

**Commission on Peace Officer Standards and Training**

1601 Alhambra Blvd
Sacramento, CA 95816-7083
www.post.ca.gov

Date: November 24, 2006

Bulletin: No. 2006-19

Subject: Notice of Proposed Regulatory Action – Electronic Weapons Instructor Course Requirement and Course Content Regulations 1070 and 1082

At its April 2006 meeting, the Commission approved proposed amendments to require standardized instructor training prior to teaching electronic weapons in POST courses. The attached notice describes the proposed changes, and includes an invitation for written input on this proposal, the deadline for written comments, and information about requesting a public hearing.

The following information regarding the proposed regulatory action is located on the POST website at www.post.ca.gov/RegulationNotices/RegulationNotices.asp:

- POST Bulletin and Notice of Proposed Regulatory Action
- Text of Proposed Regulatory Action
- Initial Statement of Reasons.

Please direct inquiries about this proposed regulatory action to Patricia Cassidy, Commission on Peace Officer Standards and Training, 1601 Alhambra Boulevard, Sacramento, CA 95816-7083, by email at Pat.Cassidy@post.ca.gov, by telephone at 916.227.4847, or by FAX at 916.227.5271. If Patricia is unavailable, please contact Bryon Gustafson, by email at Bryon.Gustafson@post.ca.gov or by telephone at 916.227.3902.

KENNETH J. O'BRIEN
Executive Director

Attachment: Notice of Proposed Regulatory Action

NOTICE OF PROPOSED REGULATORY ACTION
Electronic Weapons Instructor Course Requirement and Course Content
Regulations 1070 and 1082

Notice is hereby given that the Commission on Peace Officer Standards and Training (POST) proposes to amend regulations in Chapter 2 of Title 11 of the California Code of Regulations. This proposal is made pursuant to the authority vested by Penal Code sections 13503 (powers of the Commission on POST) and 13506 (Commission on POST authority to adopt regulations). Implementation of this proposal will interpret, implement, and make specific Penal Code section 13503(e) (Commission on POST authority to develop and implement programs to increase the effectiveness of law enforcement, including programs involving training and education courses).

Public Comments Due by January 8, 2007

The Commission hereby requests written comments on the proposed actions. POST must receive all written comments no later than 5:00 p.m. on January 8, 2007. Please direct any written comments to Kenneth J. O'Brien, Executive Director, Commission on POST, 1601 Alhambra Boulevard, Sacramento, CA, 95816-7083, or by fax at 916.227.2801.

A public hearing is not scheduled. Pursuant to Government Code Section 11346.8, any interested person, or his/her duly authorized representative, may request a public hearing. POST must receive the written request for a public hearing no later than 15 days prior to the close of the public comment period.

Informative Digest/Policy Statement Overview

POST maintains an expectation that persons who instruct in certain specialized training courses should complete a POST-certified instructor development course on the related subject. Since July 1, 2002, POST has regulated a growing number of specialized subject areas that include baton/impact weapons, chemical agents, and firearms training.

Use of force experts agree, both in conjunction with POST and independently on a national level, that electronic weapons represent a specialized subject area. Because of the controversies surrounding electronic weapons and the fact that the majority of agencies are now equipped with electronic weapons, POST staff (in conjunction with subject matter experts) developed a proposal to set minimum standards for electronic weapons operator training courses, rather than wait for legislation to be passed. The Commission on POST unanimously adopted minimum hours and curriculum requirements for electronic-weapons operator training courses at its October 27, 2005 meeting. The adopted training course appears in Regulation 1084 (a).

POST believes it is prudent to establish minimum content requirements through a specialized instructor-training requirement for electronic weapons instructor training. This will ensure focused attention, standardize instructor training, and distinguish electronic weapons from flash bangs, beanbag rounds, PepperBall® launchers, and other "less lethal" devices.

Therefore, POST proposes to adopt instructor standards for teaching the standardized electronic weapons courses. Subject matter experts (SMEs) determined the course topics and a 16-hour course duration as the minimum time needed for the course. In developing the proposed minimum content requirements, the SMEs considered relevant materials and publications. These included the PERF (Police Executive Research Forum) CED (conducted energy device) guidelines, the IACP (International Association of Chiefs of Police) Training Key #575 (Electronic Control Weapons: Update), manufacturer recommendations, and an analysis of existing electronic weapons instructor training courses (non-certified; developed/presented by vendors). Training presenters support the minimum training standards and content requirements for Electronic Weapons Course instructors, as reflected in the guidelines drafted by the POST Electronic Weapons Instructors Subject Matter Experts Committee in November 28-29, 2005.

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Specifically, Regulations 1070 (b) and 1082 (d) are modified to specify that instructors of electronic weapons must complete the Electronic Weapons Instructor course, and to specify the course hours and minimum curriculum content. POST is also proposing non-substantive changes to Regulation 1082(d), deleting the numbering of course titles and thus simplifying the process when POST adds a new course title, and making changes to either correct or improve existing grammar and punctuation.

At its April 2006 meeting, the Commission approved proposed amendments that would require standardized instructor training prior to teaching electronic weapons in POST courses. Electronic weapons instructor training would be mandatory for all instructors of electronic weapons in POST-certified courses. The proposed minimum content requirements will ensure that instructor training addresses all critical issues and will standardize electronic weapons instructor training via minimum hours and standardized curriculum topics.

Adoption of Proposed Regulations

Following the close of the public comment period, the Commission may adopt the proposal substantially as set forth without further notice or the Commission may modify the proposal if such modifications remain sufficiently related to the text as described in the Informative Digest. If the Commission makes changes to the language before the date of adoption, it will make available the text of any modified language, clearly indicated, at least 15 days before adoption, to all persons whose comments POST received during the public comment period, and to all persons who request notification from POST of the availability of such changes. Please address requests for the modified text to the agency official designated in this notice. The Commission will accept written comments on the modified text for 15 days after the date on which the revised text becomes available.

Text of Proposal, Rulemaking File, and Internet Access

The following information regarding the proposed regulatory action is available on the POST website at <http://www.post.ca.gov/RegulationNotices/RegulationNotices.asp>:

- POST bulletin and Notice of Proposed Regulatory Action
- Text of Proposed Regulatory Action
- Initial Statement of Reasons.

Anyone who does not have Internet access may request a copy of the above documents by calling 916.227.4847 or by submitting a written request to the contact person listed below. Please refer to POST Bulletin 2006-19. The rulemaking file, which contains the above-mentioned documents and all information upon which POST is basing this proposal, will be available for inspection during the Commission's normal business hours (Monday through Friday, 8: a.m. to 5 p.m.).

The Final Statement of Reasons will be prepared after the close of the public comment period. To request a copy, contact POST at the above telephone number, write to the address under Contact Persons at the end of this notice, or view the document on the POST Internet website at the address cited above.

Estimate of Economic Impact

- Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: None
- Non-Discretionary Costs/Savings to Local Agencies: None
- Local Mandate: None

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- Costs to any Local Agency or School District for which Government Code Section 17561 Requires Reimbursement: None
- Significant Statewide Adverse Economic Impact Directly Affecting California Businesses, including Small Business: The Commission on Peace Officer Standards and Training has made an initial determination that the amended regulations will not have a significant statewide adverse economic impact directly affecting California businesses, including the ability to compete with businesses in other states. The Commission on Peace Officer Standards and Training has found that the proposed amendments will have no effect on California businesses, including small businesses, because the Commission sets selection and training standards for law enforcement and does not have an impact on California businesses, including small businesses.
- Cost Impacts on Representative Private Persons or Businesses: The Commission on Peace Officer Standards and Training is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.
- Effect on Housing Costs: The Commission on Peace Officer Standards and Training has made an initial determination that the proposed regulation would have no effect on housing costs.

Assessment

The adoption of the proposed regulation amendments will neither create nor eliminate jobs in the state of California, and will not result in the elimination of existing businesses or create or expand businesses in the State of California.

Consideration of Alternatives

To take this action, the Commission must determine that no reasonable alternative considered by the Commission, or otherwise identified and brought to the attention of the Commission, would be more effective in carrying out the purpose for which the action is proposed, or would be as effective as and less burdensome to effected private persons than the proposed action.

Contact Persons

Please direct any inquiries or comments pertaining to the proposed action by mail to Patricia Cassidy, Commission on POST, 1601 Alhambra Boulevard, Sacramento, CA, 95816-7083, by telephone at 916.227.4847, by FAX at 916.227.5271, or by email at Pat.Cassidy@post.ca.gov. The back-up contact person is Senior Consultant Bryon Gustafson. He is available by telephone at 916.227.3902 or by email at Bryon.Gustafson@post.ca.gov.