

**Department of State
Division of Publications**

312 Rosa L. Parks, 8th Floor Snodgrass/TN Tower
Nashville, TN 37243
Phone: 615.741.2650
Fax: 615.741.5133
Email: register.information@tn.gov

For Department of State Use Only

Sequence Number: 01-14-14
Notice ID(s): 2122-2125
File Date: 1/28/14

Notice of Rulemaking Hearing

Hearings will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, T.C.A. § 4-5-204. For questions and copies of the notice, contact the person listed below.

Agency/Board/Commission: Department of Commerce and Insurance
Division: Tennessee Peace Officer Standards and Training
Contact Person: Joseph Underwood, Chief Counsel
Address: 500 James Robertson Parkway, 8th Floor, Davy Crockett Tower
Phone: 615-741-3899
Email: Joseph.Underwood@tn.gov

Any Individuals with disabilities who wish to participate in these proceedings (to review these filings) and may require aid to facilitate such participation should contact the following at least 10 days prior to the hearing:

ADA Contact: Don Coleman
Address: 500 James Robertson Parkway, 12th Floor, Davy Crockett Tower
Phone: 615-741-6500
Email: Don.Coleman@tn.gov

Hearing Location(s) (for additional locations, copy and paste table)

Address 1:	500 James Robertson Parkway	
Address 2:		
City:	Nashville, TN	
Zip:	37243	
Hearing Date :	March 21, 2014	
Hearing Time:	1:00 p.m.	<input checked="" type="checkbox"/> CST/CDT <input type="checkbox"/> EST/EDT

Additional Hearing Information:

Pursuant to T.C.A. § 38-8-104(c), the Peace Officer Standards and Training (POST) Commission is authorized to adopt and enforce such rules and regulations as may be necessary to carry out the provisions of T.C.A. § 38-8-101 et seq., relating to the establishment of uniform standards of training for the employment and training of law enforcement officers, including pre-employment qualifications and requirements for officer certification. Moreover, the Commission possesses the authority pursuant to T.C.A. § 38-8-104(d) to establish criteria for determining whether to grant an exception to or waive the qualifications of minimum standards as provided in T.C.A. § 38-8-106.

Amendments to Tenn. Comp. R. & Regs. 1110-02-.03, 1110-08-.02, and 1110-09-.04 will mirror the language codified in T.C.A. §§ 38-8-104(e) and 38-8-106(9), resulting from the enactment of Public Chapter 137 of the 2013 Acts. Public Chapter 137 (2013) adopted applicable provisions of the Americans with Disabilities Act (ADA), 42 United States Code 12101, et. seq. into statute. Proposed amendments to Tenn. Comp. R. & Regs. 1110-04-.09 provide that drug interdiction agents, drug task force officers and directors attend a specialized training regarding highway drug interdiction prior to or within six (6) months (cumulative, not consecutive) of appointment.

Revision Type (check all that apply):

- Amendment
 New
 Repeal

Rule(s) (ALL chapters and rules contained in filing must be listed. If needed, copy and paste additional tables to accommodate more than one chapter. Please enter only **ONE** Rule Number/Rule Title per row.)

Chapter Number	Chapter Title
1110-02	Certification
Rule Number	Rule Title
1110-02-.03	Law Enforcement Officer Certification Requirements

Chapter Number	Chapter Title
1110-04	In-service Training Requirements
Rule Number	Rule Title
1110-04-.09	Approval of Specialized Schools

Chapter Number	Chapter Title
1110-08	Part-Time/Temporary/Auxiliary Law Enforcement Officers
Rule Number	Rule Title
1110-08-.02	Preemployment Requirements

Chapter Number	Chapter Title
1110-09	Criteria for Waivers
Rule Number	Rule Title
1110-09-.04	Waiver of Preemployment Requirements

(Place substance of rules and other info here. Statutory authority must be given for each rule change. For information on formatting rules go to <http://state.tn.us/sos/rules/1360/1360.htm>)

Substance of Proposed Rules

Chapter 1110-02 Certification

Rule 1110-02-.03 Law Enforcement Officer Certification Requirements is amended by deleting subparagraph (1)(j) in its entirety and substituting the following language, so as amended, the new subparagraph (1)(j) shall read:

- (1)
 - (j) Have been certified by a Tennessee Licensed Health Care Provider qualified in the psychiatric or psychological fields as being free from any impairment, as set forth in the current edition of the Diagnostic and Statistical Manual of Mental Disorders (DSM) of the American Psychiatric Association at the time of the examination, that would, in the professional judgment of the examiner, affect the person's ability to perform an essential function of the job, with or without a reasonable accommodation.
 1. A new evaluation shall be required:
 - (i) after a six (6) month break in full-time law enforcement service; or,
 - (ii) upon the request of the employing agency, for good cause.
 2. If applicable, refer to Tenn. Comp. R. & Regs. 1110-09 Criteria for Waivers.

Authority: T.C.A. §§ 38-8-104, 38-8-105, 38-8-106, 38-8-107, and 38-8-111.

Chapter 1110-04 In-Service Training Requirements

Rule 1110-04-.09 Approval of Specialized Schools is amended by adding new paragraphs (7), (8) and (9), which will read as follows:

- (7) All full time law enforcement officers, who are assigned to interdiction activities on the streets, roads, highways or interstates of Tennessee, must complete a POST approved training for highway drug interdiction within six (6) months of appointment. The six (6) month requirement will be counted cumulatively, not consecutively.
 - (a) The hours of this course may be credited toward the forty (40) hour in-service requirement for the year the course is completed.
 - (b) The POST Commission may grant training credits for drug interdiction training completed prior to this rule becoming effective.
- (8) All full time law enforcement officers, who seize assets for purposes of forfeiture or apply for forfeiture warrants with regards to assets seized or impounded, pursuant to the Tennessee Drug Control Act of 1989, as amended, on the portions of any highway designated and known as part of the national system of interstate and defense highways ("interstate") must complete a POST approved training for highway drug interdiction within six (6) months of appointment. The six (6) month requirement will be counted cumulatively, not consecutively.
 - (a) The hours of this course may be credited toward the forty (40) hour in-service requirement for the year the course is completed.
 - (b) The POST Commission may grant training credits for drug interdiction training completed prior to this rule becoming effective.

- (9) All newly appointed drug interdiction or drug task force directors shall, prior to or within six (6) months of appointment, complete a thirty-two (32) hour command level course of instruction approved by POST. The six (6) month requirement will be counted cumulatively, not consecutively. The hours of this course may count toward the required forty (40) hours of in-service training for the year the course is completed.

Authority: T.C.A. §§ 38-8-104, 38-8-107 and 38-8-111.

Chapter 1110-08
Part-Time/Temporary/Auxiliary Law Enforcement Officers

Rule 1110-08-.02 Preemployment Requirements is amended by deleting subparagraph (1)(i) in its entirety and substituting the following language, so as amended, the new subparagraph (1)(i) shall read:

(1)

- (i) Have been certified by a Tennessee Licensed Health Care Provider qualified in the psychiatric or psychological fields as being free from any impairment, as set forth in the current edition of the Diagnostic and Statistical Manual of Mental Disorders (DSM) of the American Psychiatric Association at the time of the examination, that would, in the professional judgment of the examiner, affect the person's ability to perform an essential function of the job, with or without a reasonable accommodation. If applicable, refer to Tenn. Comp. R. & Regs. 1110-09 Criteria for Waivers.

Authority: T.C.A. §§ 38-8-101 and 38-8-106.

Chapter 1110-09
Criteria for Waivers

Rule 1110-09-.04 Waiver of Preemployment Requirements is amended by deleting subparagraph (1)(c) in its entirety and substituting the following language, so as amended, the new subparagraph (1)(c) shall read:

(1)

- (c) Mental Impairment - A waiver shall not be granted from preemployment requirements for a mental impairment that would affect the person's ability to perform an essential function of the job, with or without a reasonable accommodation.

Authority: T.C.A. §§ 38-8-104, 38-8-105, and 38-8-106.

I certify that the information included in this filing is an accurate and complete representation of the intent and scope of rulemaking proposed by the agency.

Date: 1/28/2014

Signature: *Joseph Underwood*

Name of Officer: Joseph Underwood

Title of Officer: Chief Counsel for Fire Prevention & Law Enforcement



Subscribed and sworn to before me on: 1/28/2014

Notary Public Signature: *Kelly Johns*

My commission expires on: 10/20/2014

Department of State Use Only

Filed with the Department of State on: 1/28/14

Tre Hargett
Tre Hargett
Secretary of State

RECEIVED
2014 JAN 28 PM 3:30
OFFICE OF
SECRETARY OF STATE