

PHIL WEISER
Attorney General

NATALIE HANLON LEH
Chief Deputy Attorney General

ERIC R. OLSON
Solicitor General

ERIC T. MEYER
Chief Operating Officer



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

STATE OF COLORADO
DEPARTMENT OF LAW

DEPARTMENT OF LAW
CY 2021 REGULATORY AGENDA

This document contains the Colorado Department of Law's regulatory agenda for calendar year 2021 submitted pursuant to C.R.S. §2-7-203(2)(a)(IV). The following list details new rules or revisions to existing rules expected to be proposed in CY 2021.

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

Rule 1:

Proposed Rule Amendments and Purpose:

- a. Amending Rule 1-Definitions, changing the effective date of Rule 1 to November 15, 2020;
- b. Amending Rule 1 to add "refresher" to the types of training academies where training academies are specifically referenced within the definitions;
- c. Amending Rule 1 to utilize the term "per" where appropriate to promote consistency.
- d. Amending Rule 1(o) to supplement the list of "disqualifying incidents" to account for new legislation incorporated within SB 20-217, as follows:
 - Amending Rule 1(o)(c) to add a finding of untruthfulness;
- e. Amending Rule 1(o)(d) to add, conviction, etc., for a crime involving unlawful use or threatened use of force;
- f. Amending Rule 1(o)(e) to add, conviction, etc., for a crime involving the failure to intervene in the use of unlawful force;
- g. Amending Rule 1 (o)(g) to add, if found civilly liable for the use of unlawful force and for the failure to intervene in the use of unlawful force;
- h. Amending Rule 1(o)(h) to 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;
- i. Amending Rule 1(o)(i) to add, for failure to satisfactorily complete peace officer training;
- j. Amending Rule 1(o)(r) to modify the definition of "fingerprint based criminal history record check";
- k. Amending Rule 1(o)(x) to modify the definition of "operable firearm" and "practical exercise" to promote uniformity of terms used;
- l. Amending Rule 1(o)(bb) to modify the definition of "POST Identification" without substantively altering its meaning;
- m. Amending Rule 1(o)(ff) to modify the definition of "recognized disciplines for arrest control training" without substantively altering its meaning;
- n. Amending Rule 1(o)(ff) to modify the definition of "refresher academy" without substantively altering its meaning;

- o. Amending Rule 1(o)(ii) to modify the definition of “reserve peace officer” without significantly altering its meaning;
- p. Amending Rule 1(o)(nn) to modify the definition of “Subject Matter Expert” to clarify that the Chair of the POST Board has the authority to formally recognize the expert; and
- q. Amending Rule 1(o)(oo) to modify the definition of “successful completion” without substantively altering its meaning.

Statutory Basis:

Pursuant to §§ 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 4 CCR 901-1, Rule 1 as further specified herein to facilitate the requirements of SB 20-217 and related statutory provisions.

Contemplated Schedule for Adoption:

Rules were 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 the rule amendments.

Rule 2:

Proposed Rule Amendments and Purpose:

- a. Amending Rule 2-Meetings, changing the effective date of Rule 2 to November 15, 2020;
- b. Amending Rule 2(b) to delete “such”, replacing with “the”; and
- c. Amending Rule 2(b) to add “who”.

Statutory Basis:

Pursuant to §§ 24-31-303 (1)(g), (l) and (m), C.R.S., the Colorado Peace Officer Standards and Training Board (POST) has the authority and duty to promulgate and amend 4 CCR 901-1, Rule 2 as further specified herein to facilitate the requirements of SB 20-217 and related statutory provisions.

Contemplated Schedule for Adoption:

Rules were 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 the rule amendments.

Rule 3:

Proposed Rule Amendments and Purpose:

- a. Amending Rule 3-Director’s Authority, changing the effective date of Rule 3 to November 15, 2020;
- b. Amending Rule 3(a) to add new (III), “Issuing remedial action and compliance orders for non-compliance with POST rule;”; and

- c. Amending Rule 3(a) to add a new (VIII), “The Director, or their designee, may approve eyewitness identification training per § 16-1-109, C.R.S., or other statutorily mandated training on behalf of the post board.”

Statutory Basis:

Pursuant to §§ 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 4 CCR 901-1, Rule 3 as further specified herein to facilitate the requirements of SB 20-217 and related statutory provisions.

Contemplated Schedule for Adoption:

Rules were 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 the rule amendments.

Rule 4:

Proposed Rule Amendments and Purpose:

- a. Amending Rule 4-Subject Matter Expert Committees, changing the effective date of Rule 4 to November 15, 2020;
- b. Amending Rule 4(a) to substitute "Chair of the Board" for "Board" and to add "and other areas as needed";
- c. Amending Rule 4(b) to substitute "Director" for "Board" and to add "The committees shall";
- d. Amending Rule 4(d) to clarify that "only one person per agency may serve on single committee at one time, unless otherwise authorized by the Director.";
- e. Amending Rule 4(e) to substitute "Chair of the Board or their designee" for "Director"; and
- f. Amending Rule 4(h) to add new (4) to clarify that members of committees "shall not participate in subject matter expert committee functions related to their respective organization or organization employees."

Statutory Basis:

Pursuant to §§ 24-31-303 (1)(g), (l) and (m), C.R.S., the Colorado Peace Officer Standards and Training Board (POST) has the authority and duty to promulgate and amend 4 CCR 901-1, Rule 4 as further specified herein to facilitate the requirements of SB 20-217 and related statutory provisions.

Contemplated Schedule for Adoption:

Rules were 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 the rule amendments.

Rule 5:

Proposed Rule Amendments and Purpose:

- a. Amending Rule 5-Hearings, changing the effective date of Rule 5 to November 15, 2020;
- b. Amending Rule 5(a)(1) to provide for forty (40) rather than thirty (30) days of notice for the hearing set;
- c. Amending Rule 5(b) to add “Criminal” Convictions;
- d. Amending Rule 5(b)(I) to add “,24-31-904, 18-8-802 (1.5)(d), and 18-8-803 C.R.S.”; and
- e. Amending Rule 5(d) to clarify the process for revocation hearings for criminal convictions and disqualifying incidents. Add the term “written notification” where appropriate.

Statutory Basis:

Pursuant to §§ 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 4 CCR 901-1, Rule 5 as further specified herein to facilitate the requirements of SB 20-217 and related statutory provisions.

Contemplated Schedule for Adoption:

Rules were 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 the rule amendments.

Rule 7:

Proposed Rule Amendments and Purpose:

- a. Amending Rule 7-Variances, changing the effective date of Rule 7 to November 15, 2020;
- b. Amending Rule 7(c) to substitute “his” with “the Director’s”;
- c. Amending Rule 7(d)(I) to clarify that a “temporary” variance is valid for six (6) months from the date of issue; and
- d. Amending Rule 7(f) to add “Pursuant to”.

Statutory Basis:

Pursuant to §§ 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 4 CCR 901-1, Rule 7 as further specified herein to facilitate the requirements of SB 20-217 and related statutory provisions.

Contemplated Schedule for Adoption:

Rules were 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 the rule amendments.

Rule 8:

Proposed Rule Amendments and Purpose:

- a. Amending Rule 8-Process for Seeking Exemption from Statutory Certification Restrictions, changing the effective date of Rule 8 to November 15, 2020; and
- b. Amending Rule 8(d) 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.

Statutory Basis:

Pursuant to §§ 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 4 CCR 901-1, Rule 8 as further specified herein to facilitate the requirements of SB 20-217 and related statutory provisions.

Contemplated Schedule for Adoption:

Rules were 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 the rule amendments.

Rule 9:

Proposed Rule Amendments and Purpose:

- a. Amending Rule 9-Revocation of Certification, changing the effective date of Rule 9 to November 15, 2020;
- b. Amending Rule 9(a), 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.; and
- c. Amending Rule 9(a) to remove parts (a)(I),(a)(II),(a)(III), (a)(IV),(a)(V),(a)(VI).

Statutory Basis:

Pursuant to §§ 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 4 CCR 901-1, Rule 9 as further specified herein to facilitate the requirements of SB 20-217 and related statutory provisions.

Contemplated Schedule for Adoption:

Rules were 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 the rule amendments.

Rule 10:

Proposed Rule Amendments and Purpose:

- a. Amending Rule 10-Basic Peace Officer Certification, changing the effective date of Rule 10 to November 15, 2020;
- b. Amending Rule 10(IV) 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;
- c. Amending Rule 10(V)(A) to add “discharge under”;
- d. Amending Rule (V)(B) to remove “within two years of the graduation date.”; and
- e. Amending Rule 10(V)(D)(b) 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.

Statutory Basis:

Pursuant to §§ 24-31-303 (1)(g), (l) and (m), C.R.S., the Colorado Peace Officer Standards and Training Board (POST) has the authority and duty to promulgate and amend 4 CCR 901-1, Rule 10 as further specified herein to facilitate the requirements of SB 20-217 and related statutory provisions.

Contemplated Schedule for Adoption:

Rules were 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 the rule amendments.

Rule 11:

Proposed Rule Amendments and Purpose:

- a. Amending Rule 11-Provisional Certification, changing the effective date of Rule 11 to November 15, 2020;
- b. Amending Rule 11(a) to allow for substantial equivalence for provisional certification;
- c. Amending Rule 11(IV) to provide that an applicant must be in good standing with POST.
- d. Amending Rule 11(VI) to add “and discharge under”;
- e. Amending Rule 11(VIII)(a) to state that provisional certification applications are valid for one year from date of submission;
- f. Amending Rule 11(VIII)(C) to allow for a one-time variance extension of six (6) months for provisional certification; and
- g. Amending Rule 11(VIII)(h) to allow an applicant to complete the provisional certification process while their application is valid, regardless whether their certification letter has expired.

Statutory Basis:

Pursuant to §§ 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 4 CCR 901-1, Rule 11 as further specified herein to facilitate the requirements of SB 20-217 and related statutory provisions.

Contemplated Schedule for Adoption:

Rules were 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 the rule amendments.

Rule 21:

Proposed Rule Amendments and Purpose

- a. Amending Rule 21-Basic and Reserve Training Academies, changing the effective date of Rule 21 to November 15, 2020;
- b. Amending Rule 21(II)(H) 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;
- c. Amending Rule 21(II)(H) to add (II)(H)(1) to notify POST in the event a primary classroom facility is rendered unusable for twenty-one (21) or more days; and
- d. Amending Rule 21(III) to remove (E) and (F).

Statutory Basis:

Pursuant to §§ 24-31-303 (1)(g), (l) and (m), C.R.S., the Colorado Peace Officer Standards and Training Board (POST) has the authority and duty to promulgate and amend 4 CCR 901-1, Rule 21 as further specified herein to facilitate the requirements of SB 20-217 and related statutory provisions.

Contemplated Schedule for Adoption:

Rules were 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 the rule amendments.

Rule 28:

Proposed Rule Amendments and Purpose:

- a. Amending Rule 28-In-Service Training Program, changing the effective date of Rule 28 to November 15, 2020;
- b. Amending Rule 28 to add “the POST Board’s duties relating” and “are addressed”;
- c. Amending Rule 28 to state that failure to satisfactorily complete training can result in suspension or revocation of POST certification;
- d. Amending Rule 28(b) 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;
- e. Amending Rule 28(e) 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, and 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;

- f. Amending Rule 28(II)(A) also specify that compliance with in-service training programs is required of agencies “and individual peace officers”; and
- g. Amending Rule 28(II)(2) to add (a)(b)(c), stating 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.

Statutory Basis:

Pursuant to §§ 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 4 CCR 901-1, Rule 28 as further specified herein to facilitate the requirements of SB 20-217 and related statutory provisions.

Contemplated Schedule for Adoption:

Rules were 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 the rule amendments.

Modifications to Existing Rules 12 to 29

Proposed Rule Amendments and Purpose:

General cleanup of existing rules to increase consistency and simplification.

Statutory Basis:

Pursuant to §§ 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 4 CCR 901-1, Rule as further specified herein to facilitate the requirements of SB 20-217 and related statutory provisions.

Contemplated Schedule for Adoption:

December of 2020, or March of 2021 POST Board Meeting.

Listing of Persons and Parties Affected:

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

Additional Proposed Rules to follow in Sequence after Rule 29:

Rule 30 – Grants

Proposed Rule Amendments and Purpose:

New rule to outline the formation and composition of the Grant Subcommittee and Grant guidelines adoption process.

Statutory Basis:

Pursuant to §§ 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 4 CCR 901-1, Rule 30 as further specified herein to facilitate the requirements of §24-31-310, C.R.S. and related statutory provisions.

Contemplated Schedule for Adoption:

December of 2020, or March of 2021 POST Board Meeting.

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 the rule amendments.

Rule 31 – Enforcement

Proposed Rule Amendments and Purpose:

New rule to outline civil enforcement procedures, possibly to include fines, for non-compliance of POST Rules.

Statutory Basis:

Pursuant to §§ 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 4 CCR 901-1, Rule 31 as further specified herein to facilitate the requirements of SB 20-217 and related statutory provisions.

Contemplated Schedule for Adoption:

December of 2020, or March of 2021 POST Board Meeting.

Listing of Persons and Parties Affected:

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

Rule 32 – POST Board Database

Proposed Rule Amendments and Purpose:

New rule implementing the creation of a database containing certain information, as required in SB20-217.

Statutory Basis:

Pursuant to §§ 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 4 CCR 901-1, Rule 32 as further specified herein to facilitate the requirements of SB 20-217 and related statutory provisions.

Contemplated Schedule for Adoption:

December of 2020, or March of 2021 POST Board Meeting.

Listing of Persons and Parties Affected:

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

2. CONSUMER CREDIT UNIT

Colorado Fair Debt Collection Practices Act (“CFDCPA”)

Proposed Rule Amendments and Purpose: The purpose of the proposed rule is to provide clarification to persons subject to the CFDCPA of terms used therein so they may conform their conduct to the law. Clarification in definitions and processes results in better compliance, consumer protection, and efficient enforcement. Specific rulemakings are to establish:

- a. Housekeeping amendments to various rules;
- b. Clarifying recordkeeping obligations for collection agencies; and
- c. Various clarifications and amendments.

Statutory Basis:

The statutory basis for adoption of proposed rules is C.R.S. §5-16-114.

Contemplated Schedule for Adoption:

Rules will likely be adopted and/or repealed by March 31, 2021.

Listing of Persons and Parties Affected:

Persons subject to the CFDCPA, including collection agencies and consumers that are collected upon by such companies, will be affected by this anticipated rulemaking.

3. CONSUMER PROTECTION

Proposed Rule Amendments and Purpose:

The new rule will articulate standards and rules associated with investigatory subpoenas for documents, interrogatories and testimony. The purpose of the rules will be to set guidelines and procedures for the issuance and responses to the subpoenas authorized under the statute. These include, for example, timing and format of responses, the nature and format of objections, how objections will be handled, and procedures for taking depositions. Similar guidelines have been established in some states and by the Federal Trade Commission and the Consumer Financial Protection Bureau.

Statutory Basis:

CRS 6-1-107 grants broad authority to the attorney general and district attorneys to issue subpoenas to examine witnesses under oath and obtain documents books and records. Similar authority exists under Section 6-1-108, C.R.S., which also includes authority to “promulgate such rules as may be necessary to administer the provisions of this article 1 [the Colorado Consumer Protection Act].”

Contemplated Schedule for Adoption:

Rules will likely be adopted by March 31, 2021.

Listing of Persons and Parties Affected:

Persons subject to the Colorado Consumer Protection Act are those who receive subpoenas from our office, which include individuals and entities who are the targets of investigations, as well as those with relevant knowledge.