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Rulemaking Hearing Rule(s) Filing Form

Rulemaking Hearing Rules are rules filed after and as a result of a rulemaking hearing. TCA Section 4-5-205

Agency/Board/Commission:	Peace Officers Standards and Training Commission
Division:	
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Revision Type (check all that apply):

- Amendment
 New
 Repeal

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

Chapter Number	Chapter Title
1110-01	Definitions
Rule Number	Rule Title
1110-01-.01	Definitions

Chapter Number	Chapter Title
1110-02	Certification
Rule Number	Rule Title
1110-02-.03	Law Enforcement Officer Certification Requirements
1110-02-.04	Denial, Suspension, and Revocation of Certification

Chapter Number	Chapter Title
1110-03	Curricula and Course of Instruction
Rule Number	Rule Title
1110-03-.09	Training Guidelines for Operation of Speed Measuring Devices
1110-03-.10	POST Transition School

Chapter Number	Chapter Title
1110-04	In-Service Training Requirements
Rule Number	Rule Title
1110-04-.05	Course Curriculum Requirements

1110-04-08	Testing Instruments
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Chapter Number	Chapter Title
1110-05	Forms and Documents
Rule Number	Rule Title
1110-05-.01	Forms Required for Peace Officer Certification

Chapter Number	Chapter Title
1110-09	Criteria for Waivers
Rule Number	Rule Title
1110-09-.04	Waiver of Pre-employment Requirements
1110-09-.05	Wavier of In-Service Training

(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>)

Chapter 1110-01
Definitions

Amendments

Rule 1110-01-.01 Definitions is amended by adding the following language as new paragraphs (22) and (23):

- (22) High School Diploma is a diploma issued to one meeting the curriculum, testing and attendance requirements at the time of graduation from high school. This does not include a transition certificate or individualized education program certificate.
- (23) "Equivalent of a High School Diploma" is a General Education Development (GED) diploma.

Authority: T.C.A. §§ 38-8-101 and 104.

Chapter 1110-02
Certification

Amendments

Subparagraph (j) of paragraph (1) of rule 1110-02-.03 Law Enforcement Officer Certification Requirements is amended by deleting the text of the subparagraph in its entirety and substituting instead the following language so that, as amended, the subparagraph shall read:

- (j) Have been certified by a Tennessee Licensed Health Care Provider qualified in the psychiatric or psychological fields as being free from any disorder, as set forth in the current edition of the DSM at the time of the examination, that would, in the professional judgment of the examiner, impair the subject's ability to perform any essential function of the job.
 - 1. No waiver will be granted for mental disorders.
 - 2. A new evaluation shall be required:
 - a. after a six (6) month break in full-time law enforcement service, or
 - b. upon the request of the employing agency, for good cause.

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

Paragraph (1) of rule 1110-02-.03 Law Enforcement Officer Certification Requirements is amended by adding the following language as new subparagraphs (k) and (l):

- (k) Not have been previously decertified as a law enforcement officer by the POST Commission.
- (l) Not have previously voluntarily surrendered their certification as a law enforcement officer.

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

Subparagraph (d) of paragraph (6) of rule 1110-02-.03 Law Enforcement Officer Certification Requirements is amended by deleting the text of the subparagraph in its entirety and substituting instead the following language so that, as amended, the subparagraph shall read:

- (d) Beginning July 1, 2010, officers who have attended an approved basic law enforcement school and who were not required to be certified at that time, may apply for certification based on this training within two (2) years of the date of completion of the basic law enforcement school. These officers must successfully attend the POST's three (3) week transition school within six (6) months of employment to qualify for certification after two (2) years and less than ten (10) years from the date of completion of the basic law enforcement school. Officers with over a ten-year break from the date of completion of the basic law enforcement school shall be required to attend a Basic Law Enforcement Academy.

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

Part 3 of subparagraph (a) of paragraph (2) of rule 1110-02-.04 Denial, Suspension, and Revocation of Certification is amended by deleting the text of the part in its entirety and substituting instead the following language so that, as amended, the part shall read:

- 3. Be suspended for thirty (30) days or longer, resign in lieu of termination, resign with disciplinary action pending that could have resulted in termination, or be discharged by his employing law enforcement agency for disciplinary reasons; or

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

Chapter 1110-03
Curricula and Course of Instruction

New Rules

- 1110-03-.09 Training Guidelines for Operation of Speed Measuring Devices
- 1110-03-.10 POST Transition School

Rule 1110-03-.09 Training Guidelines for Operation of Speed Measuring Devices

- (1) Law enforcement officers shall receive initial or have previously attained training from a Certified Specialized Law Enforcement Instructor on use of speed measurement devices. This training shall be substantially similar to the curriculum suggested by the NHTSA guidelines found in the Speed Measuring Device Operator Training Course Management Guide (version 12/01) for speed measuring devices and shall be completed prior to any testimony in a judicial or administrative proceeding.

Authority: T.C.A. §§ 24-7-124 and 38-8-104.

Rule 1110-03-.10 POST Transition School

- (1) POST Transition School shall be a program of instruction comprising of fundamental law enforcement skills and knowledge.
 - (a) Length. The Transition School shall be a minimum of three (3) weeks in length and include a minimum of 105 hours of instruction and study.
 - (b) Format. The Transition School shall have a curriculum format that contains the following elements:
 1. Each topic of instruction to be taught shall have specifically defined training objectives.
 2. Each topic of instruction to be taught shall be defined in a scope. The scope shall broadly describe the key teaching points that are to be covered.
 3. Each topic of instruction to be taught shall be assigned a minimum amount of time.
 - (c) Instructional Methods. The Transition School shall employ performance oriented instructional methods that help ensure successful achievement of the established training objectives.
 - (d) Administration. The Transition School shall be administered by the Tennessee Law Enforcement and Training Academy.
 - (e) Eligibility for Admission. Any officer shall be eligible for admission to the Transition School course who:
 1. has met pre-employment requirements herein established; and
 2. falls within the categories requiring attendance in Rule 1110-02-.03.
 - (f) Testing for Transition School. The Tennessee Law Enforcement and Training Academy shall develop a system of testing which relates to training objectives.
 - (g) Certificate of Successful Completion. The Tennessee Law Enforcement Training Academy shall issue to law enforcement officers a certificate suitable as evidence thereof.
- (2) Approved Departmental Lateral Schools shall be deemed equivalent to the Transition School.

Authority: T.C.A. § 38-8-104.

Chapter 1110-04
In-Service Training Requirements

Amendments

Paragraph (1) of rule 1110-04-.05 Course Curriculum Requirements is amended by deleting the text of the paragraph in its entirety and substituting instead the following language so that, as amended, the paragraph shall read:

- (1) Course curriculums must be based on a needs survey of the area served and courses required by the Commission. All curricula must be prepared on POST Lesson Plan Forms and kept on file

at the submitting agency subject to review by the POST Commission. The scope and lesson objectives for all courses to be taught, along with a letter from the Department head requesting approval of the curriculums, shall be submitted to POST for review and approval prior to the commencement of training. A copy of the schedule, the dates and location of training, the date of testing, and a copy of the test instrument and answers must be submitted to the Commission for approval.

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

Paragraph (2) of rule 1110-04-.08 Testing Instruments is amended by deleting the text of the paragraph in its entirety and substituting instead the following language so that, as amended, the paragraph shall read:

- (2) Test answer sheets must follow a format which must show the name, rank, social security number, and employing agency of the trainee. Test instruments which combine the questions with the answer sheet will not be accepted for grading.

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

Chapter 1110-05 Forms and Documents

Amendments

Subparagraph (a) of paragraph (1) of rule 1110-05-.01 Forms Required for Peace Officer Certification is amended by deleting the text of the subparagraph in its entirety and substituting instead the following language so that, as amended, the subparagraph shall read:

- (a) POST - 1. Application for Certification and Law Enforcement agency verification. Copies of: federal or state government issued document proving applicant is at least eighteen (18) years of age; federal or state government issued document proving U. S. citizenship; the applicant's high school diploma proving applicant is a high school graduate or equivalent; and any military discharge records. This form and these documents establish that pre-employment requirements have been met prior to the commencement of employment.

Supplement A to POST - 1 Confirmation of Psychological Evaluation. (All officers must have had a psychological prior to employment. If officer has had a previous psychological, it shall be the employing agency's responsibility to provide proof of past evaluation or may submit a current psychological evaluation.)

Supplement B to POST - 1 Confirmation of Medical Examination. (All newly employed officers must submit a Confirmation of Medical Examination dated no later than twelve (12) months prior to employment.)

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

Chapter 1110-09 Criteria for Waivers

Amendments

Subpart (ii) of part 1 of subparagraph (b) of paragraph (1) of rule 1110-09-.04 Waiver of Pre-employment Requirements is amended by deleting the text of the subpart in its entirety and substituting instead the following language so that, as amended, the subpart shall read:

- (ii) or controlled substances, as defined in the Tennessee Drug Control Act compiled in Title 39, Chapter 17, Part 4, when the offense was classed as a misdemeanor.

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

Paragraph (1) of rule 1110-09-.04 Waiver of Pre-employment Requirements is amended by adding the following language as new subparagraph (e):

- (e) Previous decertification or voluntary surrender of certification as a law enforcement officer – The Commission may waive preemployment requirements relating to previous decertification or voluntary surrender of certification as a law enforcement officer on an individual basis and depending on the circumstances.
 - 1. Some of the factors to be considered when determining whether to grant a waiver shall be:
 - (i) the circumstances surrounding and which lead to the previous decertification or voluntary surrender of certification as a law enforcement officer;
 - (ii) the amount of time since the previous decertification or voluntary surrender of certification as a law enforcement officer;
 - (iii) the applicant's activities since the offense; and
 - (iv) the applicant's ability to carry a fire arm pursuant to federal and state law.

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

Paragraph (3) of rule 1110-09-.05 Waiver of In-Service Training is amended by deleting the text of the paragraph in its entirety and substituting instead the following language so that, as amended, the paragraph shall read:

- (3) Failure to Complete - All full-time commissioned officers are required to complete annual in-service. Failure to complete annual in-service, for whatever reason, must be reported to the POST Commission by submitting a request for waiver and written explanation documenting the reason the officer failed to comply. It is not considered failure to complete the required in-service if an officer misses twenty percent (20%) or less of the course duration due to an approved emergency absence pursuant to Rule 1110-04-.07.

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

* If a roll-call vote was necessary, the vote by the Agency on these rulemaking hearing rules was as follows:

Board Member	Aye	No	Abstain	Absent	Signature (if required)
Rita B. Baker			X		
Brent Cherry	X				
Glen Donoho	X				
Gerald Fanion, Jr.				X	
Penny Fitzgerald	X				
Larry A. Godwin	X				
Carl Jenkins	X				
David Key				X	
Jeff Lewis	X				
Latina Sherrell Mercer	X				
Brian K. Moran				X	
Leamon Pierce				X	
Michael A. Wilson	X				
Verna Anne Wyatt	X				

I certify that this is an accurate and complete copy of rulemaking hearing rules, lawfully promulgated and adopted by the Peace Officers Standards and Training Commission on 12/09/2010, and is in compliance with the provisions of TCA 4-5-222.

I further certify the following:

Notice of Rulemaking Hearing filed with the Department of State on: 10/13/10

Rulemaking Hearing(s) Conducted on: (add more dates). 12/09/10

Date: 01/05/11

Signature: *Patrick W. Merkel*

Name of Officer: Patrick W. Merkel

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

Subscribed and sworn to before me on: 1/5/11

Notary Public Signature: *Justina D. Beust*

My commission expires on: 3/10/12



All rulemaking hearing rules provided for herein have been examined by the Attorney General and Reporter of the State of Tennessee and are approved as to legality pursuant to the provisions of the Administrative Procedures Act, Tennessee Code Annotated, Title 4, Chapter 5.

Robert E. Cooper, Jr.
 Robert E. Cooper, Jr.
 Attorney General and Reporter
2-9-11

Date

Department of State Use Only

Filed with the Department of State on: 03/11/2011

Effective on: 06/09/2011

Tre Hargett

Tre Hargett
Secretary of State

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SECRETARY OF STATE
PUBLICATIONS

Public Hearing Comments

One copy of a document containing responses to comments made at the public hearing must accompany the filing pursuant to T.C.A. §4-5-222. Agencies shall include only their responses to public hearing comments, which can be summarized. No letters of inquiry from parties questioning the rule will be accepted. When no comments are received at the public hearing, the agency need only draft a memorandum stating such and include it with the Rulemaking Hearing Rule filing. Minutes of the meeting will not be accepted. Transcripts are not acceptable.

Comments

The Tennessee Public Safety Coalition submitted a written comment regarding proposed rule 1110-03-.09(1) [Training Guidelines for Operation of Speed Measuring Devices]. The associations proposed an amendment to eliminate the proposed requirement for 8 hours of initial training for speed measuring devices.

John Lowry, Chief of Johnson City Police Department, Larry Young, Shelby County Sheriff's Department, and Jeff Long, Williamson County Sheriff's Department, spoke in support of the amendment proposed by the Tennessee Public Safety Coalition.

Response

The Commission adopted the amendment rewriting the rule establishing training guidelines for the operation of speed measuring devices.

Regulatory Flexibility Addendum

Pursuant to T.C.A. § 4-5-401 through 4-5-404, prior to initiating the rule making process as described in T.C.A. § 4-5-202(a)(3) and T.C.A. § 4-5-202(a), all agencies shall conduct a review of whether a proposed rule or rule affects small businesses.

This rulemaking is will not affect small businesses.

Impact on Local Governments

Pursuant to T.C.A. 4-5-220 and 4-5-228 "any rule proposed to be promulgated shall state in a simple declarative sentence, without additional comments on the merits of the policy of the rules or regulation, whether the rule or regulation may have a projected impact on local governments." (See Public Chapter Number 1070 (<http://state.tn.us/sos/acts/106/pub/pc1070.pdf>) of the 2010 Session of the General Assembly)

Most of the amendments should not impact local governments. The amendments should provide clarification on when a new psychiatric or psychological exam is required and how long examinations remain valid. Local law enforcement agencies will be required to provide their officers training, from a Certified Specialized Law Enforcement Instructor for speed measuring devices, if that officer is to testify in a judicial or administrative proceeding where the results are to be introduced to provide the speed of a motor vehicle or the conduct of a driver. This requirement is established to meet the requirements of Public Chapter 703 of 2010. It is the intent of the Commission that this training could be done as part of an officer's basic training or annual training to keep costs at a minimum.

Additional Information Required by Joint Government Operations Committee

All agencies, upon filing a rule, must also submit the following pursuant to TCA 4-5-226(i)(1).

- (A) A brief summary of the rule and a description of all relevant changes in previous regulations effectuated by such rule;

These amendments define "high school diploma" and "equivalent of a high school diploma". The amendments clarify when a new psychiatric or psychological exam is required. The amendments add having been decertified as a law enforcement officer and having voluntarily surrendered one's certification as a law enforcement officer as grounds for denial of certification. The amendments add resigning with disciplinary action pending that could have resulted in termination as grounds for suspension or revocation of one's certification. The amendments establish training guidelines for speed measuring devices as required by Public Chapter 703 of 2010. The amendments establish the minimum requirements for the POST's Transition School. The amendments require copies of documents showing the applicant meets the pre-employment requirements to be submitted to POST when requesting certification. Finally, the amendments establish criteria for evaluating requests for a waiver for those who have been decertified as a law enforcement officer and have voluntarily surrendered their certification as a law enforcement officer.

- (B) A citation to and brief description of any federal law or regulation or any state law or regulation mandating promulgation of such rule or establishing guidelines relevant thereto;

Public Chapter 703 of 2010 required the Commission to establish standards for training law enforcement officers on speed measuring devices.

- (C) Identification of persons, organizations, corporations or governmental entities most directly affected by this rule, and whether those persons, organizations, corporations or governmental entities urge adoption or rejection of this rule;

Local law enforcement agencies and officers will be impacted the most by this rulemaking. The only comments received regarding this proposal regarded the training of officers regarding speed measuring devices. The Commission adopted the suggested language of the Tennessee Association of Chiefs of Police which was supported by all who commented.

- (D) Identification of any opinions of the attorney general and reporter or any judicial ruling that directly relates to the rule;

Tennessee Attorney General Opinion No. 89-29 states a GED is the only educational equivalency diploma which satisfies T.C.A. 38-8-106(3).

- (E) An estimate of the probable increase or decrease in state and local government revenues and expenditures, if any, resulting from the promulgation of this rule, and assumptions and reasoning upon which the estimate is based. An agency shall not state that the fiscal impact is minimal if the fiscal impact is more than two percent (2%) of the agency's annual budget or five hundred thousand dollars (\$500,000), whichever is less;

The amendments should have minimal impact on state and local government revenues and expenditures. It is the intent of the Commission that the training on speed measuring devices is to be done as part of an officer's basic training or annual training to keep costs at a minimum.

- (F) Identification of the appropriate agency representative or representatives, possessing substantial knowledge and understanding of the rule;

Patrick Merkel, Chief Counsel for Fire Prevention and Law Enforcement with the Department of Commerce and Insurance, and Brian Grisham, Executive Secretary of the Tennessee Peace Officer Standards and Training Commission, have substantial knowledge and understanding of these rules.

- (G) Identification of the appropriate agency representative or representatives who will explain the rule at a scheduled meeting of the committees;

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Chapter Number	Chapter Title
1110-01	Definitions
Rule Number	Rule Title
1110-01-.01	Definitions

Chapter Number	Chapter Title
1110-02	Certification
Rule Number	Rule Title
1110-02-.03	Law Enforcement Officer Certification Requirements
1110-02-.04	Denial, Suspension, and Revocation of Certification

Chapter Number	Chapter Title
1110-03	Curricula and Course of Instruction
Rule Number	Rule Title
<u>1110-03-.09</u>	<u>Training Guidelines for Operation of Speed Measuring Devices</u>
1110-03-.10	POST Transition School

Chapter Number	Chapter Title
1110-04	In-Service Training Requirements

Rule Number	Rule Title
1110-04-.05	Course Curriculum Requirements
1110-04-.08	Testing Instruments

Chapter Number	Chapter Title
1110-05	Forms and Documents
Rule Number	Rule Title
1110-05-.01	Forms Required for Peace Officer Certification

Chapter Number	Chapter Title
1110-09	Criteria for Waivers
Rule Number	Rule Title
1110-09-.04	Waiver of Pre-employment Requirements
1110-09-.05	Wavier of In-Service Training

(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>)

Chapter 1110-01
Definitions

Amendments

Rule 1110-01-.01 Definitions is amended by adding the following language as new paragraphs (22) and (23):

(22) High School Diploma is a diploma issued to one meeting the curriculum, testing and attendance requirements at the time of graduation from high school. This does not include a transition certificate or individualized education program certificate.

(23) "Equivalent of a High School Diploma" is a General Education Development (GED) diploma.

Authority: T.C.A. §§ 38-8-101 and 104.

Chapter 1110-02
Certification

Amendments

Subparagraph (j) of paragraph (1) of rule 1110-02-.03 Law Enforcement Officer Certification Requirements is amended by deleting the text of the subparagraph in its entirety and substituting instead the following language so that, as amended, the subparagraph shall read:

(j) Have been certified by a Tennessee Licensed Health Care Provider qualified in the psychiatric or psychological fields as being free from any disorder, as set forth in the current edition of the DSM at the time of the examination, that would, in the professional judgment of the examiner, impair the subject's ability to perform any essential function of the job.

1. No waiver will be granted for mental disorders.

2. A new evaluation shall be required:

a. after a six (6) month break in full-time law enforcement service, or

b. upon the request of the employing agency, for good cause.

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

Paragraph (1) of rule 1110-02-.03 Law Enforcement Officer Certification Requirements is amended by adding the following language as new subparagraphs (k) and (l):

(k) Not have been previously decertified as a law enforcement officer by the POST Commission.

(l) Not have previously voluntarily surrendered their certification as a law enforcement officer.

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

Subparagraph (d) of paragraph (6) of rule 1110-02-.03 Law Enforcement Officer Certification Requirements is amended by deleting the text of the subparagraph in its entirety and substituting instead the following language so that, as amended, the subparagraph shall read:

(d) Beginning July 1, 2010, officers who have attended an approved basic law enforcement school and who were not required to be certified at that time, may apply for certification based on this training within two (2) years of the date of completion of the basic law enforcement school. These officers must successfully attend the POST's three (3) week transition school within six (6) months of employment to qualify for certification after two (2) years and less than ten (10) years from the date of completion of the basic law enforcement school. Officers with over a ten-year break from the date of completion of the basic law enforcement school shall be required to attend a Basic Law Enforcement Academy ~~upon review by the POST Commission.~~

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

Part 3 of subparagraph (a) of paragraph (2) of rule 1110-02-.04 Denial, Suspension, and Revocation of Certification is amended by deleting the text of the part in its entirety and substituting instead the following language so that, as amended, the part shall read:

3. Be suspended for thirty (30) days or longer, resign in lieu of termination, resign with disciplinary action pending that could have resulted in termination, or be discharged by his employing law enforcement agency for disciplinary reasons; or

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

Chapter 1110-03
Curricula and Course of Instruction

New Rules

1110-03-.09 Training Guidelines for Operation of Speed Measuring Devices
1110-03-.10 POST Transition School

Rule 1110-03-.09 Training Guidelines for Operation of Speed Measuring Devices

(1) Law enforcement officers shall receive initial or have previously attained training from a Certified Specialized Law Enforcement Instructor on use of speed measurement devices. This training shall be substantially similar to the curriculum suggested by the NHTSA guidelines found in the Speed Measuring Device Operator Training Course Management Guide (version 12/01) for speed measuring devices and shall be completed prior to any testimony in a judicial or administrative proceeding.

Authority: T.C.A. §§ 24-7-124 and 38-8-104.

Rule 1110-03-.10 POST Transition School

- (1) POST Transition School shall be a program of instruction comprising of fundamental law enforcement skills and knowledge.
 - (a) Length. The Transition School shall be a minimum of three (3) weeks in length and include a minimum of 105 hours of instruction and study.
 - (b) Format. The Transition School shall have a curriculum format that contains the following elements:
 1. Each topic of instruction to be taught shall have specifically defined training objectives.
 2. Each topic of instruction to be taught shall be defined in a scope. The scope shall broadly describe the key teaching points that are to be covered.
 3. Each topic of instruction to be taught shall be assigned a minimum amount of time.
 - (c) Instructional Methods. The Transition School shall employ performance oriented instructional methods that help ensure successful achievement of the established training objectives.
 - (d) Administration. The Transition School shall be administered by the Tennessee Law Enforcement and Training Academy.
 - (e) Eligibility for Admission. Any officer shall be eligible for admission to the Transition School course who:
 1. has met pre-employment requirements herein established; and
 2. falls within the categories requiring attendance in Rule 1110-02-.03.
 - (f) Testing for Transition School. The Tennessee Law Enforcement and Training Academy shall develop a system of testing which relates to training objectives.
 - (g) Certificate of Successful Completion. The Tennessee Law Enforcement Training Academy shall issue to law enforcement officers a certificate suitable as evidence thereof.
- (2) Approved Departmental Lateral Schools shall be deemed equivalent to the Transition School.

Authority: T.C.A. § 38-8-104.

Chapter 1110-04
In-Service Training Requirements

Amendments

Paragraph (1) of rule 1110-04-.05 Course Curriculum Requirements is amended by deleting the text of the paragraph in its entirety and substituting instead the following language so that, as amended, the paragraph shall read:

- (1) Course curriculums must be based on a needs survey of the area served and courses required by the Commission. All curricula must be prepared on POST Lesson Plan Forms and kept on file at the submitting agency subject to review by the POST Commission. The scope and lesson objectives for all courses to be taught, along with a letter from the Department head requesting approval of the curriculums, shall be submitted to POST for review and approval prior to the commencement of training. A copy of the schedule, the dates and location of training, the date of testing, and a copy of the test instrument and answers must be submitted to the Commission for approval.

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

Paragraph (2) of rule 1110-04-.08 Testing Instruments is amended by deleting the text of the paragraph in its entirety and substituting instead the following language so that, as amended, the paragraph shall read:

- (2) Test answer sheets must follow a format which must show the name, rank, social security number, and employing agency of the trainee. Test instruments which combine the questions with the answer sheet will not be accepted for grading. ~~Answer sheets must be separate and submitted to the Commission upon completion of the in-service session for audit purposes.~~

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

Chapter 1110-05 Forms and Documents

Amendments

Subparagraph (a) of paragraph (1) of rule 1110-05-.01 Forms Required for Peace Officer Certification is amended by deleting the text of the subparagraph in its entirety and substituting instead the following language so that, as amended, the subparagraph shall read:

- (a) POST - 1. Application for Certification and Law Enforcement agency verification. Copies of: federal or state government issued document proving applicant is at least eighteen (18) years of age; federal or state government issued document proving U. S. citizenship; the applicant's high school diploma proving applicant is a high school graduate or equivalent; and any military discharge records. This form ~~and these documents~~ establishes that pre-employment requirements have been met prior to the commencement of employment.

Supplement A to POST - 1 ~~Confirmation~~ Confirmation of Psychological Evaluation. (All officers must have had a psychological prior to employment. If officer has had a previous psychological, it shall be the employing agency's responsibility to provide proof of past evaluation or may submit a current psychological evaluation.)

Supplement B to POST - 1 Confirmation of Medical Examination. (All newly employed officers must submit a Confirmation of Medical Examination dated no later than twelve (12) months prior to employment.)

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

Chapter 1110-09 Criteria for Waivers

Amendments

Subpart (ii) of part 1 of subparagraph (b) of paragraph (1) of rule 1110-09-.04 Waiver of Pre-employment Requirements is amended by deleting the text of the subpart in its entirety and substituting instead the following language so that, as amended, the subpart shall read:

- (ii) or controlled substances, as defined in the Tennessee Drug Control Act compiled in Title 39, Chapter 17, Part 4, when the offense was classed as a misdemeanor.

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

Paragraph (1) of rule 1110-09-.04 Waiver of Pre-employment Requirements is amended by adding the following language as new subparagraph (e):

- (e) Previous decertification or voluntary surrender of certification as a law enforcement officer – The Commission may waive preemployment requirements relating to previous decertification or voluntary surrender of certification as a law enforcement officer on an individual basis and depending on the circumstances.

1. Some of the factors to be considered when determining whether to grant a waiver shall be:

- (i) the circumstances surrounding and which lead to the previous decertification or voluntary surrender of certification as a law enforcement officer;

- (ii) the amount of time since the previous decertification or voluntary surrender of certification as a law enforcement officer;

- (iii) the applicant's activities since the offense; and

- (iv) the applicant's ability to carry a fire arm pursuant to federal and state law.

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

Paragraph (3) of rule 1110-09-.05 Waiver of In-Service Training is amended by deleting the text of the paragraph in its entirety and substituting instead the following language so that, as amended, the paragraph shall read:

- (3) Failure to Complete - All full-time commissioned officers are required to complete annual in-service. Failure to complete annual in-service, for whatever reason, must be reported to the POST Commission by submitting a request for waiver and written explanation documenting the reason the officer failed to comply. It is not considered failure to complete the required in-service if an officer misses twenty percent (20%) or less of the course duration due to an approved emergency absence pursuant to Rule 1110-04-.07.

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

* If a roll-call vote was necessary, the vote by the Agency on these rulemaking hearing rules was as follows:

Board Member	Aye	No	Abstain	Absent	Signature (if required)
Rita B. Baker			X		
Brent Cherry	X				
Glen Donoho	X				
Gerald Fanion, Jr.				X	
Penny Fitzgerald	X				
Larry A. Godwin	X				
Carl Jenkins	X				
David Key				X	
Jeff Lewis	X				
Latina Sherrell Mercer	X				
Brian K. Moran				X	
Leamon Pierce				X	
Michael A. Wilson	X				
Verna Anne Wyatt	X				

I certify that this is an accurate and complete copy of rulemaking hearing rules, lawfully promulgated and adopted by the Peace Officers Standards and Training Commission on 12/09/2010, and is in compliance with the provisions of TCA 4-5-222.

I further certify the following:

Notice of Rulemaking Hearing filed with the Department of State on: 10/13/10

Rulemaking Hearing(s) Conducted on: (add more dates). 12/09/10

Date: _____

Signature: _____

Name of Officer: Patrick W. Merkel

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

Subscribed and sworn to before me on: _____

Notary Public Signature: _____

My commission expires on: _____

All rulemaking hearing rules provided for herein have been examined by the Attorney General and Reporter of the State of Tennessee and are approved as to legality pursuant to the provisions of the Administrative Procedures Act, Tennessee Code Annotated, Title 4, Chapter 5.

Robert E. Cooper, Jr.
Attorney General and Reporter

Date

Department of State Use Only

Filed with the Department of State on: _____

Effective on: _____

Tre Hargett
Secretary of State

Public Hearing Comments

One copy of a document containing responses to comments made at the public hearing must accompany the filing pursuant to T.C.A. §4-5-222. Agencies shall include only their responses to public hearing comments, which can be summarized. No letters of inquiry from parties questioning the rule will be accepted. When no comments are received at the public hearing, the agency need only draft a memorandum stating such and include it with the Rulemaking Hearing Rule filing. Minutes of the meeting will not be accepted. Transcripts are not acceptable.

Comments

The Tennessee Public Safety Coalition submitted a written comment regarding proposed rule 1110-03-.09(1) [Training Guidelines for Operation of Speed Measuring Devices]. The associations proposed an amendment to eliminate the proposed requirement for 8 hours of initial training for speed measuring devices.

John Lowry, Chief of Johnson City Police Department, Larry Young, Shelby County Sheriff's Department, and Jeff Long, Williamson County Sheriff's Department, spoke in support of the amendment proposed by the Tennessee Public Safety Coalition.

Response

The Commission adopted the amendment rewriting the rule establishing training guidelines for the operation of speed measuring devices.

Regulatory Flexibility Addendum

Pursuant to T.C.A. § 4-5-401 through 4-5-404, prior to initiating the rule making process as described in T.C.A. § 4-5-202(a)(3) and T.C.A. § 4-5-202(a), all agencies shall conduct a review of whether a proposed rule or rule affects small businesses.

This rulemaking is will not affect small businesses.

Impact on Local Governments

Pursuant to T.C.A. 4-5-220 and 4-5-228 "any rule proposed to be promulgated shall state in a simple declarative sentence, without additional comments on the merits of the policy of the rules or regulation, whether the rule or regulation may have a projected impact on local governments." (See Public Chapter Number 1070 (<http://state.tn.us/sos/acts/106/pub/pc1070.pdf>) of the 2010 Session of the General Assembly)

Most of the amendments should not impact local governments. The amendments should provide clarification on when a new psychiatric or psychological exam is required and how long examinations remain valid. Local law enforcement agencies will be required to provide their officers training, from a Certified Specialized Law Enforcement Instructor for speed measuring devices, if that officer is to testify in a judicial or administrative proceeding where the results are to be introduced to provide the speed of a motor vehicle or the conduct of a driver. This requirement is established to meet the requirements of Public Chapter 703 of 2010. It is the intent of the Commission that this training could be done as part of an officer's basic training or annual training to keep costs at a minimum.

Additional Information Required by Joint Government Operations Committee

All agencies, upon filing a rule, must also submit the following pursuant to TCA 4-5-226(i)(1).

- (A)** A brief summary of the rule and a description of all relevant changes in previous regulations effectuated by such rule;

These amendments define "high school diploma" and "equivalent of a high school diploma". The amendments clarify when a new psychiatric or psychological exam is required. The amendments add having been decertified as a law enforcement officer and having voluntarily surrendered one's certification as a law enforcement officer as grounds for denial of certification. The amendments add resigning with disciplinary action pending that could have resulted in termination as grounds for suspension or revocation of one's certification. The amendments establish training guidelines for speed measuring devices as required by Public Chapter 703 of 2010. The amendments establish the minimum requirements for the POST's Transition School. The amendments require copies of documents showing the applicant meets the pre-employment requirements to be submitted to POST when requesting certification. Finally, the amendments establish criteria for evaluating requests for a waiver for those who have been decertified as a law enforcement officer and have voluntarily surrendered their certification as a law enforcement officer.

- (B)** A citation to and brief description of any federal law or regulation or any state law or regulation mandating promulgation of such rule or establishing guidelines relevant thereto;

Public Chapter 703 of 2010 required the Commission to establish standards for training law enforcement officers on speed measuring devices.

- (C)** Identification of persons, organizations, corporations or governmental entities most directly affected by this rule, and whether those persons, organizations, corporations or governmental entities urge adoption or rejection of this rule;

Local law enforcement agencies and officers will be impacted the most by this rulemaking. The only comments received regarding this proposal regarded the training of officers regarding speed measuring devices. The Commission adopted the suggested language of the Tennessee Association of Chiefs of Police which was supported by all who commented.

- (D)** Identification of any opinions of the attorney general and reporter or any judicial ruling that directly relates to the rule;

Tennessee Attorney General Opinion No. 89-29 states a GED is the only educational equivalency diploma which satisfies T.C.A. 38-8-106(3).

- (E)** An estimate of the probable increase or decrease in state and local government revenues and expenditures, if any, resulting from the promulgation of this rule, and assumptions and reasoning upon which the estimate is based. An agency shall not state that the fiscal impact is minimal if the fiscal impact is more than two percent (2%) of the agency's annual budget or five hundred thousand dollars (\$500,000), whichever is less;

The amendments should have minimal impact on state and local government revenues and expenditures. It is the intent of the Commission that the training on speed measuring devices is to be done as part of an officer's basic training or annual training to keep costs at a minimum.

- (F)** Identification of the appropriate agency representative or representatives, possessing substantial knowledge and understanding of the rule;

Patrick Merkel, Chief Counsel for Fire Prevention and Law Enforcement with the Department of Commerce and Insurance, and Brian Grisham, Executive Secretary of the Tennessee Peace Officer Standards and Training Commission, have substantial knowledge and understanding of these rules.

- (G)** Identification of the appropriate agency representative or representatives who will explain the rule at a scheduled meeting of the committees;