conditions with

a showing of good cause and in the judgment of the Secretary the certified building safety inspector or certified code enforcement official would be unable to comply with the in-service training requirement or advanced in-service training requirement in a timely manner. Adjustment to an in-service training requirement or to an advanced in-service training requirement may be granted for reasons of health certified by an appropriate health care professional, for extended active duty with the armed forces of the United States, or for other good cause acceptable to the Secretary.

(b) Revocations. The Secretary may revoke a certified building safety inspector's certification or a certified code enforcement official's certification if the Secretary determines, after notice and an opportunity to be heard, that such certified building safety inspector or certified code enforcement official:

(1) did not actually attend and participate (in person or, in the case of an online training course, remotely) in 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.

(c) Change in status for individuals with inactive certification status of less than three consecutive years. To be reclassified with active certification as a building safety inspector or as a code enforcement official following an inactive certification status pursuant to subdivision (a) of this section for a period of less than three years, a person must complete the in-service training requirements described in subdivision (b) or (c) of section 1208-3.3 of this Part, as applicable, for the current calendar year.

(d) Change in status for individuals with an inactive certification status for three or more consecutive years. To be reclassified with active certification as a building safety inspector or as a code enforcement official following an inactive certification status pursuant to subdivision (a) of this section for a period of three or more consecutive years, a person must repeat, and successfully complete, the applicable basic training program described in section 1208-3.2 of this Part within the time period determined pursuant to subdivision (d) of that section. For the purposes of subdivision (d) of section 1208-3.2, the applicant will have 18 months from the date the application is received by the Department to complete the training. 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 category of certification and achieves a passing score on each such examination.

(e) Re-certification after revocation. To be re-certified as a certified building safety inspector or as a certified code enforcement official following revocation of certification pursuant to subdivision (b) of this section, a person must repeat, and successfully complete, the applicable basic training program described in section 1208-3.2 of this Part within the time period determined pursuant to subdivision (d) of that section. For the purposes of subdivision (d) of that section, the applicant will have 18 months from the date the application is received by the Department to complete the training. 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 category of certification and achieves a passing score on each such examination.

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

### **Section 1208-4.1 Certification of training courses.**

(a) Types of training courses. There are three types of training courses: basic training courses, in-service training courses, and advanced in-service training courses.

(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 1208-3.2 of this Part (in the case of a basic training course), a topic specified in the applicable subdivision of section 1208-3.3 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 1208-3.4 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 1208-4.2 of this Part, or by an adjunct instructor who has been certified to teach or present such training course pursuant to Section 1208-4.3 of this Part;

(3) the training course should not serve to endorse individual products or systems; this shall not prohibit courses covering proprietary products or systems.

(4) the training course must establish 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, if applicable, and each student's success in completing the training course; and

(5) if the course is to be offered as an online training course , the training course must include 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.

(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 include the following:

(1) a CD, DVD or flash drive containing a copy of the course, including a lesson plan, speaker notes, and presentation files, and for videos used as part of a course, a copy of the video, the video's title and a brief description of its content;

(2) a CD, DVD or flash drive containing a copy of course handouts, and if course handouts are not available electronically, a copy of the handout in the format to be used;

(3) the name of each instructor or adjunct instructor who will teach or present all or any part of the training course and an instructor biography for each;

(4) if the course is to be offered as an online training course, such additional information as the Department 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

(5) 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 or letter attesting to such approval, 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 or letter, and shall expire on the expiration date specified in the certificate or letter unless, in accordance with subdivision (e) of this section, the Secretary determines that the certification of the training course should be revoked earlier.

(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, revisions, or additions to the Uniform Code and/or the 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 building safety inspectors or code enforcement officials; or

(2) any instructor who teaches or presents all or any part of the training course dies, becomes incapacitated, resigns, retires, has his or her certification as a standard 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

(3) the Secretary determines, after notice and an opportunity to be heard, that:

(i) the application for certification of the training course contained any false or misleading statement; or

(ii) the training course provider, or any person or entity affiliated with the training course provider, or any 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 developed by the Department which are taught or presented by employee(s) of the Department.

#### **Section 1208-4.2 Certification of standard instructors.**

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

(1) the applicant must have received certification as a certified code enforcement official, and must have maintained such certification by satisfying all applicable in-service training requirements and all applicable advanced in-service training requirements;

(2) the applicant's certification as a certified code enforcement official must not be inactive or revoked;

(3) the applicant must have successfully completed fire service instructor I and fire service instructor II training or a minimum of three credit hours of equivalent training acceptable to the Department (such training to be in addition to, and not part of, the basic training, in-service training and advanced in-service training required for certification as a certified code enforcement official). For the purposes of this paragraph, the successful completion of “fire service instructor I and fire service instructor II training” shall mean successful completion of the courses of study listed in subparagraphs (iv) and (vi) of paragraph (4) of subdivision (b) of section 426.4 of Title 19 of the Official Compilation of Codes, Rules, and Regulations of the State of New York; and

(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; in addition, the applicant must satisfy at least one of the following requirements:

(i) the applicant must have at least three years of experience as a full-time code enforcement official performing enforcement activities; or

(ii) 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 and the applicant must have at least one year of experience as a full-time code enforcement official performing enforcement activities;

or

(iii) the applicant must be a full-time training, technical, or field representative of the State of New York having duties or expertise specifically related to code enforcement programs.

(5) for each Training Course which the applicant proposes to teach or present, the applicant must complete the qualifying procedure established by the Department.

(b) Certification as a standard instructor. Upon approval of an application for certification as a standard instructor, the Secretary shall issue a certificate certifying the applicant as a standard instructor and specifying the training course(s) which the instructor is qualified 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 may be renewed upon the date specified in such certificate if the Secretary finds that the instructor still qualifies for certification as a standard instructor . The Department may audit courses taught by instructors at any time to ensure continued satisfactory performance.

(c) Revocation of certification as a standard instructor. A certification issued to a standard instructor pursuant to this section may be revoked by the Secretary if:

(1) the instructor fails to maintain certification as a certified code enforcement official, or the instructor's certification as a certified code enforcement official is revoked, is designated as inactive or is reduced to the level of building safety inspector;  
or

(2) the Secretary determines, after notice and an opportunity to be heard, that:

(i) the application for certification of the instructor contained any false or misleading statement, or

(ii) the instructor has demonstrated incompetency or untrustworthiness;  
or

(3) the Secretary determines as a result of an audit, after notice and an opportunity to be heard, that the instructor fails to demonstrate adequate knowledge or skills to teach or present the training course.

(d) Employees of the Department. Subdivisions (a) through (c) of this section shall not apply to instructors who are employees of the Department. However, no employee of the Department shall act as an instructor unless such employee is, in the judgment of the Department, capable of teaching or presenting training courses in a manner that will provide appropriate training to persons who are or who wish to become building safety inspectors or code enforcement officials.

#### **Section 1208-4.3 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

(4) the applicant must have an associate's degree (or higher level degree) in a field related to the subject(s) for which adjunct instructor certification is sought from an accredited educational institution , or a professional certification in a subject or field

related to the subject(s) for which adjunct instructor certification is sought from a recognized professional association.

(b) Certification as an adjunct instructor. Upon approval of an application for certification as an adjunct instructor, the Secretary shall issue a certificate or letter certifying the applicant as an adjunct instructor and specifying the training course which the adjunct instructor is certified to teach or present. Such certification or letter shall be subject to such terms and conditions as may be specified, and, if not sooner revoked, such certification may be renewed on the date specified in such certificate if the Secretary finds that the instructor still qualifies for certification as an adjunct instructor.

(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 an opportunity to be heard, that the application for certification of the adjunct instructor contains any false or misleading statement, or that the instructor has demonstrated incompetency or untrustworthiness. The Department may audit courses taught by adjunct instructors at any time to ensure satisfactory performance.

(d) Employees of the Department. Subdivisions (a) through (c) of this section shall not apply to adjunct instructors who are employees of the Department. However, no employee of the Department shall act as an adjunct instructor unless such employee is, in the judgment of the Department, capable of teaching or presenting training courses in a manner that will provide appropriate training to persons who are or who wish to become building safety inspectors or code enforcement officials.

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

### **Section 1208-5.1 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 respective criteria applicable to the type of application submitted.

### **Section 1208-5.2 List of certified building safety inspectors and certified code enforcement officials.**

The Department shall maintain a list of certified building safety inspectors and certified code enforcement officials, and may post such list on the Department's website. Such list may include the name of each certified building safety inspector and certified code enforcement official, his or her level of certification, and, if applicable, the local government, county, or state agency that employs such certified building safety inspector or certified code enforcement official, together with such other information as the Department may determine to be relevant. The Secretary may omit from such website list any certified building safety inspector or 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 designated as inactive or has been revoked.

### **Section 1208-5.3 Effective date.**

This Part shall take effect on January 1, 2015. Thereafter, the provisions of this Part shall supersede any and all inconsistent provisions of Part 426.

**Section 1208-5.4 Transitional provisions.**

(a) Persons who completed the basic training program required by Part 434 prior to December 31, 2014. A person who:

(1) successfully completed the basic training program for code enforcement personnel described in Part 434 at any time prior to December 31, 2014 and successfully completed any required advanced in-service training, or

(2) successfully completed the basic training program described in Part 434 at any time during calendar year 2014,

may be certified as a certified code enforcement official. To maintain certification granted pursuant to this subdivision, the person receiving such certification must satisfy the code enforcement official in-service training requirements described in subdivision (c) of section 1208-3.3 of this Part for each calendar year, starting with calendar year 2015 and continuing every calendar year thereafter, and any and all code enforcement official advanced in-service training requirements made applicable pursuant to section 1208-3.4 of this Part.

(b) Code enforcement officials who commenced employment prior to January 1, 1985.

A person who:

(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, and

(3) obtained a certificate from the state fire administrator attesting to the satisfactory completion of such examination,

may be certified as a code enforcement official. To maintain certification granted pursuant to this subdivision, the person receiving such certification must satisfy the code enforcement official in-service training requirements described in subdivision (c) of section 1208-3.3 of this Part for each calendar year, starting with calendar year 2015 and continuing every calendar year thereafter, and any and all advanced in-service training requirements made applicable pursuant to section 1208-3.4 of this Part.

(c) Persons receiving code compliance technician certification pursuant to Part 426. A person who:

(1) received code compliance technician certification from the State Fire Administrator or the Secretary pursuant to Part 426 at any time prior to December 31, 2014, or

(2) successfully completed the classes described in Part 426 as required for code compliance technician certification,

may be certified as a building safety inspector. A person wishing to be certified as a building safety inspector 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 building safety inspector in-service training requirements described in subdivision (b) of section 1208-3.3 of this Part for each calendar year, starting with calendar

year 2015 and continuing every calendar year thereafter, and all advanced in-service training requirements made applicable pursuant to section 1208-3.4 of this Part.

(d) Persons receiving standard code enforcement instructor certification pursuant to 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, 2014,

(2) has presented each of the courses, applicable to his or her certification as a standard code enforcement instructor within the past three years, and

(3) satisfies the requirements set forth in subdivision (a) of section 1208-4.2 of this Part,

may be certified as a standard instructor for the purposes of this Part. A person wishing to be certified as a standard 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 a standard instructor pursuant to this subdivision shall be issued a certificate similar to the certificate described in subdivision (b) of section 1208-4.2 of this Part, and shall be subject to the provisions of subdivision (c) of that section.

(e) Persons receiving special code enforcement instructor certification under Part 434.

A person who:

(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, 2014, and

(2) satisfies at least one of the requirements set forth in subdivision (a) of section 1208-4.3 of this Part, may be certified as an adjunct instructor for the purposes of this Part.