



STATE OF NEVADA
COMMISSION ON PEACE OFFICERS' STANDARDS AND TRAINING
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Brian Sandoval
Governor

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Executive Director

07/31/2014

NOTICE OF INTENT TO ACT UPON A REGULATION

Notice of Hearing for the Adoption, Amendment and Repeal

Of

Regulations of the Commission on Peace Officers' Standards and Training

PUBLIC COMMENT HEARING NOTICE: The Commission on Peace Officers' Standards and Training ("Commission") will hold a public hearing at 9:00 a.m., on September 17, 2014, at the Carson City Sheriff's Office, Ormsby Room, 911 E. Musser Street Carson City, Nevada. The purpose of the hearing is to receive comments from all interested persons regarding the adoption, amendment and repeal of regulations that pertain to Chapter 289 of the Nevada Administrative Code (NAC).

The following information is provided pursuant to the requirements of NRS 233B.0603:

1. A statement of the need for and purpose of the proposed regulations.

NRS Chapter 289 authorizes the Commission to adopt regulations setting the minimum standards for the certification, decertification and selection of peace officers. See, NRS 289.510. The Commission has adopted regulations establishing the minimum standards required to issue a peace officer a Basic Certificate. See, NAC 289.200. The proposed regulation will clarify the language establishing the passing score on the state certification examination, and will replace the old name of the Federal Law Training Center with its current name Federal Law Enforcement Training Centers of the United States Department of Homeland Security. The proposed regulation will repeal the provision that provides an expedited process for a peace officer to upgrade their Category II Basic Certificate to a Category I Basic Certificate. A peace officer who wants to upgrade their Category II Basic Certificate to a Category I Basic Certificate will be required to attend a Category I Training Academy. The repeal of this regulation will provide the peace officer and their agency with the benefits of a full category I basic training course experience.

Additionally, through this proposed regulation, the Commission and law enforcement leaders are attempting to increase professionalism amongst law enforcement officers, and provide clarity and consistency in those regulations.

The proposed regulations, referenced as LCB File No. R079-14, contain the following sections:

Section 1. NAC 289.200(1) establishes the passing score on the state certification examination. The proposed regulation will clarify the language establishing the passing score on the state certification examination from “a score at or above the 70th percentile” to “a score of at least 70 percent.”

Section 2. Under NAC 289.200(2) lists the Federal Law Enforcement Training Center as one of the approved training programs that can be used for the issuance of the basic certificate. The proposed regulation will update the correct organization name to reflect Federal Law Enforcement Training Centers of the United States Department of Homeland Security.

Section 3. NAC 289.200(3) establishes an expedited process for a peace officer to upgrade their Category II Basic Certificate to a Category I Basic Certificate. The proposed regulation will repeal the Category II to I upgrade process. A peace officer who wants to upgrade their Category II Basic Certificate to a Category I Basic Certificate will be required to attend a full Category I Basic Training Course. The repeal of this regulation will provide the peace officer and their agency with the benefits of a full category I basic training course experience.

2. **Either the terms, or the substance of the regulations to be adopted, amended or repealed, or a description of the subjects and issues involved.**

The proposed regulations, referenced as LCB File NO. R079-14, contain the following sections:

Section 1. Amended NAC 289.200(1) which establishes the passing score on the state certification examination. The proposed regulation will clarify the language establishing the passing score on the state certification examination from “a score at or above the 70th percentile” to “a score of at least 70 percent.”

Section 2. Amend NAC 289.200(2) lists the Federal Law Enforcement Training Center as one of the approved training programs that can be used for the issuance of the basic certificate. The proposed change would update the correct organization name to reflect Federal Law Enforcement Training Centers of the United States Department of Homeland Security.

Section 3. Repeal NAC 289.200(3) which establishes an expedited process for a peace officer to upgrade their Category II Basic Certificate to a Category I Basic Certificate. The proposed regulation will repeal the Category II to I upgrade process. A peace officer who wants to upgrade their Category II Basic Certificate to a Category I Basic Certificate will be required to attend a full Category I Basic Training Course. The repeal of this regulation will provide the peace officer and their agency with the benefits of a full category I basic training course experience.

3. **The estimated economic effect of the regulation on the business which it is to regulate and on the public. These must be stated separately and in each case must include:**

(a) Both adverse and beneficial effects; and

(1) Adverse effects: Under section 3, peace officer who currently holds a Category II Basic Certificate who wants to upgrade to a Category I Basic Certificate would be required to complete a full Category I basic training course.

(2) Beneficial effects:

The amendment to the regulations should lead to an increased level of professionalism among peace officers employed by law enforcement agencies. The proposed regulations will ensure the proper terminology and interpretation of a passing score on the state certification examination, and reflect the proper name for the Federal Law Enforcement Training Center. The repeal of the Category II to I upgrade process will provide the peace officer and their agency with the benefits of a full category I basic training course experience.

(b) Both immediate and long-term effects.

The immediate effects include how to handle students who are currently enrolled in Category II to I upgrade programs. It is anticipated those students will be permitted to complete their training programs and received a Category I Basic Certificate upon successful completion of the requirements. In the long term, peace officers and their agencies will benefit from the full Category I Basic Training experience.

4. The estimated cost to the agency for enforcement of the proposed regulation.

The Commission does not project any extra costs for enforcement the proposed regulations.

5. A description of and citation to any regulations of other states or local governmental agencies which the proposed regulation overlaps or duplicates and a statement explaining why the duplication or overlapping is necessary. If the proposed regulation overlaps or duplicates a federal regulation, the notice must include the name of the regulating federal agency.

The proposed regulation does not overlap or duplicate any regulations of state, local or federal governmental agency regulating the same activity.

6. If the regulation is required pursuant to federal law, a citation and description of the federal law.

The proposed regulation is not required by federal law.

7. If the regulation includes provisions which are more stringent than a federal regulation that regulates the same activity, a summary of such provision.

There are no federal regulations that regulate the same activity.

8. Whether the proposed regulation establishes a new fee or increases an existing fee.

This regulation does not involve or establish fees.

Persons wishing to comment upon the proposed action of the Peace Officers' Standards and Training

Commission may appear at the scheduled public hearing or may address their comments, data, views or arguments, in written form, to Richard Clark, Executive Director, POST Commission, 5587 Wa Pai Shone Avenue, Carson City, Nevada 89701. **Written submissions must be received by the POST Commission on or before 5:00 pm on September 2, 2014.** If no person who is directly affected by the proposed action appears to request time to make an oral presentation, the Peace Officers' Standards and Training Commission may proceed immediately to act upon any written submissions.

A copy of this notice and the regulations to be adopted, amended or repealed will be on file at the State Library, 100 Stewart Street, Carson City, Nevada for inspection by members of the public during business hours. Additional copies of the notice and regulations to be adopted, amended or repealed will be available at the POST Commission Administrative Offices, 5587 Wai Pai Shone Avenue, Carson City, 89701, and in all counties in which an office of the agency is not maintained, at the main public library, for inspection and copying by members of the public during business hours. This notice and the text of the proposed regulations are also available in the State of Nevada Register of Administrative Regulations, which is prepared and published monthly by the Legislative Counsel Bureau pursuant to NRS 233B.0653, and on the Internet at <http://leg.state.nv.us>, the POST web site at <http://post.nv.gov> and at <https://notice.nv.gov>.

Copies of this notice and the proposed regulation will also be mailed to members of the public upon request. A reasonable fee may be charged for copies if it is deemed necessary.

Upon adoption of any regulation, the agency, if requested to do so by an interested person, either before adoption or within 30 days thereafter, will issue a concise statement of the principal reasons for and against its adoption and incorporate therein its reason for overruling the consideration urged against its adoption.

The Notice of Hearing has been mailed to all criminal justice agencies on the Nevada POST mailing list and posted at the following locations:

CARSON CITY

Blasdel Building, 209 East Musser Street
Nevada State Library, 100 Stewart Street
Capitol Building, 101 N. Carson Street
NV POST, 5587 Wa Pai Shone Avenue

LAS VEGAS

Grant Sawyer State Building, 555 Washington Avenue

ELY

White Pine County Sheriff's Office, 1785 Great Basic Blvd

COUNTY LIBRARIES (MAIN BRANCHES)

CARSON CITY LIBRARY
900 NORTH ROOP STREET
CARSON CITY, NEVADA 89702

CHURCHILL COUNTY LIBRARY
553 SOUTH MAINE STREET
FALLON, NEVADA 89406

LAS VEGAS-CLARK COUNTY
833 LAS VEGAS BLVD - NORTH
LAS VEGAS, NEVADA 89101

DOUGLAS COUNTY LIBRARY
1625 LIBRARY LANE
MINDEN, NEVADA 89423

ELKO COUNTY LIBRARY
720 COURT STREET
ELKO, NEVADA 89801

ESMERALDA COUNTY LIBRARY
FOURTH AND CROOK STREETS
GOLDFIELD, NEVADA 89013

EUREKA COUNTY LIBRARY
10190 MONROE STREET
EUREKA, NEVADA 89316

HUMBOLDT COUNTY LIBRARY
85 EAST 5TH STREET
WINNEMUCCA, NEVADA 89445

LANDER COUNTY LIBRARY
625 BROAD STREET
BATTLE MOUNTAIN, NEVADA 89820

LINCOLN COUNTY LIBRARY
93 MAIN STREET
PIOCHE, NEVADA 89043

LYON COUNTY LIBRARY
20 NEVIN WAY
YERINGTON NEVADA 89447

MINERAL COUNTY LIBRARY
FIRST AND A STREETS
HAWTHORNE, NEVADA 89415

TONOPAH LIBRARY DISTRICT
167 CENTRAL STREET
TONOPAH, NEVADA 89048

PERSHING COUNTY LIBRARY
1125 CENTRAL STREET
LOVELOCK, NEVADA 89419

STOREY COUNTY LIBRARY
95 SOUTH R STREET
VIRGINIA CITY, NEVADA

WASHOE COUNTY LIBRARY
301 SOUTH CENTER STREET
RENO, NEVADA 89520

WHITE PINE COUNTY LIBRARY
950 CAMPTON STREET
ELY, NEVADA 89301

NOTE: We are pleased to make reasonable accommodations for members of the public with disabilities who wish to attend the meeting. If special arrangements for the meeting are necessary, please notify the POST Commission, in writing, at 5587 Wai Pai Shone Avenue, Carson City, Nevada 89701, or call Scott Johnston at (775) 687-7678, Extension 3335, no later than five working days prior to the meeting.

**SEE ATTACHED COPIES OF THE PROPOSED
REGULATIONS**

**PROPOSED REGULATION OF THE PEACE OFFICERS’
STANDARDS AND TRAINING COMMISSION**

LCB File No. R079-14

June 10, 2014

EXPLANATION – Matter in *italics* is new; matter in brackets [~~omitted material~~] is material to be omitted.

AUTHORITY: §§1 and 2, NRS 289.510.

A REGULATION relating to peace officers; revising provisions relating to the certification and training of peace officers; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law defines three categories of peace officer, with category I being defined as a peace officer who has unrestricted duties and who is not otherwise listed as a category II or category III peace officer. (NRS 289.460, 289.470, 289.480) The Peace Officers’ Standards and Training Commission is required to adopt regulations establishing minimum standards for the certification and decertification, recruitment, selection and training of peace officers. (NRS 289.510) The Executive Director of the Commission is authorized to certify peace officers who have satisfactorily completed courses of training for peace officers. (NRS 289.530) Existing regulations provide certain criteria for courses to meet the respective minimum standard of training for peace officers in categories I, II and III and for reserve officers. (NAC 289.140, 289.150, 289.160, 289.170)

Existing regulations authorize the Executive Director to award a basic certificate in training category I to a peace officer who holds a basic certificate in training category II issued by the Commission if the peace officer is currently employed as a peace officer by an agency and completes a training course approved by the Executive Director that consists of at least 280 hours of training in certain areas. (NAC 289.200) This regulation removes that authorization.

Section 1. NAC 289.200 is hereby amended to read as follows:

289.200 1. The Executive Director shall award a basic certificate to any peace officer who meets the minimum standards for appointment established pursuant to NAC 289.110 and has:

(a) Satisfactorily completed the basic training course for basic certification;

(b) Passed the state certification examination with a score *of* at ~~{or above the 70th percentile;}~~
least 70 percent; and

(c) Passed the state physical fitness examination for the appropriate category of peace officer as described in NAC 289.205.

2. The Executive Director may award a basic certificate to any peace officer who has been certified by the certifying entity of another state or has successfully completed a Federal Law Enforcement Training ~~{Center}~~ *Centers of the United States Department of Homeland Security* training program approved by the Commission and who meets the minimum standards for appointment established pursuant to NAC 289.110 if:

(a) The Commission or its designee has determined that the course of training required for the certification was at least equivalent to the basic training course for basic certification;

(b) The certification of the peace officer in the other jurisdiction has not been revoked or suspended;

(c) Not more than 60 months have lapsed since the peace officer was employed in the other jurisdiction;

(d) The peace officer has satisfactorily completed a training course that is approved by the Executive Director which consists of a minimum of 80 hours of training that satisfies the requirements established by the Commission pursuant to subsection 1 of NAC 289.300 in:

- (1) Abuse of elderly persons;
- (2) Active assailants;
- (3) Child abuse and sexual abuse of a child;
- (4) Civil liability;
- (5) Constitutional law;

- (6) Counter-terrorism and weapons of mass destruction;
- (7) Crimes against persons;
- (8) Crimes against property;
- (9) Cultural awareness;
- (10) Domestic violence and stalking;
- (11) Ethics in law enforcement or for correctional officers;
- (12) Juvenile law;
- (13) Laws relating to arrest;
- (14) Laws relating to drugs, including, without limitation, current trends in drugs;
- (15) Miscellaneous crimes;
- (16) Probable cause;
- (17) Rights of victims;
- (18) Search and seizure;
- (19) Sexual harassment; and
- (20) Use of force;

(e) The peace officer passes the state certification examination with a score *of at* ~~for above~~ the 70th percentile;] **least 70 percent;** and

(f) The peace officer passes the state physical fitness examination for the appropriate category of peace officer as described in NAC 289.205.

3. ~~{The Executive Director may award a basic certificate in training category I to a peace officer who holds a basic certificate in training category II issued by the Commission if the peace officer:~~

~~—(a) Is currently employed as a peace officer by an agency;~~

~~—(b) Has satisfactorily completed a training course approved by the Executive Director that consists of a minimum of 280 hours of training in:~~

~~——(1) Law and legal procedures, specifically:~~

~~——(I) Laws governing coroners; and~~

~~——(II) Traffic laws;~~

~~——(2) Patrol operations and investigations, specifically:~~

~~——(I) Accident investigations;~~

~~——(II) Basic patrol procedures;~~

~~——(III) The DWI Detection and Standardized Field Sobriety Testing course approved by the National Highway Traffic Safety Administration; and~~

~~——(IV) Unknown-risk and high-risk vehicle stops;~~

~~——(3) Performance skills, specifically:~~

~~——(I) Operation of emergency vehicles;~~

~~——(II) Searching of buildings;~~

~~——(III) Tactics for the arrest and control of suspects, including, without limitation, methods for arrest and the use of less than lethal weapons; and~~

~~——(IV) Training concerning active assailants; and~~

~~——(4) The functions of a peace officer, specifically relating to counter-terrorism and weapons of mass destruction; and~~

~~—(c) Passes the state certification examination for training category I with a score at or above the 70th percentile.~~

~~—4.] The Executive Director may award a reserve basic certificate to any reserve officer who meets the minimum standards for appointment pursuant to NAC 289.110 and has:~~

- (a) Satisfactorily completed the basic training course for a reserve certificate;
- (b) Passed the state certification examination with a score *of* at ~~{or above the 70th percentile;}~~

least 70 percent; and

- (c) Passed the state physical fitness examination described in subsection 1 of NAC 289.205.

~~{5.}~~ 4. Except as otherwise provided in subsection ~~{6.}~~ 5 or ~~{7.}~~ 6, an officer must pass the state physical fitness examination:

- (a) If the officer is not eligible for certification pursuant to subsection 2, not later than 16 weeks after the first day of the officer's basic training course certified or approved pursuant to NAC 289.300; or

- (b) If the officer is eligible for certification pursuant to subsection 2, not later than 16 weeks after the date on which the officer was hired or, if the officer is a reserve officer, the date of activation of his or her reserve status.

~~{6.}~~ 5. If a student enrolled in a basic training course certified or approved pursuant to NAC 289.300 sustains a bona fide physical injury that renders him or her incapable of completing the requirements of the state physical fitness examination, an agency may submit a request for an extension of time for the student to complete the examination. The agency shall submit such a request to the Executive Director. The request must include, without limitation, written verification by a physician that the student is incapable of completing the requirements of the state physical fitness examination. If the Executive Director determines that an extension of time is warranted, the Executive Director shall authorize an extension of time for a period not to exceed 12 months after the date on which the student was hired or, if the student is a reserve officer, the date of activation of his or her reserve status.

~~{7.}~~ 6. If an officer passes the state physical fitness examination:

(a) While not enrolled in a basic training course certified or approved pursuant to NAC 289.300; and

(b) More than 16 weeks, but less than 12 months, after the date on which the officer was hired or, if the officer is a reserve officer, the date of activation of his or her reserve status, \rightarrow the employing agency of the officer may submit a request to the Executive Director to waive the requirements of subsection ~~{5.}~~ 4. The request must include, without limitation, the reason the officer was unable to pass the state physical fitness examination within the periods described in subsection ~~{5.}~~ 4. The Executive Director may, for good cause shown, grant a request submitted pursuant to this subsection.

~~{8.}~~ 7. Upon satisfactory completion of the requirements listed in subsection 1, 2 ~~{1}~~ or 3, ~~{or 4,}~~ the employing agency shall submit a request for certification to the Executive Director. The request must include:

(a) The name, social security number and date of hire of the officer or, if the officer is a reserve officer, the date of activation of his or her reserve status;

(b) Documentary evidence that the officer has successfully completed an approved basic training course;

(c) Verification by the administrator of the agency that the officer meets the minimum standards established by this chapter; and

(d) The statement concerning child support prescribed by the Division of Welfare and Supportive Services of the Department of Health and Human Services pursuant to NRS 425.520.

~~{9.}~~ 8. The basic certificate of an officer whose employment is terminated for any reason will be placed on inactive status. If such a person is again employed as a full-time peace officer, the employing agency shall request that the person's basic certificate be returned to active status.

If the certification of such a person is on inactive status for more than 5 consecutive years, the person must renew his or her basic certificate by successfully completing the requirements set forth in subsection 1.

~~{10.}~~ **9.** If a person who successfully completes a basic training course for the purpose of obtaining a basic certificate is not employed by an agency within 24 months after completing the course, the person must repeat all of the requirements for basic certification set forth in subsection 1.

~~{11.}~~ **10.** Except as otherwise provided in this subsection, to satisfactorily complete a basic training course for the purposes of this section, the person must successfully complete all of the requirements in one course. If a person is discharged from a basic training course for any reason that is not disciplinary, the person may complete any remaining requirements in a later course provided by the same entity if the person has not previously been discharged from a course and if:

(a) The administrator of the basic training course recommends that the person complete the requirements in a later course, the administrator of the employing agency of the person requests that the person be allowed to complete the requirements in a later course and the Executive Director gives approval;

(b) The subsequent course is provided in a manner which ensures that the person completes all of the requirements for a basic training course for which the course is certified; and

(c) The subsequent course begins not later than 120 days after the discharge.

Sec. 2. The amendatory provisions of section 1 of this regulation do not apply to a person who was:

1. Eligible to be awarded a basic certificate in training category I pursuant to subsection 3 of NAC 289.200 before the effective date of this regulation; or
2. Employed as a peace officer by an agency before the effective date of this regulation and:
 - (a) Enrolled in a peace officer training course that:
 - (1) Met the qualifications of paragraph (b) of subsection 3 of NAC 289.200; and
 - (2) Began before the effective date of this regulation;
 - (b) Successfully completed the training course; and
 - (c) Passed the state certification examination for training category I with a score of at least a 70 percent.