Commission on Peace Officer Standards and Training
1601 Alhambra Blvd
Sacramento, CA 95816-7083
www.post.ca.gov

Date: June 9, 2006

Bulletin: No. 2006-07

Subject: **Notice of Proposed Regulatory Action – Standardized Content for Electronic Weapons Courses Regulation 1084**

At its October 27, 2005, meeting, POST Commissioners voted unanimously to adopt minimum hours and curriculum requirements for electronic weapons operator training courses. The documents listed below provide information about the proposed regulatory action and are available at www.post.ca.gov/RegulationNotices/RegulationNotices.asp:

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

Pursuant to the provisions of the Administrative Procedures Act, the Commission invites written input on this proposal. POST must receive any written comments related to the proposed actions no later than July 24, 2006.

No public hearing is scheduled. Pursuant to Government Code Section 11346.8, any interested persons or duly authorized representative may request that POST hold a public hearing. POST must receive the written request no later than 15 days prior to the close of the public comment period.

Please direct any inquiries concerning this proposed regulatory action by mail to Patricia Cassidy, Commission on POST, 1601 Alhambra Boulevard, Sacramento, CA, 95816-7083, by email at Pat.Cassidy@post.ca.gov, or by telephone at 916.227.4847. Bryon Gustafson is the back-up person for this proposal; he is available by email at Bryon.Gustafson@post.ca.gov or by telephone at 916.227.4887.

KENNETH J. O'BRIEN
Executive Director

Attachment: Notice of Proposed Regulatory Action

NOTICE OF PROPOSED REGULATORY ACTION
Standardized Content for Electronic Weapons Courses – Regulation 1084

Notice is hereby given that the Commission on Peace Officer Standards and Training (POST) proposes to amend regulations in Chapter 2 of Title 11 of the California Code of Regulations. This proposal is made pursuant to the authority vested by Penal Code sections 13503 (powers of the Commission on POST) and 13506 (Commission on POST authority to adopt regulations). Implementation of this proposal will interpret, implement, and make specific Penal Code section 13503(e) (Commission on POST authority to develop and implement programs to increase the effectiveness of law enforcement, including programs involving training and education courses).

Informative Digest/Policy Statement Overview

California law enforcement employs less-than-lethal force weaponry in specified situations. This weaponry may include chemical weapons, several types of electronic weapons, and projectile weapons. POST currently certifies numerous operator-training courses for less-than-lethal force weaponry, with varying curriculum content and varying course hours, from four to nine hours. Several course titles include the word "TASER," which is one brand of electronic weapons.

At its October 27, 2005, meeting, POST Commissioners voted unanimously to standardize California electronic weapons training by adopting four-hour course minimum and specific curriculum requirements for electronic weapons training courses. The recommended four hours minimum resulted from the input of subject matter experts and an analysis of hours currently devoted to existing electronic weapons training courses. Subject matter experts also assisted POST staff in developing the curriculum requirements.

POST is proposing the standardization of electronic weapons training for the following reasons:

1. According to survey data published by the California Police Chiefs Association in June 2005, the majority of the responding California police departments authorize the use of electronic weapons.

2. The controversy surrounding the use of electronic weapons by law enforcement as a force option has brought unwanted publicity and controversy to law enforcement. Some deaths have occurred following the use of electronic weapons. These deaths are the result of many other mitigating circumstances, (i.e., drug use, existing medical condition and others), with the use of an electronic weapon being suspected as a contributing factor.

3. Although several legislative attempts to mandate training for officers who carry electronic weapons were unsuccessful, it would appear that legislation is likely in the near future. POST usually adopts minimum curriculum requirements for training courses in conjunction with legislative direction and a statutory enactment. However, POST has in the past exercised leadership on certain issues by standardizing training when there was compelling reason to do so.

With regard to the use of the copyrighted acronym "TASER" in earlier course titles, POST will not use this term in its courses or materials. The "TASER" is a brand of electronic weapon; the word is an acronym "Thomas A. Swift's Electric Rifle." Because at least two other brands exist and other brands may become available, POST will certify courses that address TASER style weapons as Electronic Weapons course. POST training materials and regulations need to refer to "electronic weapons" generically, just as we refer to "firearms" generically as opposed to "Glock" or "Smith & Wesson." This also means that electronic weapons courses will address only this type of weaponry; the curriculum will not cover any other less-than-lethal force weaponry weapon.

The affect on law enforcement is the training will not be mandatory for peace officers, but all peace officers who attend the POST-certified training will receive the same standardized minimum topics on

electronic weapons courses. Adoption of the proposed regulation will standardize training. All POST-certified electronic weapons courses will contain required minimum hours and standardized curriculum topics, to ensure that the training addresses critical issues without infringing on department policy. Training presenters will be allowed to exceed the minimum hours and curriculum standards. Because a department can supplement the course content with agency-specific training, the standardized training does not infringe on department policy.

Public Comment

The Commission hereby requests written comments on the proposed actions. *POST must receive all written comments no later than 5:00 p.m. on July 24, 2006*. Please direct any written comments to Kenneth J. O'Brien, Executive Director, Commission on POST, 1601 Alhambra Boulevard, Sacramento, CA, 95816-7083, or by fax at 916.227.2801.

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 for a public hearing no later than 15 days prior to the close of the public comment period.

Adoption of Proposed Regulations

Following the close of 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. Please address requests for the modified text to the agency official designated in this notice. The Commission will accept written comments on the modified text for 15 days after the date on which the revised text is made available.

Text of Proposal, Rulemaking File, and Internet Access

The following information regarding the proposed regulatory action is available on the POST website at http://www.post.ca.gov/RegulationNotices/RegulationNotices.asp:

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

Anyone who does not have Internet access may request a copy of the documents listed above by calling 916.227.4847 or by submitting a written request to the contact person listed below. Please refer to POST Bulletin 2006-07. The rulemaking file contains the above-mentioned documents and all information upon which this proposal is based. The file will be maintained for inspection during the Commission’s normal business hours (Monday through Friday, 8: a.m. to 5 p.m.).

The Final Statement of Reasons will be prepared after the close of the public comment period. A copy may be requested via the above phone number, by writing to the address under Contact Persons at the end of this notice, or by viewing the document on the POST Internet website at the address cited above.

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 Section 17561 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 impact directly affecting California businesses, including the ability to compete with businesses in other states. The Commission on Peace Officer Standards and Training has found that the proposed amendments will have no effect on California businesses, including small businesses, because the Commission sets selection and training standards for law enforcement and does not have an impact on 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.

Assessment

The adoption of the proposed regulation amendments will neither create nor eliminate jobs in the state of California, and will not result in the elimination of existing businesses or create or expand businesses in the State of California.

Consideration of Alternatives

To take this action, the Commission must determine that no reasonable alternative considered by the Commission, or otherwise identified and brought to the attention of the Commission, would be more effective in carrying out the purpose for which the action is proposed, or would be as effective as and less burdensome to effected private persons than the proposed action.

Contact Persons

Please direct any inquiries or comments pertaining to the proposed action by mail to Patricia Cassidy, Commission on POST, 1601 Alhambra Boulevard, Sacramento, CA, 95816-7083, by telephone at 916.227.4847, by FAX at 916.227.5271, or by email at Pat.Cassidy@post.ca.gov. The back-up contact person is Senior Consultant Bryon Gustafson. He is available by telephone at 916.227.4887 or by email at Bryon.Gustafson@post.ca.gov.