



Commission on Peace Officer Standards and Training

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

Date: November 16, 2017

Bulletin: No. 2017-35

Subject: **Notice of Proposed Regulatory Action – Amend Commission Regulations 1005, 1007, 1008, 1052, and the POST Basic Courses Test Management and Security Protocols 2017**

At the October 26, 2017 meeting, the Commission approved proposed amendments to Commission Regulations 1005, 1007, 1008, 1052, and the POST Basic Courses Test Management and Security Protocols 2017 (protocols).

The proposed changes include:

- Restricting the use of body worn cameras during the administration of confidential POST-developed test material.
- Clarifying when an instructor is or is not able to proctor a POST-developed comprehensive test.
- Clarifying what test material must be covered in certain sections of each presenter's test administration and security policy.

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](#).

- Text of Proposed Regulatory Action
- Initial Statement of Reasons
- Basic Courses Test Management and Security Protocols

Questions regarding this proposed regulatory action may be directed to Jennifer Hardesty, Commission on POST, 860 Stillwater Road, Suite 100, West Sacramento, CA 95605-1630 or at jennifer.hardesty@post.ca.gov. General questions regarding the regulatory process may be directed to Christy Correa at christy.correa@post.ca.gov, (916) 227-4847, or FAX (916) 227-5271.

MANUEL ALVAREZ, JR.
Executive Director

Attachment: Notice of Proposed Regulatory Action

NOTICE OF PROPOSED REGULATORY ACTION
**POST Basic Courses Test Management and Security Protocols
Regulations 1005, 1007, 1008, and 1052**

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 at jennifer.hardesty@post.ca.gov, by fax at (916) 227-4547, or by letter to:

Commission on POST
Attention: Rulemaking
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

In May 2017, POST became aware that many agencies are requesting presenters have students attending a POST-certified basic course become familiar with body-worn cameras (BWCs) during their tenure in the course. Additionally, some agencies/presenters have considered requiring presenter staff to wear the BWCs throughout the course as well. The focus of these proposed regulation changes is to protect confidential POST-developed test material by requiring any BWC capable of recording be removed prior to the administration of either a comprehensive test or scenario test. This requirement will allow presenters to meet the needs of their agency or those agencies sending students through their program while maintaining the security of confidential test materials.

In February 2017, significant changes were made to the protocols to reflect the move to online testing. All references to written tests were either removed or changed to scenario tests as these are the only confidential test materials a presenter has the ability to print. Some guidelines still require presenters to include information about the online comprehensive tests, so changes have been made to clarify which guidelines need to cover more than the scenario test materials.

Additionally, language was added to the protocols in February 2017 which restricted any instructor teaching a learning domain evaluated by a comprehensive test from proctoring any of the four POST-constructed comprehensive tests. The proposed changes will allow an instructor to proctor a comprehensive test if the learning domain they teach is not evaluated by that test and the language as currently written does not allow for that flexibility.

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The specific benefits anticipated by the proposed changes to the regulations will be continued confidentiality of specific POST-developed test material which helps ensure only valid tests are administered to students attending the course and greater flexibility for presenters when scheduling proctors to administer a test. There would be no effect to benefits with 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 developing these regulations and amendments, the Commission on Peace Officer Standards and Training 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.

Document Incorporated by Reference: *POST Basic Courses Test Management and Security Protocols, 2018.*

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 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, including small 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.

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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 section 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 ensure the continued integrity of entry-level law enforcement training and testing. 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 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 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 provision of law than the proposed action.

Contact Persons

Questions regarding this proposed regulatory action may be directed to Jennifer Hardesty, Commission on POST, 860 Stillwater Road, Suite 100, West Sacramento, CA 95605-1630, at jennifer.hardesty@post.ca.gov, or (916) 227-3917. General questions regarding the regulatory process may be directed to Christy Correa at Christy.correa@post.ca.gov or (916) 227-4847.

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 860 Stillwater Road, Suite 100, West Sacramento, CA 95605-1630. 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.