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File Date: 10/13/2010

# 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.

<b>Agency/Board/Commission:</b>	Peace Officers Standards and Training Commission
<b>Division:</b>	
<b>Contact Person:</b>	Patrick W. Merkel
<b>Address:</b>	500 James Robertson Parkway, Davy Crockett Tower, 5 <sup>th</sup> Floor Nashville, TN 37243
<b>Phone:</b>	615-741-2199
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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:

<b>ADA Contact:</b>	Brian Grisham
<b>Address:</b>	Tennessee Law Enforcement Training Academy 3025 Lebanon Road Nashville, TN 37214
<b>Phone:</b>	615-741-4448
<b>Email:</b>	<a href="mailto:brian.grisham@tn.gov">brian.grisham@tn.gov</a>

**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 :	12/09/10		
Hearing Time:	11:00 a.m.	<input type="checkbox"/> _X_CST	<input type="checkbox"/> __EST

**Additional Hearing Information:**

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**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.)

<b>Chapter Number</b>	<b>Chapter Title</b>
1110-01	Definitions
<b>Rule Number</b>	<b>Rule Title</b>
1110-01-.01	Definitions

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

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

<b>Chapter Number</b>	<b>Chapter Title</b>
1110-04	In-Service Training Requirements
<b>Rule Number</b>	<b>Rule Title</b>
1110-04-.05	Course Curriculum Requirements
1110-04-.08	Testing Instruments

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

<b>Chapter Number</b>	<b>Chapter Title</b>
1110-09	Criteria for Waivers
<b>Rule Number</b>	<b>Rule Title</b>
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>)

#### Substance of Proposed Rules

##### 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 (b) 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 eight (8) hours of initial training, from a Certified Specialized Law Enforcement Instructor for speed measuring devices, on each type of speed measuring device utilized prior to being able to testify in a judicial or administrative proceeding in which the results are being introduced for the purpose of proving the speed of the motor vehicle or the conduct of the driver of the vehicle.

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 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 commission 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.

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: 10/13/10

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: 10/13/10

Notary Public Signature: *Kristina D. Rust*

My commission expires on: 3/10/12



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Filed with the Department of State on: 10/13/10

*Tre Hargett*  
Tre Hargett  
Secretary of State

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