

(f) In addition to inspecting life hazard uses, a local enforcing agency may, by giving notice to the Division, accept responsibility for cyclical inspection and enforcement of the Uniform Fire Code in hotels and multiple dwellings that are not life hazard uses. A local enforcing agency that accepts this responsibility shall inspect each multiple dwelling that is not a life hazard use and each hotel that is not a life hazard use at a frequency not less than that currently provided for in the rules for the Maintenance of Hotels and Multiple Dwellings, N.J.A.C. 5:10.

1. A local enforcing agency may, by ordinance, establish reasonable fees to cover the cost of such inspections, in accordance with N.J.A.C. 5:71-2.3(b).

Amended by R.1993 d.628, effective December 6, 1993.

See: 25 N.J.R. 4363(a), 25 N.J.R. 5466(a).

Amended by R.1995 d.58, effective March 6, 1995.

See: 26 N.J.R. 4258(a), 27 N.J.R. 878(b).

#### SUBCHAPTER 4. CERTIFICATION OF FIRE OFFICIALS

##### 5:71-4.1 Scope; intent

(a) This subchapter shall control all matters relating to qualifications for the certification of all fire officials and inspectors engaged in or to be engaged in the administration and enforcement of the New Jersey Uniform Fire Code, including procedures for application, issuance, denial and revocation of certifications; approval of training and/or educational programs offered to meet the requirements for certification of fire officials, application fees for a certification, and enforcement of penalties for violations of this subchapter.

(b) Unless otherwise specifically provided, all references to article or section numbers, or to provisions not specifically identified by number, shall be construed to refer to such article, section or provision of this subchapter.

(c) The New Jersey Uniform Fire Code has been adopted to ensure public safety and welfare. In order for the Code to be enforced adequately and effectively, fire officials will need to have sufficient knowledge and competence to administer and interpret the Code's standards. This can best be achieved through the creation of an education and training program and the development of certification requirements.

1. It is the purpose of this subchapter to establish standards and procedures for the certification of fire officials, including but not limited to fire officials and inspectors, and to require all persons performing duties with respect to the inspection for compliance with the New Jersey Uniform Fire Code in any political subdivision within this State, to be certified as provided in this subchapter.

Amended by R.1985 d.611, effective December 2, 1985.

See: 17 N.J.R. 1015(b), 17 N.J.R. 2870(a).

Old (a) deleted; (c) renumbered (a); (d) renumbered (c).

##### 5:71-4.2 Authority; hearings

(a) The following rules concern Office of Training and Certification:

1. There is hereby established in the Division, an Office of Training and Certification. The Office shall consist of such employees of the Department of Community Affairs as may be required for the efficient implementation of this subchapter.

2. The responsibilities of the Office, in addition to all others provided in this subchapter, are as follows:

i. To issue such certification as may be called for herein when warranted and to affix the seal of the Commissioner thereon;

ii. To keep accurate records of all applications for a certification and official action thereon, and to make such records available for inspection by the public at all reasonable times; and

iii. To suspend or revoke a certification provided for herein upon the establishment of cause as set forth in N.J.A.C. 5:71-4.6.

(b) The following rules concern hearings:

1. Any person aggrieved by any notice, action, ruling or order of the Division, with respect to this subchapter, may have a right to a hearing before the Office of Administrative Law, conducted in accordance with the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq. and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1-1.1 et seq. The final decision in any such case shall be issued by the Commissioner.

2. The aggrieved person must request a hearing. The request must be made within 15 days after receipt of the action or ruling being contested. The request shall be mailed to the Hearing Coordinator, Department of Community Affairs, PO Box 802, Trenton, New Jersey 08625-0802. The request for hearing shall raise all issues that will be set forth at the hearing.

Amended by R.1993 d.628, effective December 6, 1993.

See: 25 N.J.R. 4363(a), 25 N.J.R. 5466(a).

Amended by R.1995 d.58, effective March 6, 1995.

See: 26 N.J.R. 4258(a), 27 N.J.R. 878(b).

##### 5:71-4.3 Certification required

(a) No person shall carry out the duties of fire official or fire inspector unless that person is certified pursuant to this subchapter. The term "carry out the duties" shall mean and include representing oneself as authorized to carry out inspection of life hazard uses on behalf of the Commissioner, issuing orders pursuant to the Act, and assessing or imposing any of the penalties provided for by the Act.

(b) No local enforcing agency shall employ any person to enforce the provisions of the Uniform Fire Code at a life hazard use, unless that person shall be certified in accordance with the provisions of this subchapter.

(c) When a local enforcing agency that enforces the Code in life hazard uses has a vacancy that leaves the agency without a certified fire official, then the appointing authority shall appoint a certified person to the position within 45 days of the vacancy having occurred. The appointing authority may request an extension of 30 days in which to make the appointment. Such requests shall be made within the initial 45 day period, by the appointing authority or designee, to the Division, Attention: LEA Supervisor, shall set forth the reasons why additional time is necessary and shall indicate if any inspection or enforcement matters require Division assistance in the interest of public health, safety or welfare. Within seven business days from receipt of an extension request, the Division shall send a written determination either granting or denying the request.

1. Fire officials appointed to fill vacancies shall so notify the Division in writing, on the local enforcing agency letterhead, within five days of the appointment.

2. Fire officials shall undertake duties within 10 days of being appointed.

3. The appointing authority or designee shall notify the Division, Attention: LEA Supervisor, in writing within five days of the date that the fire official vacates the office.

4. The Division shall be notified in writing by either the appointing authority or the fire official at least 10 days in advance of any leaves of absence by the fire official in excess of 30 days, which notification shall include the provisions that have been made to enforce the Code during the period of absence.

5. If no fire official is appointed within the applicable time, the Division shall assume responsibility for enforcement and modify the Registry accordingly. Registration fees collected for the period during which the Division is responsible, as well as for the preceding period of the fire official's vacancy, shall enure to the Division.

Amended by R.1985 d.611, effective December 2, 1985.

See: 17 N.J.R. 1015(b), 17 N.J.R. 2870(a).

"1985" changed to "1986".

Amended by R.1987 d.247, effective June 15, 1987.

See: 18 N.J.R. 1225(a), 19 N.J.R. 1078(a).

(c) amended.

Amended by R.1991 d.359, effective July 15, 1991.

See: 23 N.J.R. 1235(a), 23 N.J.R. 2122(b).

July 1, 1986 deleted from (a) and (b).

Amended by R.1993 d.628, effective December 6, 1993.

See: 25 N.J.R. 4363(a), 25 N.J.R. 5466(a).

Amended by R.1995 d.58, effective March 6, 1995.

See: 26 N.J.R. 4258(a), 27 N.J.R. 878(b).

#### 5:71-4.4 Requirements for certification

(a) Any candidate for certification in Fire Code enforcement pursuant to this subchapter shall submit an application to the Office of Fire Code Enforcement Certification in the Division of Fire Safety, accompanied by the required fee established at N.J.A.C. 5:71-4.7. The application shall include such information and documentation as the Division may require.

(b) Certification as a "fire inspector" shall be issued to any applicant who has successfully completed an educational program approved by the Division pursuant to N.J.A.C. 5:71-4.9.

1. Only an educational program completed within the three years prior to, or at the time of, application shall be accepted toward fulfilling the requirements for certification.

(c) Certification as a "fire official" shall be issued to any applicant who holds a valid certification as a fire inspector issued by the Division pursuant to this section and has successfully completed an educational program approved by the Division pursuant to N.J.A.C. 5:71-4.9.

1. Only an educational program completed within the three years prior to, or at the time of, application shall be accepted toward fulfilling the requirements for certification.

(d) The Division shall determine, by examination of the application and review of any supporting documents, including any evidence of experience, training and/or education submitted, whether an applicant is qualified for the certification for which the application has been made.

1. If the application is satisfactory, the Division shall issue a certification to the applicant upon payment of the required fee.

2. This certification shall show that the person has met the established requirements and is entitled to be employed in the State in accordance with the provisions of this subchapter.

3. The Division may deny, or refuse to issue, a certification to an applicant upon proof that there has been any act or omission that would constitute grounds for revocation under N.J.A.C. 5:71-4.6.

Amended by R.1985 d.611, effective December 2, 1985.

See: 17 N.J.R. 1015(b), 17 N.J.R. 2870(a).

(b) amended, 5/10/83 and 5/10/84 changed to 2/19/84 and 2/19/85.

Amended by R.1987 d.247, effective June 15, 1987.

See: 18 N.J.R. 1225(a), 19 N.J.R. 1078(a).

Deleted old (b)2 and renumbered (b)3.-4. as (b)2.-3.

Amended by R.1991 d.359, effective July 15, 1991.

See: 23 N.J.R. 1235(a), 23 N.J.R. 2122(b).

Issuance of fire inspector and fire official certification specified.

Amended by R.1993 d.628, effective December 6, 1993.

See: 25 N.J.R. 4363(a), 25 N.J.R. 5466(a).

Amended by R.1997 d.123, effective March 17, 1997.

See: 28 N.J.R. 5124(a), 29 N.J.R. 869(a).

Inserted (b)1 and (c)1.

**5:71-4.5 Renewal of certification**

(a) Every three years, any certification already issued shall be renewed upon submission of an application, payment of the required fee, and verification by the Office of Training and Certification that the applicant has met such continuing educational requirements as may be established by the Commissioner. The Division shall renew, for a term of three years, the certification previously issued. The expiration date of the certification shall be January 31 or July 31.

(b) The Division shall issue, upon application, a duplicate certification of the appropriate type and specialty upon a finding that the certification has been issued and the applicant is entitled to such certification to replace the one that has been lost, destroyed, or mutilated. Payment of a fee as may be established by the Commissioner shall be required.

(c) Continuing education requirements, as follows, must be met for renewal of certification. The requirements are based upon the type of certification held and not upon employment position held. Continuing education units (CEU's) shall be approved by the Division for technical and administrative courses (one CEU equals 10 contact hours).

1. Fire inspector certification—2.0 CEU's (technical), including one Code Update program of instruction for any fire inspector who is employed by a local enforcing agency;

2. Fire official certification—3.0 CEU's (2.0 technical and 1.0 administrative), including one Code Update program of instruction for any fire official who is employed by a local enforcing agency.

(d) Where the holder of a certification has allowed the certification to lapse by failing to renew the certification as provided for in (a) above, a new application and certification shall be required.

1. If such application is made within six months of the certification having lapsed, then application may be made in the same manner as a renewal, but the application shall be accompanied by the fee for a new application.

2. Upon a finding that a certification was previously held and that any applicable continuing education requirements have been satisfied the certification shall be issued.

3. Where the former certification has lapsed for a period exceeding six months, a new application shall be required in accordance with N.J.A.C. 5:71-4.4.

(e) After revocation of a certification upon any of the grounds set forth in N.J.A.C. 5:71-4.6, the Division may not renew or reinstate such certification; however, a person may file a new application for a certification with the Division. When it can be shown that all loss caused by the act or omission for which the certification was revoked has been fully satisfied, that the applicant has been legally rehabilitated and that all conditions imposed by the decision of

revocation have been complied with, the Division may issue a new certification. No new certification shall be issued if the cause for revocation was conviction of a crime of any degree which crime was in connection with Fire Code enforcement.

Amended by R.1991 d.359, effective July 15, 1991.

See: 23 N.J.R. 1235(a), 23 N.J.R. 2122(b).

CEUs added as requirement for renewal.

Amended by R.1993 d.628, effective December 6, 1993.

See: 25 N.J.R. 4363(a), 25 N.J.R. 5466(a).

Amended by R.1995 d.58, effective March 6, 1995.

See: 26 N.J.R. 4258(a), 27 N.J.R. 878(b).

Amended by R.1997 d.123, effective March 17, 1997.

See: 28 N.J.R. 5124(a), 29 N.J.R. 869(a).

In (c)1 and (c)2, inserted text "including one Code Update ... local enforcing agency".

**5:71-4.6 Revocation of certifications and alternative sanctions**

(a) The following shall be deemed a violation of the Uniform Fire Safety Act subject to a penalty of not more than \$500.00 for each offense:

1. To carry out inspections or issue notices or orders pursuant to the Act in connection with life hazard uses if not certified;

- i. This shall not preclude notifying the owner of a life hazard use of a perceived violation observed by a firefighter during the course of any normal fire service activity, such as routine inservice inspections. A copy of such notification shall be transmitted to the fire official for appropriate action.

2. To appoint or employ a person who is not certified to carry out the responsibilities of fire official in connection with life hazard uses; or

3. To fail to notify the Division concerning a vacancy as required by N.J.A.C. 5:71-4.3.

(b) The Division may suspend and/or revoke a certification, and/or assess a civil penalty of not more than \$500.00, if the Department determines that the holder:

1. Has violated any of the provisions of the Uniform Fire Code regulations;

2. Has obtained a certification by fraud or misrepresentation, or the person named in the certificate has obtained it by fraud or misrepresentation;

3. Has aided or abetted in practice as a certified enforcement official or inspector any person not authorized to practice as a certified Fire Code enforcement official or inspector under the provisions of these regulations;

4. Has fraudulently or deceitfully practiced as a certified Fire Code enforcement official or inspector;

5. Has been grossly negligent or has engaged in misconduct in the performance of any of his duties;

6. Has failed, over a period of time, to maintain a minimally acceptable level of competence;

7. Has been found to have failed to report an offer or bribe or other favor in a proceeding under the Act or other appropriate law of this or any other state or jurisdiction;

8. Has failed to comply with any order issued by the Department;

9. Has made a false or misleading written statement, or has made a material omission in any submission to the Department;

10. Has failed to enforce the Uniform Fire Code; or

11. Has violated any provision of this chapter or of N.J.A.C. 5:70.

(c) The Division, in addition, or as an alternative, to revoking or suspending a certification, or assessing a penalty, may issue a letter of warning, reprimand, or censure with regard to any conduct that, in the judgment of the Division, warrants a letter of warning, reprimand, or censure. Such letter, in addition to any other filing requirements, shall be made a part of the certification file of the individual.

(d) The Commissioner shall appoint a review committee to advise the Department concerning the appropriateness of sanctions that the Department proposes to take against persons holding certifications who are alleged to have done any act or omission proscribed by (b) above. The Department shall provide necessary staff for the review committee.

1. The review committee shall consist of three persons certified and currently employed by municipalities as fire officials, at least one of whom shall not be employed by any one enforcing agency for a total of more than 20 hours per week.

2. Members of the review committee shall be appointed by the Commissioner and shall serve for terms of three years; except that, of those members first appointed, one shall serve for one year, one shall serve for two years, and one shall serve for three years. No person may be a member of the review committee for more than two consecutive terms. The Commissioner shall also appoint two alternate members of the committee, who shall be persons certified and currently employed by municipalities as fire officials, at least one of whom shall not be employed by any one enforcing agency for a total of more than 20 hours per week. Alternates shall serve for two years, except that, of the alternates first appointed to each review committee, one shall serve for two years and one shall serve for one year.

i. The Commissioner shall give the Fire Safety Commission an opportunity to comment on persons proposed to serve as members of the review committee prior to their appointment.

3. The review committee shall not hear any case or issue any recommendations without three members, who may be either regular or alternate members, being present.

4. In any case in which the Department makes a preliminary finding that a person holding certification has done any act or omission proscribed under (b) above, it shall have the case reviewed by the review committee prior to the issuance of any order revoking or suspending the certification or assessing a civil penalty.

5. The Department shall present whatever evidence it may have to the review committee. The person holding certification shall be given notice of the meeting of the review committee and may appear before the review committee to present his or her position, but there shall be no cross-examination of either the person holding certification or any representative of the Department. Nothing said by the person holding certification or by any person at the meeting of the review committee shall be used in any way, nor shall any member of the review committee be required to testify concerning proceedings before the review committee, in any subsequent proceeding.

6. The review committee shall submit its recommendations as to the sanctions, if any, that ought to be imposed, to the Deputy Director, Division of Fire Safety within 20 business days following the meeting. No sanctions shall then be imposed without the express approval of the Deputy Director. Failure of the review committee to submit a timely recommendation shall be deemed to be in concurrence with the action proposed to be taken by the Department. Notice of the review committee's recommendation, or failure to issue a recommendation, shall be given to the person holding certification.

7. A meeting of the review committee shall not be deemed to be a hearing or an adversarial proceeding and the findings of the review committee shall be deemed to be only a recommendation that is not binding on the Department.

(e) Conviction of a crime, or an offense in connection with exercising the duties of a certified fire official or inspector, shall result in revocation of certification.

(f) Any sanctions imposed by the Construction Code Enforcement Element, pursuant to N.J.S.A. 52:27D-119 et seq., shall constitute grounds for imposition of sanctions under this section.

(g) Any person aggrieved by any action of the Department pursuant to this chapter shall be entitled to a hearing before the Office of Administrative Law in accordance with the Administrative Procedure Act, as provided in N.J.A.C. 5:71-4.2.