

Regulatory Analysis Form		This space for use by IRRC	
(1) Agency State Police - Municipal Police Officers' Education & Training Commission		RECEIVED 2003 AUG 13 PM 3: 10 INDEPENDENT REGULATORY REVIEW COMMISSION	
(2) I.D. Number (Governor's Office Use) 17-63		IRRC Number: 2332	
(3) Short Title Municipal Police Officers' Education & Training Program - Administration of the Program			
(4) PA Code Cite 37 Pa. Code Chapter 203		(5) Agency Contacts & Telephone Numbers Primary Contact: Syndi L. Guido (717) 772-0905 Secondary Contact: Major Richard C. Mooney (717) 533-5987	
(6) Type of Rulemaking (Check One) <input type="checkbox"/> Proposed Rulemaking <input checked="" type="checkbox"/> Final Order Adopting Regulation <input type="checkbox"/> Final Order, Proposed Rulemaking Omitted		(7) Is a 120-Day Emergency Certification Attached? <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes: By the Attorney General <input type="checkbox"/> Yes: By the Governor	
(8) Briefly explain the regulation in clear and nontechnical language. The regulation amends § 203.11, §203.12, §203.33, and §203.54. §203.11(4.1) adds a reading requirement as a qualification and §203.11(6.1) adds a physical fitness requirement as a qualification. §203.12(4) is being amended to add a requirement that any candidate that obtains a waiver of training who fails the certification examination after three attempts shall have to re-take and pass the entire basic training course. §203.33(a)(14) is being amended to require schools to have adequate firing ranges for their students and to allow for indoor firing ranges. §203.54(a) is being amended to more fully clarify the cheating policy of the Commission.			
(9) State the statutory authority for the regulation and any relevant state or federal court decisions. The Act of December 19, 1996, P.L. 1158, No. 177, as amended, 53 Pa.C.S. § 2161-2171, (the attached regulations are derived from 53 Pa.C.S. §2164(1), (8) and (14) (relating to the General Local Government Code)). There are no relevant court decisions.			

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(10) Is the regulation mandated by any federal or state law or court order, or federal regulation? If yes, cite the specific law, case or regulation, and any deadlines for action.

The Act of December 19, 1996, P.L. 1158, No. 177, as amended, 53 Pa.C.S. § 2161-2171, (the attached regulations are derived from 53 Pa.C.S. §2164 (1), (8) and (14) (relating to the General Local Government Code)).

No deadlines for action.

(11) Explain the compelling public interest that justifies the regulation. What is the problem it addresses?

Amending §203.11 to include sections (4.1) and (6.1) will benefit the public interest by requiring municipal police officers to be literate and physically fit, thus enabling them to better perform their duties.

Amending §203.12(4) will ensure that all municipal police officers will have current training upon certification.

Amending §203.33(a)(14) clarifies and insures that schools authorized to train municipal police officers will have adequate firing ranges available for firearms training and allows for indoor firing ranges.

Amending §203.54(a) clarifies the rules on cheating during training. This is intended to benefit the public by maintaining the integrity of the municipal police training programs.

(12) State the public health, safety, environmental or general welfare risks associated with non-regulation.

N/A

(13) Describe who will benefit from the regulation. (Quantify the benefits as completely as possible and approximate the number of people who will benefit.)

Certified police training schools will benefit by being able to use an indoor firing range in the training.

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(14) Describe who will be adversely affected by the regulation. (Quantify the adverse effect as completely as possible and approximate the number of people who will be adversely affected.)

Applicants that are unable to perform at the 30th percentile in each of the five categories of physical fitness and those applicants that cannot read at a ninth grade level would be adversely affected. Waiver applicants that are unable to pass the certification examination in three attempts will have to re-take the entire basic training course. The number of persons affected is hard to quantify, but presumably the changes would not affect the majority of applicants.

(15) List the persons, groups or entities that will be required to comply with the regulation. (Approximate the number of people who will be required to comply.)

Municipal police officers, certain campus police officers, certain deputy sheriffs, trainees, municipalities and certified police training schools. Approximately 50 to 100 officers will be affected annually. Certified police training schools will also be affected.

(16) Describe the communications with and input from the public in the development and drafting of the regulation. List the persons and/or groups who were involved, if applicable.

The proposed changes were discussed and voted upon at various and numerous public meetings of the Commission. On February 24, 2003, the proposed rulemaking delivered to the Independent Regulatory Review Commission and the Majority and Minority Chairs of the House Judiciary Committee and Senate Law and Justice Committee. It was published in the *Pennsylvania Bulletin* at 33 Pa.B. 1246 (March 8, 2003). The Commission received no comments on the proposed rulemaking.

(17) Provide a specific estimate of the costs and/or savings to the regulated community associated with compliance, including any legal, accounting or consulting procedures which may be required.

While none can be accurately quantified, the bulk of the savings to the regulated community will be through reduced civil litigation.

Regulatory Analysis Form

(18) Provide a specific estimate of the costs and/or savings to local governments associated with compliance, including any legal, accounting or consulting procedures which may be required.

Refer to #17 above.

(19) Provide a specific estimate of the costs and/or savings to state government associated with the implementation of the regulation, including any legal, accounting or consulting procedures which may be required.

None known.

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(20) In the table below, provide an estimate of the fiscal savings and cost associated with implementation and compliance for the regulated community, local government, and state government for the current year and five subsequent years.

	Current FY Year	FY +1 Year	FY +2 Year	FY +3 Year	FY +4 Year	FY +5 Year
SAVINGS:	\$	\$	\$	\$	\$	\$
Regulated Community						
Local Government						
State Government						
Total Savings						
COSTS:						
Regulated Community						
Local Government						
State Government						
Total Costs						
REVENUE LOSSES:						
Regulated Community						
Local Government						
State Government						
Total Revenue Losses						

(20a) Explain how the cost estimates listed above were derived.

No additional funds are required.

Regulatory Analysis Form

(20b) Provide the past three year expenditure history for programs affected by the regulation.

Program	FY-3	FY-2	FY-1	Current FY

(21) Using the cost-benefit information provided above, explain how the benefits of the regulation outweigh the adverse effects and costs.

The expected benefits of this regulation are derived from the expectation of reduced civil liability of the regulated community.

(22) Describe the nonregulatory alternatives considered and the costs associated with those alternatives. Provide the reasons for their dismissal.

None. The action cannot be accomplished through any alternative method.

(23) Describe alternative regulatory schemes considered and the costs associated with those schemes. Provide the reasons for their dismissal.

On advice of counsel the agency is not aware of any other methods to accomplish these changes.

Regulatory Analysis Form

(24) Are there any provisions that are more stringent than federal standards? If yes, identify the specific provisions and the compelling Pennsylvania interest that demands stronger regulation.

N/A

(25) How does the regulation compare with those of other states? Will the regulation put Pennsylvania at a competitive disadvantage with other states?

This regulation will not put the Commonwealth at any competitive disadvantage.

(26) Will the regulation affect existing or proposed regulations of the promulgating agency or other state agencies? If yes, explain and provide specific citations.

The final-form rulemaking will affect the existing regulations of the Municipal Police Officers' Education and Training Commission, specifically, 37 Pa. Code Chapter 203, by amending §203.11, §203.12(4), §230.33(a)(14) and §203.54(a).

(27) Will any public hearings or informational meetings be scheduled? Please provide the dates, times, and locations, if available.

No.

REGULATION ANALYSIS FORM

(28) Will the regulation change existing reporting, record keeping, or other paperwork requirements? Describe the changes and attach copies of forms or reports which will be required as a result of implementation, if available.

Forms used to report the results of diagnostic testing of reading levels will be provided in the application packet. The forms are not yet available.

(29) Please list any special provisions which have been developed to meet the particular needs of affected groups or persons including, but not limited to, minorities, elderly, small businesses, and farmers.

N/A

(30) What is the anticipated effective date of the regulation; the date by which compliance with the regulation will be required; and the date by which any required permits, licenses or other approvals must be obtained?

The changes will become effective upon final publication of the final-form rulemaking in the *Pennsylvania Bulletin*.

(31) Provide the schedule for continual review of the regulation.

Due to the unique nature of this regulation, it will be continuously reviewed, and updated if necessary, for its overall effectiveness and whether it is serving the greater interests of the citizens of the Commonwealth.

FACE SHEET
FOR FILING DOCUMENTS
WITH THE LEGISLATIVE REFERENCE BUREAU

(Pursuant to Commonwealth Documents Law)

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INDEPENDENT REGULATORY
REVIEW COMMISSION

DO NOT WRITE IN THIS SPACE

Copy below is hereby approved as to form and
legality. Attorney General

By: _____
(Deputy Attorney General)

Copy below is hereby certified to be true and correct copy of
a document issued, prescribed or promulgated by:

**Pennsylvania State Police
Municipal Police Officers
Education and Training Commission**
(AGENCY)

DOCUMENT/FISCAL NOTE NO. 17-63

DATE OF ADOPTION 07/03/03

Col. Jeffrey B. Miller
BY Colonel Jeffrey B. Miller

TITLE Chairperson

EXECUTIVE OFFICER CHAIRMAN OR SECRETARY

Copy below is hereby approved as to form and
legality Executive or Independent Agencies

David J. Miller
BY _____

7/24/03

DATE OF APPROVAL
Executive
(Deputy General Counsel)

~~(Chief Counsel - Independent Agency)~~
(Strike inapplicable title)

Check if applicable. No Attorney General
Approval or objection within 30 days after
submission.

DATE OF APPROVAL

Check if applicable
Copy not approved. Objections attached.

FINAL-FORM RULEMAKING
TITLE 37. LAW
PART IV. MUNICIPAL POLICE OFFICERS' EDUCATION
AND TRAINING COMMISSION
Subpart I. MUNICIPAL POLICE OFFICERS' EDUCATION
AND TRAINING COMMISSION
CHAPTER 203. ADMINISTRATION OF THE PROGRAM

RULES AND REGULATIONS

MUNICIPAL POLICE OFFICERS' EDUCATION AND TRAINING COMMISSION

[37 PA. CODE CH. 203]

Administration of the Training Program

The Municipal Police Officers' Education and Training Commission (Commission) publishes this final-form rulemaking amending Chapter 203 (relating to administration of the program) to read as set forth in Annex A.

The Commission amends § 203.11(a)(5) and (8) (relating to qualifications) to include a ninth grade reading requirement and a physical fitness evaluation.

The Commission amends § 203.12(4) (relating to waiver of training) to limit a waiver candidate to three attempts at passing the Commission's certification examination. After the third failure, the candidate shall retake and pass the entire basic training course before being eligible for certification. This amendment will ensure that a waiver candidate has current training by limiting the amount of times that the certification examination can be taken.

The Commission amends § 203.33(a)(14) (relating to minimum school standards and requirements) to allow certified schools to use indoor ranges and to insure that the ranges be able to handle the required training.

The Commission also amends § 203.54 (relating to Commission cheating policy) to define and clarify the acts that will constitute cheating and to make clear that anyone found guilty of cheating will be ineligible for certification.

The purpose of these amendments is to clarify and correct various aspects of the existing regulations.

Statutory Authority

The rulemaking is authorized by 53 Pa.C.S. § 2164 (1), (8) and (14) (relating to duties and powers of commission).

Effect

The rulemaking will primarily affect recruits. Recruits will have to pass a physical fitness assessment and pass a ninth grade reading test before they can become eligible for training.

The rulemaking will impact those persons seeking waivers of training, since they will have only three opportunities to successfully pass the certification examination. After the third failure, the waiver candidate shall retake and pass the basic training course to become eligible for certification.

Both recruits and veteran police officers will be affected by the new cheating policy. The impact of the new cheating policy is to put individuals and schools on notice as to what will be considered cheating on an official Commission sponsored examination. This rulemaking will allow the schools and the students to more readily detect and curb cheating and it establishes a more uniform policy.

Allowing certified schools to use indoor ranges will offer more flexibility to the schools. However, the indoor and outdoor ranges must be able to safely accommodate all of the required training.

Effective Date/Sunset Date

The final-form rulemaking will go into effect upon final-form publication in the *Pennsylvania Bulletin*. The regulations are continually monitored and updated as needed. Therefore, no sunset date has been set.

Regulatory Review

On February 24, 2003, copies of the proposed rulemaking were delivered to the Independent Regulatory Review Commission and the Majority and Minority Chairmen of the House Judiciary Committee and Senate Law and Justice Committee. Notice of proposed rulemaking was published at 33 Pa. B. 1246 (March 8, 2003) and provided for a 30-day public comment period. The Commission received no comments from the public, the Independent Regulatory Review Commission, the House Judiciary Committee or the Senate Law and Justice Committee.

Under section 5.1(j.2) of the Regulatory Review Act, on _____, these final form regulations were deemed approved by the House and Senate Committees. Under section 5.1(e) of the Regulatory Review Act, IRRC met on _____ and approved the final-form regulations.

Contact Person

For further information on the final-form rulemaking, contact Syndi L. Guido, Policy Director, Pennsylvania State Police, 1800 Elmerton Avenue, Harrisburg, PA 17110, (717) 772-0905. If you are a person with a disability and require an alternative format of this document (i.e. large print, audio tape, Braille) please contact Ms. Guido so that she may make the necessary arrangements.

Fiscal Impact

The final-form rulemaking will have no adverse fiscal impact on the Commonwealth or its political subdivisions and will impose no new costs on the general public or private sector.

Paperwork Requirements

The final-form rulemaking will not increase paperwork and will create no new paperwork requirements.

Findings

The Commission finds that:

(1) Public notice of intention to adopt these amendments has been given under sections 201 and 202 of the act of July 31, 1968 (P.L. 769, No. 240) (45 P.S. §§ 1201 and 1202) and the regulations promulgated thereunder, 1 Pa. Code §§ 7.1 and 7.2.2003

(2) A public comment period was provided and no comments were received.

(3) The adoption of this final-form rulemaking in the manner provided in this order is necessary and appropriate for administration and enforcement of the authorizing statute.

Order

The Commission, acting under the authorizing statutes, orders that:

(a) The regulations of the Commission, 37 Pa. Code, Chapter 23, Administration of the Training Program, §§ 203.11(4.1), (6.1), 203.12(4), and 203.33(a)(14) are amended as set forth in Annex A.

(b) The Commission will submit this order and Annex A to the Office of General Counsel and Office of Attorney General as required by law for approval as to form and legality.

(c) The commission shall certify this order and Annex A and deposit them with the Legislative Reference Bureau as required by law.

(d) This order shall take effect immediately upon publication in the *Pennsylvania Bulletin*.

COLONEL JEFFREY B. MILLER
Chairperson

Fiscal Note: 17-63. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 37. LAW

PART IV. MUNICIPAL POLICE OFFICERS' EDUCATION AND TRAINING
COMMISSION

Subpart A. MUNICIPAL POLICE OFFICERS' TRAINING PROGRAM

CHAPTER 203. ADMINISTRATION OF THE PROGRAM

Subchapter B. POLICE OFFICER CERTIFICATION REQUIREMENTS

§ 203.11. Qualifications.

(a) Except as provided in subsection (b), persons who are to be employed as police officers by police departments within this Commonwealth from December 21, 1996, shall:

* * * * *

(5) Be able to read at no less than the ninth grade level, as established through the administration of the Nelson-Denny Reading Test.

(6) * * *

* * * * *

[(6)] (7) * * *

* * * * *

(8) Be evaluated to determine physical fitness using the standards developed by the Cooper Institute for Aerobics Research in Dallas, Texas. Each applicant shall score no

lower than the 30th percentile of the Cooper standards, which coincides with the 30th percentile of the general population, in each of the five required evaluations to be eligible for employment. A person will not be enrolled in a recruit training program at a police academy certified by the Commission unless the person has obtained a score in the 30th percentile or higher for the person's age and gender as specified in the Cooper standards for each of the five evaluations. The five required evaluations are as follows:

(i) 1.5 mile run.

(ii) 300 meter run.

(iii) One repetition bench press.

(iv) One minute sit ups.

(v) Sit and reach.

[(7)] (9) * * *

[(8)] (10) * * *

* * * * *

[(9)] (11) * * *

* * * * *

§ 203.12. Waiver of training.

Applications for certification for which waivers of training are requested shall be submitted by the applicant's employing police department. An applicant for a waiver of training shall:

* * * * *

(4) Take a certification examination administered by the Commission at a location and time designated by the Commission. The schedule for the examinations may be obtained by writing the Commission office.

(i) **[The examination will be comprised of sections which shall coincide with each major topic in the basic training curriculum, but shall exclude those topics which can be proficiency tested only. See paragraph (3).**

(ii) The minimum passing score **[for each tested section]** will be established by the Commission. The Commission will publish a notice in the *Pennsylvania Bulletin* and in the Commission newsletter whenever the minimum passing score **[for each tested section]** changes.

[(A) (ii) An applicant for a waiver of training [who does not achieve a passing score in a tested area shall take the basic police training course corresponding to the failed examination section at a school certified by the Commission, in order to be permitted to retake the certification examination] shall be permitted to take the certification examination a maximum of three times and only once in any day.

[(B) (iii) Applicants will not be certified without obtaining a passing score on the certification examination. Failure to pass the certification examination after three attempts shall result

in the applicant being required to take and pass the entire basic training course to qualify for certification.

~~[(iii)]~~ (iv) * * *

Subchapter C. SCHOOL REQUIREMENTS

§ 203.33. Minimum school standards and requirements.

(a) Schools shall initially meet and subsequently maintain the following standards:

* * * * *

(14) An approved **[type of outdoor]** firing range shall be available to the school and used for firearms training. The range does not have to be part of the school facilities; **however, it shall have at least ten firing points with a minimum firing distance of 50 yards. The range] but shall be within a reasonable traveling distance from the school. The range shall be able to accommodate the requirements of the firearms training curriculum.** The range shall present no apparent danger to the public as determined by the Commission inspector.

* * * * *

Subchapter D. COURSE REQUIREMENTS

§ 203.54. Commission cheating policy.

(a) **The contents of all examinations are confidential.** An individual [observed cheating] **may not cheat or tamper in any manner with an official examination either conducted or sponsored by the Commission by obtaining, furnishing, accepting, or attempting to obtain, furnish or accept answers or questions to examinations, or portions thereof. Individuals may not copy, photograph or otherwise remove examination contents; nor may they use any misrepresentation or dishonest method while preparing, administering or participating in examinations. Unauthorized possession of a test, examination, quiz or a questions, answers or answer keys relating to a test, examination or quiz shall constitute cheating. An individual violating this section** shall be barred from further participation in any Commission-required training **and ineligible for certification.** Individuals will receive notice and have an opportunity to be heard under Subchapter G (relating to notice and hearings).



COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA STATE POLICE
1800 ELMERTON AVENUE
HARRISBURG, PENNSYLVANIA 17110

Syndi L. Guido
Director
Policy Office

E-Mail: sguido@state.pa.us
Telephone: (717) 772-0905
FAX: (717) 705-1750

August 13, 2003

The Honorable Robert E. Nyce
Executive Director
Independent Regulatory Review Commission
333 Market Street, 14th Floor
Harrisburg, Pennsylvania 17101

Re: Final-Form Rulemaking, Identification Number 17-63
Amendments to 37 Pa. Code, Chapter 203
Municipal Police Officers' Education and Training Commission
Administration of the Program

Dear Mr. Nyce:

Pursuant to the Regulatory Review Act, enclosed is a copy of a final-form rulemaking amending 37 Pa. Code, Chapter 203, relating to administration of the Municipal Police Officers' Education and Training Program. The proposed rulemaking was published at 33 Pa. B. 1246 (March 8, 2003). The Municipal Police Officers' Education and Training Commission did not receive any comments concerning the proposed rulemaking. If I can be of further assistance, please let me know.

Sincerely,

A handwritten signature in black ink, appearing to read "Syndi L. Guido".

Syndi L. Guido
Policy Director

Enclosures

cc: Colonel Jeffrey B. Miller, Commissioner
Pennsylvania State Police

Donna Cooper, Director
Victoria S. Freimuth, Executive Policy Manager
Governor's Policy Office

**TRANSMITTAL SHEET FOR REGULATIONS SUBJECT TO THE
REGULATORY REVIEW ACT**

I.D. NUMBER: 17-63
 SUBJECT: Administration of the Program
 AGENCY: PA STATE POLICE

TYPE OF REGULATION

- Proposed Regulation
- Final Regulation
- Final Regulation with Notice of Proposed Rulemaking Omitted
- 120-day Emergency Certification of the Attorney General
- 120-day Emergency Certification of the Governor
- Delivery of Tolled Regulation
 - a. With Revisions
 - b. Without Revisions

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 REVIEW COMMISSION

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FILING OF REGULATION

DATE	SIGNATURE	DESIGNATION
8/3	<i>Susan Thomas</i>	HOUSE COMMITTEE ON JUDICIARY
8/13/03	<i>Rose M. Larsson</i>	
8/13/03	<i>Gina P.</i>	SENATE COMMITTEE ON LAW AND JUSTICE
8/13/03	<i>Martha M. Wynn</i>	
8/13/03	<i>Elena Rojas</i>	INDEPENDENT REGULATORY REVIEW COMMISSION
		ATTORNEY GENERAL (for Final Omitted only)
		LEGISLATIVE REFERENCE BUREAU (for Proposed only)