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

Date: May 22, 2014

Bulletin: No. 2014-08

Subject: Notice of Proposed Regulatory Action –Amending Regulations 1001, 1057 1058, and the addition of Procedure D-16

At the February 20, 2014 meeting, the Commission approved proposed amendments to the POST Administrative Manual (PAM), Section B – Regulations *1001 Definitions*, *1057 Decertification*, and *1058 Appeals Process.* The Commission also approved the addition to Section D – Procedures of *D-16 Appeals Process*.

POST proposes the amendment to the language to clarify the action of course suspension and decertification, and to designate which staff has the responsibility of such action. The amendment also articulates the appeals process to the Executive Director and the Commission to ensure consistency in the procedure for such appeals.

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 http://www.post.ca.gov/regulatory-actions.aspx.

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

Inquiries about this proposed regulatory action may be directed to Ed Pecinovsky at (916) 227-3917 or by e-mail ed.pecinovsky@post.ca.gov.

Inquiries regarding the regulatory process may be directed to Patti Kaida at (916) 227-4847 or by e-mail at patti.kaida@post.ca.gov.

ROBERT A. STRESAK
Executive Director

Attachment: Notice of Proposed Regulatory Action

NOTICE OF PROPOSED REGULATORY ACTION
Regulations 1001, 1057, 1058 and Procedure D-16

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 July 7, 2014, 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:

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

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

POST relies upon its written Regulations to describe its authority and processes. It is imperative that all regulations are clearly written and accurately reflect POST practices. Providing definitions and designating explicit authority to suspend a training course will eliminate any questions regarding the ability of POST staff to act in the best interest of the Commission. For POST Regulations to better serve both staff and presenters, Regulation 1001 should be amended to include definitions of “Course Decertification” and “Course Suspension”. In addition, Regulations 1057 and 1058 should designate explicit authority for taking these actions. The time authorized for the appeal process should also be amended to provide the appellant, staff, and the Commission additional time to deliberate and render its decision concerning appeals. The Commission appeal process should be described to ensure consistency in how appeals will be conducted.

The implementation of these changes will greatly reduce any confusion regarding actions by staff in regards to course suspension, decertification, and the appeals process. The specific benefits anticipated by the proposed changes to the regulations will be to promote fairness for all individuals and course presenters by ensuring consistency in how appeals shall be conducted when staff takes actions to suspend or decertify a certified course. Ultimately, the regulatory proposal furthers the goal of the Commission by increasing the effectiveness of law enforcement standards for peace officers in preserving peace, protection or public health and safety, and welfare of California.

During the process of developing 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: Commission sets selection and training standards for law enforcement and its actions and authority does not have an impact on California businesses, including small businesses as defined by Government Code section 11342.610.

This regulatory proposal would have no significant adverse economic impact directly affecting California businesses, including the ability of California businesses to compete with businesses in other states.

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.

Affect on Housing Costs: The Commission on Peace Officer Standards and Training has made an initial determination that the proposed regulation would have no affect 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 clear definitions of course suspension and decertification, identify which staff could take such actions, and a process to appeal those actions and procedure to follow in such appeals. There would be no impact that would affect worker safety or the state's environment.

Consideration of Alternatives

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

To not enact the amendments would support an environment where POST practice was not reflective of regulation causing confusion to its clients and potential liability to the Commission. It could hinder POST from taking appropriate action to protect the Commission and to protect the health and welfare of those who participate in POST certified training courses.

Contact Persons

Inquiries about this proposed regulatory action may be directed to Ed Pecinovsky at (916) 227-3917 or by e-mail ed.pecinovsky@post.ca.gov.

Inquiries regarding the regulatory process may be directed to Patti Kaida at (916) 227-4847 or by e-mail at patti.kaida@post.ca.gov.

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/regulatory-actions.aspx.

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 approved, submit a written request to the contact person(s) named above.