



STATE OF NEVADA
COMMISSION ON PEACE OFFICER STANDARDS AND TRAINING
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STEVE SISOLAK
Governor

MICHAEL D. SHERLOCK
Executive Director

REVISED

07/9/2020

NOTICE OF INTENT TO ACT UPON A REGULATION

**Notice of Hearing for the Adoption, Amendment and Repeal
Of
Regulations of the Commission on Peace Officer
Standards and Training**

PUBLIC COMMENT HEARING NOTICE: The Commission on Peace Officer Standards and Training (“Commission”) will be holding a Public Comment Hearing at **10:00 a.m. on Thursday, August 13, 2020 at the Reno Police Department, 455 E. 2nd St., Reno, NV 89502**. 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. 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, training and selection of peace officers. See NRS 289.510. The existing regulations establish the minimum standards of training for certain category I, category II, category III, and reserve peace officer. (NAC 289.140-170)

Existing regulations establish a procedure for the award of a basic certificate to any peace officer who meets the minimum standards of appointment and has been certified by another state or completed certain federal training approved by the Commission, authorizing the award if: (1) the Commission determines that the training required for certification was equivalent to that of the basic training course for basic certification; (2) the certification in the other jurisdiction has not been revoked or suspended; (3) not more than 60 months have lapsed since the employment in the other jurisdiction; (4) the peace officer completed a minimum of 80 hours of training in a course approved by the Executive Director of the Commission; (5) the peace officer passes the state certification examination for the appropriate category of peace officer. (NAC 289.200).

Existing regulation provide that the basic certificate of a peace officer will be placed on inactive status upon the termination of the peace office for any reason. Existing regulations provide that the basic certificate expires after 5 consecutive years of inactive status, meaning that upon the expiration of the basic certificate the peace officer must renew his or her certificate by completing the full certification process including successful completion of a full basic training academy. (NAC 289.200).

This regulation provides that the Executive Director may return to active status the basic certificate of a category I or category II peace officer that would have otherwise expired if the peace officer: (1) meets the minimum standards for appointment; (2) successfully completes the training course, certification examination and physical fitness examination requirements established in the procedure for basic certification of a peace officer certified in another state or federally trained in an approved program; and (3) within 5 consecutive years of the termination of employment of the category I or category II peace officer, or he or she became employed as a full time employee of the Commission or the law enforcement officer of a federal law enforcement agency, approved by the Commission, and subsequently, within 5 consecutive years of termination his or her employment with the Commission or the federal law agency, as applicable, the peace officer obtained his or her current employment as a category I or category II peace officer in the same category of peace officer as he or she held prior to his or her employment with the Commission or federal law enforcement agency.

2. For a temporary regulation, the terms, or the substance of the regulation to be adopted, amended or repealed, or a description of the subjects and issues involved.

This is a permanent regulation.

3. For a proposed regulation, a statement explaining how to obtain the approved or revised text of the proposed regulation.

The proposed regulation text may be obtained by going to the Register of Administrative Regulations for 2019 and clicking the link: <http://www.leg.state.nv.us/Register/2019Register/R112-19.pdf>.

The proposed regulation text may be obtained by contacting Kathy Floyd at kfloyd@post.state.nv.us or by telephone at 775-687-7678, ext. 3335.

4. 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: None anticipated.

(2) Beneficial effects: The regulation will provide that the Executive Director may return to active status the basic certificate of a category I or category II peace officer, that would have otherwise expired, when they were employed with an approved federal law enforcement agency as a peace officer or employed with the Commission. Additionally, upon termination of his or her employment with the Commission or the federal law enforcement agency, as applicable, and the peace officer obtains his or her current employment as a category I or category II peace officer in the same category of peace officer as he or she held prior to his or her employment with the Commission or federal law enforcement agency their certificate can be reinstated by the Executive Director of the Commission.

(b) Both immediate and long-term effects:

The immediate effects: The regulation will allow officers with category I and category II basic certificates to go to federal law enforcement agencies as equivalent category I or Category II federal peace officer; or be full time employed with the Commission without having their certificate expiring. An officer who leaves federal law enforcement or the Commission and returns to a Nevada law

enforcement as a category I or category II peace officer within 5 years, their basic certificates will be reinstated.

The long term effects: The regulation does not foresee any long term effects.

5. The methods used by the agency in determining the impact on a small business.

The Commission on POST has reviewed the text of the proposed regulations. Because the regulation amends Nevada Administrative Code Chapter 289, dealing with certification provisions of the Basic Certificate of peace officers, the proposed amendments to NAC Chapter 289 will have no impact on small business.

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

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

7. 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.

8. 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.

9. 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.

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

This regulation does not involve or establish fees.

11. For a temporary regulation, each address at which the text of the regulation may be inspected and copied.

This regulation is not a temporary regulation; it is a permanent regulation.

Persons wishing to comment upon the proposed action of the Commission on Peace Officer Standards and Training (Commission on POST) may appear at the scheduled public hearing or may address their comments, data, views or arguments, in written form, to Michael D. Sherlock, Executive Director, Commission on POST, 5587 Wai Pai Shone Avenue, Carson City, Nevada 89701. **Written submissions must be received by the Commission on POST on or before 5:00 pm on July 30, 2020.** If no person who is directly affected by the proposed action appears to request time to make an oral presentation, the Commission on POST 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 Commission on POST 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 at no charge upon request.

Upon adoption of any regulation, the agency, if requested to do so by an interested person, either before adoption or within 30 days thereafter, shall 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 sent to all criminal justice agencies on the Commission on 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 St.
Commission on POST, 5587 Wai Pai Shone Ave.

ELY

White Pine County Sheriff's Office
1785 Great Basin Blvd.

LAS VEGAS

Grant Sawyer State Building
555 Washington Ave.

LIBRARIES (MAIN BRANCHES)

Carson City Library 900 N. Roop St Carson City, Nevada 89702	Churchill County Library 553 S. Maine Street Fallon, Nevada 89406-3387
Clark County Library 1401 E. Flamingo Rd. Las Vegas, Nevada 89119-5265	Douglas County Public Library 1625 Library Ln. PO Box 337 Minden, Nevada 89423-4420
Elko County Library 720 Court St. Elko, Nevada 89801-3331	Esmeralda County Library Goldfield Valley Library Corner of Crook & 4th Street Post Office Box 430 Gold Field, Nevada 89013-430
Eureka County Branch Library 210 South Monroe Eureka, NV 89316	Humboldt County Library 85 E. 5th Street Winnemucca, Nevada 89445-3095
Lander Co Battle Mountain Branch Library 625 S. Broad St Post Office Box 141 Battle Mountain, Nevada 89820-1920	Lincoln County Library 63 Main Street PO Box 330 Pioche, Nevada 89043
Lyon County Library System 20 Nevin Way Yerington, Nevada 89447-2399	Mineral County Library 110 1st St PO Box 1390 Hawthorne, Nevada 89415-1390

Tonopah Public Library 167 S. Central Street Post Office Box 449 Tonopah, Nevada 89049-0449	Pershing County Library 1125 Central Avenue PO Box 781 Lovelock, Nevada 89419-0781
Storey County Library 175 E. Carson Street PO Box 999 Virginia City, Nevada 89440-0999	Washoe County Downtown Reno Library 301 South Center Street Reno, Nevada 89501-2102
White Pine County Library 950 Campton Street Ely, Nevada 89301-1965	

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 Commission on POST, in writing, at 5587 Wai Pai Shone Avenue, Carson City, Nevada 89701, or call Kathy Floyd 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. R112-19

January 16, 2020

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

AUTHORITY: §1, NRS 289.510.

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

Legislative Counsel’s Digest:

Existing law requires the Peace Officers’ Standards and Training Commission to adopt regulations establishing the minimum standards for the certification and decertification, recruitment, selection and training of peace officers. (NRS 289.510) Existing regulations establish the minimum standards of training for certain category I, category II, category III and reserve peace officers. (NAC 289.140-289.170)

Existing regulations establish a standard procedure for the award of a basic certificate to any peace officer who meets the minimum standards of appointment, requiring the award if the peace officer: (1) satisfactorily completes the basic training course for basic certification; (2) passes the state certification examination with a score of at least 70 percent; and (3) passes the state physical fitness examination for the appropriate category of peace officer. (NAC 289.200)

Existing regulations also establish a procedure for the award of a basic certificate to any peace officer who meets the minimum standards of appointment and has been certified by another state or completed certain federal training approved by the Commission, authorizing the award if: (1) the Commission determines that the training required for certification was equivalent to that of the basic training course for basic certification; (2) the certification in the other jurisdiction has not been revoked or suspended; (3) not more than 60 months have lapsed since the employment in the other jurisdiction; (4) the peace officer completed a minimum of 80 hours of training in a course approved by the Executive Director of the Commission; (5) the peace officer passes the state certification examination with a score of at least 70 percent; and (6) the peace officer passes the state physical fitness examination for the appropriate category of peace officer. (NAC 289.200)

Existing regulations provide that the basic certificate of a peace officer will be placed on inactive status upon the termination of the peace officer for any reason. Existing regulations provide that the basic certificate expires after 5 consecutive years of inactive status, meaning that upon the expiration of the basic certificate, the peace officer must renew his or her certificate by completing the standard process. (NAC 289.200)

This regulation provides that the Executive Director may return to active status the basic certificate of a category I or category II peace officer that would have otherwise expired if the peace officer: (1) meets the minimum standards for appointment; (2) successfully completes the training course, certification examination and physical fitness examination requirements established in the procedure for basic certification of a peace officer certified in another state or federally trained in an approved program; and (3) within 5 consecutive years of the termination of employment of the category I or category II peace officer, he or she became employed as a full-time employee of the Commission or as a full-time law enforcement officer of a federal law enforcement agency approved by the Commission, and subsequently, within 5 consecutive years of terminating his or her employment with the Commission or the federal law enforcement agency, as applicable, the peace officer obtained his or her current employment as a category I or category II peace officer in the same category of peace officer as he or she held prior to his or her employment with the Commission or the federal law enforcement agency.

FIRST
PARALLEL
SECTION

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 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 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 older persons;
- (2) Child abuse and sexual abuse of a child;
- (3) Civil liability;
- (4) Classification and receiving of offenders;
- (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, stalking and aggravated stalking;
- (11) Ethics in law enforcement;

- (12) Fire safety and use of emergency equipment;
- (13) Games offenders play;
- (14) Gangs and cults;
- (15) Juvenile law;
- (16) Laws relating to arrest;
- (17) Laws relating to correctional institutions;
- (18) Laws relating to drugs, including, without limitation, current trends in drugs;
- (19) Miscellaneous crimes;
- (20) Modern correctional philosophy;
- (21) Probable cause;
- (22) Public and media relations;
- (23) Records of offenders in institutions;
- (24) Rights of victims;
- (25) Search and seizure;
- (26) Searches of offender institutions;
- (27) Supervision of offenders;
- (28) Training concerning active assailants; and
- (29) Use of force;

(e) The peace officer passes the state certification examination with a score of at 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 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 least 70 percent; and
- (c) Passed the state physical fitness examination described in subsection 1 of NAC 289.205.

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

(a) If the officer is not eligible for certification pursuant to subsection 2 ~~H~~ *or for the return of his or her certificate to active status pursuant to subsection 9*, 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 ~~H~~ *or for the return of his or her certificate to active status pursuant to subsection 9*, 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.

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.

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, ↪ the employing agency of the officer may submit a request to the Executive Director to waive the requirements of subsection 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 4. The Executive Director may, for good cause shown, grant a request submitted pursuant to this subsection.

7. Upon satisfactory completion of the requirements listed in subsection 1, 2 or 3, 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.

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. ~~HF~~ *Except as otherwise provided in subsection 9, 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.

9. *Upon the request of the employing agency, the Executive Director may return the basic certificate of a category I or category II peace officer to active status if the peace officer:*

(a) Meets the minimum standards for appointment established pursuant to NAC 289.110;

(b) Successfully completes the requirements set forth in paragraphs (d), (e) and (f) of subsection 2; and

(c) Within 5 consecutive years of his or her termination of employment as a category I or category II peace officer, became a full-time employee of the Commission or a full-time law enforcement officer of a federal law enforcement agency approved by the Commission, and subsequently, within 5 consecutive years of his or her termination of employment with the Commission or federal law enforcement agency, as applicable, became employed as a peace officer in the same category of peace officer as he or she held immediately prior to his or her employment with the Commission or the federal law enforcement agency.

10. 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.

~~10.~~ **11.** 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.