



Commission on Peace Officer Standards and Training

860 Stillwater Road, Suite 100
West Sacramento, CA 95605-1630
www.post.ca.gov

Date: November 21, 2017

Bulletin: No. 2017-38

Subject: **Notice of Proposed Regulatory Action – Basic Course Requalification and Basic Course Waiver Requirements, Regulations 1001, 1005, 1008, and Commission Procedures D-10 AND D-11,**

At the October 26, 2017 meeting, the Commission approved proposed revisions to the POST Requalification and Basic Course Waiver requirements as contained in Commission Regulation 1001: Definitions, Regulation 1005: Minimum Standards for Training, Regulation 1008: Basic Course Waiver and Requalification Requirement, Procedure D-10: Requalification Course, and Procedure D-11: Basic Course Waiver Requirement

The proposed, non-substantive changes are intended to clarify and better organize the aforementioned requirements in order to remove vagueness and ambiguity and therefore prevent further misinterpretations.

The attached notice describes the proposed changes, includes an invitation for written input on this proposal, the deadline for written comments, and information about requesting a public hearing. The following related information is available on the [POST Website](#).

- POST Bulletin and Notice of Proposed Regulatory Action
- Text of Proposed Regulatory Action
- Initial Statement of Reasons

Questions regarding this proposed regulatory action may be directed to Shelley Spilberg, Ph.D., Commission on POST, 860 Stillwater Road, Suite 100, West Sacramento, CA 95605-1630, by email at shelley.spilberg@post.ca.gov or by telephone at (916) 215-4280. General questions regarding the regulatory process may be directed to Christy Correa at (916) 227-4847 or christy.correa@post.ca.gov.

MANUEL ALVAREZ, JR.
Executive Director

Attachment: Notice of Proposed Regulatory Action

NOTICE OF PROPOSED REGULATORY ACTION
BASIC COURSE REQUALIFICATION AND BASIC COURSE WAIVER REQUIREMENTS
Regulation(s) 1001, 1005, 1008

Notice is hereby given that the Commission on Peace Officer Standards and Training (POST) proposes to amend regulations in Division 2 of Title 11 of the California Code of Regulations as described below in the Informative Digest. A public hearing is not scheduled. Pursuant to Government Code Section 11346.8, any interested person, or his/her duly authorized representative, may request a public hearing. POST must receive the written request no later than 15 days prior to the close of the public comment period.

Public Comments Due by January 15, 2018, at 5:00 PM

Notice is also given that any interested person, or authorized representative, may submit written comments relevant to the proposed regulatory action by fax at (916) 227-0476, email: shelley.spilberg@post.ca.gov or by letter to:

Commission on POST
Attention: Shelley Spilberg, Ph.D.
860 Stillwater Road, Suite 100
West Sacramento, CA 95605-1630

Authority and Reference

This proposal is made pursuant to the authority vested by Penal Code Section 13503 (authority of the Commission on POST) and Penal Code Section 13506 (POST authority to adopt regulations). This proposal is intended to interpret, implement, and make specific Penal Code Section 13503(e), which authorizes POST to develop and implement programs to increase the effectiveness of law enforcement, including programs involving training and education courses.

Informative Digest/Policy Statement Overview

Currently, the Requalification and Basic Course Waiver regulations in Commission 1008 provides an alternative to repeating a Basic Course for individuals who have experienced a significant break in qualifying service or who are transferring from out of state with sufficient training and experience to ensure competency and proficiency.

At the October 26, 2017 meeting, the Commission approved the proposed editorial revisions to POST Regulations 1001, 1005, and 1008, and Procedure D-10 and D-11. The purpose of these changes is to improve presentation, clarity and readability, so as to avoid misinterpretation of their content and intent. During requalification appeal hearings over the past several years, the Commission has experienced difficulty in applying these regulations due to the manner in which they are written and organized. The circumstances surrounding the “6-Year Rule” and the “3-Year Rule” have caused considerable confusion. The “6-Year Rule” [Regulation 1008(b)] has been misinterpreted as allowing an individual three years from the date of completion of requalification training to obtain initial qualifying employment without consideration of the additional six-year time limit from the date of completion of the Basic Course. In the proposed revisions, these terms have been removed and replaced with clearer explanatory language.

A second example of misinterpretation resulting from the wording of current requirements involves Commission Procedure D-11. The current has led to the inaccurate belief that individuals who completed a California POST-certified Basic Course but who were never appointed as a peace officer in California were not eligible to apply for a Basic Course Waiver.

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In addition to rewording, these requirements have been reorganized so that information on a given topic is contained in one location. Commission Procedure D-10 has been included in Regulation 1008: Basic Course Requalification Requirements; Procedure D-11 has been incorporated into Regulation 1005: Minimum Standards for Training; and the requalification course terminology in Procedure D-10(a) has been woven into Regulation 1001: Definitions.

By providing greater clarification and transparency, the proposed changes will enable the Commission, POST staff, law enforcement agencies, peace officers and other individuals and stakeholders to locate and more easily interpret requirements related to requalification training and Basic Course Waivers. However, the proposed editorial, formatting and organizational changes do not alter the content or substance or substance of the current requirements.

There would be no effect to benefits in regard to public health and safety, worker safety, or the environment, the prevention of discrimination, and the increase in openness and transparency in business and government.

During the process of revising these regulations and amendments, POST has conducted a search of any similar regulations on this topic and has concluded that these regulations are neither inconsistent nor incompatible with existing state regulations.

Adoption of Proposed Regulations

Following the public comment period, the Commission may adopt the proposal substantially as set forth without further notice, or the Commission may modify the proposal if such modifications remain sufficiently related to the text as described in the Informative Digest. If the Commission makes changes to the language before the date of adoption, the text of any modified language, clearly indicated, will be made available at least 15 days before adoption to all persons whose comments were received by POST during the public comment period and to all persons who request notification from POST of the availability of such changes. A request for the modified text should be addressed to the agency official designated in this notice. The Commission will accept written comments on the modified text for 15 days after the date that the revised text is made available.

Estimate of Economic Impact

Fiscal impact on Public Agencies including Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: None

Non-Discretionary Costs/Savings to Local Agencies: None

Local Mandate: None

Costs to any Local Agency or School District for which Government Code Sections 17500 - 17630 requires reimbursement: None

Significant Statewide Adverse Economic Impact Directly Affecting California Businesses, including Small Business: The Commission on Peace Officer Standards and Training has made an initial determination that the amended regulations will not have a significant statewide adverse economic

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impact directly affecting California businesses, including the ability of California businesses to compete with businesses in other states. The Commission on Peace Officer Standards and Training has found that the proposed amendments will not affect California businesses, businesses, because the Commission sets selection and training standards for law enforcement which does not impact California businesses, including small businesses.

Cost Impacts on Representative Private Persons or Businesses: The Commission on Peace Officer Standards and Training is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Effect on Housing Costs: The Commission on Peace Officer Standards and Training has made an initial determination that the proposed regulation would have no effect on housing costs.

Results of Economic Impact Assessment per Gov. Code sec. 11346.3(b)

The adoption of the proposed amendments of regulations will neither create nor eliminate jobs in the State of California, nor result in the elimination of existing businesses or create or expand businesses in the State of California.

The benefits of the proposed amendments of regulations to the health and welfare of California residents would be to provide economic relief to departments who are rehiring peace officers within a specified time frame after a voluntary separation from the department. There would be no impact that would affect worker safety or the State's environment.

Consideration of Alternatives

In accordance with Government Code section 11346.5, subdivision (a)(13), the Commission must determine that no reasonable alternative it considered, or that has otherwise been identified and brought to the attention of the Commission would be more effective in carrying out the purpose for which the action is proposed, would be as effective, and less burdensome to affected private persons than the proposed action, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provisions of the law.

Contact Persons

Questions regarding this proposed regulatory action may be directed to Shelley Spilberg, Ph.D., Commission on POST, 860 Stillwater Road, Suite 100, West Sacramento, CA 95605-1630, at shelley.spilberg@post.ca.gov, or (916) 215-4280. General questions regarding the regulatory process may be directed to Christy Correa at (916) 227-4847, christy.correa@post.ca.gov, or by FAX at (916) 227-5271.

Text of Proposal

Individuals may request copies of the exact language of the proposed regulations and of the initial statement of reasons, and the information the proposal is based upon from the Commission on POST, 860 Stillwater Road, Suite 100, West Sacramento, CA 95605-1630. These documents are also located on the [POST Website](#).

Availability and Location of the Rulemaking File and the Final Statement of Reasons

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The rulemaking file contains all information upon which POST is basing this proposal and is available for public inspection by contacting the person(s) named above.

To request a copy of the Final Statement of Reasons once it has been prepared, submit a written request to the contact person(s) named above.