



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

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01/30/2014

AMENDED 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 Peace Officers' Standards and Training Commission will hold a public hearing at 1:00 pm, on March 5, 2014, at the Carson City Sheriff's Office, Ormsby Room, 911 E. Musser St. 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.

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. This proposed regulation involves the amendment of following NAC Chapters.**

The NRS and NAC provide for the authority and responsibility of POST which includes, adopt regulations establishing minimum standards for the certification of peace officers. Nevada POST and law enforcement leaders are making every attempt to increase professionalism amongst law enforcement officers.

Amending NAC 289.230 in the following areas will provide clarity in the regulation, allow for agency administrators to determine specific training needs, act on these needs within a more efficient time, and be fiscally efficient.

1. **Change the current 24 hour training requirement to 12 hours of agency in-service training, and provide examples of topic areas of training.** This will provide agencies with the latitude to provide specific in-service training tailored to meet the needs of the agency.
2. **Remove the requirement that the Executive Director must approve the 12 hours of training provided by a law enforcement agency.** Currently all courses need the approval of the Executive Director. By removing this requirement for only the annual in-service training requirement, agencies have more latitude in providing training that meets the needs of agency instead of only training that has been approved by the Executive Director.

3. **Change the due date for agency reporting of in-service training from before January 31st following the year in which training was required to on or before December 31st of the year in which the training was required.** Currently, the reporting of annual in-service training involved a single report that was generally compiled in the first month of the new year to allow extra time for reporting. With the implementation of electronic reporting throughout a reporting year as training requirements are met, the extension of one extra month is not needed.
4. **Change the course topic title of “defensive tactics” to “arrest and control tactics.”** The course topic title of defensive tactics is outdated terminology and does not correctly reflect the actual training conducted. This terminology needs to be replaced with the term arrest and control tactics which will properly align this training title.

Amending NAC 289.260 which contains the requirements for a management certificate, to remove the wording “in addition to the units required for the intermediate and advanced certificates”. The requirements of the Management Certificate need to be modified in order to remove a conflict with the standards for the Intermediate and Advanced Certificate. The new standards for the Intermediate and Advanced Certificates allow credit for longevity, training, and higher education. An officer could obtain these certificates with longevity and training with no higher education. Since the Management Certificate currently references to the Intermediate and Advanced Certificates higher education requirements, it creates a conflict with the new standards. Making this change will properly align the Management Certificate with the Intermediate and Advanced Certificates.

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.**

Section 1 of LCB file No. R121-13: Amend NAC 289.230, which establishes the annual in-service training requirements to maintain a basic certificate or reserve certificate as follows:

1. Change the current 24 hour training requirement to 12 hours of agency in-service training, and provide examples of topic areas of training.
2. Remove the requirement that the Executive Director must approve the 12 hours of training provided by a law enforcement agency.
3. Change the due date for agency reporting of in-service training from before January 31st following the year in which training was required to on or before December 31st of the year in which the training was required.
4. Change the course topic title of “defensive tactics” to “arrest and control tactics.”

Section 2 of LCB file No. R121-13: Amend NAC 289.260, which contains the requirements for a management certificate, to remove the wording “in addition to the units required for the intermediate and advanced certificates”.

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:

There are no anticipated adverse effects.

(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 amendments will remove the requirement of the Executive Directors approval of training and provide the employing agency administrator the full authority to determine the training topics needed for their officers mandatory annual training resulting in a the more efficient fiscal spending on training by the agencies.

(b) Both immediate and long-term effects.

There are no negative immediate and long term effects. A possible intermediate and long term benefit could result from agency administrators now having full authority to determine the annual training needs for their officers and may result in a more efficient fiscal spending.

Since the implementation of on line submission of training completed by agencies, the reporting of training compliance completed takes place throughout the calendar year. This amendment would change the due date for reporting annual training compliance to December 31 of the reporting year.

The amendment changing the training course topic of Defensive Tactics to Arrest and Control Tactics is needed in order to be consistent with other areas of regulations.

The amendment to NAC 289.260, which contains the requirements for a management certificate, to remove the wording “in addition to the units required for the intermediate and advanced certificates” is needed to remove word conflicts.

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

Do not project any extra costs.

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.

N/A

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

N/A

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 February 15, 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> and on the POST web site at <http://post.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. R121-13

December 3, 2013

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 the requirements for continuing education to maintain a basic certificate or reserve certificate; revising the educational requirements for a management certificate; and providing other matters properly relating thereto.

Section 1. NAC 289.230 is hereby amended to read as follows:

289.230 1. ~~{} Except as otherwise provided in subsections 7 and 8,~~ to maintain a basic certificate or reserve certificate, the officer must annually *satisfy the requirements of subsection 5 and complete ~~{24}~~ 12* hours of additional *agency in-service* training prescribed by the administrator of the employing agency of the officer. ~~{and approved by the Executive Director.}~~ *Agency in-service training may include, without limitation, training related to legal issues, the policies and procedures of the employing agency of the officer, driving, first aid, cardiopulmonary resuscitation, blood-borne pathogens, sexual harassment or any other training prescribed by the administrator of the employing agency of the officer.*

2. The employing agency shall ensure that its officers ~~{receive the required training.}~~ *comply with the requirements of subsection 1.* The employing agency shall notify each officer

of the requirements of this section and the penalties set forth in subsection ~~{3}~~ 4 for failure to comply with this section. After an officer completes ~~{such training,}~~ *the requirements of subsection 1*, the employing agency shall submit ~~{verification of completion of training}~~ to the Executive Director on a form approved by the Commission ~~{}~~ *verification that the officer has completed those requirements*. Verification must be submitted *on or* before ~~{January}~~ *December* 31 ~~{following}~~ *of* the year in which ~~{training}~~ *the officer* was required ~~{~~ *—2—* *to complete the requirements of subsection 1.*

3. If the Executive Director has not received verification ~~{of completion of training pursuant to}~~ *that an officer has completed the requirements of subsection 1 on or* before ~~{January}~~ *December* 31 ~~{following}~~ *of* the year in which ~~{training}~~ *the officer* was required ~~{}~~ *to complete those requirements*, the Executive Director shall notify the administrator of the employing agency that he or she has not received the verification required by subsection ~~{}~~ 2 and that if the verification is not received on or before March 1 ~~{of that year,}~~ *following the year in which the officer was required to complete the requirements*, the Executive Director will place the administrator on the agenda for the next scheduled meeting of the Commission to explain the delay in the submission of the verification. If the Executive Director has not received verification ~~{of completion of training pursuant to}~~ *that an officer has completed the requirements of subsection 1 on or* before March 1 following the year in which training was required, the Executive Director shall place the administrator of the employing agency on the agenda for the next scheduled meeting of the Commission.

~~{3}~~ 4. Upon the request of the Commission or its designee, the employing agency shall make available for inspection the records of all officers to verify that they have complied with

the ~~{continuing education requirement.}~~ *requirements of subsection 1.* The Commission will notify each officer and his or her employing agency of any noncompliance. The Commission will suspend the certificate of any officer who does not ~~{obtain the required training}~~ *complete the requirements of subsection 1* within 60 days after the date on which he or she received the notice of noncompliance. The Commission will reinstate the suspended certificate of an officer upon receiving documentation from the officer which demonstrates that he or she has complied with the ~~{continuing education requirement.~~

~~—4.}~~ *requirements of subsection 1.*

5. Except as otherwise provided in subsections ~~{6 and 7, as part of the continuing education}~~ *7 and 8, in addition to completing the agency in-service training* required pursuant to subsection 1, an officer must:

(a) If the officer is authorized to use a firearm, at least biannually demonstrate a minimum level of proficiency in the use of each firearm he or she is authorized to use. An officer who does not demonstrate a minimum level of proficiency with the use of any firearm he or she is authorized to use may not carry or use the firearm until he or she participates in a remedial course established by the employing agency to ensure that the officer achieves and maintains a satisfactory level of proficiency.

(b) If the officer is authorized to use an impact weapon, chemical weapon, electronic incapacitating device or other less than lethal weapon, at least annually demonstrate a minimum level of proficiency in the use of each such weapon or device he or she is authorized to use. An officer who does not demonstrate a minimum level of proficiency with the use of any such weapon may not carry or use that weapon until the officer participates in a remedial course

↪ must satisfy the requirements of paragraphs (b) to (e), inclusive, of subsection ~~{4}~~ 5 and demonstrate a minimum level of proficiency in the use of each firearm he or she is authorized to use before resuming his or her duties as a peace officer.

~~{7}~~ 8. An officer who instructs a course pursuant to subsection ~~{4}~~ 5 is not required to comply with the ~~{continuing education}~~ requirements of subsection ~~{4}~~ 5 to which the instruction applies if the officer:

(a) Instructs a course in the subject for which the officer is qualified and approved by the administrator of the officer's agency during each calendar year;

(b) Participates at least once every 3 years in a course of training for instructors that is approved by the Executive Director; and

(c) Demonstrates to the Commission or its designee at least once every 3 years proficiency in the subject that he or she instructs.

~~{8}~~ 9. Each agency shall maintain documentation of the courses provided pursuant to subsection ~~{4}~~ 5. Such documentation must include, without limitation, the qualifications of each instructor who provides training, a description of the training provided and a list on a form that has been approved by the Executive Director of each officer who completes the training.

Sec. 2. NAC 289.260 is hereby amended to read as follows:

289.260 The Executive Director shall grant a management certificate to an officer upon submission of proof satisfactory to the Executive Director that the officer meets the following minimum requirements:

1. A current basic certificate.
2. A current intermediate certificate.

3. A current advanced certificate.
4. A current supervisor certificate.
5. Six years of experience as a peace officer, including at least 1 year of experience in a management level position and a current assignment in a management level position. The applicant must present proof that the current assignment meets the criteria for a management level position as set forth in NAC 289.057 by submitting a letter with the application that is signed by the administrator of the agency. The letter must include an organizational chart which demonstrates the applicant's position within the agency and must describe the manner in which the applicant's current assignment meets the criteria for a management level position as set forth in NAC 289.057.
6. Six units of credit from an accredited college or university . ~~{in addition to the units required for the intermediate and advanced certificates.}~~
7. Successful completion of 200 hours of training in a management training program certified by the Commission which includes, without limitation, courses in the following subjects:
 - (a) Introduction to management;
 - (b) Public administration;
 - (c) Financial administration;
 - (d) Personnel administration;
 - (e) Management and labor relations; and
 - (f) Policy formulation.