



Commission on Peace Officer Standards and Training

1601 Alhambra Blvd
Sacramento, CA 95816-7083
www.post.ca.gov

Date: June 6, 2008

Bulletin: No. 2008-06

Subject: **Notice of Proposed Regulatory Action – Employment Status Notification, Regulations 1003, 9040, 9041, and 9073 (b)**

In April 2007, the Commission approved proposed changes and reformatting of Regulation 1003, Notice of Appointment/Termination. The proposed changes are a part of a project to rewrite and reformat Commission regulations and procedures in support of Objective C-4 of the *POST Strategic Plan 2006, Moving in Bold Directions*. If approved by the Office of Administrative Law, Regulation 1003 will be replaced by new Regulation 9040 and 9041 in Title 11, Division 9, Chapter 4, and an amendment to Regulation 9073 (b).

The attached notice describes the proposed changes and 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 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

Please direct inquiries about this proposed regulatory action to Patricia Cassidy, Commission on POST, 1601 Alhambra Boulevard, Sacramento, CA 95816-7083, by email at Dave.Spisak@post.ca.gov, by telephone at 916.227.0539, or by FAX at 916.227.5271. Jackie McGovern is the back-up contact person for this proposal. Jackie is available by telephone at 916.227.4839, or by email at Jackie.McGovern@post.ca.gov.

PAUL A. CAPPITELLI
Executive Director

Attachment: Notice of Proposed Regulatory Action

NOTICE OF PROPOSED REGULATORY ACTION
Employment Status Notification - Delete Regulation 1003, Add Regulations 9040-9041,
Amend Regulation 9073(b)

Notice is hereby given that the **Commission on Peace Officer Standards and Training (POST)** proposes to delete Regulation 1003, Notice of Appointment/Termination, in Title 11, Division 2 of the California Code of Regulations (CCR). Regulation 1003 is being replaced with Regulations 9040 and 9041, in Title 11, Division 9 of the CCR (a newly assigned section in the CCR for reformatted Commission regulations) and Regulation 9073 is being amended. Pursuant to Government Code § 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 July 21, 2008, 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 916.227.5271 or by letter to the:

Commission on POST
Attention: Rulemaking
1601 Alhambra Boulevard
Sacramento, CA 95816-7083

Following the close of the public comment period, the Commission may adopt the proposal substantially as described below or may modify the original proposal with sufficiently related changes. With the exception of technical or grammatical changes, the full text of a modified proposal will be available for 15 days prior to its adoption from the person designated in this notice as the contact person. The Commission will also mail the full text to persons who submit written comments related to the proposal or who have requested notification of any changes to the proposal.

Authority and Reference

This proposal is made pursuant to the authority vested by Penal Code §13503 – POST powers and §13506 - POST authority to adopt regulations. This proposal is intended to interpret, implement, and make specific Penal Code §13503 (e) - 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

Currently, Regulation 1003 specifies the POST notification requirements for participating departments when appointing peace officers, public safety dispatchers, and records supervisors. This regulation is being revised and reformatted. Significant changes to the regulation include:

- **§9040.** Regulation title has been changed to “Employment Status Notification Requirements.”
- **§9040(a)(1).** Notifications shall be made via the Electronic Data Interchange (EDI) system (exception- those departments not registered for EDI)
- **§9040(a)(1)(A)1.a. and b.** Employing department must notify POST of any employed peace officer adjudged guilty of a felony offense or any other reason specified in Government Code 1029. Specifies the notification requirements for peace officers who have been disqualified from peace officer employment [consistent with § 9071(b)].
- **§9040(a)(1)(D)5.** Notification to POST is required for any peace officer promoted or transferred to an “interim or acting” department head position.

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- **§9040(b)(1)-(2).** A new section titled “Employment Status Notification Changes” has been added to provide requirements for correcting errors entered through the EDI system and for correcting personnel actions reported to POST that are subsequently changed by a court or administrative hearing judge.
- **§9041(a)(1)-(2).** Adds requirement for the investigating department to notify POST of former peace officers adjudged guilty of a felony offense or any other reason specified in Government Code 1029.
- **§9073(b)** – Amends this section to make it consistent with [§9040\(a\)\(1\)\(A\)\(3\)](#). Employment status notification for records supervisors is required for all record supervisors, not just those applying for a certificate.

Local Mandate

This proposal does not impose a mandate on local agencies or school districts.

Fiscal Impact Estimates

This proposal does not impose costs on any local agency or school district for which reimbursement would be required pursuant to Part 7 (commencing with §17500) of the Government Code, Division 4. This proposal does not impose other nondiscretionary cost or savings on local agencies. This proposal does not result in any cost or savings in federal funding to the state.

Costs or Savings to State Agencies

POST anticipates no additional costs or savings to state agencies.

Business Impact/Small Businesses

The Commission has made an initial determination that this regulatory proposal would have no significant statewide adverse economic impact directly affecting California businesses, including the ability of California businesses to compete with businesses in other states. The proposal does not affect small businesses, as defined by Government Code §11342.610, because the Commission sets selection and training standards for law enforcement and does not have an impact on California businesses, including small businesses.

Assessment Regarding Effect on Jobs/Businesses

The Commission has determined that this regulatory proposal will not have any impact on the creation or elimination of jobs and will not result in the elimination of existing businesses or the creation or expansion of businesses in the State of California.

Cost Impacts on Representative Private Persons or Businesses

The Commission is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

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Effect on Housing Costs

None

Alternatives

The Commission must determine that no reasonable alternative considered by the agency, or otherwise identified and brought to the agency's attention, 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, affected private persons than the proposed action.

Contact Persons

Please direct inquiries or written comments about the proposed regulatory action to the following:

Dave Spisak	<i>or</i>	Jackie McGovern
Commission on POST		Commission on POST
1601 Alhambra Boulevard		1601 Alhambra Boulevard
Sacramento, CA 95816-7083		Sacramento, CA 95816-7083
916.227.0539 or Dave.Spisak@post.ca.gov		916.227.4839 or Jackie.McGovern@post.ca.gov
916.227.5271 (FAX)		

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 at 1601 Alhambra Boulevard, Sacramento, CA 95816. These documents are also located on the POST website at: <http://www.post.ca.gov/RegulationNotices/RegulationNotices.asp>.

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

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) name above.