

INITIAL STATEMENT OF REASONS

Amend Commission Regulations 1001, 1051, 1052, 1055, 1056, 1057, 1058, 1070, 1081 and 1082

Add New Commission Regulation 1059

The Commission on Peace Officer Standards and Training (POST) proposes to amend Commission Regulations 1001, 1051, 1052, 1055, 1056, 1057, 1058, 1070, 1081, 1082, and add new Commission Regulation 1059, to address the following:

- Update the basic course certification process;
- Provide ease of access to the certification process requirements by creating a new regulation section; and
- Add qualification requirement for scenario managers and evaluators

The framework for these changes was developed by a committee of basic course directors/coordinator participating in a course certification update workshop. The proposed changes were developed from this framework and were presented to, and approved by, the POST Commission at the June 18, 2020, Commission meeting, subject to the Notice of Proposed Regulatory Action process.

Penal Code § 13510 requires that POST develop guidelines and a course of instruction and training for law enforcement officers who are employed as peace officers, or who are not yet employed as a peace officer but are enrolled in a training academy for law enforcement officers. This proposed action will modify the certification process for the training course, move those certification requirements to their own Commission Regulation section and add an experience requirement for individuals managing and evaluating the scenario testing process component of the required training course.

The current certification process for basic courses is cumbersome for both presenters and POST staff with no guarantee the course materials being presented to staff are truly reflective of what is being taught, in which order, and by which instructor. The proposed changes will require presenters provide POST a more comprehensive view of the course as presented and will require their acknowledgement of curriculum and documentation requirements in advance of the course presentation.

Justification – Regulation 1001. Definitions.

“POST Administrative Manual (PAM)”- The proposed removal of this definition is necessary to ensure visitors to the POST website looking for regulatory requirements are linked to the California Code of Regulations (CCR). Historically, POST had been maintaining a separate “POST Administrative Manual” containing Commission Regulations and Commission Procedures. It was discovered the content in this publication was very outdated and oftentimes incorrect. To rectify this issue, POST modified its website to link visitors to the appropriate CCR page and is now referencing “Commission Regulations” on the website.

“POST-certified Course”- The proposed change is necessary to reflect the addition of Commission Regulation section 1059.

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“Test Use and Security Agreement”- The proposed change from “training” to “basic” is necessary to reflect this agreement is only applicable to basic course presenters and does not affect any other “training” presenters. The proposed addition of the term “confidential” is necessary to cover any and all confidential POST-developed test material. The language as written does not include confidential scenario test material but references exercise test material which is not confidential. Capitalizing the “R” in regulation is a non-substantive change for consistency with other Regulation language.

“Web-Based Training (WBT)”- The proposed addition is necessary for consistency with language under Commission Regulation 1052(a). On July 1, 2019, changes to the course certification process were made and language was added to 1052(a) excluding basic courses from being presented in an online training (i.e., live webinars) format. This same exclusion was inadvertently left out of the WBT definition.

Justification – Regulation 1051. Course Certification Program.

The proposed change is necessary to reflect the addition of Commission Regulation section 1059.

Justification – Regulation 1052. Requirements for Course Certification.

The proposed change to the Regulation title is necessary to reflect the addition of Commission Regulation section 1059 and to clarify basic course certification requirements are covered in another section.

1052(a)- The proposed change is necessary to reflect the addition of Commission Regulation section 1059 and to clarify the exclusion of basic courses from online training.

1052(f)(1) through 1052(f)(14)- The proposed changes are necessary to reflect the move of this content to Regulation 1059. Although the order of the information has changed, the content has moved in its entirety with the exception of the hourly distribution schedule reference under 1052(f)(2)(D).

1052(f)(2)(D)- The removal of reference to the hourly distribution schedule is necessary to reflect the change from requiring a proposed schedule of training to requiring a complete schedule outlining how the material was presented at the end of the course. The current process of requiring a proposed schedule is not reflective of how the course was actually presented, in which order the required content was presented, and by which instructors. The proposed requirement for a complete schedule can be found in Regulation 1055(g)(3) and portions of the existing text moved to this section in its entirety.

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1052(g)- The proposed change to 1052(f) is necessary to reflect the removal of basic course certification requirements from section 1052(f). At times POST does need to run pilot presentations involving testing or curriculum updates to collect data on success or failure prior to changing the requirement. The addition of Regulation 1059 is necessary to ensure basic courses are included in the process for requesting and conducting pilot presentations when necessary.

1052(h)- The proposed change to 1052(g) is necessary to reflect the removal of basic course certification requirements from section 1052(f).

1052(i)- The proposed change to 1052(h) is necessary to reflect the removal of basic course certification requirements from section 1052(f).

1052(j)- The proposed change to 1052(i) is necessary to reflect the removal of basic course certification requirements from section 1052(f).

1052(k)- The proposed change to 1052(j) is necessary to reflect the removal of basic course certification requirements from section 1052(f).

1052(l)- The proposed change to 1052(k) is necessary to reflect the removal of basic course certification requirements from section 1052(f).

1052(m)- The proposed change to 1052(l) is necessary to reflect the removal of basic course certification requirements from section 1052(f).

1052(n)- The proposed change to 1052(m) is necessary to reflect the removal of basic course certification requirements from section 1052(f).

“The document POST Basic Courses Test Management and Security Protocols 2018....”- The proposed change is necessary to reflect the move of this content to Regulation 1059 in its entirety.

Justification – Regulation 1055. Requirements for Course Presentation.

1055(g)- This section applies to course certified under Regulation 1052 and the proposed Regulation 1059. The proposed addition of “Where applicable” is necessary to clarify the proposed requirement for submission of a complete schedule applies only to the courses certified under Regulation 1059.

1055(g)(1)- The proposed change is necessary to reflect the addition of 1055(g)(3).

1055(g)(2)- The proposed change is necessary for consistency with all other Regulation sections and reflect the addition of 1055(g)(3).

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1055(g)(3)- The proposed change is necessary to ensure basic course presenters are submitting a complete schedule at the end of a course presentation. Currently presenters are required to submit a proposed schedule which is not reflective of how the course was actually presented, in which order the required content was presented, and by which instructors. The extensive length of the course at times can cause scheduling issues when instructors must cancel teaching a block of instruction for various reasons (e.g., called into court, work schedule change, etc.). This situation oftentimes causes the presenter to adjust the schedule to fit the needs to the instructor, especially those who teach specialized subjects. Currently POST does not receive these schedule adjustments and the course schedule as presented ends up looking far different from the course schedule proposed and certified. Receiving the complete schedule at the end of the course will allow POST staff to review the course as presented to ensure all content was presented as required. Double underline text was moved from 1052(f) in its entirety. Double underline, single strike out text was moved from 1052(f) and removed from this section. This section outlines requirements following presentation of a course and the statement “used during the course presentation” is redundant information.

1055(h)- The proposed change is necessary to reflect the addition of Commission Regulation section 1059 and ensure basic course presenters are maintaining required documents on file for inspection by POST.

“The document, Training and Testing Specifications...”- The proposed addition is necessary to reflect the incorporation by reference of this document into the regulation text under 1055(g)(3)(B and D).

Justification – Regulation 1056. Annual Recertification.

The proposed changes are necessary to reflect the addition of Commission Regulation section 1059. The proposed removal of “PAM Sections” is necessary to clarify POST’s transition from maintaining a separate “POST Administrative Manual” housing Commission Regulations by linking visitors to the California Code of Regulations. Effective April 1, 2018, PAM Section D-10 was deleted from Commission Procedures and the content integrated into Regulation 1008 and the section change under 1056 was inadvertently overlooked. The proposed change is necessary to ensure the correct location of the information is reflected.

Justification – Regulation 1057. Denial of Course Certification/Suspension/Decertification.

1057(b)- The proposed changes are necessary to reflect the addition of Commission Regulation section 1059 and clarify why basic course certification/presentation may be denied, suspended or decertified.

1057(b-d)- The proposed changes are necessary to reflect the addition of Commission Regulation 1059 and the addition of a new section 1057(b).

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Justification – Regulation 1058. Appeals Process.

The proposed changes are necessary to reflect the addition of Commission Regulation section 1059. The proposed removal of “PAM Section” is necessary to clarify POST’s transition from maintaining a separate, oftentimes incorrect, “POST Administrative Manual” to housing Commission Procedures on the POST website.

Justification – Newly Proposed Regulation 1059. Requirements for Basic Course Certification.

The addition of the new Commission Regulation 1059 is necessary to clarify for basic course presenters which certification requirements apply to them. Currently, the requirements for certification of a basic course are covered under 1052(f) which also incorporates requirements covered under 1052(c-d). The process to locate these requirements is very cumbersome and oftentimes confusing for basic course presenters and POST Staff. The proposed changes reflect the move of this content from Commission Regulation 1052. Although the order of the information has changed, the content has moved in its entirety with the few exceptions outlined below:

1059- The proposed renumbering is necessary to ensure consistency with the outline format of all other Commission Regulation sections.

1059(a)- The addition of “submitted to POST” is necessary to clarify for entities interested in presenting a basic course are aware there is an approval process through POST.

1059(a)(1)- The proposed addition is necessary for consistency with language under Commission Regulation 1001, Web-Based Training. On July 1, 2019, changes to the course certification process were made and language was added to 1052(a) excluding basic courses from being presented in an online training (i.e., live webinars) format. This same exclusion was inadvertently left out of the WBT definition. In recent years, portions of the state have been affected by wildfires which negatively impacted some basic course presenters. With the introduction of the COVID-19 pandemic, some if not all, basic course presenters have been negatively impacted in their ability to continue/complete courses of training. The addition of an exemption granted by the Executive Director during a Governor declared State of Emergency is necessary to ensure presenters are able to continue serving agencies who depend on them to train entry-level officers in serving their communities.

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1059(a)(3)- The Training and Testing Specifications for Peace Officer Basic Courses (TTS) designates, in outline form, the minimum training and testing requirements for basic courses. Currently, basic course presenters are required to submit an expanded course outline (ECO) when requesting certification/modification of a basic course. The expanded course outline is developed using the required training and testing content outlined in the TTS, restructuring it into a different format, adding any presenter specific content, and submitting to POST. This process is cumbersome for the presenter on the development side, POST staff on the review side, and because the ECO is linked to the course and not a specific presentation, there are opportunities for required content to be overlooked. The proposed addition of the Basic Course Certification Attestation is necessary to ensure presenters are indicating their intent to present all required TTS content for every presentation of the course and require presenters to submit an ECO only for content added to the course beyond that required by the TTS. This change will provide presenters more time to focus on ensuring all required content is presented.

1059(a)(4)- The current certification process only requires presenters to submit the qualifications of instructors, coordinators and academy staff, but does not specify which academy staff titles must be included. There are many staff positions that require specified training either before appointment or within a year of appointment to that position. The proposed change is necessary to clarify which staff positions POST designates as requiring specified training and will allow POST to either verify the training is complete upon appointment or track when the training must be completed by those individuals once appointed. The proposed addition of Commission Procedure D-1 is necessary to further outline training requirements for the listed staff positions.

1059(13)(A)- The proposed change is necessary for clarity and consistency with the new basic course certification section.

1059(b)(1)(A)- The proposed change is necessary to clarify these are presenters of basic courses and not all presenters are agencies.

1059(b)(2) and 1059(b)(2)(F)- The current certification process only requires entry on the POST resume of training completed by individuals teaching specialized subjects. POST has a requirement for individuals who administer certain tests to complete proctor/evaluator training, as outlined in Commission Procedure D-1, but there is no mechanism or requirement for presenters to report completion of this training. The proposed change is necessary to ensure presenters have a mechanism and a required to report completion of this training and allow POST to ensure individuals administering the specified tests have completed the required training.

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1059(b)(3) and 1059(b)(3)(A)- The proposed addition of the Basic Course Certification Attestation is necessary to ensure presenters are indicating their intent to present all requirements of the Training and Testing Specifications (TTS) for every presentation of the course. Presenters would be required to submit an expanded course outline only for content added to the course beyond that required by the TTS, maintain lesson plans which provide a more detailed view of how the content is provided, and submit a complete schedule upon completion of the course as required by Commission Regulation 1055(g)(3).

1059(b)(4)- The current certification process only requires presenters to submit the qualifications of instructors, coordinators and academy staff, but does not specify which academy staff titles must be included. There are many staff positions that require specified training either before appointment or within a year of appointment to that position. The proposed change is necessary to require presenters provide a breakdown of these staff positions allowing POST to either verify the training is complete upon appointment or track when the training must be completed by those individuals once appointed prior to approving the course.

1059(b)(5)- On April 1, 2020, an injury reporting requirement was implemented under Commission Regulation 1052(a)(9)(D) for POST-certified courses. This requirement was assumed to include POST-certified basic courses, but it was later discovered that basic courses were inadvertently omitted. The proposed addition of the injury reporting requirement is necessary to correct this omission, guarantee training is designed to minimize any risk of injury, promote student and instructor safety, and require an injury be reported to the Basic Training Bureau within five (5) business days. The proposed language will ensure POST is receiving information on injuries requiring more than basic first aid in order to identify possible related trends.

1059(c-d)- The current basic course certification requirements under 1052(f) reference 1052(c) and 1052(d) as additional requirements for evaluation of a basic course certification request. The proposed addition of these sections in full, are necessary to reflect the move of basic course certification requirements to Commission Regulation 1059. As these two sections are still applicable to the certification process for all other POST-certified courses outlined in Commission Regulation 1052, they are being shown as newly added text.

1059(e)- The proposed change is necessary to reflect the updated regulation section when referencing the basic course certification requirements.

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1059(e)(7-8)- POST has discovered through a review process or the need to invalidate test sessions, that there are individuals managing the scenario test process and evaluating the scenario test performance of recruits, who do not possess the requisite knowledge or experience to do so. Scenario tests are considered “calls for service” and there have been situations where students have been evaluated by individuals who have never worked in a patrol environment and have no experience with “calls for service”. This has led to situations where recruits have been inappropriately passed or failed on a scenario test(s). The proposed addition of sworn, full-time law enforcement experience and possession of a POST Basic Certificate is necessary to ensure individuals managing the scenario test process or evaluating recruit performance have, at a minimum, completed a probationary period with a law enforcement agency.

1059(e)(11)- The definition for the Test Use and Security Agreement is not found in Commission Regulation section 1052. The proposed change is necessary to correct the definition section.

1059(e)(12)- The proposed addition of the term “presenter” is necessary to clarify that not all basic courses are presented by academies (e.g., PC 832 presenters, Modular Format presenters, etc.) but all presenters are required to establish and comply with a policy.

1059(f)- The requirement for reviewing all audio-visual training materials is a current basic course certification requirement however, the reflection of this section as newly added text is necessary to reflect the move of basic course certification requirements to Commission Regulation 1059. This section is still applicable to the certification process for all other POST-certified courses outlined in Commission Regulation 1052 and must be reflected under both sections.

Incorporation by Reference Statements- The proposed addition of the incorporation by reference statements is necessary for historical accuracy and to ensure utilization of the most current Commission Procedures and Documents referenced within the proposed Commission Regulation 1059.

Justification – Regulation 1070. Minimum Training Standards for Instructors of POST-Certified Specialized Training.

On January 1, 2017, changes went into effect that clarified the distinction between instructor-led courses and self-paced courses by moving all instructor-led information to Commission Regulation 1052 and all self-paced information to Commission Regulation 1053. When this change was made, references to Regulation 1053 should have been removed from all sections applicable to instructor-led courses. The proposed deletion of the reference to Regulation 1053 is necessary to correct this omission from the original proposal.

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Justification – Regulation 1081. Minimum Standards for Legislatively Mandated Courses.

The proposed change is necessary to reflect the addition of Commission Regulation 1059.

Justification – Regulation 1082. Minimum Content Requirements for Instructor Courses.

The proposed change is necessary to reflect the addition of Commission Regulation 1059.

Significant Statewide Adverse Economic Impact Directly Affecting California Businesses, Including Small Businesses

The Commission on Peace Officer Standards and Training has made a 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 regulation addresses the following: 1) Updates the basic course certification process; 2) Provides ease of access to the certification process requirements by creating a new regulation section; and 3) Adds a qualification requirement for scenario managers and evaluators. Additionally, the Commission's main function is setting the basic training standards for entry-level law enforcement officers and 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 this proposed action.

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.

Considerations of Alternatives

The Commission determined that no reasonable alternative considered by the Commission 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.

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Benefits Anticipated

The specific benefits anticipated by the proposed amendments to the regulations will be to increase the effectiveness of law enforcement standards for peace officers in preserving peace, protection of public health and safety, and welfare of California. There would be no effect in regard to the environment, the prevention of discrimination, and the increase in openness and transparency in business and government.

Economic Impact Analysis

Impact of Jobs/New Business:

The Commission on Peace Officer Standards and Training has found that the amended regulations will not have a significant statewide adverse economic impact directly affecting California businesses, including small businesses, including the ability to compete with businesses in other states.

Assessment

The Commission on Peace Officer Standards and Training has found that the proposed amendments will have no effect on California businesses, including small businesses, nor will the changes impact the elimination or creation of jobs because the regulatory action addresses the ability for basic course Presenters to use existing staff when completing the certification documentation for basic courses. The restructured process does not require any additional training, nor does it eliminate the time and work needed to develop these documents.

Benefits of Proposed Regulation:

The proposed amendments of regulations will increase the effectiveness of law enforcement standards for peace officers in preserving peace, protection of public health and safety, and welfare of California.