

BEFORE THE PUBLIC SAFETY OFFICER
STANDARDS AND TRAINING COUNCIL
OF THE STATE OF MONTANA

In the matter of the adoption of NEW)	NOTICE OF PUBLIC HEARING ON
RULES I through IV and the)	PROPOSED ADOPTION AND
amendment of ARM 23.13.101,)	AMENDMENT
23.13.102, 23.13.103, 23.13.104,)	
23.13.204, 23.13.205, 23.13.206,)	
23.13.207, 23.13.208, 23.13.209,)	
23.13.210, 23.13.212, 23.13.301,)	
23.13.302, 23.13.304, 23.13.601,)	
23.13.702, 23.13.703, 23.13.704,)	
23.13.705, 23.13.713, 23.13.714,)	
23.13.716, 23.13.719, 23.13.720,)	
23.13.721, 23.13.801, 23.13.803,)	
23.13.804, 23.13.805, 23.13.806, and)	
23.13.807 pertaining to the)	
certification of public safety officers)	

TO: All Concerned Persons

1. On January 10, 2024, at 10:00 a.m., the Public Safety Officer Standards and Training (POST) Council will hold a public hearing in Room 207 of the Karl Ohs Building, Montana Law Enforcement Academy, 2260 Sierra Road East, at Helena, Montana, to consider the proposed adoption and amendment of the above-stated rules.

2. The POST Council will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, contact the POST Council no later than 5:00 p.m. on December 22, 2023, to advise us of the nature of the accommodation that you need. Please contact Katrina Bolger, POST Council, 2260 Sierra Road East, Helena, Montana, 59602; telephone (406) 444-9974; fax (406) 444-9978; or e-mail kbolger@mt.gov.

3. The rules proposed to be adopted provide as follows:

NEW RULE I COMMITTEES OF THE POST COUNCIL (1) The following are committees of the POST Council:

(a) The Administrative Rules of Montana Committee, or ARM Committee, consists of five voting members of the POST Council. The ARM Committee's purpose is to review and analyze POST rules and recommend appropriate rule draft and amendment language to carry out the decisions of the POST Council. The ARM Committee's rule proposals must be approved by a majority vote of the council prior to submission to the Secretary of State's office. The ARM Committee may, by a

majority vote of the committee, direct that POST staff, with the assistance of legal counsel, prepare draft rule language for the council's consideration.

(b) The Business Plan/Policy Committee consists of three voting members of the POST Council. The Business Plan/Policy Committee's purpose is to review and, when necessary, propose changes to the long-range business plan of the council, and the daily operations, policies, and procedures under which the POST staff perform day-to-day business. Any substantive business plan, policy, or procedural changes must be approved by a majority vote of the council. The Business Plan/Policy Committee may, upon a majority vote of the committee, direct POST staff to prepare draft business plan or policy language for the council's consideration.

(c) The Case Status Committee consists of three voting members of the POST Council. The Case Status Committee's purpose is to determine whether allegations of misconduct by a public safety officer warrant investigation by POST staff, to determine whether a certificate sanction or other action is appropriate, to determine the appropriate sanction to a certificate upon a finding of misconduct, and to review other proposed actions at the request of the director. The director and POST staff will act based upon a majority vote of the Case Status Committee. Case Status Committee members may not participate in deliberations or any decision of the full council regarding the sanction of an officer's POST certification, except as provided in these rules.

(d) The Coroner Committee consists of three voting members of the POST Council. The Coroner Committee's purpose is to track and monitor issues of interest to the Montana Coroner's Association, and coroners in general. Any draft legislative proposals or other proposed action must be approved by a majority vote of the POST Council. Draft ARM proposals must be approved by a majority vote of the POST Council and may be referred to the ARM Committee for approval or drafting as well. The Coroner Committee may, by a majority vote of the committee, direct POST staff, with the assistance of legal counsel, to create draft legislation or ARM language relevant only to coroner issues for the council's consideration.

(e) The Curriculum Review Committee consists of five voting members of the POST Council. The MLEA administrator or the MLEA administrator's designee may act as an ex-officio member of the Curriculum Review Committee. The purpose of the Curriculum Review Committee is to review and discuss proposed training curriculum requiring POST approval or information. Any curriculum or basic course developed or reviewed by the Curriculum Review Committee must be approved by a majority vote of the POST Council.

(f) The Executive Committee consists of five members of the POST Council, including the chair of the POST Council. The chair of the POST Council will serve as the chair of the Executive Committee. The purpose of the Executive Committee is to make decisions necessary to implement the policies of the POST Council, and to provide additional oversight of POST staff. The decisions of the Executive Committee may include informing the Montana Legislature or a legislative committee of positions adopted by the council, providing advice and direction, short of ultimate decisions, regarding legal matters in which the council is a named party, and directing action by POST staff in order to accomplish the council's goals. The Executive Committee may direct POST staff to provide information to the legislature or its interim committees. The Executive Committee may also direct POST staff to

appear and testify before the legislature or its interim committees in furtherance of positions taken by the council, or on behalf of the Executive Committee. When POST staff is representing a position of the Executive Committee only, it will disclose that the council has not taken a position on the issue. The Executive Committee may call a special meeting of the council, and may make recommendations to the council at a special or regular meeting.

(2) The POST Council may create additional committees upon a motion and resolution passed by a majority vote of the POST Council, including a description of the committee's purpose and authority. The chair of the POST Council will appoint members, and designate chairs of the committees of the POST Council in open meetings. The POST Council chair's appointments are subject to approval by a majority vote of the POST Council. During its final meeting of each calendar year, the POST Council will review the membership of each of its committees and determine whether new or alternative appointments should be made.

(3) If a committee member resigns from a committee of the POST Council or otherwise vacates the member's seat on a committee, the POST Council chair may make an interim appointment to fill the vacancy. Interim committee members may take action and vote on issues which are before the committee until the POST Council has the opportunity to approve the appointment of the committee member at its next regularly scheduled meeting.

(4) The chair may appoint non-voting ex-officio members of POST Council committees. Ex-officio members should be recognized subject matter experts in the field related to the committee's purpose. Ex-officio members may not be POST Council members. Ex-officio members are subject to approval by a majority vote of the POST Council.

AUTH: 2-15-2029, MCA

IMP: 44-4-403, MCA

REASON: This rule is necessary to explain changes to, and the makeup of, permanent committees of the POST Council. In September of 2022, the POST Council amended its rules to include a definition of the Case Status Committee. During the 2023 Legislative Session, the council adopted Resolution 23-002, which created an Executive Committee. During a regular review of its rules, the POST Council determined that adopting a rule to include in its organizational subchapter defining its permanent committees will increase transparency and provide clarity and consistency to the public and POST's stakeholders regarding the purpose for each committee. This new rule also provides a clear process for appointing committee members and creating new committees as warranted.

NEW RULE II PROCEDURE FOR OBTAINING POST CERTIFICATION

(1) Except as provided in (3), POST will automatically issue basic certificates to public safety officers who meet the minimum requirements outlined in these rules.

(2) Officers who believe they are eligible for an intermediate, advanced, supervisory, command, or instructor certificate must submit a completed application, with appointing authority approval, to the director. Applications are available from POST staff or on the POST website.

(a) The director or the director's designee will then review the application and approve or reject the application, unless the director determines, as a matter of discretion, that the council's review is necessary due to extenuating circumstances.

(b) Upon approval by the director, the certificate becomes valid unless the council takes further action.

(c) Upon rejection by the director, a public safety officer may request reconsideration by the council pursuant to ARM 23.13.704.

(3) POST will not automatically issue a basic certificate to:

(a) reserve officers; or

(b) any public safety officer against whom POST has received allegations of misconduct which may be a violation of the code of ethics in ARM 23.13.803 or constitute grounds for denial, sanction, suspension, or revocation in ARM 23.13.702.

(c) Upon notice of the reserve officer's qualification, made by the reserve officer's agency head to the director on a form approved by the council, POST will issue a reserve officer basic certificate to the reserve officer.

(d) The director and the Case Status Committee will review the qualifications of an officer accused of violations of ARM 23.13.702 or 23.13.803, pursuant to these rules.

(4) POST will not consider any application for certification or recertification when the applicant's certification has previously been denied or revoked as defined in these rules, and a final agency decision, including any appeal, regarding the denial or revocation has been entered.

AUTH: 2-15-2029, MCA

IMP: 44-4-403, MCA

REASON: This rule is necessary to clarify the process of applying for POST certification. During a regular review of its rules, the POST Council determined that adopting a certification rule outlining the process for applying for POST certification would provide clarity and consistency to the public and POST's stakeholders, while also eliminating repetitive language in POST's certification rules. This new rule also provides clarity and consistency regarding issuance of basic certificates. In 2023, POST was contacted several times by individuals whose certification was denied or revoked, inquiring whether there is a process by which they may become certified in Montana. This rule addresses this question and provides a clear answer to such inquiries.

NEW RULE III. PROCESS FOR OBTAINING POST APPROVAL FOR PUBLIC SAFETY OFFICER TRAINING COURSES (1) POST may provide approval for POST credit hours for training that is instructed by a POST-certified instructor, or which is being hosted by a governmental agency with a Montana location.

(2) A POST-certified instructor seeking course credit for training provided to public safety officers must have an active POST instructor certificate that is not revoked, suspended, or subject to POST sanctions and must submit an application for accreditation to the director or the director's designee and retain documentation of:

(a) an education or training record that indicates the officer has received education or training in the specific field, subject matter, or academic discipline to be taught;

(b) material showing course content, including an agenda, syllabus and/or lesson plan, and student handouts; and

(c) a copy of the course advertisement.

(3) To receive POST training credit, a governmental agency hosting a training for a public safety officer or officers must submit an application for accreditation to the director, or the director's designee, and retain documentation of:

(a) if the instructor is a POST-certified instructor, a copy of the instructor's instructor certificate and an education or training record that indicates the officer has received education or training in the specific field, subject matter, or academic discipline to be taught; or

(b) if the instructor is not a Montana public safety officer, a copy of the instructor's biography;

(c) material showing course content, including an agenda, syllabus and/or lesson plan, and student handouts; and

(d) a copy of the course advertisement.

(4) Any application for POST training credit hours must be submitted within one year of the end of the course.

(5) It is the responsibility of the POST-certified instructor or the governmental agency hosting a training to retain the required documentation set forth in these rules and monitor the standards for training, trainee attendance, and performance as set by the council. Records maintained under this rule are subject to audit by the director or the director's designee during normal business hours upon reasonable notice to the agency.

(6) The director or the director's designee will review the application and approve or reject the application, unless the director determines, as a matter of discretion, that the council's review is necessary due to extenuating circumstances.

AUTH: 2-15-2029, MCA

IMP: 44-4-403, MCA

REASON: This rule is necessary to clarify the process for applying for POST approval of training courses. During a regular review of its rules, the POST Council recognized that the rules for approval of training courses were not sufficiently laid out or adequately organized.

NEW RULE IV PROCESS FOR OBTAINING POST TRAINING CREDIT HOURS FOR INDIVIDUAL PUBLIC SAFETY OFFICERS (1) POST may provide POST training credit hours to individual public safety officers who submit an application after attending a training which was not approved.

(2) To receive POST training credit, a public safety officer must, after successful completion of a course, submit an application for accreditation to the director, or the director's designee, and retain documentation of:

(a) if the instructor was a POST-certified instructor, a copy of the instructor's instructor certificate; or

- (b) if the instructor is not a Montana public safety officer, a copy of the instructor's biography;
 - (c) material showing course content, including an agenda, syllabus and/or lesson plan, and student handouts;
 - (d) a copy of the course advertisement;
 - (e) a copy of the officer's certificate of completion; and
 - (f) an endorsement from the officer's appointing authority, recommending that the POST training credit hours be awarded.
- (3) Any application for POST training credit hours must be submitted within one year of the end of the course.
- (4) It is the responsibility of the public safety officer or the appointing authority of the public safety officer to retain the required documentation set forth in these rules and comply with the standards for training, trainee attendance, and performance as set by the council. Records maintained under this rule are subject to audit by the director or the director's designee during normal business hours upon reasonable notice to the agency.
- (5) The director or the director's designee will review the application and approve or reject the application, unless the director determines, as a matter of discretion, that the council's review is necessary due to extenuating circumstances.

AUTH: 2-15-2029, MCA

IMP: 44-4-403, MCA

REASON: This rule is necessary to clarify the process for individual officers to apply for POST approval of training courses undertaken on their own or where the instructor or agency has not obtained approval, and also to provide clarity and consistency. Individual training credit hours make up approximately half of the training credit hours that POST approves. Since the beginning of the Covid-19 pandemic, POST has seen an increase in the number of online training courses which are available to individual officers. Many appointing authorities have invested resources in these online training opportunities, and this rule provides officers a clear process for obtaining training credit hours.

4. The rules proposed to be amended provide as follows, new matter underlined, deleted matter interlined:

23.13.101 ORGANIZATION AND GENERAL PROVISIONS, PUBLIC INSPECTION OF ORDERS AND DECISIONS (1) The organization and function of the Public Safety Officers Standards and Training Council ("POST" or "POST Council") are described in ARM 23.1.101(1)(d), (2)(k), and (4).
(2) remains the same.

AUTH: 2-15-2029, MCA

IMP: 2-4-201, 2-4-623, 2-15-2029, 44-4-403, MCA

REASON: During a regular review of its rules, POST discovered that the section numbers of ARM 23.1.101 had been changed and the decision was made to remove the ARM earmarks per the Secretary of State's rulemaking guidelines.

23.13.102 DEFINITIONS As used in this chapter, the following definitions apply:

(1) "Allegation" means:

(a) and (b) remain the same.

(c) the document or statement, prior to the notice of agency action, that initiates the informal denial, revocation, suspension, or sanction proceeding against preliminary investigation of an officer.

~~(2) "Case status committee" is a three-member committee of the POST Council, appointed by the chair of the council. The council chair shall designate a chair of the case status committee. The case status committee's purpose is to determine whether allegations of misconduct by a public safety officer should be investigated by POST staff, to determine whether a certificate sanction is appropriate, to determine the appropriate sanction to a certificate upon a finding of misconduct, and to review other proposed actions at the request of the director. The director will act based upon a majority vote of the case status committee.~~

(3) remains the same, but is renumbered (2).

~~(4)~~(3) "Contested case" means:

~~(a) a civil administrative proceeding that progresses pursuant to notice and hearing as outlined in MAPA and these rules; or , and which is initiated by a request for a hearing from an officer after the officer has received a notice of agency action imposing denial, sanction, suspension, or revocation by the director when the case could not be settled at the preliminary stage of review, investigation, or informal proceeding.~~

~~(b) a proceeding initiated by a request for a hearing from the officer after the officer has received a notice of agency action imposing sanction, suspension, or revocation by the director when the case could not be settled at the preliminary stage of review, investigation, or informal proceeding.~~

(5) remains the same, but is renumbered (4).

~~(6)~~(5) "Council," or "POST Council," or "POST" means the full 13-member Public Safety Officer Standards and Training Council as created by 2-15-2029, MCA.

(6) "Denial," "deny," or "denied" means POST's permanent refusal to issue a basic certificate in any discipline, due to any violation of ARM 23.13.702 or 23.13.803.

(7) "Director" or "executive director" means the bureau chief executive director of the Public Safety Officer Standards and Training bureau Council.

(8) "Employing authority," "employing agency," "appointing authority," or "governmental unit" means any entity that is statutorily empowered with administration, supervision, hiring or firing authority, training, or oversight over a public safety agency or officer. This may include but is not limited to: the chief of police, mayor, county attorney, city council, warden, sheriff, etc.

(9) "Equivalency" means the process through which an officer who has successfully completed a basic course that is taught or approved by a federal, state,

local, or United States military law enforcement agency, that satisfies the basic training requirement for that agency, may obtain a Montana POST basic certificate without completing the MLEA basic academy.

(9) and (10) remain the same, but are renumbered (10) and (11).

~~(11)~~(12) "In-service training" means training which is not POST-approved training and which is provided within a law enforcement and/or to public safety agency officers to review and develop skills and knowledge for the a specific agency's officer's needs.

~~(12) "Informal proceeding" means a proceeding that occurs before a MAPA contested case proceeding and includes but is not limited to: correspondence between POST and the officer accused of misconduct and his employing authority; investigation by POST; stipulation or settlement negotiations or agreement; or a sanction, suspension, or revocation imposed through a notice of agency action.~~

(13) "Lateral POST training credit" means training which has been provided to a public safety officer who was formerly employed by a federal agency, state, tribe, county, municipality, city, or town, which is not a Montana public safety agency, and who is currently employed by a Montana public safety agency, when that training meets the requirements of POST-approved training. Lateral POST training credit will not be entered on an officer's POST transcript, but it may be used toward POST certificates as outlined in these rules.

(13) remains the same, but is renumbered (14).

~~(14)~~(15) "Misconduct" means any action or conduct that could potentially result in denial, sanction, suspension, or revocation of POST certification pursuant to ARM 23.13.702 or a violation of the code of ethics contained in ARM ~~23.13.203~~ 23.13.803.

(15) through (17)(a) remain the same, but are renumbered (16) through (18)(a).

(b) informs the officer of the denial, suspension, revocation, or sanction imposed by the POST director and the supporting reasons;

(c) remains the same.

~~(18)~~(19) "Party" means one side, or its representative, in ~~an informal a~~ preliminary investigation or contested case proceeding, usually the respondent and/or POST.

~~(19)~~(20) "POST-approved training" means training reviewed and approved by POST pursuant to ~~ARM 23.13.304~~ these rules for which POST gives training credit, including but not limited to basic, regional, and professional courses.

~~(20)~~(21) "POST-certified instructor" means a public safety officer, as defined in these rules, who has met the requirements for and received an Instructor Certificate pursuant to these rules, and who may apply for and receive ~~approval for POST training~~ POST-approved training credit pursuant to these rules; for trainings the officer conducts.

(21) remains the same, but is renumbered (22).

~~(22)~~(23) "Public safety officer" means an officer, as defined in 44-4-401, MCA. Nothing in these rules may be construed to apply the requirements of 7-32-303 or 44-4-403, MCA, to an elected ~~official~~ sheriff or coroner.

(24) "Reject" or "rejection" means POST's refusal of any request or application by a public safety officer or a public safety agency, which is not a denial as defined in these rules.

(23) through (25) remain the same, but are renumbered (25) through (27).

~~(26)~~(28) "Sanction" means a consequence or punishment for a violation of ARM 23.13.702, ~~23.13.203~~ 23.13.803, or the laws or rules of Montana.

(27) and (27)(a) remain the same, but are renumbered (29) and (29)(a).

(b) any sexual contact without consent as defined in 45-5-501~~(4)(b)~~, MCA, without regard to whether such violation results in criminal charges or a conviction, including gratuitous physical contact with suspects or other civilians, such as unnecessary searches, frisks, or pat-downs;

(c) through (e) remain the same.

(f) any other sexual conduct which, whether committed in the officer's capacity as an officer or otherwise, is prejudicial to the administration of justice or reflects adversely on the ~~employing~~ appointing authority's integrity or the officer's honesty, integrity, or fitness as an officer.

(28) through (30) remain the same, but are renumbered (30) through (32).

AUTH: 2-15-2029, MCA

IMP: 2-15-2029, 7-32-303, 44-4-403, MCA

REASON: The change to the definition of "allegation" was necessary because an allegation only directly initiates the preliminary investigation. It does not initiate an informal denial, revocation, suspension, or sanction proceeding. Only after the preliminary investigation are these actions taken, when warranted and approved by the Case Status Committee.

Because POST has defined all of its committees in NEW RULE I, it was necessary to delete the Case Status Committee definition in this rule to prevent confusion.

Defining the terms "denial" and "rejection" is necessary to provide clarity and consistency regarding who is entitled to a contested case hearing. Section 44-4-403, MCA, states that an individual whose certification has been denied by POST is entitled to a contested case hearing. A rejection allows for reconsideration or later reapplication, and thus no contested case hearing is warranted, whereas a denial is permanent absent reversal after a contested case hearing. For example, if an officer does not have the sufficient number of years of experience for a certificate, rejection of the officer's application is appropriate, as they are not permanently barred from applying again, when they have achieved the requisite years of experience.

"Equivalency" is provided for in 7-32-303, MCA, and these changes are necessary to define the requirements for equivalency to apply. Historically, POST has allowed officers from out of state to use their training hours and years of service to apply for additional POST certification. During a regular review of its rules, POST recognized the need to define such out-of-state training hours to provide clarity and consistency for officers.

The remaining changes to language and grammar provide clarity and consistency and make POST's definitions easier to understand.

The authorizing and implementing statutes were reviewed and updated.

23.13.103 RECORD OF ALL POST COUNCIL MEETINGS (1) As required by Title 2, chapter 6, MCA, POST will maintain records of all meetings and make those records available for public inspection. The record consists of an audio recording, transcript, or and minutes of the proceedings. ~~The audio recording is the official record of POST meetings.~~ POST will maintain an audio recording of its meetings whenever possible.

AUTH: 2-15-2029, MCA
IMP: 2-3-212, 44-4-403, MCA

REASON: This change is necessary because POST obtains the services of a court reporter or transcriptionist for its council meetings to provide a clear and complete record. In 2021, POST's recording equipment malfunctioned, and the audio recording of the meeting was nearly indiscernible. This rule change allows POST flexibility in creating and maintaining records of its meetings. Typically, POST has minutes or a transcript, and an audio recording of its council and committee meetings. POST recognizes that an audio recording can be beneficial and will continue to maintain recordings whenever feasible.

23.13.104 NOTICE TO THE PUBLIC OF POST COUNCIL ACTIONS OF SIGNIFICANT INTEREST TO THE PUBLIC (1) and (2) remain the same.

(3) Public comment on any public matter within the jurisdiction of POST must be allowed at any public meeting under 2-3-103(1)(b), 2-3-202, and 2-3-203, MCA, defining "public matter" and "meeting" and stating the requirements applicable to opening and closing meetings to the public. The opportunity for public comment must be reflected on the meeting agenda and incorporated into the official minutes of the meeting. For purposes of this rule and 2-3-103(1)(b), MCA, contested case is defined at 2-4-102(4), MCA.

(4) The POST Council or its committees may hold closed or executive sessions if the chair of the POST Council or the chair of the committee determines that:

(a) the matters to be discussed involve issues of individual privacy that clearly exceed the merits of public disclosure; or

(b) the matters to be discussed involve privileged legal communication, including attorney-client communication or attorney work product, or would otherwise have a detrimental effect on POST's litigation position.

(5) A chair's determination regarding whether to hold a closed or executive session may be overruled by a majority vote of the POST Council or committee.

(6) If the POST Council or a committee takes formal action during closed or executive session, the council or committee will announce its formal action on the public record, except when the action involves a legally recognized privilege or if the action would violate an individual's privacy interests.

AUTH: 2-4-201, 2-15-2029, MCA
IMP: 2-3-103, 2-3-104, 2-3-203, 44-4-403, MCA

REASON: This rule is necessary to address changes made in HB 693, passed during the 2023 Montana legislative session. These changes, more broadly, are necessary to fully and fairly inform the public of the reasons that POST may discuss matters in closed or executive session. These changes also provide notice of the process by which executive session may be entered and how a decision to hold executive session may be challenged and overturned.

23.13.204 PURPOSE OF CERTIFICATES ~~(1) Certificates are awarded by the council for the purpose of raising the level of professionalism and skill of public safety officers and to foster cooperation among the council, agencies, groups, organizations, jurisdictions, and individuals.~~

~~(2)~~(1) Basic, intermediate, advanced, supervisory, command, and other certificates are established ~~for the purpose of promoting~~ and awarded by the council to increase the professionalism and skill of public safety officers and to promote ethical behavior, ~~professionalism~~, education, and experience necessary to adequately perform the duties of a public safety officer.

~~(3)~~(2) Certificates remain the property of the council. The council has the power to recall, deny, sanction, suspend, or revoke any or all certificates upon good cause based on a preponderance of the evidence as determined by the council.

AUTH: 2-15-2029, MCA

IMP: 2-14-2029, 7-32-303, 44-4-403, MCA

REASON: This rule change is necessary because the first two sections of this rule were repetitive, and combining and editing the sections clarify the rule. The addition of "deny" to new (2) is necessary to fully explain the council's authority and to match the definition of "deny" added by these amendments.

23.13.205 GENERAL REQUIREMENTS FOR CERTIFICATION (1) remains the same.

(2) Public safety officers must complete the required basic training as set by the council and Montana law.

(3) All public safety officers must abide by the code of ethics as prescribed in ARM ~~23.13.203~~ 23.13.803. Acceptance of POST certification is an agreement to abide by and adopt the code of ethics and refrain from the behaviors outlined in ARM 23.13.702.

(4) through (5)(a) remain the same.

(b) maintain ethical conduct by upholding and abiding by the code of ethics set forth in ARM ~~23.13.203~~ 23.13.803 and refrain from engaging in any behavior that constitutes a ground for denial, sanction, suspension, or revocation under ARM 23.13.702;

(c) maintain the continuing education and training requirements set forth by the council and ARM ~~23.13.201(2)(k)~~ 23.13.801.

(6) and (6)(a) remain the same.

(b) acceptability of training hours claimed for training received from noncriminal justice sponsored agencies will be determined by the council, and requires an application for credit.

(7) No more than 15% of the required training hours will be allowed from in-service training. An officer who wishes to use in-service training hours when applying for intermediate, or advanced, ~~supervisory, command and other~~ certificates must submit documentation of in-service training hours with the officer's certificate application.

(a) The POST Council is not responsible for maintaining records of the course content supporting regional, online, or in-service training hours acquired to satisfy the requirements of this rule. The ~~employing agency~~ appointing authority or the individual officer must maintain records of the course content supporting regional, online, or in-service training hours acquired to satisfy this rule.

(8) Lateral POST training credit hours may be used to qualify for any certificate on an hour-for-hour basis.

(8) remains the same, but is renumbered (9).

AUTH: 2-15-2029, MCA

IMP: 2-15-2029, 44-4-403, MCA

REASON: This rule change is necessary because in-service training credit hours have not historically been used toward any certificates except intermediate and advanced certificates. The new section regarding lateral credit for out-of-state officers is necessary to explain how these lateral hours are credited. POST has transferred ARM 23.13.201 and ARM 23.13.203, and these edits reflect the new rule numbers per the transfer.

23.13.206 REQUIREMENTS FOR THE BASIC CERTIFICATE (1) remains the same.

(2) In addition to ARM 23.13.204 and 23.13.205, the following are required for the award of the basic certificate:

(a) All Montana ~~Public safety officers hired after August 1, 2008,~~ must have completed:

(i) the probationary period prescribed by law or by the current ~~employing agency~~ appointing authority, but in any case, have a minimum of one year discipline-specific ~~employment~~ experience with the current ~~employing agency~~ appointing authority; and

(ii) remains the same.

(b) ~~Public safety officers hired before August 1, 2008, must have:~~

(i) ~~completed the probationary period prescribed by the employing agency, and served a minimum of one year with the present employing agency;~~

(ii) ~~completed the basic course at the MLEA, or an equivalency as defined by the council; and~~

(iii) ~~satisfied the requirements for the basic certificate by their experience, and satisfactorily performed their duties as attested to by the head of the agency for which they are employed.~~

(c) Public safety officers with out-of-state training or who have been formerly ~~employed~~ appointed by a ~~designated~~ federal agency, state, ~~tribe~~ tribal entity, county, municipality, city, or town who do not have basic certification and are ~~employed~~ appointed by a Montana law enforcement and/or public safety agency:

(i) must have completed the probationary period prescribed by law, but in any case, have a minimum of one year experience with the present ~~employing agency~~ appointing authority;

(ii) whose training or service time is determined by the council, the director, or the director's designee as equivalent to the basic course must successfully complete an equivalency program, approved by the council and administered by the MLEA. The council will require those who fail an equivalency program to successfully complete the basic course at the academy; and

(iii) whose training or service time is determined by the council, the director, or the director's designee as not equivalent to the basic course must, within one year of initial appointment, successfully complete the basic course.

(d) remains the same, but is renumbered (c).

~~(e)~~(d) The council, the director, or the director's designee may grant a one-time extension to the one-year time requirement for public safety officers upon the written application of the officer's appointing authority. The application must explain the circumstances that make the extension necessary. The council may not grant an extension to exceed 180 days. Factors that the council may consider in granting or ~~denying~~ rejecting the extension include but are not limited to:

(i) through (iii) remain the same.

~~(f)~~(e) A public safety officer who has been issued a basic certificate by the council and whose last date of ~~employment~~ service as a public safety officer, in the discipline for which the officer received a basic certificate was less than 36 months prior to the date of the person's present appointment as a public safety officer, in the discipline for which the officer received a basic certificate, is not required to fulfill the basic educational requirements as set forth in these rules.

~~(g)~~(f) If the last date of ~~employment~~ service as a public safety officer, in the discipline for which the officer received a basic certificate, is more than 36 months but less than 60 months prior to the date of present ~~employment~~ appointment as a public safety officer, in the discipline for which the officer received a basic certificate, the public safety officer may satisfy the basic requirement by successfully passing a basic equivalency course administered by the academy. If the public safety officer fails the basic equivalency course, the basic course shall be completed within the time frames set forth in the rules. If no basic equivalency course exists for the public safety officer's specific discipline, then the applicable basic course must be completed within one year of the public safety officer's most recent appointment.

(3) An officer meeting the qualifications outlined above will be issued a basic POST certificate. The discipline of the basic POST certificate issued will correspond to the basic training course the officer attended. ~~POST will consider the completion of the above requirements to constitute the officer's application for a POST basic certificate. However, if an officer wishes to fill out an application form, then POST will also consider that application.~~ POST will not reissue a basic certificate merely to change the discipline listed.

AUTH: 2-15-2029, MCA

IMP: 2-15-2029, 44-4-403, MCA

REASON: During a regular review of its rules, the council determined that the prior (2)(a) and (b) were unnecessary and redundant. Deleting these subsections is necessary to clarify the rule and provide consistency. Additionally, the council uses the terms "appointment" and "service" to accurately encompass all public safety officers, because many reserve officers are not employees, but volunteers. It was necessary to delete (3) to align with POST's NEW RULE II. Other housekeeping amendments were made to language and grammar to provide clarity and consistency.

23.13.207 REQUIREMENTS FOR THE PUBLIC SAFETY OFFICER
INTERMEDIATE CERTIFICATE (1) remains the same.

(2) In addition to ARM 23.13.204 and 23.13.205, a peace officer or probation and parole officer who is an applicant for an award of the intermediate certificate:

~~(a) must have served at least one year with the present employing agency and be satisfactorily performing the duties as attested to by the head of the employing law enforcement and/or public safety agency;~~

~~(b) must possess the discipline-specific basic certificate; and~~

~~(c)(b) must have four years of discipline-specific experience; and~~

(c) must have 200 combined job-related POST-approved, in-service, or lateral POST training credit training hours as provided in these rules.

(3) In addition to ARM 23.13.204 and 23.13.205, a detention/corrections officer or a misdemeanor probation/pretrial services officer who is an applicant for an award of the intermediate certificate:

~~(a) must have served at least one year with the present employing agency and be satisfactorily performing the duties as attested to by the head of the employing law enforcement and/or public safety agency;~~

~~(b) must possess the discipline-specific basic certificate; and~~

~~(c)(b) must have four years of discipline-specific experience; and~~

(c) must have 144 combined job-related POST-approved, in-service, or lateral POST training credit training hours as provided in these rules.

(4) In addition to ARM 23.13.204 and 23.13.205, a public safety communication officer who is an applicant for an award of the intermediate certificate:

~~(a) must have served at least one year with the present employing agency and be satisfactorily performing the duties as attested to by the head of the employing law enforcement and/or public safety agency;~~

~~(b) must possess the discipline-specific basic certificate; and~~

~~(c)(b) must have four years of discipline-specific experience; and~~

(c) must have 84 combined job-related POST-approved, in-service, or lateral POST training credit training hours as provided in these rules.

(5) Officers who believe they are eligible for an intermediate certificate must submit a completed application ~~with a verification from the agency administrator that the officer's training meets the requirements of these rules and a recommendation that the applicant should be awarded the certificate, to the director.~~ Applications are available from POST staff or on the POST web site pursuant to [NEW RULE II].

~~(a) The director will review the application and approve or deny the certification, unless the director determines as a matter of discretion that the council's review is necessary due to extenuating circumstances.~~

~~(b) Upon approval by the director, the certificate becomes valid unless the council takes further action.~~

(6) A misdemeanor probation/pretrial services officer who possessed a probation and parole basic certificate before March 28, 2020, meets the requirement of (3)(b)(a).

AUTH: 2-15-2029, MCA

IMP: 2-15-2029, 44-4-403, MCA

REASON: This change is necessary because the requirement that an officer work for his or her current agency for one year to apply for an intermediate certificate does not align with current practice. The requirement is only required for the basic certificate and was mistakenly placed in this rule. It was necessary to delete (5) to align with POST's NEW RULE II. Other amendments were made to language and grammar to provide clarity and consistency.

23.13.208 REQUIREMENTS FOR PUBLIC SAFETY OFFICER ADVANCED CERTIFICATE (1) through (2)(a) remain the same.

(b) must have eight years of discipline-specific experience and 400 combined job-related POST-approved, in-service, or lateral POST training credit training hours as provided in these rules.

(3) and (3)(a) remain the same.

(b) must have eight years of discipline-specific experience and 304 combined job-related POST-approved, in-service, or lateral POST training credit training hours as provided in these rules.

(4) and (4)(a) remain the same.

(b) must have eight years of discipline-specific experience and 184 combined job-related POST-approved, in-service, or lateral POST training credit training hours as provided in these rules.

(5) Officers who believe they are eligible for an advanced certificate must submit a completed application ~~with a verification from the agency administrator that the officer's training meets the requirements of these rules and a recommendation that the applicant should be awarded the certificate, to the director.~~ Applications are available from POST staff or on the POST web site pursuant to [NEW RULE II].

~~(a) The director will review the application and approve or deny the certification, unless the director determines, as a matter of discretion, that the council's review is necessary due to extenuating circumstances.~~

~~(b) Upon approval by the director the certificate becomes valid unless the council takes further action.~~

(6) remains the same.

AUTH: 2-15-2029, MCA

IMP: 2-15-2029, 44-4-403, MCA

REASON: These changes are necessary to reflect POST's current practice regarding calculating training credit hours required for an advanced certificate. It was necessary to delete the portions of (5) to align with POST's NEW RULE II. Other amendments were made to language and grammar to provide clarity and consistency.

23.13.209 REQUIREMENTS FOR PUBLIC SAFETY OFFICER SUPERVISORY CERTIFICATE (1) through (2)(a) remain the same.

(b) must have successfully completed a minimum of 32-hour 32 hours of POST-approved training in a supervisory, management, or leadership topic matter course; and

(c) must have served satisfactorily as a first-level supervisor currently and for one year prior to the date of application, as attested to by the head of the employing agency appointing authority.

(3) remains the same.

(4) Officers who believe they are eligible for a supervisory certificate must submit a completed application, ~~with agency administrator approval, to the director.~~ Applications are available from POST staff or on the POST web site pursuant to [NEW RULE II].

~~(a) The director will then review the application and approve or deny the certification, unless the director determines, as a matter of discretion, that the council's review is necessary due to extenuating circumstances.~~

~~(b) Upon approval by the director the certificate becomes valid unless the council takes further action.~~

(5) remains the same.

AUTH: 2-15-2029, MCA

IMP: 2-15-2029, 44-4-403, MCA

REASON: These changes are necessary to reflect POST's current practice regarding calculating training credit hours required for a supervisory certificate. It was necessary to delete the portions of (4) to align with POST's NEW RULE II. Other amendments were made to language and grammar to provide clarity and consistency and make the language in this rule consistent with other rules.

23.13.210 REQUIREMENTS FOR PUBLIC SAFETY OFFICER COMMAND CERTIFICATE (1) through (2)(a) remain the same.

(b) must have completed a professional development course or courses cumulating a minimum of 160 hours or more of a POST-approved professional development course or courses on credit hours in a supervisory, management, or leadership topic matter; and

(c) must have served satisfactorily as a first-level supervisor currently and for one year prior to the date of application, as attested to by the head of the employing agency appointing authority.

(3) Officers who believe they are eligible for a command certificate must submit a completed application, ~~with agency administrator approval, to the director.~~

~~Applications are available from POST staff or on the POST web site pursuant to [NEW RULE II].~~

~~(a) The director will then review the application and approve or deny the certification, unless the director determines, as a matter of discretion, that the council's review is necessary due to extenuating circumstances.~~

~~(b) Upon approval by the director the certificate becomes valid unless the council takes further action.~~

(4) remains the same.

AUTH: 2-15-2029, MCA

IMP: 2-15-2029, 44-4-403, MCA

REASON: These changes are necessary to reflect POST's current practice regarding calculating training credit hours required for a command certificate. It was necessary to delete the portions of (3) to align with POST's NEW RULE II. Other amendments were made to language and grammar to provide clarity and consistency and make the language in this rule consistent with other rules.

23.13.212 INSTRUCTOR CERTIFICATION REQUIREMENTS (1) remains the same.

(2) A public safety officer providing POST-approved training as defined in these rules must be certified by the council as an instructor.

(3) To qualify as an instructor, the officer ~~shall apply to the council, on a form approved by the council, and shall~~ must meet the following requirements:

(a) through (c) remain the same.

(d) successful completion of a POST-approved instructor development course or its equivalent. Effective October 28, 2017, all instructor development courses must be a minimum of 40 hours in length and must include a minimum of the following:

(i) through (4) remain the same.

(5) Officers who believe they are eligible for any instructor certificate must submit a completed application, pursuant to [NEW RULE II]. The council or the director may ~~deny~~ reject applications for instructor certification for failure to satisfy the required qualifications. The council or the director may recall, suspend, or revoke instructor certificates at any time for good cause to ensure the quality of the training programs.

~~(6) Officers who believe they are eligible for any instructor certificate must submit a completed application, with agency administrator approval, to the director. Applications are available from POST staff or on the POST web site.~~

~~(a) The director will then review the application and approve or deny the certification, unless the director determines, as a matter of discretion, that the council's review is necessary due to extenuating circumstances.~~

~~(b) Upon approval by the director the certificate becomes valid unless the council takes further action.~~

(7) remains the same, but is renumbered (6).

AUTH: 2-15-2029, MCA

IMP: 2-15-2029, 44-4-403, MCA

REASON: These changes are necessary to reflect POST's current practice regarding calculating training credit hours required for an instructor certificate. It was necessary to delete (6) to align with POST's NEW RULE II. Other amendments were made to language and grammar to provide clarity and consistency and make the language in this rule consistent with other rules.

23.13.301 QUALIFICATIONS FOR APPROVAL OF PUBLIC SAFETY OFFICER TRAINING COURSES (1) remains the same.

(2) To obtain the status of POST-approved training, training courses must:

(a) ~~meet the requirements for trainee attendance and performance, and the instructor requirements contained in these rules~~ cover topic matter that is relevant to the public safety profession;

(b) through (e) remain the same.

(f) contain course content that has been reviewed and approved by the agency hosting the training, or the employing appointing authority of the officer receiving credit for the training, either before or after the training occurs, ~~through the procedures set forth in (3).~~

~~(3) A POST-certified instructor seeking course credit for public safety officers must have an active POST certificate that is not revoked, suspended, or on probation and must submit an application for accreditation to the director and retain documentation of:~~

~~(a) an education or training record that indicates the officer has received education or training in the specific field, subject matter, or academic discipline to be taught;~~

~~(b) material showing course content, including an agenda, syllabus and/or lesson plan and student handouts; and~~

~~(c) a copy of the course advertisement.~~

~~(4) To receive POST training credit, an agency hosting a training by any other person or entity for a public safety officer or officers must submit an application for accreditation to the director and retain documentation of:~~

~~(a) an instructor certification or training record and an instructor biography;~~

~~(b) material showing course content, including an agenda, syllabus and/or lesson plan and student handouts; and~~

~~(c) a copy of the course advertisement.~~

~~(5) It is the responsibility of the employing authority or any person or entity wishing to receive POST-approved training credit to retain the required documentation set forth in these rules and monitor the standards for training, trainee attendance, and performance as set by the council. Records maintained under this rule are subject to audit by the executive director or the director's designee during normal business hours upon reasonable notice to the agency.~~

AUTH: 2-15-2029, MCA

IMP: 2-15-2029, 44-4-403, MCA

REASON: These changes are necessary to accurately reflect the qualifications that courses must meet to be POST-approved and POST's current practice. It was necessary to delete several sections to align with POST's NEW RULES III and IV. Other amendments were made to language and grammar to provide clarity and consistency.

23.13.302 REQUIREMENTS FOR TRAINEE ATTENDANCE AND PERFORMANCE IN POST-APPROVED COURSES (1) Trainees enrolled in any POST-approved course ~~shall be admitted only in accordance with rules of eligibility and admission as either contained herein or contained in the course announcement~~ must meet all the requirements in this rule in order to obtain POST credit hours.

(2) remains the same.

(3) Any trainee who fails to comply with these rules pertaining to attendance, and performance, ~~and behavior~~ shall be denied credits.

(4) remains the same.

(5) Failure to comply with the rules contained herein or other guidelines may result in either ~~denial~~ rejection of course approval or a ~~revocation~~ withdrawal of course approval.

AUTH: 2-15-2029, MCA

IMP: 2-15-2029, 44-4-403, MCA

REASON: These changes are necessary to accurately reflect the requirements for officers' attendance and performance for POST training credit hours, and the fact that failure to comply results in rejection, not permanent denial, as those terms are defined in these amendments. Other amendments were made to language and grammar to provide clarity and consistency.

23.13.304 THE BASIC COURSES (1) The amount of training ~~for which credit will be granted~~ hours required in any basic public safety officer's course will be ~~prescribed~~ approved by the council.

(2) through (4) remain the same.

AUTH: 2-15-2029, MCA

IMP: 2-15-2029, 44-4-403, MCA

REASON: This change is necessary because POST, in practice, does not use basic training hours toward any other certificates, so credit hours are not applicable to basic courses. POST does, however, approve the number of hours required for basic courses, but does not "prescribe" them in the first instance.

23.13.601 CORONER EDUCATION AND CONTINUED EDUCATION AND EXTENSION OF TIME LIMIT FOR CONTINUED CERTIFICATION (1) remains the same.

(2) New coroners and deputy coroners shall, within one year of appointment as a coroner or deputy coroner, complete the 40-hour basic coroner course at the academy or other equivalent course approved by POST.

~~(a) the~~ The basic coroner course must be completed in accordance with 7-4-2905, MCA.

(3) Coroners and deputy coroners must complete 16 hours of continuing coroner education at least once every two years. The two-year time period begins when the coroner or deputy coroner completes the basic coroner course. Subsequent two-year time periods begin when the coroner or deputy coroner completes the 16 hours of continuing education.

(a) The council, the director, or the director's designee may extend the two-year time limit requirement for the continuation of coroner's certification, set forth in 7-4-2905, MCA, upon the written application of the coroner or the appointing authority of the deputy coroner. The application must explain the circumstances which necessitate the extension;

(b) Factors considered in granting or ~~denying~~ rejecting an extension include, but are not limited to:

(i) through (iii) remain the same.

(c) The council may not grant an extension to exceed 180 days from the date the two-year time-period lapses; and,

~~(d) The council will not grant extensions after the expiration of the two-year time limit.~~

(4) Any coroner or deputy coroner who fails to complete 16 hours of continuing coroner education every two years, as required, must reattend the 40-hour coroner basic academy. Any coroner or deputy coroner who has received an extension pursuant to this rule and fails to complete 16 hours of continuing coroner education within the period of the extension, must reattend the 40-hour coroner basic academy.

AUTH: 2-15-2029, 7-4-2905 MCA

IMP: 2-15-2029, 44-4-403, MCA

REASON: These changes are necessary to reflect current practice at POST and to match the correct time-period methodology identified in a Letter of Advice from the Montana Attorney General's Office. Due to issues with officers working shifts which, at times, may fall on a weekend or holiday, POST has determined it is unreasonable to require extensions to be granted prior to the expiration of the two-year time period. This also provides greater equity, as there are no such requirements on other extensions that may be requested for meeting a training requirement. The change also clarifies that the 180-day potential extension is from the deadline, not from the date on which the extension is granted. These edits also provide a clear remedy for a coroner's failure to meeting the training requirements, and reflect POST's practice. Other edits to language and grammar provide greater clarity and consistency.

23.13.702 GROUNDS FOR DENIAL, SANCTION, SUSPENSION, OR REVOCATION OF POST CERTIFICATION (1) remains the same.

(2) The public safety officer's ~~employing~~ appointing authority must report to the executive director any substantiated grounds for denial, sanction, suspension, or revocation of POST certification as enumerated in (3).

(a) If review of an officer's conduct is pending before any court, council, tribunal, or agency, the ~~employing~~ appointing authority ~~may wait for a final adjudication before reporting~~ must report the officer's conduct to the executive director and may request that POST take no action until final adjudication. Such a request will be granted or rejected based upon a majority vote of the Case Status Committee.

(b) If ~~the~~ an officer's conduct results in termination of the officer's employment service, the notice requirements of 7-32-303, MCA, and ARM ~~23.13.216~~ 23.13.806 apply.

(3) The grounds for denial, sanction, suspension, or revocation of the certification of public safety officers are as follows:

(a) willful falsification of any information in conjunction with official duties, or any single occurrence or pattern of lying, perpetuating falsehoods, or dishonesty which may tend to undermine public confidence in the officer, the officer's ~~employing~~ appointing authority, or the profession;

(b) a physical or mental condition that substantially limits the officer's ability to perform the essential duties of a public safety officer, or poses a direct threat to the health and safety of the public or fellow officers, and that has not been or cannot be eliminated or overcome by reasonable accommodation provided by the appointing authority;

(c) remains the same.

(d) unauthorized use of or being under the influence of an intoxicating substance, including alcoholic beverages or marijuana, while on duty, or the use of an intoxicating substance, including alcoholic beverages or marijuana, in a manner which tends to discredit the officer, the officer's ~~employing~~ appointing authority, or the profession;

(e) conviction of a criminal offense enumerated in Title 45, chapters 5 through 10, MCA, or Title 61, chapter 8, part 4 10, MCA, or an offense which would be a criminal offense enumerated in Title 45, chapters 5 through 10, MCA, or Title 61, chapter 8, part 4 10, MCA, if committed in this state;

(f) remains the same.

(g) willful violation of the code of ethics set forth in ARM ~~23.13.203~~ 23.13.803;

(h) ~~conduct which, whether committed in the officer's capacity as an officer or otherwise, is prejudicial to the administration of justice or reflects adversely on the employing authority's integrity or the officer's honesty, integrity, or fitness as an officer;~~

(i) failure to meet the minimum standards for appointment or continued employment service as a public safety or peace officer set forth in these rules or Montana law;

(j) through (n) remain the same, but are renumbered (i) through (m).

(4) remains the same.

AUTH: 2-15-2029, MCA

IMP: 2-15-2029, 44-4-403, MCA

REASON: POST staff have received increasing numbers of inquiries from appointing authorities regarding reporting allegations of misconduct which may still be under investigation or review. These changes are necessary to provide clear direction to appointing authorities, and to avoid any perception that appointing authorities are withholding allegations of misconduct, in addition to conforming with current and preferred practice. Additional changes have been made to clarify that this rule applies to all public safety officers, including volunteer reserve officers who are not "employees." Deletion of (3)(h) is necessary to remove redundant language included in another subsection. Other edits to language and grammar provide greater clarity and consistency.

23.13.703 PROCEDURE FOR MAKING AND RECEIVING ALLEGATIONS OF OFFICER MISCONDUCT AND FOR INFORMAL RESOLUTION OF THOSE ALLEGATIONS BY THE DIRECTOR (1) remains the same.

(2) Any allegation made against a public safety officer that states potential grounds for denial, sanction, suspension, or revocation of POST certification must ~~be made initially~~ be provided to the ~~employing~~ appointing authority of the officer in question ~~for review and recommendation by the individual making the allegation,~~ unless the ~~employing~~ appointing authority is making the allegation. All allegations must be made in writing unless the director initiates the allegation. Anonymous allegations will not be considered unless the director determines that public safety may be threatened if POST takes no action on an anonymous allegation.

(3) Except as provided in this section, POST will not proceed with an allegation unless the individual making the allegation or POST staff has notified the ~~employing~~ appointing authority of the allegation. This requirement does not apply if the allegation has been made against the highest-ranking officer in the agency, who would otherwise constitute the ~~employing~~ appointing authority, ~~and or~~ there is some reason to believe that the investigation or public safety would be put in danger by such a notification.

(4) Within 30 days of being notified of the allegation, or in making its own allegation of misconduct, the ~~employing~~ appointing authority must give POST a notice of the ~~employing~~ appointing authority's investigation, action, ruling, finding, or response to the allegation, in writing, which must include a description of any remedial or disciplinary action pending or already taken against the officer regarding the allegation in question, and which may contain a recommendation from the ~~employing~~ appointing authority regarding whether POST should impose a sanction. If the ~~employing~~ appointing authority recommends POST impose a sanction, the ~~employing~~ appointing authority must state what sanction the ~~employing~~ appointing authority deems reasonable. POST shall consider but is not bound by the recommendation of the ~~employing~~ appointing authority. If available, a copy of the initial allegation made to the ~~employing~~ appointing authority and the ~~employing~~ appointing authority's written response must be forwarded to the director. The ~~employing~~ appointing authority may make a written request to the director for additional time to respond. Such a request must provide good cause as to the reason more time is required. The director may grant or deny requests for additional time at the director's discretion.

(5) After the ~~employing~~ appointing authority has been notified and given the opportunity to act, the director or POST staff may accept an allegation to be presented to the case status committee. If an allegation is received from an ~~employing agency~~ appointing authority, the executive director may, if appropriate under the circumstances, send a "Letter 1" (as described in the POST Council's policy and procedure adopted under (1)) to the officer prior to consultation with the Case Status Committee, provided the director notify the committee of the Letter 1 as soon as practicable.

(a) through (b)(i) remain the same.

(ii) the name and ~~place of employment~~ appointing authority of the officer;

(iii) through (c) remain the same.

(d) An ~~employing~~ appointing authority or the Montana Law Enforcement Academy may submit a written allegation on the agency's letterhead with supporting documents that the agency deems appropriate.

(6) The director may initiate an allegation, based on good cause and reliable information, and must follow the procedure set forth in this rule as if initiated by any other individual, including but not limited to submitting the complaint to the ~~employing~~ appointing authority.

(7) After an allegation has been received or has been initiated by the director, the director, in consultation with the Case Status Committee and contested case counsel for POST, will determine whether to dismiss the allegation, or open a preliminary investigation and correspond with the respondent in writing.

(a) All such correspondence must be copied to the ~~employing~~ appointing authority, unless the exception noted in (3) applies.

(b) remains the same.

(c) The purpose of this correspondence is to allow the officer to respond to the allegation, allow the Case Status Committee, the director, and contested case counsel to gather more information, and allow the parties to reach an informal resolution.

(8) After an allegation is made by or filed with the director, and upon a majority vote of the Case Status Committee, the director, contested case counsel for POST, or other POST staff or designees will ~~investigate~~ conduct a preliminary investigation of the complaint.

(9) Following the review and preliminary investigation of an allegation, communication with the respondent, communication with the ~~employing~~ appointing authority, and consultation with counsel for POST, and based upon a majority vote of the Case Status Committee, the director may take any appropriate action, including but not limited to the following:

(a) engage in informal negotiations and settlement discussions and enter into a stipulation or memorandum of understanding with the officer or the officer's counsel, or otherwise informally resolve the complaint. An informal resolution reached before the MAPA contested case hearing stage under this subsection is not subject to approval by the council, but must be approved by a majority vote of the Case Status Committee;

(b) remains the same.

(c) make one of the following findings, upon a majority vote of the Case Status Committee:

(i) No finding: The investigation cannot proceed for reasons that include but are not limited to: the complainant failed to disclose promised information to further the investigation; ~~or~~ the complainant wishes to withdraw the complaint; or the complainant is no longer available for clarification. This finding may also be used when the information provided is not sufficient to determine the identity of the officer(s) ~~or employee(s)~~ involved.

(ii) Not sustained: ~~The POST's review or~~ investigation failed to discover sufficient evidence to prove or disprove the allegations.

(iii) Sustained: ~~The POST's review or~~ investigation disclosed a preponderance of evidence to prove the allegation(s).

(iv) Unfounded: ~~The POST's review or~~ investigation disclosed that the complainant made a false allegation, the subject of the complaint was not involved in the incident, or the incident did not occur.

(v) Exonerated: ~~The POST's review or~~ investigation disclosed that the incident occurred, but the subject of the complaint acted lawfully and in a manner consistent with the agency's policy and procedures.

(d) issue the appropriate denial, sanction, suspension, or revocation of a certificate upon a majority vote of the Case Status Committee;

(e) if a denial, sanction, suspension, or revocation is imposed, the director must provide a notice of agency action in writing to the officer, satisfying the notice required by 2-4-601, MCA. Such notice must be mailed to the officer's last known mailing address, unless the officer consents to receiving email notification;

(f) and (10) remain the same.

(11) In all cases in which a written allegation is submitted which does not culminate in a MAPA contested case hearing, the director must file a written report in the officer's POST file setting forth the circumstances and resolution of the case. All written correspondence with the officer and the officer's ~~employing~~ appointing authority must also be maintained in the officer's POST file.

AUTH: 2-4-201, 2-15-2029, MCA

IMP: 2-4-201, 2-15-2029, 44-4-403, MCA

REASON: These changes are necessary to accurately describe the requirement that allegations first be directed to the appointing agency and to reflect the role of the Case State Committee, as formalized by the council in 2022. Additional changes to language and grammar provide greater clarity and consistency and consistency.

23.13.704 REQUESTS FOR A FORMAL CONTESTED CASE HEARING

UNDER MAPA (1) If the director, upon a majority vote of the Case Status Committee, denies, sanctions, suspends, or revokes an officer's POST certification pursuant to ARM 23.13.703~~(9)~~ and the officer receives a notice of agency action, then the officer has the right to request a formal contested case proceeding under MAPA, to include a hearing, pursuant to 44-4-403~~(3)~~, MCA.

(a) The proceedings and hearing can only be initiated by a written request from the officer whose certificate was denied, sanctioned, suspended, or revoked, or the officer's attorney, and not by any other person or entity.

(b) To request a hearing, the officer must follow the instructions contained in the "notice of agency action" and notify the appropriate individual or the director that the officer requests a hearing within 30 days of the date of the notice of agency action. A hearing request must identify by paragraph number the specific factual allegations or law in the notice of agency action with which the respondent disagrees. It may also include a response to the allegations set forth in the notice of agency action.

(c) Failure to notify and request a hearing within 30 days of the date of the notice of agency action will constitute a waiver of the right to a hearing, and the notice of agency action will become the final agency decision.

(2) Any public safety officer or ~~employing~~ appointing authority aggrieved by a decision of the director, other than a decision by the director to deny, sanction, suspend, or revoke a certificate, that is not a final decision following a contested case hearing, as provided in 2-4-623, MCA, may request the ~~denial~~ director's decision be placed on the agenda for consideration by the council at the council's next regularly scheduled meeting.

AUTH: 2-15-2029, MCA

IMP: 2-4-201, 2-15-2029, 44-4-403

REASON: These changes to the contested case hearing request procedure is necessary to reflect current practice at POST. The addition to (1)(b) is necessary to add to the rule POST's practice requirement, explained in the director's decision letter, that the written notice identify the specific factual allegations or legal conclusions contested by the officer. Additional changes to language and grammar provide greater clarity and consistency. The ARM and MCA earmarks were removed per the Secretary of State's rulemaking guidelines.

23.13.705 FORMAL MAPA CONTESTED CASE PROCEEDINGS

(1) remains the same.

(2) Contested case proceedings may be commenced only after the requirements of ARM 23.13.704 have been met and an officer ~~or other aggrieved person~~ has requested a hearing.

(3) remains the same.

(4) In cases under ARM 23.13.704(2), the respondent's failure to respond, appear, or otherwise defend a notice of agency action of which the respondent has had notice, may result in the hearing examiner finding the officer in default and entering an order against the officer containing findings of fact, conclusions of law, and an opinion in accordance with MAPA, Montana Rules of Civil Procedure, and any other rule of law applicable.

(5) remains the same.

(6) In cases under ARM 23.13.704(2), contested case counsel for POST will represent the director during the proceedings.

AUTH: 2-4-201, 2-15-2029, MCA

IMP: 2-4-201, Title 2, chapter 4, part 6, 2-15-2029, 44-4-403, MCA

REASON: These changes are necessary to accurately reference the correct subsection of ARM 23.13.704, as amended in September of 2022. The ARM earmarks were removed per the Secretary of State's rulemaking guidelines.

23.13.713 CONTESTED CASES – HEARING EXAMINERS (1) The POST Council chair, ~~or the director, or the director's designee~~ may appoint a hearing examiner to conduct a hearing in a contested case, as allowed by 2-4-611, MCA.

(2) remains the same.

(3) If a hearing examiner is appointed in a contested case proceeding, notice must be provided to the public safety officer ~~or other party~~ with the notice of agency action or immediately after the officer requests a hearing pursuant to 44-4-403, MCA.

(4) Pursuant to 2-4-611~~(4)~~, MCA, the POST Council may disqualify a hearing examiner if a party shows by affidavit the existence of personal bias, lack of independence, disqualification by law, or other ground for disqualification.

(5) If a hearing examiner is disqualified or recuses himself or herself for good cause, the director, the director's designee, or the POST Council chair may appoint a replacement.

(6) remains the same.

AUTH: 2-4-201, 2-15-2029, MCA

IMP: 2-4-201, 2-4-202, 2-4-611, 2-4-612, 44-4-403, MCA

REASON: In 2021 and 2022, POST staff experienced times when the director was absent from the office. These changes are necessary to ensure that the business of the POST Council, specifically naming a hearing examiner, can continue when the director is unavailable. Additionally, the deletion in (3) ensures that this rule comports with 44-4-403, MCA, which provides that only a public safety officer whose certification has been denied, suspended, or revoked may request a contested case hearing. The ARM earmark in (4) was removed per the Secretary of State's rulemaking guidelines.

23.13.714 CONTESTED CASE HEARING (1) through (7) remain the same.

(8) At the contested case hearing under ARM 23.13.704~~(2)~~:

(a) POST has the burden of proving by a preponderance of the evidence that there was good cause for the denial, sanction, suspension, or revocation of certification imposed by the director, and based upon a majority vote of the Case Status Committee, as stated in the notice of agency action;

(b) and (c) remain the same.

AUTH: 2-4-201, 2-15-2029, MCA

IMP: 2-4-201, 2-4-202, 2-4-611, 2-4-612, 44-4-403, MCA

REASON: These changes are necessary to indicate the formal role of the Case Status Committee and provide additional clarification concerning the Case Status Committee's role. The ARM earmark in (8) was removed per the Secretary of State's rulemaking guidelines.

23.13.716 CONTESTED CASES, EX PARTE COMMUNICATIONS

(1) Except as provided in (4), Pursuant to 2-4-613, MCA, ex parte communication by a party or a party's agent with the hearing examiner, the council, any individual member of the council, or any person authorized to participate in the decision of the contested case, is expressly prohibited unless otherwise authorized by law.

(2) and (3) remain the same.

(4) The following council members may have ex parte contact:

(a) current members of the Case Status Committee; and

(b) former members of the Case Status Committee who participated in decision-making concerning the contested case; and

(c) any council member who is a material witness in the contested case. If a council member acts as a material witness, that member may not participate in the council's deliberation or decision in the contested case.

AUTH: 2-4-201, 2-15-2029, MCA

IMP: 2-4-201, 2-4-202, 2-4-613, 44-4-403, MCA

REASON: These changes are necessary to allow POST counsel to have ex parte contact with certain necessary council members, as demonstrated by a previous contested case where a council member was a witness as an agency administrator. The rule clarifies that, in such instances, the member will not participate in the council's final deliberations or decision in the case.

23.13.719 DECISION AND ORDER, STAYS (1) After completing a contested case proceeding, the hearing examiner shall, within ~~30~~ 45 days of the hearing, or completion of post-hearing briefing, issue findings of fact and conclusions of law that would, if adopted by the council, meet the requirements of 2-4-623, MCA.

(2) The council shall receive briefs and hear oral arguments at a regularly scheduled meeting and deliberate pursuant to 2-4-621, MCA. For the period between the submission of the hearing examiner's decision and oral argument before the council, the council chair will appoint general counsel to the council or another individual to act as a special master for purposes of resolving any issue arising before the council hears argument.

~~(2)(3)~~ (3) Within 15 days after the hearing examiner has issued findings, conclusions, and a proposed decision, the council chair will appoint the special master. Within 21 days after written notice of the appointment of a special master, an adversely affected party may submit exceptions to the hearing examiner's decision. ~~The council shall receive briefs and hear oral arguments at its next meeting and deliberate pursuant to 2-4-621, MCA.~~ The party filing the exceptions must incorporate a supporting brief in the document stating the exceptions. The opposing party may file a brief in response to the exceptions within ~~ten~~ 21 days. No reply brief will be received.

~~(3) For the period between the submission of the hearing examiner's decision and the hearing before the council, general counsel for the council or another person~~

designated by the council chair will act as a special master for purposes of resolving any issue arising before the council hearing.

(4) Unless a different argument order is set by the special master for good cause, the order of oral argument is as follows:

(a) argument by the aggrieved party;

(b) argument by the opposing party;

(c) final statements or rebuttal by the aggrieved party;

(d) final statements or rebuttal by the opposing party; and

(e) deliberations by the council, which may include questions of the parties by the council.

(5) A minimum of six available council members must be present to issue a decision. If six available council members are not present, the council will reset the oral argument for its next regularly scheduled meeting or set a special meeting to hear argument.

~~(4)~~(6) After deliberating, the council will decide, by majority vote, to adopt, reject, or modify the hearing examiner's findings and recommendation. The council will issue a decision and order pursuant to 2-4-623, MCA, and mail a copy of this decision to the respondent or the respondent's legal representative.

~~(5)~~(7) If a party has filed exceptions to the decision of the hearing examiner, the contested case is not considered to be submitted for decision under 2-4-623~~(4)~~, MCA, until oral arguments are concluded before the council.

~~(6)~~(8) If a certificate was denied, revoked or suspended by the director, based upon a majority vote of the Case Status Committee, before the hearing, the certificate will remain denied, revoked or suspended pending the outcome of the contested case proceeding and the respondent must surrender the certificate(s) to the council and forfeit the position, authority, and powers afforded the officer in this state while the contested case proceeds. However, the hearing examiner, before the contested case hearing, or the special master designated in (3), after the hearing, may, upon a properly supported motion that affords POST adequate opportunity to respond, stay the denial, suspension or revocation for good cause shown.

(7) remains the same, but is renumbered (9).

AUTH: 2-15-2029, MCA

IMP: 2-15-2029, 44-4-403, MCA

REASON: In response to questions posed to POST staff asking for additional clarity regarding post-hearing procedure, these changes are necessary to provide a more reasonable and workable timeline for issuance of the hearing officer's decision, and for exceptions briefing, and also to provide a clear process for argument before the council, including the appointment and role of the special master. These changes are also necessary to clarify the process for the standing master or the council chair to determine whether a quorum exists to hear oral argument and issue a decision. The MCA earmark in (7) was removed per the Secretary of State's rulemaking guidelines.

23.13.720 CONTESTED CASES, SETTLEMENT OR STIPULATION AND PROCESS FOR REVIEW BY THE POST COUNCIL (1) through (1)(b)(i) remain the same.

(ii) if the council rejects the agreement, then the parties must provide the hearing examiner with an excerpt of the official record of the POST meeting in which the council rejected the agreement. The contested case proceeds as though there had been no agreement.

(2) remains the same.

AUTH: 2-4-201, 2-15-2029, MCA

IMP: 44-4-403, MCA

REASON: This change is necessary to provide clarity and consistency in this rule.

23.13.721 APPEALS (1) A The final POST Council decision rendered after a contested case proceeding is the final agency decision subject to judicial review pursuant to 2-4-702 and 44-4-403, MCA.

AUTH: 2-15-2029, MCA

IMP: 2-4-201, 2-15-2029, 44-4-403, MCA

REASON: These changes are necessary to provide clarity and consistency in this rule and to accurately reflect the statutes governing appeals of council decisions.

23.13.801 MINIMUM STANDARDS FOR THE APPOINTMENT AND CONTINUED EMPLOYMENT OF PUBLIC SAFETY OFFICERS (1) All public safety officers must be certified by POST and meet the applicable appointment, employment, education, and certification standards as prescribed by the Montana Code Annotated.

(2) through (2)(f) remain the same.

(g) successfully complete an oral interview ~~and pass a thorough background check~~ conducted by the appointing authority or its designated representative;

(h) and (i) remain the same.

(j) abide by the code of ethics contained in ARM ~~23.13.203~~ 23.13.803; and

(k) complete, within every two calendar years, 20 hours of documented agency in-service, roll call, field training, or POST-approved continuing education training credits, which include but are not limited to a professional ethics curriculum covering the following topics and any additional topics required by the council:

(i) a review of the ~~C~~code of ~~E~~ethics ARM ~~23.13.203~~ 23.13.803 and Grounds for Denial, Sanction, Suspension, and Revocation ARM 23.13.702;

(ii) review of the ~~annual~~ current POST integrity report;

(iii) discussion involving core values of each ~~employing agency~~ appointing authority which may include integrity, honesty, empathy, sympathy, bravery, justice, hard work, kindness, compassion, and critical thinking skills;

(iv) through (3) remain the same.

(4) The POST Council is not responsible for maintaining records of continuing education hours acquired to satisfy the requirements of (2)(j) and (2)(k).

The ~~employing agency~~ appointing authority must maintain records of the administration of the oath and the continuing education hours acquired to satisfy (2)(j) and (2)(k). Agency records maintained under this rule are subject to audit by the executive director during normal business hours upon reasonable notice to the agency.

AUTH: 2-15-2029, MCA

IMP: 2-15-2029, 44-4-403, MCA

REASON: During a regular review of its rules, POST determined that it is necessary to create a new subchapter for rules regarding appointment and continued service of public safety officers. This rule is not a certification rule, which is what subchapter two contains; therefore, it is necessary to transfer the rule. This allows the public and stakeholders to easily locate and review rules regarding appointment and service of public safety officers. Amendments to this rule are necessary to ensure that the rule reflects POST's current business practices. In 2023, POST began updating its integrity report monthly rather than annually. These amendments also clarify that the rule applies to all public safety officers, including reserve officers who are volunteers rather than employees. Deletion of the language regarding a background check in (2)(g) removes duplicative language which is already present in (2)(e).

23.13.803 CODE OF ETHICS (1) All public safety officers who have been ~~hired or employed~~ appointed by any ~~agency or entity~~ appointing authority in Montana, or who have been certified by POST, or who have attended an MLEA basic class must abide by the code of ethics contained herein.

(2) All public safety officers hired or sworn before this rule's effective date are also bound by the code of ethics contained in this rule. Continued ~~employment~~ service as a public safety officer in Montana constitutes an agreement to be bound by this code of ethics. Failure to comply with or violation of any part of the code of ethics may be grounds for denial, suspension, sanction, or revocation of any POST certificate.

(3) remains the same.

AUTH: 2-15-2029, MCA

IMP: 2-15-2029, 7-32-303, 44-4-403, MCA

REASON: During a regular review of its rules, POST determined that it is necessary to create a new subchapter for rules regarding appointment and continued service of public safety officers. This rule is not a certification rule, which is what subchapter two contains; therefore, it is necessary to transfer the rule. This allows the public and stakeholders to easily locate and review rules regarding appointment and service of public safety officers. The changes to this rule are necessary to clarify that the rule applies to all public safety officers, including reserve officers who are volunteers rather than employees.

23.13.804 EMPLOYMENT APPOINTMENT AND TRAINING OF RESERVE OFFICERS (1) An agency that appoints a reserve officer pursuant to 7-32-213, MCA, must submit a completed employment status notice of appointment form to the director within ten days of appointing the reserve officer. Within ten days of a reserve officer's termination, the appointing authority must submit a completed notice of termination form to the director.

(2) The ~~employing agency~~ appointing authority is responsible for training the reserve officer. The reserve officer must complete a minimum of the training as prescribed in 7-32-214, MCA, this rule within two years of the reserve officer's initial appointment, unless the reserve officer was or is a Montana peace officer who has attended the law enforcement officer basic academy at MLEA.

~~(3) Training must, at a minimum, consist of the courses and hours listed in 7-32-214(1), MCA.~~

~~(4) Upon notice of the reserve officer's qualification, made by the reserve officer's agency head to the director on a form approved by the council, POST will issue a reserve officer basic certificate to the reserve officer.~~

AUTH: 2-15-2029, MCA

IMP: 7-32-214, 44-4-401, 44-4-403, MCA

REASON: During a regular review of its rules, POST determined that it is necessary to create a new subchapter for rules regarding appointment and continued service of public safety officers. This rule is not a certification rule, which is what subchapter two contains; therefore, it is necessary to transfer the rule. This allows the public and stakeholders to easily locate and review rules regarding appointment and service of public safety officers. The changes to this rule are necessary to clarify that the rule applies to all reserve officers, including reserve officers who are volunteers rather than employees, to clarify that notice of termination is required, and to conform to current form practice. Further, (3) is rendered unnecessary, given the changes to (2), and NEW RULE II makes the language in (4) redundant.

23.13.805 FIREARMS PROFICIENCY STANDARDS FOR APPOINTMENT AND CONTINUED SERVICE (1) Each agency that ~~employs~~ appoints a public safety officer who is authorized to carry firearms during the work assignment must:

(a) require the officer to complete successfully the firearms proficiency requirements provided in this rule at least once a year, for any manufacture and model of firearm customarily carried by that officer while the officer is on duty;

(b) designate a firearms instructor ~~as defined in these rules~~ to conduct or oversee and document annual firearms proficiency. The instructor need not be a POST-certified instructor but must have attended a minimum 40-hour POST-approved firearms instructor course or its equivalent, which includes the following topics:

(i) through (5) remain the same.

AUTH: 2-15-2029, MCA

IMP: 2-15-2029, 7-32-303, 44-4-403, MCA

REASON: During a regular review of its rules, POST determined that it is necessary to create a new subchapter for rules regarding appointment and continued service of public safety officers. This rule is not a certification rule, which is what subchapter two contains; therefore, it is necessary to transfer the rule. This allows the public and stakeholders to easily locate and review rules regarding appointment and service of public safety officers. These changes are necessary to clarify that this rule applies to all reserve officers, including reserve officers who are volunteers rather than employees. These changes are also necessary to specify that officers only need to qualify on firearms they carry on duty. Further, in May of 2023, the council amended this rule and removed the requirement that a firearms instructor be a certified instructor as defined in ARM 23.13.212. The deleted language in (1)(b) was inadvertently left in the rule, and this change is necessary to remedy that error.

23.13.806 PUBLIC SAFETY OFFICER EMPLOYMENT APPOINTMENT, EDUCATION, AND CERTIFICATION STANDARDS (1) and (2) remain the same.

(3) A public safety officer's ~~employing~~ appointing authority must provide written notice to POST within 10 days of the appointment, termination, resignation, or death of the public safety officer.

AUTH: 2-15-2029, MCA
IMP: 7-32-303, 44-4-403, MCA

REASON: During a regular review of its rules, POST determined that it is necessary to create a new subchapter for rules regarding appointment and continued service of public safety officers. This rule is not a certification rule, which is what subchapter two contains; therefore, it is necessary to transfer the rule. This allows the public and stakeholders to easily locate and review rules regarding appointment and service of public safety officers. The amendment is necessary to clarify that this rule applies to all reserve officers, including reserve officers who are volunteers rather than employees.

23.13.807 REQUIREMENTS FOR SWAT PRIMARY COURSE CREDIT

(1) To receive POST approval for a SWAT primary course, a course must meet the following requirements:

(a) through (a)(ii) remain the same.

(iii) weapons, munitions, and equipment to include ~~live-fire~~ safe weapon manipulation, close quarter defense, crisis negotiations, intelligence gathering/ground reconnaissance, preplanning tactics, walk through, breaching techniques;

(iv) and (v) remain the same.

(2) The director or the director's designee will review applications and approve or ~~deny~~ reject POST credit pursuant to these rules, unless the director determines, as a matter of discretion, that the council's review is necessary due to extenuating circumstances.

(3) remains the same.

AUTH: 2-15-2029, MCA

IMP: 44-4-403, MCA

REASON: In July of 2023, the Montana tactical commanders and instructor cadre who have been instructing the SWAT primary course submitted the proposed change to (1)(a)(iii). This change is necessary to ensure that course participants are receiving relevant instruction regarding safe weapon manipulation. Many participants return to their respective agencies and are required to pass the agencies' qualifications and standards, making the live fire portion of the course redundant or potentially conflicting with agency standards. Additionally, POST deems the transfer of this rule necessary to accurately reflect that it is a training rule and not a rule regarding certification.

5. Concerned persons may submit their data, views, or arguments either orally or in writing at the hearing. Written data, views, or arguments may also be submitted to: Katrina Bolger, Montana POST Council, 2260 Sierra Road East, Helena, Montana, 59602; telephone (406) 444-9974; fax (406) 444-9978; or e-mail kbolger@mt.gov, and must be received no later than 5:00 p.m., January 26, 2024.

6. J. Stuart Segrest, General Counsel to the POST Council, has been designated to preside over and conduct this hearing.

7. The department maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have their name added to the list shall make a written request that includes the name, e-mail, and mailing address of the person to receive notices and specifies for which program the person wishes to receive notices. Notices will be sent by e-mail unless a mailing preference is noted in the request. Such written request may be mailed or delivered to the contact person in 5 above or may be made by completing a request form at any rules hearing held by the department.

8. An electronic copy of this proposal notice is available through the Secretary of State's web site at <http://sosmt.gov/ARM/Register>.

9. The bill sponsor contact requirements of 2-4-302, MCA, do not apply.

10. With regard to the requirements of 2-4-111, MCA, the department has determined that the adoption and amendment of the above-referenced rules will not significantly and directly impact small businesses.

/s/ DAVID ORTLEY
David Ortley
Deputy Attorney General
Rule Reviewer

/s/ JESSE SLAUGHTER
Jesse Slaughter
Chair
Montana POST Council

Certified to the Secretary of State November 28, 2023.