

PHIL WEISER
Attorney General

NATALIE HANLON LEH
Chief Deputy Attorney General

SHANNON STEVENSON
Solicitor General

TANJA WHEELER
Associate Chief Deputy Attorney
General



STATE OF COLORADO
DEPARTMENT OF LAW

RALPH L. CARR
COLORADO JUDICIAL CENTER
1300 Broadway, 10th Floor
Denver, Colorado 80203
Phone (720) 508-6000

DEPARTMENT OF LAW
CY 2024 REGULATORY AGENDA

Pursuant to § 2-7-203(2)(a)(IV), C.R.S., this document contains the Colorado Department of Law regulatory agenda for calendar year ("CY") 2023 and details new rules or revisions to existing rules expected to be proposed in CY 2024.

PEACE OFFICERS STANDARDS AND TRAINING (P.O.S.T.)

A. Rule 1:

Proposed Rule Amendments and Purpose:

- a. Define "Hazing"
- b. Define "Inappropriate Actions"
- c. Define "Resigned in Lieu of Termination for Cause"
- d. Add language "penetrating knife or gunshot wound"
- e. Define "Tamper"
- f. Add language clarifying that an officer's separation type is determined by the reporting law enforcement agency but does not prevent a peace officer from seeking a variance pursuant to POST Rule 32.
- g. Re-number where necessary in the rule to maintain consistent formatting.

Statutory Basis:

Pursuant to sections §§ 24-31-303 (1)(g), (l) and (m), 24-31-305 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 clarify the hearings process to ensure it meets statutory requirements. Non-substantive amendments are proposed to correct an errant statutory citation.

Contemplated Schedule for Adoption:

First quarter of 2024.

Listing of Persons and Parties Affected:

Peace officers, including those applying for peace officer certification and those currently employed as certified peace officers, law enforcement academy staff, and law enforcement agencies, will be affected by the rule amendments.

B. Rule 3:

Proposed Rule Amendments and Purpose:

- a. Authorizing the Director to grant an extension of time beyond what is prescribed in the POST Rules where there is good cause.
- b. Authorizing the Director to issue immediate orders to suspend training at an academy where the health, safety, or welfare of recruits or staff are endangered.
- c. Re-numbering where appropriate.

Statutory Basis:

Pursuant to sections §§ 24-31-303 (1)(g), (j), (l) and (m), 24-31-305 and 24-31-307(1), C.R.S., the POST Board has the authority and duty to promulgate and amend specific rules and regulations as further specified herein to provide further procedural clarity and to ensure that statutory requirements are met.

Contemplated Schedule for Adoption:

Fourth quarter of 2023

Listing of Persons and Parties Affected:

Peace officers, including those applying for peace officer certification and those currently employed as certified peace officers, law enforcement academy staff, and law enforcement agencies, will be affected by the rule amendments.

C. Rule 4:

Proposed Rule Amendments and Purpose:

- a. Requiring a letter of support the committee member's employer to continue service on the Subject Matter Expert ("SME") Committees and a new letter of support when a member changes employers.
- b. Clarifying that SME Committees must comply with the Open Meetings Law pursuant to § 24-6-402, C.R.S.

Statutory Basis:

Pursuant to sections §§ 24-31-303 (1)(g), (l) and (m), and 24-31-305, C.R.S., the POST Board has the authority and duty to promulgate and amend specific rules and regulations as further specified herein to clarify the hearings process to ensure it meets statutory requirements. Non-substantive amendments are proposed to correct an errant statutory citation.

Contemplated Schedule for Adoption:

Fourth quarter of 2023.

Listing of Persons and Parties Affected:

Peace officers and non-law enforcement members serving on POST SME will be affected by the rule amendments.

D. Rule 5:

Proposed Rule Amendments and Purpose:

- a. Clarifying that administrative hearings before the POST Hearing Officer will be subject to the rules of procedure outlined in proposed Rule 33.

Statutory Basis:

Pursuant to §§ 24-31-303 (1)(g), (l) and (m), 24-31-305 and 24-31-307(1), C.R.S., the POST Board has the authority and duty to promulgate and amend specific rules and regulations as further specified herein to clarify the hearings process to ensure it meets statutory requirements. Non-substantive amendments are proposed to correct an errant statutory citation.

Contemplated Schedule for Adoption:

Fourth quarter of 2023.

Listing of Persons and Parties Affected:

Peace officers, including those applying for peace officer certification and those currently employed as certified peace officers, law enforcement academy staff, and law enforcement agencies, will be affected by the rule amendments.

E. Rule 14:

Proposed Rule Amendments and Purpose:

- a. Allowing POST staff to grant an extension of time when good cause is shown for academies to submit fingerprints to Colorado Bureau of Investigations (“CBI”).
- b. Correcting “post” to “POST.”
- c. Replacing the term “misdemeanor” with “disqualifying incident as defined in Rule 1(o)” for further clarity.
- d. Clarifying the title of POST Rule 8.

Statutory Basis:

Pursuant to §§ 24-31-303 (1)(g), (j), (l) and (m), and 24-31-305, C.R.S., the POST Board has the authority and duty to promulgate and amend specific rules and regulations as further specified herein to provide further procedural clarity and to ensure that statutory requirements are met.

Contemplated Schedule for Adoption:

Fourth quarter of 2023.

Listing of Persons and Parties Affected:

Peace officers, including those applying for peace officer certification and those currently employed as certified peace officers, law enforcement academy staff, and law enforcement agencies, will be affected by the rule amendments.

F. Rule 17:

Proposed Rule Amendments and Purpose:

- a. Replacing the phrase “POST records management system” with “POST” for further clarity.
- b. Replacing the word “section” with the symbol “§” to maintain consistent formatting.
- c. Replacing the phrase “POST records management system” with “in the manner prescribed by POST” for further clarity.
- d. Clarifying that results of a physical and psychological exam must be included with agency reports of new appointments.
- e. Replacing the title of this subsection to clarify that it pertains to the separation of a certified peace officer from a law enforcement agency.
- f. Through (H), clarifying the requirement of agencies to report any incident as required under Rule 32, rather than individually listing each type of incident, for further clarity.
- g. Clarifying that non-certified VIN Inspectors are subject to the same appointment/separation requirements as outlined in part (b)(I) of Rule 17.
- h. Clarifying that Rule 17 submissions from agencies must be received no later than January 31 of the following year or may be subject to fines or administrative sanctions.
- i. Adding that law enforcement agencies must provide accurate data for the POST records management system and for the Peace Officer Database.
- j. Re-numbering where appropriate to maintain consistent formatting.

Statutory Basis:

Pursuant to §§ 24-31-303 (1)(g), (j), (l) and (m), 24-31-305 and 24-31-307(1), C.R.S., the POST Board has the authority and duty to promulgate and amend specific rules and regulations as further specified herein to provide further procedural clarity and to ensure that statutory requirements are met.

Contemplated Schedule for Adoption:

Fourth quarter of 2023.

Listing of Persons and Parties Affected:

Peace officers, including those applying for peace officer certification and those currently employed as certified peace officers, law enforcement academy staff, and law enforcement agencies, will be affected by the rule amendments.

G. Rule 21:

Proposed Rule Amendments and Purpose:

- a. Changing the title of the Rule to “General Academy Requirements” to better reflect the content of the rule.
- b. Requiring academies to implement anti-hazing policies, including anti-hazing training for all staff that have contact with recruits; a primary reporting mechanism within the agency and a secondary reporting mechanism to POST; and ensuring protections for individuals making reports of hazing in good faith.
- c. Establishing that all academy training must be conducted in a safe manner.
- d. Clarifying that academies implementing pilot curriculum modules created or approved by POST are presumed to be in compliance with POST for that curriculum module.
- e. Establishing that the official approval process for a new academy begins once the initial application and feasibility study is approved by the Board, with a maximum of 18 months to complete the new academy approval process.
- f. Establishing that a certificate of completion shall be issued for each skills program and for the

overall academy.

- g. Establishing that only a trainee who has attended and successfully completed a skills program shall be issued a certificate of completion for that skill.
- h. Adding in the phrase “skills program” to clarify the requirements for the contents of a certificate of completion.
- i. Adding “diagnosed concussion or any injury which caused a recruit’s departure from the academy” to the reporting requirements for academy directors.

Statutory Basis:

Pursuant to §§ 24-31-303 (1)(g), (j), (l) and (m), 24-31-305 and 24-31-307(1), C.R.S., the POST Board has the authority and duty to promulgate and amend specific rules and regulations as further specified herein to provide further procedural clarity and to ensure that statutory requirements are met.

Contemplated Schedule for Adoption:

Fourth quarter of 2023.

Listing of Persons and Parties Affected:

Peace officers, including those applying for peace officer certification and those currently employed as certified peace officers, law enforcement academy staff, and law enforcement agencies, will be affected by the rule amendments.

H. Rule 23:

Proposed Rule Amendments and Purpose:

- a. Requiring that Assistant Skills Instructors complete a 16-hour red dot sights instructor course by January 1, 2024.
- b. Requiring that Full Skills Instructors complete a 16-hour red dot sights instructor course by January 1, 2024; and requiring that Full Skills Instructors complete two times as many hours as POST Academy Firearms Assistant Skills Instructors at a Colorado POST Approved academy.
- c. Re-numbering as appropriate to maintain consistent formatting.

Statutory Basis:

Pursuant to §§ 24-31-303 (1)(g), (j), (l) and (m), and 24-31-305, C.R.S., the POST Board has the authority and duty to promulgate and amend specific rules and regulations as further specified herein to provide further procedural clarity and to ensure that statutory requirements are met.

Contemplated Schedule for Adoption:

Fourth quarter of 2023.

Listing of Persons and Parties Affected:

Peace officers, including those applying for peace officer certification and those currently employed as certified peace officers, law enforcement academy staff, and law enforcement agencies, will be affected by the rule amendments.

I. Rule 24:

Proposed Rule Amendments and Purpose:

- a. Clarifying that all Firearms Instructors must meet current minimum requirements for Full and Assistant Skills Instructors in accordance with POST Rule 23.

Statutory Basis:

Pursuant to §§ 24-31-303 (1)(g), (j), (l) and (m), and 24-31-305, C.R.S., the POST Board has the authority and duty to promulgate and amend specific rules and regulations as further specified herein to provide further procedural clarity and to ensure that statutory requirements are met.

Contemplated Schedule for Adoption:

Fourth quarter of 2023

Listing of Persons and Parties Affected:

Law enforcement academy staff will be affected by the rule amendments.

J. Rule 32:

Proposed Rule Amendments and Purpose:

- a. Adding “Resignation in Lieu of Termination for Cause” as a category of separation status that must reported to POST for purposes of the POST Database.
- b. Clarifying that once a peace officer no longer meets the statutory requirements for inclusion in the database, POST may remove that peace officer from the database without that peace officer requesting a variance.

Statutory Basis:

Pursuant to §§ 24-31-303 (1)(g), (l) and (m), 24-31-305 and 24-31-307(1), C.R.S., the POST Board has the authority and duty to promulgate and amend specific rules and regulations as further specified herein to further facilitate the requirements of House Bill 21-1250, House Bill 21-1251 and Senate Bill 21-174 and related statutory provisions, to define disqualifying incidents created in legislation, ensure the hearings process meets statutory requirements, create a process for certificate holders and law enforcement agencies to report disqualifying incidences to POST, to include specificity for curriculum in training academies and create database as required by law, and create a database pursuant to § 24-31-303(1)(r), C.R.S. Non-substantive amendments are proposed as housekeeping measures to promote consistency and restore inadvertent rule provision redactions.

Contemplated Schedule for Adoption:

Fourth quarter of 2023.

Listing of Persons and Parties Affected:

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

K. Rule 33:

Proposed Rule Amendments and Purpose:

- a. Establishing rules of procedure and evidence governing administrative hearings for suspension and revocation before the POST Hearing Officer for disqualifying incidents other than criminal convictions.

Statutory Basis:

Pursuant to §§ 24-31-303 (1)(g), (j), (l) and (m), 24-31-305 and 24-31-307(1), C.R.S., the POST Board has the authority and duty to promulgate and amend specific rules and regulations as further specified herein to provide further procedural clarity and to ensure that statutory requirements are met.

Contemplated Schedule for Adoption:

Fourth quarter of 2023.

Listing of Persons and Parties Affected:

Peace officers facing revocation or suspension proceedings in front of the POST Hearing Officer and the attorneys representing them will be affected by the rule amendments.

CONSUMER CREDIT UNIT

A. Income Share Agreement (“ISA”) Rulemaking: Colorado Uniform Consumer Credit Code (“UCCC”) and Colorado Student Loan Equity Act (“SLEA”)

Rule Amendments and Purpose:

In response to questions concerning the regulatory treatment of the relatively new financial product called an Income Share Agreement, the UCCC Administrator adopted rules regarding the application of the UCCC and SLEA to ISAs, creditors making ISAs, and ISA servicers. The final rule addresses: the applicability of and required information for disclosure and compliance with the Truth in Lending Act; maximum finance charges; right to prepay and rebates; licensure and registration requirements; prohibitions against false, misleading, or deceptive statement or representation; and prohibition against assignment of earnings.

Statutory Basis:

§ 5-6-104(1)C, (2), (5), C.R.S.

Commented [JR1]: ?

Contemplated Schedule for Adoption:

The Administrator adopted Rule 18 under the UCCC on October 11, 2023.

Listing of Persons and Parties Affected:

Creditors making ISAs that may be affected by the anticipated rulemaking.

B. Consumer Legal Funding Transactions

Proposed Rule Amendments and Purpose:

House Bill 23-1162 provides that the Administrator may “adopt rules regarding deferral charges for nonrecourse consumer credit transactions that have no periodic payments and are secured by an unvested, contingent future interest in the potential net proceeds of a settlement or judgment obtained from the consumer’s associated legal claim.” See § 5-2-204(6), C.R.S.

Statutory Basis:
§ 5-2-204(6) C.R.S.

Contemplated Schedule for Adoption:
The Administrator anticipates finalizing rules by the end of calendar year 2024.

Listing of Persons and Parties Affected:
Creditors making consumer legal funding transactions and consumers who take out these consumer credit transactions.

CONSUMER PROTECTION

A. Colorado Privacy Act Rulemaking

Proposed Rule and Purpose:
The Colorado Privacy Act (“CPA”) authorizes the Attorney General to promulgate rules to govern the process “of issuing opinion letters and interpretive guidance to develop an operational framework for businesses that includes a good faith reliance defense of an action that may otherwise constitute a violation” of the CPA. See § 6-1-1313(3), C.R.S. If promulgated, these rules must be adopted by January 1, 2025. The Attorney General will adopt rules to address opinion letters and interpretive guidance as contemplated by the CPA. The CPA further authorizes the Attorney General to promulgate rules for the purpose of carrying out the CPA. Initial regulations concerning the technical specifications of a Universal-Opt Out Mechanism, defined terms, requirements related to Controller obligations, and Consumer rights were adopted and went into effect on July 1, 2023. The Attorney General may consider amendments to the rules to further clarify the rules and the CPA.

The Attorney General will seek input from individual Coloradans, stakeholders, experts, advocacy groups, and other members of the public during the rulemaking process.

Statutory Basis:
§§ 6-1-1313(1) and (3), C.R.S.

Contemplated Schedule for Adoption:
Rules are anticipated to be adopted and/or amended in the second half of 2024.

Listing of Persons and Parties Affected:
Private and public entities subject to the Colorado Privacy Act; Colorado residents and consumers; and platforms, developers, and providers of Universal Opt-Out Mechanisms.