

Regulatory Analysis Form

This space for use by IRRC

(1) Agency

State Police - Municipal Police Officers' Education & Training Commission

2005 OCT -3 AM 11:32

REGULATORY REVIEW COMMISSION

(2) I.D. Number (Governor's Office Use)

17-68

IRRC Number: 2501

(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 Mooney (717) 533-5987

(6) Type of Rulemaking (Check One)

Proposed Rulemaking

Final Order Adopting Regulation

Final Order, Proposed Rulemaking Omitted

(7) Is a 120-Day Emergency Certification Attached?

No

Yes: By the Attorney General

Yes: By the Governor

(8) Briefly explain the regulation in clear and nontechnical language.

The regulation amends 37 Pa. Code §§ 203.11, 203.12, 203.33, 203.35, 203.102. It also adds § 203.37 to Title 37. The regulation eliminates the sit and reach test from the physical fitness requirements. The regulation allows out-of-state police officers to waive training only if they have been certified in another state based on an approved basic police course comparable to the one required by Pennsylvania's Municipal Police Officers Education and Training Act. The regulation requires applicants to pay an examination fee equal to the actual cost of administering the test unless they are employed as a police officer by a police department of this Commonwealth or have a conditional offer of employment. The regulation also requires certified schools to have a school director and sets forth standards required for that position. The regulation also allows the Commission's Executive Director to immediately suspend a schools certification if a condition exists that presents a clear and present danger to the public, students, or school staff; would cause the students not to receive mandated training; the school director does not meet the required qualifications, or an instructor's certification is subject to revocation. Finally, the regulation allows Commission staff, rather than the Commission, to provide notice of an adverse action to individuals and schools.

(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.

Yes; 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 deadlines for action.

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

(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.)

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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.)

(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 will all need to comply with the regulation.

(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 to the existing regulations have been discussed and voted upon at various and numerous public meetings of the Commission.

(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.

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(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	0	80,000	80,000	80,000	80,000	80,000
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.

Currently, the certification examination is only given to individuals who have already been hired as police officers. If everyone who completes training is given the certification course, it will require the administration of approximately 800 additional tests each year. The cost of administering the test is approximately \$100 per person. Therefore, the regulation will impose a cost of approximately \$80,000 per year on the regulated community.

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

Program	FY-3	FY-2	FY-1	Current FY
General Fund – Municipal Police Training	4,504,000	4,866,000	4,243,000	3,509,000
Motor License Fund – Municipal Police Training	5,158,000	5,731,000	4,243,000	3,509,000

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

Currently, the certification examination is only given to individuals who have already been hired as police officers. They are not charged a fee for the examination because MPOETC pays their tuition plus 60% of their salaries while in training. However, there are many individuals who attend the course who have not yet been hired as police officers. Offering the examination to them will allow police chiefs to hire officers from a pool of candidates who have already been certified. Unfortunately, MPOETC does not have the staff or funding necessary to process examinations for an additional 800 or more people. MPOETC intends to outsource the testing and require applicants to pay for the testing unless they are already employed in the Commonwealth as a police officer. Accordingly, there will be no additional cost to the Commonwealth.

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

None. The action proposed 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 the changes proposed.

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(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.

These proposed changes 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.

Regulatory 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.

(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 proposed regulation 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 SHEETS
FOR FILING DOCUMENTS
WITH THE LEGISLATIVE REFERENCE BUREAU

(Pursuant to Commonwealth Documents Law)

2501

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LEGISLATIVE REFERENCE BUREAU
REVIEW COMMISSION

DO NOT WRITE IN THIS SPACE

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

By: Amy M. Elliott
(Deputy Attorney General)

JUL 18 2005

DATE OF APPROVAL

Check if applicable
Copy not approved. Objections attached.

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

Municipal Police Officers' Education
and Training Commission

(AGENCY)

DOCUMENT/FISCAL NOTE NO. 17-68

DATE OF ADOPTION _____

By: Col. Jeffrey B. Miller
Col. Jeffrey B. Miller, Chairman

TITLE _____
EXECUTIVE OFFICER CHAIRMAN OR SECRETARY

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

By: DAVID J. DEVRIES
6.7.05
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.

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

PROPOSED RULEMAKING

**MUNICIPAL POLICE OFFICERS' EDUCATION AND TRAINING
COMMISSION**

[37 PA. CODE CH. 203]

Administration of the Training Program

Description and Purpose

The Pennsylvania State Police, Municipal Police Officers' Education and Training Commission (Commission), proposes amend 37 Pa. Code §203.11(a)(8) (relating to qualifications) to eliminate the sit and reach test from the physical fitness requirements, and § 203.11(a)(11)(ii)(D) to charge applicants who are not employed by, or have a conditional officer of employment from, a police department an examination fee equal to the actual cost of administering the test.

The Commission proposes to amend 37 Pa. Code §203.12(2)(iv) (relating to waiver of training) to allow training waivers for out-of-state police officers only if they have been certified based on an approved basic police course comparable to the one required by the Municipal Police Officers Education and Training Act.

The Commission proposes to amend 37 Pa. Code §203.33(a) (relating to minimum school standards) to require certified schools to have a school director who meets certain standards. The Commission proposes adding § 203.37, which sets forth those standards.

The Commission also proposes to amend § 203.35 (related to emergency suspension of school certification) to allow the Commission's Executive Director to suspend a schools certification if a condition exists at the school that presents a clear and present danger to the public, students, or school staff; would cause the students not to receive training required by the Municipal Police Officers Education and Training Act, or 37 Pa. Code Chapter 203; the school director does not meet the standards set forth in proposed § 203.37; or an instructor is subject to revocation under 37 Pa. Code § 203.73.

Finally, the Commission proposes to amend § 203.102 (related to notice) to allow Commission staff, rather than the Commission, to provide individuals and schools with notice of an adverse action.

Statutory Authority

The amendments are proposed pursuant to 53 Pa.C.S. § 2164 (1), (8), & (14) (relating to Part III, Subpart C, of the Local Government Code).

Effect

The proposed changes will affect recruits, out-of-state police officers seeking training waivers, and certified schools.

Effective Date/Sunset Date

The amendments will be effective immediately upon final adoption. These regulations are continually monitored and updated as needed. Therefore, no sunset date has been set.

Regulatory Review

Under section 5(a) of the Regulatory Review Act, 71 P.S. §745.1 et seq., the Commission submitted a copy of the proposed Annex and a copy of the Regulatory Analysis Form on October 3, 2005, to the Independent Regulatory Commission (IRRC) and to the Chairperson of the House Judiciary Committee and the Senate Law and Justice Committee. A copy of these materials are available to the public upon written request.

Under Section 5(g) of the Act, IRRC may convey any comments, recommendations or objections to the proposed Annex within 30 days after the close of the public comment period. The comments, recommendations or objections shall specify the regulatory review criteria which have not been met. The Act specifies detailed procedures for review, prior to final publication of the regulation, by the State Police, the General Assembly and the Governor of comments, recommendations or objections raised.

Contact Person/Public Comment

Interested persons wishing to comment are invited to submit all written comments within 30 days of the publication of this notice in the *Pennsylvania Bulletin*. Each written comment must include the name, address and telephone number of the interested party and a concise statement with sufficient detail on the subject. Written statements may be directed to Syndi L. Guido, Policy Director, Pennsylvania State Police, 1800 Elmerton Avenue, Harrisburg, Pennsylvania 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.

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 TRAINING PROGRAM

Subchapter A. General

§ 203.1. Definitions

* * * * *

Act.—The act of [June 18, 1974 (P.L. 359, No. 120) (53 P.S. §§ 740-749)] the Act of December 19, 1996, P.L. 1158, No. 177, as amended, 53 Pa.C.S. § 2161-2171.

* * * * *

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:

* * * * *

(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 required evaluations. The [five] required evaluations are as follows:

* * * * *

[(v) Sit and reach]

* * * * *

(11) * * *

(ii) * * *

(D) Pass the same certification exam administered to those seeking waiver of training as set forth in § 203.12(4).

(I) Applicants who are not employed as a police officer by police department within this Commonwealth or do not have a conditional offer of such employment shall pay an examination fee equal to the actual cost of administering the test.

(II) Applicants who are employed as a police officer by a police department within this Commonwealth or have a conditional offer of such employment shall not pay an examination fee.

* * * * *

§ 203.12. Waiver of training.

* * * * *

(2) Satisfy one of the following conditions:

* * * * *

(iv) Previously or currently employed as a full-time police officer of another state and met the certification standards of that state, [as evidenced by documentation from the state agency responsible for establishing the standards] provided that certification had been based on the completion of an approved basic police course comparable to that of this Act.

* * * * *

Subchapter C. SCHOOL REQUIREMENTS

* * * * *

§ 203.33. Minimum school standards and requirements.

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

* * * * *

(2) Have a school director who meets the standards set forth in § 203.37 of this chapter.

[2] (3) School buildings shall comply with public safety standards in sections 1—14 of the act of April 27, 1927 (P. L. 465, No. 299)(35 P. S. § § 1221—1235), known as the Fire and Panic Act.

[3] (4) A comfortable temperature and proper ventilation shall be maintained in all classrooms.

[4] (5) Noise shall be controlled so that each student can hear all instruction.

[5] (6) Smoking shall be prohibited in any training facility authorized, approved or funded by the Commission, except in Commission-approved outdoor smoking areas.

[6] (7) Artificial lighting facilities shall provide an adequate light intensity in all rooms used for instructional purposes, dormitory or study facilities.

[7] (8) The drinking water facilities shall conform to the requirements prescribed for the facilities by the governmental authority having jurisdiction.

[8] (9) There shall be separate, properly ventilated toilet and lavatory facilities for males and females. There shall be a sufficient number of flush toilets for females and a sufficient number of urinals and flush toilets for males. Each toilet room shall have at least one lavatory.

[9] (10) Provisions shall be made for separate men's' and women's' locker and shower facilities.

[10] (11) The furniture, equipment and supplies of the school shall be of a type, quality and amount to meet with the approval of the Commission.

[11] (12) Sufficient space shall be available in the classrooms.

[12] (13) Dining facilities, cafeterias, kitchens, dormitory facilities and recreational facilities shall comply with the construction and maintenance requirements prescribed for the facilities by the governmental authority having jurisdiction.

[13] (14) Each school shall have and use a suitable area adequate for conducting physical conditioning and defensive tactics in a safe manner. At a minimum, the facilities shall contain the following:

* * * * *

[14] (15) An approved firing range shall be available to the school and used for firearms training. The range does not have to be a part of the school facilities, 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.

* * * * *

[15] (16) A sufficient number of parking spaces shall be available to accommodate the students, staff and visitors of the school whether at the firing range, classroom facilities or physical fitness facilities.

[16] (17) Audio/visual equipment shall be available to present the curriculum prepared by the Commission. The equipment shall include:

* * * * *

[17] (18) Equipment, facilities, supplies, books, and the like, shall be maintained in a safe and proper working condition.

* * * * *

§ 203.35. Emergency suspension of school certification.

If a Commission inspector determines that [a] one or more of the following conditions exist[s] at a school [which presents a clear and present danger to the public, students or staff of the school, the inspector, with the approval of] the Executive Director, on behalf of the Commission, may immediately suspend the school's certification [and cause all training to cease. In those situations]:

(1) [The school may correct the situation or request an administrative hearing as outlined in Subchapter G (relating to notice and hearings).] Present a clear and present danger to the public, students or staff of the school.

(2) [Schools electing to correct the situation shall notify the Commission in writing by certified mail, return receipt requested, when the correction is complete. The Commission inspector will reinspect the facility to ensure compliance.] Would cause the students not to receive training required by the Act and these regulations.

(3) [Notice of results of the reinspection will verbally be provided to the school by the inspector after the inspection has concluded and in writing within 10 days of the reinspection.]

7/12/2005

The school director does not meet the requirements set forth in § 203.37 of this chapter.

(4) An instructor is subject to revocation under § 203.73 of this chapter.

§ 203.36. Revocation of school certification.

The Commission may, after notice and hearings in compliance with Subchapter G (relating to notice and hearings), revoke the certification of a school for one of the following reasons:

* * * * *

(6) The school does not have a school director who meets the standards set forth in § 203.37 of this chapter.

§ 203.37. Minimum standards for School Directors.

School directors approved by the Commission shall demonstrate compliance with at least one standard set forth in subsection (a) and at least one standard set forth in subsection (b).

(a) School directors shall satisfy one of the following requirements:

(1) Possess an associate's or higher degree in criminal justice, public administration, education, or related field.

(2) Be a graduate of one of the following the the Federal Bureau of Investigation National Academy, the Southern Police Institute Administrative Officers Course, the Law Enforcement Instructor Training Course of the Federal Law Enforcement Training Center, the Northwestern University Staff and Command School, or other law enforcement training program approved by the Commission.

(b) Satisfy the following minimum professional experience requirement:

(1) Ten years in law enforcement, including five years at an administrative level; or

(2) Fifteen years increasingly responsible full-time experience as a federal, state, or municipal police officer with general police powers.

(c) Be free of convictions for a disqualifying criminal offense.

(d) Possess experience and ability as an instructor.

* * * * *

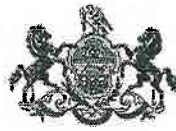
Subchapter G. NOTICE AND HEARINGS

* * * * *

§ 203.102. Notice.

* * * * *

(b) An individual or school given notice of an adverse action by [the] Commission staff may file a written request for a hearing within 15 days after receipt of the notice. The date of receipt of the request by the Commission and not the date of deposit in the mails is determinative of a timely request for a hearing.



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

October 3, 2005

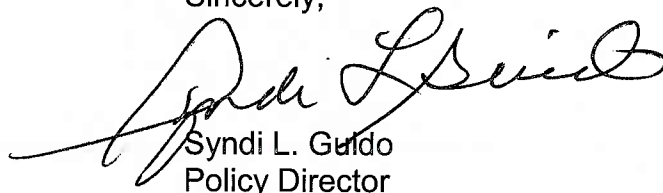
The Honorable Kim Kaufman
Executive Director
Independent Regulatory Review Commission
333 Market Street, 14th Floor
Harrisburg, Pennsylvania 17101

Re: Proposed Rulemaking, Identification Number 17-68
Title 37. Law, Part IV. Municipal Police Officers'
Education and Training Commission
Subpart A. Municipal Police Officers' Training Program
Chapter 203. Administration of Program

Dear Mr. Kaufman:

The Municipal Police Officers' Education and Training Commission is proposing several amendments to its training program. Pursuant to the Regulatory Review Act, I am providing you with the enclosed copy of the proposed rulemaking. Should the Commission require any assistance with its review of the proposed regulations, please let me know.

Sincerely,



Syndi L. Guido
Policy Director

Enclosure

cc: Colonel Jeffrey B. Miller
Major John Gallaher
Barbara Christie, Chief Counsel
Donna Cooper, Secretary of Planning and Policy
Lois M. Hein, Director of Legislative & Budget Analysis

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

I.D. NUMBER: 17-68
 SUBJECT: Administration of Municipal Police Officers' Training Program
 AGENCY: Municipal Police Officers' Education and Training Commission # 2501

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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 ATTORNEY
 GENERAL'S
 COMMISSION

FILING OF REGULATION

DATE	SIGNATURE	DESIGNATION
10-3-05	<i>Deletta Mangano</i>	HOUSE COMMITTEE ON JUDICIARY
10-3-05	<i>[Signature]</i>	SENATE COMMITTEE ON LAW AND JUSTICE
10/3/05	<i>[Signature]</i>	INDEPENDENT REGULATORY REVIEW COMMISSION
		ATTORNEY GENERAL (for Final Omitted only)
10-3-05	<i>[Signature]</i>	LEGISLATIVE REFERENCE BUREAU (for Proposed only)