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Notice of Rulemaking Hearing

Hearings will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, Tennessee Code Annotated, Section 4-5-204. For questions and copies of the notice, contact the person listed below.

Agency/Board/Commission:	Peace Officers Standards and Training Commission
Division:	
Contact Person:	Patrick W. Merkel
Address:	500 James Robertson Parkway, Davy Crockett Tower, 5th Floor Nashville, TN 37243
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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:	Brian Grisham
Address:	Tennessee Law Enforcement Training Academy 3025 Lebanon Road Nashville, TN 37214
Phone:	615-741-4448
Email:	brian.grisham@tn.gov

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

Address 1:	Tennessee Law Enforcement Training Academy Annex Building	
Address 2:	3025 Lebanon Road	
City:	Nashville	
Zip:	37214	
Hearing Date :	11/20/09	
Hearing Time:	1:00 pm	_X__CST ___EST

Additional Hearing Information:

Revision Type (check all that apply):
_X_ Amendment
_X_ New
____ Repeal

Rule(s) (**ALL** chapters and rules contained in filing must be listed here. If needed, copy and paste additional tables. Please enter only **ONE** Rule Number/RuleTitle 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-.03	Certification for General Law Enforcement Instructor
1110-03-.04	Certification for Specialized Law Enforcement Instructors
1110-03-.05	Revocation of Instructor Certification
1110-03-.06	Revocation Procedure and Hearing

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
1110-04-.09	Approval of Specialized Schools

Chapter Number	**Chapter Title**
1110-07	Basic Training Academy Minimum Standards
Rule Number	**Rule Title**
1110-07-.01	Minimum Curricula Requirements
1110-07-.06	Compliance

Chapter Number	**Chapter Title**
1110-09	Criteria for Waivers
Rule Number	**Rule Title**
1110-09-.01	Submission of Waiver Request
1110-09-.03	Waiver of POST Transition School
1110-09-.04	Waivers of Preemployment Requirements

Chapter Number	**Chapter Title**
1110-10	Firearm Certification for Retired Law Enforcement Officers
Rule Number	**Rule Title**
1110-10-.01	Retired Law Enforcement Officer Firearms Certification Applications
1110-10-.02	Certification for Private Firearms Instructor Certification
1110-10-.03	Training Certification Obtained from the POST Commission

(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 1110-01
Definitions

Amendments

Rule 1110-01-.01 Definitions is amended by deleting the text of the rule in its entirety and substituting instead the following language so that, as amended, the rule shall read:

(1) Law Enforcement Officer is defined as either;

(a) Full-time Law Enforcement Officer is defined as any person commissioned, sworn, appointed, and/or otherwise lawfully enjoined to uphold the laws of the State of Tennessee, and/or laws or ordinances of any municipality or political subdivision of the State of Tennessee; and who is employed by any municipality or political subdivision of the State of Tennessee or as a railroad police officer pursuant to § 65-6-133 and whose primary responsibility is (whether directly or as an experienced, certified, supervisor/administrator of such persons), the prevention and detection of crime, and the apprehension of offenders, and specifically assigned duties and/or job description reflect said primary responsibility for the prevention and detection of crime; or, [P.C. 372 of 2009]

(b) Part-time/Temporary/Reserve/Auxiliary Law Enforcement Officer is defined as any person employed by any municipality or any political subdivision of the State of Tennessee whose primary responsibility is to support the full-time police officer in the prevention and detection of crime, apprehension of offenders, assisting in the prosecution of the offenders for appropriate remuneration in measure with specifically assigned duties and/or job description. Part-time officers will work no more than twenty (20) hours per week or a total of no more than one week or a total of no more than one hundred (100) hours per month for any agency or combination of agency. Any law enforcement officer who works in excess of the maximum hours as specified herein will be reclassified to a full-time status and must meet all requirements for standards/training as mandated under the law and Peace Officer Standards and Training Commission rules.

Provided however, in any situation where an officer is temporarily assigned for a period of one (1) month or less, to work more than twenty (20) hours per week or a total of more than one hundred (100) hours per month, such officer shall not be reclassified to a full-time status.

(2) Commission. The Tennessee Peace Officer Standards and Training Commission, or employees acting on its behalf.

(3) Sub-committee. A committee appointed by the Chairman of the Commission given the authority to act on matters pertaining to substitutions of basic and in-service training, in-service and basic curriculums, training officers, police pay supplement, and any other matters directed by the Commission.

(4) Certification. A written statement issued by the Commission testifying to the accreditation of an approved school, instructor, or trainee.

(5) Curriculum. A program of study that will achieve the minimum standards requirements promulgated by the Commission.

(6) Basic Law Enforcement Course is the minimum course of study and instruction required for certification of a law enforcement officer.

(7) Advanced Course is a course of study of instruction resulting in the development of a high degree of proficiency and expertise in a particular area of professional endeavor recognized by the Commission.

(8) Specialized Course is a course of study or instruction related to a specific law enforcement task.

(9) In-service Course is a course of study or instruction designed to review and update an officer in law enforcement tasks commensurate with his present rank and responsibility.

(10) An instructor is any person employed or selected to present a course of study or instruction.

(11) A certified instructor is any instructor certified in accordance with these rules.

(12) Approved School is any law enforcement training unit, academy, university or college, technical or trade school, or similar school recognized by the Commission.

(13) Training Officer. Any certified law enforcement officer who meets the requirements of the Commission and who may develop, organize, implement, or supervise any course of study or instruction.

(14) General Departmental Instructor. The training officer who is certified and designated as a General Departmental Instructor pursuant to POST Rule 1110—3—.04(3) and 1110—4—.03.

(15) Special Deputy is defined within this section as any person who is assigned specific law enforcement functions as to the prevention and detection of crime and general laws of the state on a volunteer basis. Full-time certified law enforcement officers may serve as special deputies. Any law enforcement officer working on a volunteer basis shall receive no pay or benefits except for honorariums and may be utilized for an unlimited number of hours. Nothing in the rule will prevent a sheriff from providing a special deputy commission to someone who is a full time certified law enforcement officer.

(16) Department (Law Enforcement Agency) is defined as any municipal, county, airport, or public safety agency employing law enforcement officers required to be certified under the minimum standards as outlined by the Tennessee Peace Officers Standards and Training.

(17) Grandfather/Grandfathered is defined as any officer who was hired prior to July 1, 1970, and was certified as grandfathered. Such officers are eligible for salary supplement. Upon separation as a law enforcement officer, grandfather status is lost, except as provided by POST Rule 1110—2—.03(6)(c).

(18) Exempt/Exempted is defined as any officer who was employed after July 1, 1970, but prior to July 1, 1982. These officers are not required to be certified and not entitled to salary supplement unless they meet preemployment requirements and either attend basic police training or substitute ten (10) years of experience and successfully attend the POST's three week transition school. See POST rule 1110—2—.03(6)(d).

(19) Waiver of Rule is defined as "an exception" to rule granted by the POST Commission which meets the established criteria as set forth in Chapter 9 of POST rules.

(20) Break in Service is defined as, (1) any break in "full-time law enforcement employment", including the mere changing of employers for uncertified officers. (Uncertified officers must obtain certification in order to be reemployed), and (2) any break in "full-time law enforcement service" for certified officers.

(21) Paired with is defined as in the presence of a field training officer of other full time certified supervisory officer.

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

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

All full-time commissioned law enforcement officers employed by an agency required to meet minimum standards must meet pre-employment requirements and, upon completion of the required basic training, will be issued a POST Certification.

(1) Full-time Commissioned Law Enforcement Officer Pre-employment Requirements. The Commission shall issue a certificate of compliance to any person who meets the qualifications for employment and satisfactorily completes a POST certified Basic Law Enforcement Training Academy. All persons employed as a full-time law enforcement officer, after July 1, 1982, must be certified by POST and shall comply with the following pre-employment requirements:

(a) Be at least eighteen (18) years of age;

(b) Be a citizen of the United States;

(c) Be a high school graduate or possess equivalence. No waivers will be granted for minimum education requirements;

(d) Not have been convicted of or pleaded guilty to or entered a plea of nolo contendere to any felony charge or to any violation of any federal or state laws or city ordinances relating to force, violence, theft, dishonesty, gambling, liquor and other alcoholic beverages_or controlled substances;

(e) The agency must present a copy of any DD-214s, DD-215s and DD873s along with the application for certification.

1. The commission may consider a waiver from pre-employment requirements for a person who has been convicted of, or entered a plea of nolo contendere to any violation of any federal or state laws or city ordinances relating to force, violence, theft, dishonesty, gambling, liquor and other alcoholic beverages_or controlled substances when the offense was classed as a misdemeanor.

2. No waiver shall be granted while officer is under the jurisdiction of the court or considered on probation, whether supervised or unsupervised, and in the case of "driving while intoxicated" the officer shall have met all the requirements of the Tennessee Department of Safety and have been restored his/her permanent driving privileges under the laws of the State of Tennessee.

3. No waiver will be granted for a narcotics violation that could result in a felony charge.

4. The agency must present a written request for waiver for these charges and provide a copy of the final court disposition of the case.

(f) Not have been released or discharged under any other than honorable discharge from any of the armed forces of the United States;

(g) Have his fingerprints on file with the Tennessee Bureau of Investigation;

(h) Have passed a physical examination by a licensed physician;

(i) Have good moral character as determined by a thorough investigation conducted by the employing agency; and/or the POST Commission; and

(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, 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) Training Requirements. Any officer seeking certification under these rules who conforms to pre-employment requirements shall, within six months of initial employment as a law enforcement officer, satisfactorily complete the Basic Law Enforcement Course as established in accordance with these rules. During this initial six-month period prior to attending the Basic Law Enforcement Course, the recruit must be paired with a Field Training Officer or other certified senior officer.

Commencing July 1, 1982, any time served as a full-time commissioned law enforcement officer in any Tennessee law enforcement agency is accumulative and will count as part of the six-month time limit.

(3) Application Requirement. No officer shall be certified under these rules unless application is made at such time and in such form as the Commission may require (T.C.A. §38-8-104).

If after enrolling in an academy an officer does not successfully complete basic police training, he/she must return to the same academy under the following circumstances:

(a) to make up any portion not successfully completed.

(b) if dropped for academic or disciplinary reason.

(c) in the event an officer fails to successfully complete basic police training after returning for makeup he/she must retake the entire school.

(4) Verification Requirement. No officer shall be certified under these rules unless (T.C.A. §38-8-104):

(a) The law enforcement agency employing said officer when the Basic Law Enforcement Course is begun shall submit, at such time and in such form as the Commission may require, verification that the officer (at the time the officer was employed) met the pre-employment requirements set forth in this chapter.

(b) The Director of the Academy where said officer satisfactorily completed Basic Law Enforcement School, established in accordance with these rules, shall submit verification, in such form as the Commission may require, that the officer has met the Basic Training requirements set forth in this chapter.

(c) The Commission may certify any person who has received training in another state when the Commission has determined that such training was at least equivalent to that required by the Commission for approved law enforcement education and training programs in this state and when such person has satisfactorily complied with all other requirements (T.C.A. §38-8-107). Established criteria shall be that which governs the requirements set forth for completion of the Basic Law Enforcement Recruit School, as outlined in Chapter 7 of POST Rules.

1. Any person whose basic training from another state has been substituted for Tennessee requirements must successfully attend the POST's three (3) week transition school within six (6) months of employment.

(5) Substitution of Experience for exempt/exempted officers. No officer shall be certified under these rules unless:

(a) The law enforcement agency employing said officer shall submit an Application for Certification, Confirmation of Psychological Examination, and Confirmation of Physical Examination, to verify that all preemployment requirements have been met.

(b) Any person applying for substitution of experience must successfully attend the POST's three (3) week transition school within six (6) months of employment.

(6) Break in Full-Time Law Enforcement Service.

(a) Certified officers who have had a five-year break, but less than a ten-year break in full-time law enforcement service must successfully attend the POST's three (3) week transition school within six (6) months of employment before their certification is reinstated. Officers with over a ten-year break in full-time law enforcement service shall be required to attend a Basic Law Enforcement Academy upon review by the POST Commission.

(b) Officers who were certified under the Grandfather Clause of July 1, 1970, and have attended an approved basic law enforcement school, must successfully attend the POST's three (3) week transition school within six (6) months of employment if they have a five-year break in full-time service.

(c) Officers who were certified under the Grandfather Clause of July 1, 1970, and have not attended an approved basic law enforcement school, lose their grandfathered status if they have a break in service. However, these officers may apply for certification if they have had ten years of full-time experience since July 1, 1970, and have had no longer than a five-year break in service. They are required to successfully attend the POST's three (3) week transition school within six (6) months of employment.

These officers may separate directly from one law enforcement agency and be employed as a full-time law enforcement officer by another law enforcement agency with no loss of certification as long as there is no break in service.

(d) 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.

(e) An officer's certification expires after separation of full-time employment from a law enforcement agency. A new application for certification is required for each new employment as a law enforcement officer.

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

Rule 1110-02-.04 Denial, Suspension, and Revocation of Certification is amended by deleting the text of the rule in its entirety and substituting instead the following language so that, as amended, the rule shall read:

(1) Denial of Certification. The Commission shall deny certification to any officer required to comply with the certification provisions of this Chapter who fails to do so. The Commission may deny certification to any officer supplying false information or acquiescing to false information being supplied to the Commission regarding eligibility for certification (T.C.A. §§38-8-104 and 38-8-105).

(2) Suspension or Revocation of Certification. The Commission may initiate disciplinary action upon receipt of a complaint or on its own initiative. Complaints received by POST Commission are to be documented and if allegations are warranted, the proper investigating authority will be notified, and the proper action taken (T.C.A. §§38-8-104(b)).

(a) Grounds for Suspension or Revocation. The Commission may suspend or revoke the certification of any officer who shall, subsequent to certification under these Rules:

1. Be convicted by any state or by federal government of any crime the punishment for which could have been imprisonment in a federal or state prison or institution; or

2. Be convicted of or plead guilty or enter a plea of nolo contendere to any felony charge or to any violation of any federal or state laws or city ordinances relating to force, violence, theft, dishonesty, gambling, liquor and other alcoholic beverages, controlled substances, or a sufficient number of misdemeanors to establish a pattern of disregard for the law.

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

4. Be found to have supplied or acquiesced in false information being supplied to the Commission regarding eligibility for certification; ~~or~~

5. Fail to participate in a 40 hour in-service training program each calendar year; <u>or</u>

6. Fail to maintain pre-employment requirements.

(b) Notification Required. Law enforcement agencies suspending for fifteen (15) days or longer, discharging certified law enforcement officers for disciplinary reasons or accepting the resignation in lieu of termination of certified law enforcement officers, shall inform the Commission within ten (10) days. Law enforcement agencies with knowledge of a certified law enforcement officer's violation of the pre-employment standards shall inform the Commission within ten (10) days. Any change in the status of this disciplinary action should also be reported to the Commission within ten (10) days. Change of status form shall be submitted on any change in this disciplinary action.

(3) Notice of Denial, Suspension, or Revocation (T.C.A. §§38-8-104 and 38-8-105).

(a) Notice of Denial. The Commission shall, within thirty (30) days after denying an application for certification, serve written notice upon an affected officer and his employing agency, by mail, specifying the reasons for denial of the application.

(b) Notice of Suspension or Revocation. The Commission shall, within ten (10) days of suspending or revoking certification, serve notice upon an affected officer, in person or by certified mail, and upon the law enforcement agency employing said officer, by certified mail, specifying the action taken and remedies available. The Commission shall stay final action until the period for requesting a hearing expires.

(c) Notice for Final Action. The Commission shall notify the officer and the law enforcement agency involved by certified mail of the final action regarding suspension or revocation

(4) Suspension or Revocation Hearing (T.C.A. §§ 38-8-105 and 38-8-106). Any law enforcement officer whose certification has been suspended or revoked may, within thirty (30) days of receipt of notice served by the Commission, request by certified mail, a hearing which shall be granted by the Commission. Upon receipt of such request, the Commission shall set a date, time, and place for hearing within thirty (30) days and serve notice, by certified mail, upon the affected law enforcement officer. The affected officer may appear, present information relevant to the proceedings, question those presenting information, and be represented by counsel. In the absence of request for hearing, suspension or revocation shall, without further proceedings, become final thirty (30) days after the initial notice called for in this Chapter.

(a) Hearing Committee. The Sub-Committee shall serve as the Commission's authorized representative for conduction such hearings

(b) Final Commission Review. In the event of an adverse decision, said law enforcement officer may, within thirty (30) days of the initial decision, request final Commission review.

(c) Final Decision After Request for Hearing. The Commission shall render a final decision with thirty (30) days.

(5) Judicial Review. Decisions of the Commission shall be appealable to the chancery court under the provisions of the Uniform Administrative Procedures Act.

(6) Any and all documents which evidence certification under these Rules are the exclusive property of the Commission and shall be surrendered upon demand pursuant to the proceedings under these Rules (T.C.A. §§38-8-104 and 38-8-105).

(7) Reapplication after Denial. Any officer denied certification for failure to meet pre-employment requirements may reapply at such time as the requirements are met. Officers denied certification for failure to meet the Basic Law Enforcement training requirements may reapply after satisfactory completion of the training called for by these Rules (T.C.A. §§38-8-104 and 38-8-105).

(8) Reinstatement after suspension. Any officer whose certification is suspended in accordance with these Rules may upon expiration of the period of suspension, petition the Commission for reinstatement (T.C.A. §§38-8-104 and 38-8-105).

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

Chapter 1110-03
Curricula and Course of Instruction

Rule 1110-03-.03 Certification for General Police Instructor is amended by deleting the title and text of the rule in its entirety and substituting instead the following language so that, as amended, the rule shall read:

1110-03-.03 Certification for General Law Enforcement Instructor.

(1) Full-time or part-time General Law Enforcement Instructor Certification - The Commission requires certification of any person employed, appointed, or designated as a full-time or part-time Law Enforcement Instructor involved in teaching in a Commission approved Basic Recruit School. To be qualified for certification under these rules, the following requirements shall be met:

(a) Competency Requirements - An applicant shall possess the following training competencies which will be determined by the director of the training Academy:

1. Possession of knowledge, skills, and abilities in all assigned areas.

2. Ability to organize materials in written form (lesson plans) for teaching.

3. Presentation of knowledge and skills.

(b) Instructor Certification Requirements.

1. An applicant shall have at least four (4) years of experience as a full-time sworn law enforcement officer. One (1) year of college credit may be substituted for one (1) year of law enforcement experience, and must be in the criminal justice area, but shall not exceed two (2) years of substitution.

2. An applicant shall successfully complete a forty (40) hour instructor development program approved by the Commission.

All full-time Law Enforcement Instructors who were so employed, appointed, or designated prior to January 1, 1985, must successfully complete the program before January 1, 1986. All full-time or part-time Law Enforcement Instructors employed, appointed, or designated on or after January 1, 1985, must successfully complete the program within twelve (12) months of their assignment.

3. An applicant shall be a POST Certified Officer or possess the equivalent in state or federal law enforcement experience.

4. Any exceptions to the above rules for subject matter experts shall be approved by the Commission; however, any General Law Enforcement Instructor on (the effective date of

this amendment) shall be not be required to be a POST Certified Officer or possess the equivalent in state or federal law enforcement experience.

(c) Application for Certification - Persons seeking certification shall:

1. Submit application in such form as the Commission may require.

2. Submit all supporting materials, certificates, etc.

(2) General Police Instructor Certification is limited to officers employed full-time by a department presenting a Basic Law Enforcement School.

Authority: T.C.A. §§ 38-8-104.

Rule 1110-03-.04 Certification for Specialized Police Instructors is amended by deleting the title and text of the rule in its entirety and substituting instead the following language so that, as amended, the rule shall read:

1110-03-.04 Certification for Specialized Law Enforcement Instructors.

(1) Specialized Law Enforcement Instructor Certification - Those instructors, full-time or part-time, who instruct in basic classes, specialized schools, in-service training programs, or other approved training programs, desiring to obtain certification in specialized areas of instruction shall meet the following requirements:

(a) Requirements for Certification

1. An applicant shall have at least five (5) years of experience as a full-time sworn law enforcement officer; or, equivalent combination of education and experience as determined by the appointing authority.

2. An applicant shall successfully complete a forty (40) hour instructor development program and/or any equivalent combination of education and experience as determined by the appointing authority and approved by the Commission.

3. An applicant must have successfully completed a minimum of forty (40) hours of certified training in the specialized area having been approved by the POST Commission as requested by appointing authority.

4. Any exceptions to the above rules shall be approved by the Commission.

(b) Application for Certification.

1. Persons seeking certification shall submit application for Specialized Law Enforcement Instructor in such form as the Commission may require.

2. An applicant must submit a complete lesson plan in the specialized area.

3. An applicant must submit a Certificate of Completion of a forty (40) hour instructor development course.

4. An applicant must submit a Certificate of Training in the Specialized Area(s).

(2) Reserved.

(3) General Departmental Instructor Certification. This certification shall be limited to those training officers designated as the General Departmental Instructor for their department. Departments are not limited to one training officer; however, one training officer from each department shall be designated as a General Departmental Instructor and is exempt from the written forty-hour in-service training

test. The training officer designated as the General Departmental Instructor may also attend a POST workshop training session each calendar year.

(a) Requirements for Certification.

1. An applicant shall have at least four (4) years of experience as a full-time sworn law enforcement officer. One (1) year of college credit may be substituted for one (1) year of law enforcement experience, and must be in the criminal justice area, but shall not exceed two (2) years of substitution.

2. An applicant shall successfully complete a forty (40) hour instructor development program approved by the Commission.

3. An applicant shall have at least one (1) year of experience as a departmental training officer.

4. Any exceptions to the rules shall be approved by the Commission.

(b) Application for Certification.

1. Persons seeking certification shall submit application for General Departmental Instructor in such form as the Commission may require.

2. An applicant shall submit a letter from his employing agency head on departmental letterhead which designates him as the General Departmental Instructor for the Department.

3. An applicant must submit a Certificate of Completion of a forty (40) hour instructor development course.

Authority: T.C.A. §§ 38-8-104.

Rule 1110-03-.05 Revocation of Instructor Certification is amended by adding the following as a new paragraph (4):

(4) Holder of instructor certification is no longer a POST Certified Officer or a POST approved subject matter expert.

Authority: T.C.A. §§ 38-8-104.

Rule 1110-03-.06 Revocation Procedure and Hearing is amended by deleting the text of the rule in its entirety and substituting instead the following language so that, as amended, the rule shall read:

(1) Notice of Suspension or Revocation. The Commission shall, within ten (10) days of suspending or revoking certification, serve notice upon the instructor, in person or by certified mail, and upon the law enforcement agency employing said instructor, by certified mail, specifying the action taken and remedies available. The Commission shall stay final action until the period for requesting a hearing expires.

(2) Notice for Final Action. The Commission shall notify the instructor and the law enforcement agency involved by certified mail of the final action regarding suspension or revocation

(3) Suspension or Revocation Hearing (T.C.A. §§ 38-8-105 and 38-8-106). Any instructor whose certification has been suspended or revoked may, within thirty (30) days of receipt of notice served by the Commission, request by certified mail, a hearing which shall be granted by the Commission. Upon receipt of such request, the Commission shall set a date, time, and place for hearing within thirty (30) days and serve notice, by certified mail, upon the affected instructor. The instructor may appear, present information relevant to the proceedings, question those presenting information, and

be represented by counsel. In the absence of request for hearing, suspension or revocation shall, without further proceedings, become final thirty (30) days after the initial notice called for in this Chapter.

(a) Hearing Committee. The Sub-Committee shall serve as the Commission's authorized representative for conduction such hearings

(b) Final Commission Review. In the event of an adverse decision, said law enforcement officer may, within thirty (30) days of the initial decision, request final Commission review.

(c) Final Decision After Request for Hearing. The Commission shall render a final decision with thirty (30) days.

(4) Judicial Review. Decisions of the Commission shall be appealable to the chancery court under the provisions of the Uniform Administrative Procedures Act.

Authority: T.C.A. §§ 38-8-104.

Chapter 1110-04
In-Service Training Requirements

Rule 1110-04-.05 Course Curriculum Requirements is amended by designating the existing paragraph (4) as subparagraph (4)(a) and adding the following as a new subparagraph (4)(b):

(b) Emergency Vehicle OperationTraining: Training in emergency vehicle operations shall be included as a part of the annual in-service training requirement. This training is mandatory for a law enforcement officer to be eligible for the salary supplement authorized in T.C.A. §38-8-111, pursuant to T.C.A. §55-8-194.

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

Paragraph (1) 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:

(1) Multiple test instruments must be designed to assure that the same test is not administered to two consecutive training sessions using the same curriculum. The test must include at least fifty (50) questions of an objective nature (Multiple Choice, and Matching).

Authority: T.C.A. §§ 38-8-104.

Rule 1110-04-.09 Approval of Specialized Schools is amended by adding the following as new paragraphs (5) and (6):

(5) Any officer being promoted into a leadership position shall, within six (6) months of promotion, receive sufficient training to meet the job requirements. The training shall include courses in: leadership and team building; first line supervisor training; and mid-level management.

(6) All newly appointed chiefs shall, prior to or within six (6) months of appointment, complete a command level course of instruction at least 32 hours in duration approved by the Commission for Police Chiefs that includes command, management and administration components, specific to law enforcement. The hours of this course may be utilized for in-service training hours for the year the course is completed.

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

Chapter 1110-07
Basic Training Academy Minimum Standards

Subpart (viii) of part 13 of subparagraph (b) of paragraph (1) of rule 1110-07-.01 Minimum Curricula 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:

(viii) Given a cone marked double "S" curve with a 12 foot wide lane, the officer will drive forward to the end.

Authority: T.C.A. §§ 38-8-104.

Paragraph (1) of rule 1110-07-.06 Compliance 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) Initial Compliance. All new academies approved after the effective date of these rules, shall comply with the Basic Training Academy minimum standards as set forth in this chapter.

(a) The POST Commission shall verify full compliance of all standards specified in this chapter prior to certification. Such verifications shall include, but not be limited to, an on-site inspection. A POST Commission designee shall conduct an initial on-site inspection prior to verification of compliance.

(b) Basic academies operated by a department for that department's personnel must demonstrate a need for an annual enrollment of 100 recruits.

(c) Basic academies for more than one (1) agency must have a total immersion training atmosphere with at least 400 hours in a dormitory environment.

(d) Upon verification of compliance with the standards set forth in this chapter, the POST Commission shall certify the academy.

(e) Annually, the Director of the Donelson Academy will schedule a meeting of all Training Directors and administrators of Basic Law Enforcement Academies statewide who shall attend for the purpose of curriculum review and standardization.

Authority: T.C.A. §§ 38-8-104.

Chapter 1110-09
Criteria for Waivers

Rule 1110-09-.01 Submission of Waiver Request is amended by deleting the text of the rule in its entirety and substituting instead the following language so that, as amended, the rule shall read:

Request for waiver (except for those preemployment requirements) must be submitted by the agency currently employing the person requiring a waiver. Request for waiver of preemployment requirements must be submitted by the agency having an interest in hiring a person requiring such waiver prior to that persons employment. Request for waiver filled/submitted by an individual will not be accepted by the Commission. The requesting department shall be represented at the hearing by its designee. Once a waiver has been granted for a previous preemployment requirement, that requirement shall be considered waived for future applications for certification.

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

Rule 1110-09-.03 Waiver of POST Test is amended by deleting the title and text of the rule in its entirety and substituting instead the following language so that, as amended, the rule shall read:

1110-09-.03 Waiver of POST Transition School. A waiver of the POST Transition School may be considered on an individual basis upon review of education and previous law enforcement experience and training in the following circumstances:

(1) Upon separation from employment as a state officer who completed basic training and enters employment as a full-time sworn commissioned law enforcement officer with an agency required to meet minimum standards.

(2) Upon separation from employment as a federal law enforcement officer who has completed equivalent training for basic training.

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

Subparagraph (b) of paragraph (1) of rule 1110-09-.04 Waiver of Preemployment 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:

(b) Criminal Activity - The Commission may consider a waiver from preemployment requirements relating to criminal activity on an individual basis and depending on the circumstances.

1. Waivers may be granted if the officer has been convicted of or pleaded guilty to or entered a plea of nolo contendere to any violation of any federal or state law or city ordinance (excluding domestic violence) with the following charges:

(i) relating to force, violence, theft, dishonesty, gambling, liquor and other alcoholic beverages;

(ii) or controlled substances when the offense was classed as a misdemeanor.

2. The employing agency requesting waiver must present a copy of the final court disposition of the case.

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

(i) the amount of time since the offense;

(ii) the amount of time since completion of the sentence;

(iii) the type, circumstances and severity of the offense;

(iv) the applicant's activities since the offense; and

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

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

Subparagraph (c) of paragraph (1) of rule 1110-09-.04 Waiver of Preemployment Requirements is deleted in its entirety.

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

New Rule

Chapter 1110-10
Firearm Certification for Retired Law Enforcement Officers

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1110-10-.01 Retired Law Enforcement Officer Firearms Certification Applications

(1) A retired law enforcement officer seeking certification from the Commission to carry a concealed firearm shall submit:

(a) A signed letter from the chief law enforcement officer of the retired officer's law enforcement agency that the officer retired in good standing with their initial application;

(b) Proof of having met the annual training and qualification standards for active law enforcement officers to carry a firearm of the same type as the concealed weapon they intend to carry signed by a current POST certified fire arms instructor or a instructor at the Tennessee Law Enforcement Training Academy; and

(c) An annual certification fee of ten dollars ($10) payable by check.

(2) A retired law enforcement officer firearms certification issued by the Commission shall expire one (1) year from the date the retired officer successfully met the annual training and qualification standards for active law enforcement officers to carry a firearm of the same type as the concealed weapon.

Authority: T.C.A. §§ 38-8-116.

1110-10-.02 Certification For Private Firearms Instructor.

(1) Certification for Private Firearms Instructor - Those instructors desiring to provide firearms training pursuant to § 38-8-116 must obtain certification as a private firearms instructor and shall meet the following requirements:

(a) Requirements for Certification

(i) An applicant shall have at least five (5) years of experience as a full-time sworn law enforcement officer; or, equivalent combination of education and experience as determined by the Commission.

(ii) An applicant shall successfully complete a forty (40) hour instructor development program and/or any equivalent combination of education and experience as determined by the Commission.

(iii) An applicant must have successfully completed a minimum of forty (40) hours of certified training in the specialized area having been approved by the POST Commission.

(iv) Any exceptions to the above rules shall be approved by the Commission.

(b) Application for Certification

(i) Persons seeking certification shall submit an application for Private Firearms Instructor in such form as the Commission may require.

(ii) An applicant must submit a complete lesson plan in the specialized area.

(iii) An applicant must submit a Certificate of Completion of a forty (40) hour instructor development course.

(iv) An applicant must submit a Certificate of Training in the Specialized Area(s).

(v) An applicant must submit a certification fee of ten dollars ($10) [payable by check].

(2) Revocation of instructor certification will be considered by the Commission for the following reasons:

(a) An instructor's employment is terminated for reason(s) detrimental to the law enforcement profession;

(b) Failure to properly prepare and deliver adequate instruction;

(c) Holder of instructor certification falsifies or omits information required on application for certification or on supporting document.

(3) An instructor's certification becomes inactive if the holder of the certification does not instruct, within a two (2) year period. Inactive certification may be reactivated upon written request and proof of instruction.

Authority: T.C.A. §§ 38-8-116.

1110-10-.03 Training Certification Obtained from the POST Commission.

A retired law enforcement officer seeking to obtain the annual training and qualification standards for active law enforcement officers to carry a firearm of the same type as the concealed weapon from the Commission shall be required to pay the standard firing range tuition rate and fees charged by the Tennessee Law Enforcement Training Academy.

Authority: T.C.A. §§ 38-8-116.

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: 09/30/09

Signature:

Name of Officer: Patrick W. Merkel

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

Subscribed and sworn to before me on: 9/30/09

Notary Public Signature:

My commission expires on: 3/10/12

KRISTINA D. RUST STATE OF TENNESSEE NOTARY PUBLIC DAVIDSON COUNTY, TENN.

Department of State Use Only

Filed with the Department of State on: 9/30/09

Tre Hargett
Secretary of State

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