

**COLORADO DEPARTMENT OF LAW
PEACE OFFICER STANDARDS AND TRAINING BOARD**

2020

**RULES CONCERNING DEFINITIONS, DIRECTOR'S AUTHORITY,
SUBJECT MATTER EXPERTS, HEARINGS, VARIANCES, PROCESSES
FOR SEEKING EXEMPTION FROM STATUTORY CERTIFICATION
RESTRICTIONS, REVOCATION OF CERTIFICATIONS,
BASIC, PROVISIONAL AND RESERVE CERTIFICATIONS, BASIC AND
RESERVE TRAINING ACADEMIES, AND
IN-SERVICE TRAINING.**

STATEMENT OF BASIS, STATUTORY AUTHORITY, AND PURPOSE

Pursuant to sections §§ 24-31-303 (1)(g), (l) and (m), and 24-31-307(1), C.R.S., the Colorado Peace Officer Standards and Training Board (POST) has the authority and duty to promulgate and amend specific rules and regulations as further specified herein to facilitate the requirements of SB 20-217 and related statutory provisions. In addition to non-substantive amendments proposed, the following substantive amendments are intended.

Amendments are proposed to Rule 1 – Definitions:

- Add “refresher” to the types of training academies where training academies are specifically referenced within the definitions.
- Utilize the term “per” where appropriate to promote consistency.
- Supplement the list of “disqualifying incidents” to account for new legislation incorporated within SB 20-217, as follows:
 - Add a finding of untruthfulness;
 - Add conviction, etc., for a crime involving unlawful use or threatened use of force;
 - Add conviction, etc., for a crime involving the failure to intervene in the use of unlawful force;
 - Add if found civilly liable for the use of unlawful force and for the failure to intervene in the use of unlawful force;
 - Add if a finding by an administrative body for failure to intervene in the use of unlawful force for an incident that resulted in serious bodily injury or death; and
 - Add for failure to satisfactorily complete peace officer training
- Modify the definition of “fingerprint based criminal history record check.”
- Modify the definition of “operable firearm” and “practical exercise” to promote uniformity of terms used.

- Modify the definition of “POST Identification” without substantively altering its meaning.
- Modify the definition of “recognized disciplines for arrest control training” without substantively altering its meaning.
- Modify the definition of “refresher academy” without substantively altering its meaning.
- Modify the definition of “reserve peace officer” without significantly altering its meaning.
- Modify the definition of “subject matter expert” to clarify that the Chair of the POST Board has the authority to formally recognize the expert.
- Modify the definition of “successful completion” without substantively altering its meaning.

An amendment is proposed to Rule 2 – Meetings, to make a minor, non-substantive change.

Amendments are proposed to Rule 3 – Director’s Authority, to supplement the authority delineated to include authority to issue remedial action and compliance order for non-compliance with POST rules and to approve eyewitness identification training and other statutorily mandated training.

Amendment are proposed to Rule 4 – Subject Matter Expert Committees to substitute "Chair of the Board” for “Board, to clarify that only one person per agency may serve on single committee at one time, and to clarify that members of committees shall not participate in subject matter expert committee functions relate to their respective organization or organization employees.

Amendments are proposed to Rule 5 – Hearings, to provide for forty (40) rather than thirty (30) days of notice for the hearing set, and to clarify the process for revocation hearings for criminal convictions and disqualifying incidents.

An amendment is proposed to Rule 7 – Variances, to clarify that a temporary variance is valid for six (6) months from the date of issue.

An amendment is proposed to Rule 8 – Process for Seeking Exemption from Statutory Certification Restrictions, to clarify that the POST Director may hold a meeting to address the merits of an applicant’s request for exemption from statutory certification restrictions.

Amendments are proposed to Rule 9 – Revocation of Certification re-stating the POST Board’s authority to suspend or revoke peace officer certification, but to remove the recitation of the specific bases therefor already set forth in § 24-31-305, C.R.S.

Amendments are proposed to Rule 10- Basic Peace Officer Certification, to state that the POST Board is authorized to issue POST Basic Peace Officer Certification to any applicant who is in good standing with POST, to state that certification documentation must be submitted to POST via the law enforcement training academy where applicable, and to remove references to reserve certificate holders.

Amendments are proposed to Rule 11 – Provisional Certification, to allow for substantial equivalence for provisional certification, to provide that an applicant must be in good standing with POST, to state that provisional certification applications are valid for one year from date of submission, to allow for a one-time variance extension of six (6) months for provisional certification, and to allow an applicant to complete the provisional certification process while their application is valid, regardless whether their certification letter has expired.

Amendments are proposed to Rule 21 – Basic and Reserve Training Academies, to specify that Academy Directors have discretion to utilize other classroom facilities as necessary for academic programs, provided those facilities are appropriate, safe and adhere substantially to the statements set forth in part (d) of the rule, and to provide for an Academy Director to notify POST in the event a primary classroom facility is rendered unusable for twenty-one (21) or more days.

Amendments are proposed to Rule 28 - In-Service Training Program, to state that failure to satisfactorily complete training can result in suspension or revocation of POST certification, to specify that remedial training hours completed after January 1 to gain compliance for a prior calendar year shall not count towards the current year requirement, to specify that the onus is on the chief executive of each law enforcement agency for the true, accurate and verifiable entry of training records into the POST Database, to require agencies to keep and enter into the POST Database records pertaining to in-person courses, including sign-in sheets, topics covered, and existing lesson plans. Amendments proposed to Rule 28 also specify that compliance with in-service training programs is required of agencies AND individual peace officers, that concerning individual peace officers, POST will send our preliminary compliance reports for each training period, and that POST staff shall suspend and perhaps revoke peace officer certifications for failure to complete training requirements.

Purpose

The purpose of the amended rules is to provide clarification to persons subject to POST peace officer certification requirements and provide updated information regarding items referenced in these rules as set forth herein.

Contemplated Schedule for Adoption

Rules will be adopted on September 18, 2020, with an effective date of November 15, 2020.

Listing of Persons and Parties Affected

Peace officers, including those applying for certification and those currently employed as certified peace officers, and law enforcement academy staff will be affected by this anticipated rulemaking.

It has been declared by the General Assembly that certification and training standards of peace officers is a matter of statewide concern. The absence of implementing rules to carry out the purpose of the statutes would be contrary to the public health, peace, safety and welfare of the state. For these reasons, it is imperatively necessary that these proposed amendments be adopted.

Rule 1 –Definitions
Effective November 15, 2020

As used in these rules

- (a) "Academy director" means that person responsible for the administration and operation of a POST-approved academy.
- (b) "Applicant" means any person formally seeking approval by the Board.
- (c) "Appointed" means sworn in and serving as a peace officer or reserve peace officer.
- (d) "Approved" means formally accepted or authorized by the Board.
- (e) "ACT" means Arrest Control Tactics, one of the skills training programs required for the basic, refresher and reserve training academies.
- (f) "Assistant skills instructor" means an individual who has successfully completed a relevant approved skills instructor training program and who may instruct the corresponding skills training program in arrest control, law enforcement driving, or firearms under the direction and in the presence of a full skills instructor, and assist in evaluating and coaching trainees at an approved basic, refresher or reserve training academy.
- (g) "Authorized emergency vehicle" means such vehicles as further defined in § 42-1-102(6), C.R.S.
- (h) "Board" means the Colorado Peace Officer Standards and Training Board.
- (i) "Bodily injury" means physical pain, illness, or any impairment of physical or mental condition, per § 18-1-901(3)(c), C.R.S.
- (j) "Certification examination" means the written test required, per § 24-31-305(1)(a)(III), C.R.S.
- (k) "Certified peace officer" means any person who has successfully attained POST Certification, as further described in §§ 24-31-305 and 24-31-308, C.R.S.
- (l) "Course" means a formal unit of instruction relating to a particular subject.
- (m) "C.R.S." means Colorado Revised Statutes, codified laws of the State of Colorado.
- (n) "Director" means the director of the POST Board staff.

- (o) “Disqualifying incident” means:
- a. A finding of guilt following either a verdict of guilty by the court or jury, or a plea of guilty, or a plea of nolo contendere., per § 24-31-305(1.5)(a), C.R.S. Any Colorado juvenile adjudication is not a conviction.
 - b. Entering into a deferred judgment and sentencing agreement, a deferred prosecution agreement, or a pretrial diversion agreement of any disqualifying offense, whether pending or successfully completed, per § 24-31-305 (1.5)(b), C.R.S.
 - c. A finding of untruthfulness pursuant to § 24-31-305(2.5), C.R.S.
 - d. Convicted of or pleads guilty or nolo contendere to a crime involving unlawful use or threatened use of force, per § 24-31-904, C.R.S. Unlawful or excessive force is as further described in § 18-8-803, C.R.S.
 - e. Convicted of or pleads guilty or nolo contendere to a crime involving the failure to intervene in the use of unlawful force, per § 24-31-904, C.R.S. Failure to intervene is as further described in § 18-8-802 (1.5)(a) and (d), C.R.S.
 - f. Found civilly liable for the use of unlawful physical force, per § 24-31-904, C.R.S.
 - g. Found civilly liable for the failure to intervene in the use of unlawful force, per § 24-31-904, C.R.S.
 - h. A finding by an administrative law judge or internal investigation that the peace officer failed to intervene in the use of unlawful physical force for an incident which resulted in serious bodily injury or death, per § 18-8-802(1.5)(f), C.R.S.
 - i. Failure to satisfactorily complete peace officer training required by the post board, per § 24-31-305(2.7), C.R.S.
 - j. Making materially false or misleading statements of omissions in the application for certification.
 - k. Otherwise failing to meet the certification requirements established by the board.

- (p) "Enroll" means that a person has applied to and been accepted for admission into an academy and is physically present at the academy to receive instruction.
- (q) "Enrollment date" means the first day of instruction at an approved basic, refresher or reserve training academy, and shall be synonymous with the first day of instruction as reflected on the approved academy schedule.
- (r) Fingerprint-based criminal history record check: a search of a person's fingerprints, provided on a post applicant fingerprint card or a Colorado bureau of investigation (CBI) authorized vendor, and processed by CBI and federal bureau of investigation (FBI) for the purpose of determining a person's eligibility for certification as a peace officer in the state of Colorado.
- (s) "Full skills instructor" means an individual who has successfully completed the minimum qualifications required by these Rules and who may develop, implement and evaluate a skills training program at an approved basic, refresher or reserve training academy.
- (t) "Incident" means a single, distinct event as determined by the POST Director or designee.
- (u) "Lead skills instructor" means a full skills instructor at a basic, refresher or reserve training academy who may be designated by the academy director to oversee or coordinate the administration of a specific skills program for a particular academy class.
- (v) "Lesson plan" means a document that specifically describes the material presented during a course of instruction, as further described in POST RULE 21.
- (w) "Moving training" means training where the academy students are involved in movement with a loaded weapon. It is recognized that during square range drills, academy students may move 1-2 steps laterally or forward/backward. The 1:1 ratio is not required for this drill. For all other drills/exercises involving movement a 1:1 ratio is required.
- (x) "Operable firearm" means a firearm that is capable of discharging a bullet if loaded. This does not include firearms designed or modified to discharge marking cartridges or airsoft projectiles during academy scenario/reality-based training.

- (y) "Peace officer" means any person, AS recognized in § 16-2.5, Part 1 C.R.S.
- (z) "POST certified" means any person possessing a valid, numbered certificate issued by the Board authorizing such person to serve as a peace officer or reserve peace officer.
- (aa) "POST fingerprint card" means a fingerprint card provided by POST.
- (bb) "POST Identification" (PID) means a number assigned and unique to each active peace officer's certification record. All inquiries and correspondence to POST should contain this number.
- (cc) "Practical Exercise" means role playing, table top exercises, or other scenario/reality-based training.
- (dd) "Program director" means the person responsible for the administration and operation of a POST-approved training program.
- (ee) "Provisional certification" means a signed instrument issued by the POST Board that grants interim certification for qualified out-of-state peace officers seeking Colorado certification that enables the provisional applicant to obtain appointment as a peace officer in Colorado while fulfilling the requirements for basic certification.
- (ff) "Recognized disciplines for arrest control training" mean those arrest control/defensive tactics systems that have been reviewed and approved by the Board, or its designee, in consultation with the Arrest Control Subject Matter Expert Committee for use in an approved law enforcement academy. Such systems may include, but are not limited to, Federal Bureau of Investigation (FBI) system, Koga system and Pressure Point Control Tactics (PPCT) system.

"Refresher academy" means an approved training program that consists of a minimum of 96 hours of instruction and includes POST board approved academics, arrest control, law enforcement driving and firearms.
- (gg) "Relevant approved skills instructor training program" means a basic, not advanced, instructor training program that contains a minimum of forty (40) hours of instruction with instructional content that meets or exceeds the content of the respective instructor training programs for arrest control, law enforcement driving, or firearms, and has been formally accepted or authorized by the Board.

- (hh) "Renewal applicant" means an applicant whose Colorado peace officer certificate has expired per § 24-31-305(1.7)(b), C.R.S., and who has applied to renew his/her Colorado peace officer certificate in accordance with § 24-31-305(1.7)(c), C.R.S. and POST Rule 13.
- (ii) "Reserve peace officer" means any person described in § 16-2.5-110, C.R.S., and includes any person authorized to carry a firearm, conduct arrests, and enforce the laws of the state of Colorado, per § 16-2.5-110, C.R.S.,
- (jj) "Serious bodily injury" means bodily injury which, either at the time of the actual injury or at a later time, involves a substantial risk of death, a substantial risk of serious permanent disfigurement, a substantial risk of protracted loss or impairment of the function of any part or organ of the body, or breaks, fractures, or burns of the second or third degree, per § 18-1-901(3)(p), C.R.S.
- (kk) "Skills examination" means the approved practical test of an applicant's proficiency in arrest control, law enforcement driving, or firearms.
- (ll) "Skills training" means the required approved arrest control, law enforcement driving, and firearms courses.
- (mm) "State" means any State in the United States, the District of Columbia, and any territory or possession of the United States.
- (nn) "Subject Matter Expert" (SME) means an individual formally recognized by the chair of the Board for his or her extensive knowledge, expertise and/or experience in one of the skills areas or in academics.
- (oo) "Successful completion" means a score of seventy (70) percent or greater, or a grade of "C" or better, or a rating of pass, if offered as pass/fail, in a post-approved academy or program. For the certification examination passing score, see Rule 15.
- (pp) "Test out" means a POST-scheduled skills examination where proficiency is assessed by a POST Subject Matter Experts (SMEs) in all three perishable skills (Arrest Control, Law Enforcement Driving, and Firearms) and the written POST certification exam is administered.

- (qq) "Training academy" means a POST-approved school, agency or other entity that provides POST-approved training programs.

- (rr) "Training program" means a POST-approved course of instruction required by statute, or Rule, or for peace officer certification and other peace officer training programs as otherwise recognized and approved by the Board.

Rule 1 –Definitions
~~*Effective January 30, 2019*~~
Effective November 15, 2020

As used in these rules:

- (a) "Academy director" means that person responsible for the administration and operation of a POST-approved academy.
- (b) "Applicant" means any person formally seeking approval by the Board.
- (c) "Appointed" means sworn in and serving as a peace officer or reserve peace officer.
- (d) "Approved" means formally accepted or authorized by the Board.
- (e) "ACT" means Arrest Control Tactics, one of the skills training programs required for the basic, **REFRESHER** and reserve training academies.
- (f) "Assistant skills instructor" means an individual who has successfully completed a relevant approved skills instructor training program and who may instruct the corresponding skills training program in arrest control, law enforcement driving, or firearms under the direction and in the presence of a full skills instructor, and assist in evaluating and coaching trainees at an approved basic, **REFRESHER** or reserve training academy.
- (g) "Authorized emergency vehicle" means such vehicles **as further defined in § 42-1-102(6), C.R.S.**
- (h) "Board" means the Colorado Peace Officer Standards and Training Board.
- (i) "Bodily injury" means physical pain, illness, or any impairment of physical or mental condition, **PER § 18-1-901(3)(c), C.R.S.**
- (j) "Certification examination" means the written test required, **PER § 24-31-305(1)(a)(III), C.R.S.**
- (k) "Certified peace officer" means any person who has successfully attained POST Certification, **as further described in §§ 24-31-305 and 24-31-308, C.R.S.**
- (l) "Course" means a formal unit of instruction relating to a particular subject.
- (m) "C.R.S." means Colorado Revised Statutes, codified laws of the State of Colorado.

- (n) "Director" means the director of the POST Board staff.
- (o) "Disqualifying incident" means:
- a. A finding of guilt following either a verdict of guilty by the court or jury, or a plea of guilty, or a plea of nolo contendere., **PER § 24-31-305(1.5)(a), C.R.S.** Any Colorado juvenile adjudication is not a conviction.
 - b. Entering into a deferred judgment and sentencing agreement, a deferred prosecution agreement, or a pretrial diversion agreement of any disqualifying offense, whether pending or successfully completed, **PER § 24-31-305 (1.5)(b), C.R.S.**
 - c. **A FINDING OF UNTRUTHFULNESS PURSUANT TO § 24-31-305(2.5), C.R.S.**
 - d. **CONVICTED OF OR PLEADS GUILTY OR NOLO CONTENDRE TO A CRIME INVOLVING UNLAWFUL USE OR THREATENED USE OF FORCE, PER § 24-31-904, C.R.S. Unlawful or excessive force is as further described in § 18-8-803, C.R.S.**
 - e. **CONVICTED OF OR PLEADS GUILTY OR NOLO CONTENDRE TO A CRIME INVOLVING THE FAILURE TO INTERVENE IN THE USE OF UNLAWFUL FORCE, PER § 24-31-904, C.R.S. Failure to intervene is as further described in § 18-8-802 (1.5)(a) and (d), C.R.S.**
 - f. **FOUND CIVILLY LIABLE FOR THE USE OF UNLAWFUL PHYSICAL FORCE, PER § 24-31-904, C.R.S.**
 - g. **FOUND CIVILLY LIABLE FOR THE FAILURE TO INTERVENE IN THE USE OF UNLAWFUL FORCE, PER § 24-31-904, C.R.S.**
 - h. **A FINDING BY AN ADMINISTRATIVE LAW JUDGE OR INTERNAL INVESTIGATION THAT THE PEACE OFFICER FAILED TO INTERVENE IN THE USE OF UNLAWFUL PHYSICAL FORCE FOR AN INCIDENT WHICH RESULTED IN SERIOUS BODILY INJURY OR DEATH, PER § 18-8-802(1.5)(f), C.R.S.**
 - i. **FAILURE TO satisfactorily COMPLETE PEACE OFFICER TRAINING REQUIRED BY THE POST BOARD, PER § 24-31-305(2.7), C.R.S.**

- j. Making materially false or misleading statements of omissions in the application for certification.
- k. Otherwise failing to meet the certification requirements established by the board.
- (p) "Enroll" means that a person has applied to and been accepted for admission into an academy and is physically present at the academy to receive instruction.
- (q) "Enrollment date" means the first day of instruction at an approved basic, **REFRESHER** or reserve training academy, and shall be synonymous with the first day of instruction as reflected on the approved academy schedule.
- (r) **FINGERPRINT-BASED CRIMINAL HISTORY RECORD CHECK: A SEARCH OF A PERSON'S FINGERPRINTS, provided on A POST APPLICANT FINGERPRINT CARD OR A COLORADO BUREAU OF INVESTIGATION (CBI) AUTHORIZED VENDOR, AND PROCESSED BY CBI AND FEDERAL BUREAU OF INVESTIGATION (FBI) FOR THE PURPOSE OF DETERMINING A PERSON'S ELIGIBILITY FOR CERTIFICATION AS A PEACE OFFICER IN THE STATE OF COLORADO.**
- (s) "Full skills instructor" means an individual who has successfully completed the minimum qualifications required by these Rules and who may develop, implement and evaluate a skills training program at an approved basic, **REFRESHER** or reserve training academy.
- (t) "Incident" means a single, distinct event as determined by the POST Director or designee.
- (u) ~~"Lateral training academy" means an agency specific approved academy that instructs academic courses determined by the agency and all hours of the POST skills training programs in arrest control, law enforcement driving and firearms.~~
- (v) "Lead skills instructor" means a full skills instructor at a basic, **REFRESHER** or reserve training academy who may be designated by the academy director to oversee or coordinate the administration of a specific skills program for a particular academy class.

- (w) "Lesson plan" means a document that specifically describes the material presented during a course of instruction, **as further described in POST RULE 21.**
- (x) "Moving training" means training where the academy students are involved in movement with a loaded weapon. It is recognized that during square range drills, academy students may move 1-2 steps laterally or forward/backward. The 1:1 ratio is not required for this drill. For all other drills/exercises involving movement a 1:1 ratio is required.
- (y) "Operable firearm" means a firearm that is capable of discharging a bullet if loaded. This does not include firearms designed or modified to discharge marking cartridges or airsoft projectiles during academy **SCENARIO**/reality-based training.
- (z) "Peace officer" means any person, **AS** recognized in § 16-2.5, Part 1 C.R.S.
- (aa) "POST certified" means any person possessing a valid, numbered certificate issued by the Board authorizing such person to serve as a peace officer or reserve peace officer.
- (bb) "POST fingerprint card" means a fingerprint card provided by POST.
- (cc) "POST Identification Number" (PID) means a number assigned and unique to each active peace officer's certification **RECORD** file. All inquiries and correspondence to POST should contain this number.
- (dd) "Practical Exercise" means role playing, tabletop exercises, or other scenario/**REALITY**-based training.
- (ee) "Program director" means **the** person responsible for the administration and operation of a POST-approved training program.
- (ff) "Provisional certification" means a signed instrument issued by the POST Board that grants interim certification for qualified out-of-state peace officers seeking Colorado certification that enables the provisional applicant to obtain appointment as a peace officer in Colorado while fulfilling the requirements for basic certification.
- (gg) "Recognized disciplines for arrest control training" mean those **ARREST CONTROL**/defensive tactics systems that have been reviewed and approved by the Board, **OR ITS DESIGNEE**, in

consultation with the Arrest Control Subject Matter Expert Committee **FOR USE IN AN APPROVED LAW ENFORCEMENT ACADEMY.** Such systems may include, but are not limited to, Federal Bureau of Investigation (FBI) system, Koga system and Pressure Point Control Tactics (PPCT) system.

"Refresher academy" means an approved training program that consists of a minimum of 96 hours of instruction and includes **POST BOARD APPROVED** academics, arrest control, law enforcement driving and firearms.

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- (jj) "Reserve peace officer" means any person described in § 16-2.5-110, C.R.S., and includes any person authorized to carry a firearm, conduct arrests, and enforce the laws of the state of Colorado, **PER** ~~pursuant to~~ § 16-2.5-110, C.R.S.,
- (kk) "Serious bodily injury" means bodily injury which, either at the time of the actual injury or at a later time, involves a substantial risk of death, a substantial risk of serious permanent disfigurement, a substantial risk of protracted loss or impairment of the function of any part or organ of the body, or breaks, fractures, or burns of the second or third degree, **PER** § 18-1-901(3)(p), C.R.S.
- (ll) "Skills examination" means the approved practical test of an applicant's proficiency in arrest control, law enforcement driving, or firearms.
- (mm) "Skills training" means the required approved arrest control, law enforcement driving, and firearms courses.

- (nn) "State" means any State in the United States, the District of Columbia, and any territory or possession of the United States.
- (oo) "Subject Matter Expert" (SME) means an individual formally recognized by the **CHAIR OF THE** Board for his or her extensive knowledge, expertise and/or experience in one of the skills areas or in academics.
- (pp) "Successful completion" means a ~~POST-approved academy or program~~ score of seventy (70) percent or greater, or a grade of "C" or better, or a rating of pass, if offered as pass/fail, **IN A POST-APPROVED ACADEMY OR PROGRAM**. For the certification examination passing score, see Rule 15.
- (qq) "Test out" means a POST-scheduled skills examination where proficiency is assessed by a POST Subject Matter Experts (SMEs) in all three perishable skills (Arrest Control, Law Enforcement Driving, and Firearms) and the written POST certification exam is administered.
- (rr) "Training academy" means a POST-approved school, agency or other entity that provides POST-approved training programs.
- (ss) "Training program" means a POST-approved course of instruction required by statute, or Rule, or for peace officer certification and other peace officer training programs as otherwise recognized and approved by the Board.