

# Regulatory Analysis Form

(Completed by Promulgating Agency)

INDEPENDENT REGULATORY  
REVIEW COMMISSION

2013 NOV 14 PM 2:06

RECEIVED  
IRRC

(All Comments submitted on this regulation will appear on IRRC's website)

(1) Agency:

Pennsylvania Commission on Crime and Delinquency  
Bureau of Training Services  
Constables' Education and Training Board

(2) Agency Number: 35

Identification Number: 32

IRRC Number: 2921

(3) PA Code Cite:

37 Pa. Code Chapter 431

(4) Short Title:

Constables' Education and Training Board

(5) Agency Contacts (List Telephone Number and Email Address):

Primary Contact: Primary Contact: John Pfau, Manager, Bureau of Training Services (717) 265-8546;  
[jpfau@pa.gov](mailto:jpfau@pa.gov)

Secondary Contact: Sherry Leffler, Supervisor, Constables' Education and Training Program (717) 265-8554;  
[sleffler@pa.gov](mailto:sleffler@pa.gov)

(6) Type of Rulemaking (check applicable box):

Proposed Regulation

Final Regulation

Final Omitted Regulation

Emergency Certification Regulation;

Certification by the Governor

Certification by the Attorney General

(7) Briefly explain the regulation in clear and non-technical language. (100 words or less)

The amendments will:

- Allow reactivation of a lapsed certification and number, in lieu of issuing a new number, upon the constable's successful completion of the basic training course;
- Require that a constable pay for subsequent basic training courses after having failed a first or second course, or failing to show for training (considered failure);
- Eliminate waivers of firearms training for law enforcement officers, eliminate ten millimeter (10mm) caliber firearms from training and require certified constables to be 21 years of age or older to attend constable firearms qualification training;

- Delete the phrase “or other person” from various sections because only elected or appointed constables will be permitted to attend training classes—no ‘other persons;’
- Require timely notification to withdraw from a training class and penalize constables who fail to show for scheduled training classes without timely notification.

(8) State the statutory authority for the regulation. Include specific statutory citation.

These amendments are proposed under the authority of 44 Pa.C.S. §7144(10).

(9) Is the regulation mandated by any federal or state law or court order, or federal regulation? Are there any relevant state or federal court decisions? No. If yes, cite the specific law, case or regulation as well as, any deadlines for action.

44 Pa.C.S. § 7144(10) authorizes the CETB to promulgate regulations for administration of the Constables’ Education and Training Program.

(10) State why the regulation is needed. Explain the compelling public interest that justifies the regulation. Describe who will benefit from the regulation. Quantify the benefits as completely as possible and approximate the number of people who will benefit.

This Final Regulation is needed to update the regulations to coincide with current CETB policy and practices.

Allowing the CETB to reactivate the lapsed certification of a constable, rather than issue a new certification, will streamline the process, decrease paperwork and retain the original unique identifying number to be associated with the constable. The past practice of issuing a new certification, with a new number, has resulted in more than one identifying number being associated with one constable. Approximately 1,363 lapsed certifications are reactivated each year. Reactivating a lapsed certification is a cleaner process. This is the current practice of the CETB.

It is in the public interest to eliminate waivers of firearms training for law enforcement officers, so that all certified constables, who wish to be firearms certified, are trained uniformly across the state in the firearms qualification course developed under the supervision of the CETB. An average of eleven new law enforcement officers attend the 40-hour basic firearms training and qualification each year. Thereafter, they attend the 20-hour annual or advanced firearms and re-qualification each year. This is the current practice of the CETB.

Currently, only 23 constables have used 10mm ammunition during the firearms qualification course. However, 10mm ammunition is very costly and because only a small percentage of the population uses this ammunition, it is in the best interests of the Board to eliminate this type of ammunition due to its cost. Three hundred rounds of practice ammunition is provided, at no cost to the constable, by the Constables’ Education and Training Program from its special restricted account, the Constables’ Education and Training Account. Ten millimeter practice ammunition costs approximately \$288 more per student. In the case of the 10mm, the annual additional cost to the Constables’ Education and Training Account is approximately \$6,624.

An individual under 21 years of age may be elected constable or appointed deputy constable, with an average of 11 constables or deputy constables per year being under 21 years of age. The CETB believes that reaching the age of 21 carries with it a certain level of maturity that is necessary for carrying a firearm in the performance of the duties of constable. Therefore, it is in the public interest to require a certified constable or deputy constable to be 21 years of age or older in order to enroll in any firearms qualification course. This is the current practice of the CETB.

The Constables Training Account will benefit by retaining funds, because constables who fail a first and second training course will be required to bear the financial responsibility for subsequent training courses. This is not the current practice of the CETB.

The Constables' Training Account will benefit by retaining funds because constables who do not provide timely notification to the school director or his/her designee, of their non-attendance at a training class will be charged to attend a subsequent training class. This is not the current practice of the CETB

(11) If data is the basis for this regulation, please provide a description of the data, explain in detail how the data was obtained, and how it meets the acceptability standard for empirical, replicable and testable data that is supported by documentation, statistics, reports, studies or research. Please submit data or supporting materials with the regulatory package. If the material exceeds 50 pages, please provide it in a searchable electronic format or provide a list of citations and Internet links that, where possible, can be accessed in a searchable format in lieu of the actual material. If other data was considered but not used, please explain why that data was determined not to be acceptable.

N/A

(12) Describe who and how many people will be adversely affected by the regulation. How are they affected?

Constables who fail a first and second basic training course will be adversely affected because they will be required to bear the financial responsibility of second and third courses. The current cost for a basic training course is \$617. In the 2011 training year, approximately nine constables and deputy constables failed to attend the basic training course after having enrolled. If those nine had enrolled for a second basic training course, they each would have been required to bear the financial responsibility.

Constables who fail to provide timely notification to the school director or his/her designee, of their non-attendance at a training class will be charged to attend a subsequent training class. In the 2011 training year, 30 constables failed to attend a continuing education class without timely notification to the school director or his/her designee. If those constables would have enrolled in a second class they each would have been required to bear the financial responsibility for that second class.

(13) 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.

Elected constables and appointed deputy constables. As of July 3, 2012, there are 1,363 active and certified constables and deputy constables who would be required to comply with this rulemaking.

(14) 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. Explain how the dollar estimates were derived.

Attendance policies in the proposed regulation will require the constable to bear financial responsibility for subsequent training courses having failed a course or failed to attend without providing timely notification.

The direct, variable cost for basic training of a constable or deputy constable is currently \$617/student. In 2011, there were nine no-shows for the 80-hour basic training. A no-show is considered a failure. If all of those nine constables attend another basic training, the total cost of \$5,553 would be funded by the Constables' Education and Training Account under the current regulation. The new regulation would require the constable to pay for subsequent trainings, at no cost to the Constables' Education and Training Account.

2011 statistics for other courses:

Annual firearms training cost - 23 no-shows @ \$366/each = \$8,418.

Continuing education training cost - 30 no-shows @ \$121/each = \$3,630

Optional tactical training cost - 15 no-shows @ \$234/each = \$3,510

Without the proposed regulation, if all those no-shows had taken a subsequent class, the cost to the Constables' Education and Training Account would have been a total of \$21,111.

In 2010, there was one failure and 26 no-shows for the 80-hour basic training. Without the proposed regulation, the cost to the Constables' Education and Training Account would have been \$16,659, if the failure and no-shows registered for a subsequent training.

In 2009, there were no failures and one no-show for the 80-hour basic training. Without the proposed regulation, the cost to the Constables' Education and Training Account would have been \$617, if the no-show registered for a subsequent training.

In 2008, there were no failures, but ten no-shows for the 80-hour basic training. Without the proposed regulation, the cost to the Constables' Education and Training Account would have been \$6,170, if all ten constables registered for a subsequent training.

In 2007, there were two failures and seven no-shows for the 80-hour basic training. One of the failures returned to basic training in 2008 at no cost and the other failure has not returned for another basic training. Without the proposed regulation, the cost to the Constables' Education and Training Account would have been \$5,553, if both failures and all seven no-shows registered for another basic training in 2007.

The impact of second and third basic trainings to the Constables' Education and Training Account has been

minimal over the years, but the potential is always there for any failures/no-shows to register for subsequent trainings. The new regulation will protect the Constable's Education and Training Account from being impacted.

In 2008, PCCD and the CETB moved to eliminate waivers of firearms training in order to ensure that all constables and deputy constables receive the same level of firearms instruction. Constables and Deputy constables who are also law enforcement officers and who have never received Constables' Education and Training Board Firearms Training are now required to attend and successfully complete 40 hours of Basic Firearms Training one time if they wish to be firearms certified, the same as non-law enforcement constables and deputy constables.

Due to the elimination of firearms waivers, there are increased costs associated with firearms training of law enforcement officers in the constable training program. In Training Year 2011, 28 constables who are also law enforcement officers, successfully completed the firearms re-qualification course. The direct, variable cost of training each law enforcement constable is \$366, for a total of \$10,248 per year. The on-going costs of re-certifying these 28 constables every year would be \$10,248. The cost of firearms qualification training is funded by the Constables' Education and Training account. Since the elimination of waivers is currently the policy, no additional cost impact is expected.

Eliminating 10mm caliber firearms from the firearms qualification course or requiring constables to have reached the age of 21 prior to registering for a firearms qualification course will not negatively impact the Constables' Education and Training Account.

(15) 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. Explain how the dollar estimates were derived.

None. The Constables' Education and Training Account is a special restricted account, wherein a \$5 surcharge is collected for services that constables perform for the minor judiciary. The Constables' Education and Training Account is the only fund affected by this proposed rulemaking. In addition, there are no other sources of funds involved, including local and state funds.

(16) 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. Explain how the dollar estimates were derived.

See (15) above.

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

	<b>Current FY Year</b>	<b>FY +1 Year</b>	<b>FY +2 Year</b>	<b>FY +3 Year</b>	<b>FY +4 Year</b>	<b>FY +5 Year</b>
<b>SAVINGS:</b>	<b>\$27,735*</b>	<b>\$27,735</b>	<b>\$27,735</b>	<b>\$27,735</b>	<b>\$27,735</b>	<b>\$27,735</b>
<b>Regulated Community</b>	\$0	\$0	\$0	\$0	\$0	\$0
<b>Local Government</b>	\$0	\$0	\$0	\$0	\$0	\$0
<b>State Government</b>	\$0	\$0	\$0	\$0	\$0	\$0
<b>Total Savings</b>	<b>\$27,735*</b>	<b>\$27,735</b>	<b>\$27,735</b>	<b>\$27,735</b>	<b>\$27,735</b>	<b>\$27,735</b>
<b>COSTS:</b>	<b>\$10,248**</b>	<b>\$10,248</b>	<b>\$10,248</b>	<b>\$10,248</b>	<b>\$10,248</b>	<b>\$10,248</b>
<b>Regulated Community</b>	\$10,248	\$10,248	\$10,248	\$10,248	\$10,248	\$10,248
<b>Local Government</b>	\$0	\$0	\$0	\$0	\$0	\$0
<b>State Government</b>	\$0	\$0	\$0	\$0	\$0	\$0
<b>Total Costs</b>	<b>\$10,248**</b>	<b>\$10,248</b>	<b>\$10,248</b>	<b>\$10,248</b>	<b>\$10,248</b>	<b>\$10,248</b>
<b>REVENUE LOSSES:</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Regulated Community</b>	\$0	\$0	\$0	\$0	\$0	\$0
<b>Local Government</b>	\$0	\$0	\$0	\$0	\$0	\$0
<b>State Government</b>	\$0	\$0	\$0	\$0	\$0	\$0
<b>Total Revenue Losses</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

\*This number reflects the savings for persons who do not show for training classes, which is approximately \$21,111 annually [Page 4 (14) of this RAF], plus the savings of \$6,624 [Page 2 (10) of this RAF] for elimination of 10mm ammunition, for a total of \$27,735 annually. For subsequent fiscal years, there will be no additional savings, because the number of constables who enroll in class and fail to show for class is not expected to change in the five subsequent years.

\*\*This number reflects the total estimated, additional costs for training law enforcement officers who could previously have waived firearms training and qualification, which is approximately 28 constables @\$366/each [Page 5 (14) of this RAF]. For subsequent fiscal years, the annual costs of \$10,248 are not expected to change, because the number of law enforcement officers who are also constables is not expected to change, and the overall costs of constable training are not expected to change in the five subsequent years.

(17a) Provide the past three year expenditure history for programs affected by the regulation.

Program	FY -3	FY -2	FY -1	Current FY
CETB	Beginning Balance: \$7,938,725.37 Revenue: \$2,111,748.54 Expenditures: \$2,671,046.52 Ending Balance: \$7,379,427.39	Beginning Balance: \$7,379,427.39 Revenue: \$2,006,916.90 Expenditures: \$2,468,186.12 Ending Balance: \$6,918,158.17	Beginning Balance: \$6,918,158.17 Revenue: \$2,005,674.98 Expenditures: \$2,409,858.91 Ending Balance: \$6,513,974.24	Beginning Balance: \$6,513,974.24

(18) Explain how the benefits of the regulation outweigh any cost and adverse effects.

The only costs associated with the amendments to the regulation are those incurred by elimination waiver of firearms training for law enforcement officers. The benefits outweigh the costs because the regulation will ensure that all constables and deputy constables have the same level of firearms training.

(19) Describe the communications with and input from the public and any advisory council/group in the development and drafting of the regulation. List the specific persons and/or groups who were involved.

The CETB, the Pennsylvania Commission on Crime and Delinquency (PCCD) and CETB Program staff collaborated on amending the regulations to comply with current policy.

(20) Include a description of any alternative regulatory provisions which have been considered and rejected and a statement that the least burdensome acceptable alternative has been selected.

None considered.

(21) 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 regulations.

No.

(22) How does this regulation compare with those of other states? How will this affect Pennsylvania's ability to compete with other states?

N/A

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

No.

(24) Submit a statement of legal, accounting or consulting procedures and additional reporting, recordkeeping or other paperwork, including copies of forms or reports, which will be required for implementation of the regulation and an explanation of measures which have been taken to minimize these requirements.

Not applicable.

(25) 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

(26) Include a schedule for review of the regulation including:

- A. The date by which the agency must receive public comments:       N/A
- B. The date or dates on which public meetings or hearings will be held:       N/A
- C. The expected date of promulgation of the proposed regulation as a final-form regulation:       N/A
- D. The expected effective date of the final-form regulation:   January 2014\*

E. The date by which compliance with the final-form regulation will be required:

January 2014\*

F. The date by which required permits, licenses or other approvals must be obtained:

N/A

\*Tentative Date, based on general timeline.

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

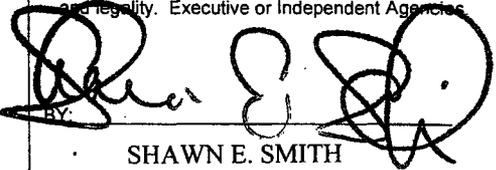
Annual Review

FACE SHEET  
FOR FILING DOCUMENTS  
WITH THE LEGISLATIVE REFERENCE BUREAU  
(Pursuant to Commonwealth Documents Law)

RECEIVED  
IRRC

2013 NOV 14 PM 2:06

DO NOT WRITE IN THIS SPACE

<p>Copy below is hereby approved as to form and legality. Attorney General</p> <p>BY: _____ (DEPUTY ATTORNEY GENERAL)</p> <p>_____ DATE OF APPROVAL</p> <p><input type="checkbox"/> Check if applicable Copy not approved. Objections attached.</p>	<p>Copy below is here by certified to be a true and correct copy of a document issued, prescribed or promulgated by:</p> <p>Pennsylvania Commission on Crime and Delinquency Constables' Education and Training Board</p> <p>_____ (AGENCY)</p> <p>DOCUMENT/FISCAL NOTE NO. <u>35 - 32</u></p> <p>DATE OF ADOPTION: _____</p> <p>BY: </p> <p>TITLE <u>Executive Director</u> (EXECUTIVE OFFICER, CHAIRMAN OR SECRETARY)</p>	<p>Copy below is hereby approved as to form and legality. Executive or Independent Agencies</p> <p> BY: _____ SHAWN E. SMITH</p> <p><b>NOV 01 2013</b></p> <p>_____ DATE OF APPROVAL</p> <p>DEPUTY GENERAL COUNSEL <del>(Chief Counsel, Independent Agency)</del> (Strike inapplicable title)</p> <p><input type="checkbox"/></p> <p>Check if applicable. No Attorney General approval or objection within 30 days after submission.</p>
---	--	---

Pennsylvania Commission on Crime and Delinquency  
Constables' Education and Training Board  
Final Regulation

37 Pa. Code Chapter 431

# FINAL RULEMAKING

## TITLE 37 LAW

### PART IV. COMMISSION ON CRIME AND DELINQUENCY

#### CHAPTER 431.

#### CONSTABLES' EDUCATION AND TRAINING BOARD

The Constables Education and Training Board (Board) of the Commission on Crime and Delinquency (Commission) amends §§431.14, 431.15, 431.22, 431.25, 431.35, 431.42, 431.43, 431.47 and 431.48 and rescinds entirely the provisions of §§431.45 and 431.46 (relating to eligibility for waiver; and scope of waiver) to read as set forth in Annex A.

#### *Statutory Authority*

This final form rulemaking is authorized under 44 Pa.C.S. §7144(10) (relating to program established).

#### *Purpose*

This final form rulemaking amends regulations to coincide with current Board policy and practices, regarding certification, training attendance policies and financial responsibility. This final rulemaking will also eliminate waiver of the firearms qualification course for law enforcement officers, add the 21 years of age requirement for the firearm qualification and eliminate 10MM caliber firearm.

#### *Effective Date*

These amendments will become effective upon final-form publication in the *Pennsylvania Bulletin*.

#### *Contact Person*

For further information this final rulemaking, contact John Pfau, Manager, Bureau of Training Services, Commission on Crime and Delinquency, P.O. Box 1167, Harrisburg, PA 17108-1167, (717) 265-8546.

#### *Summary of Amendments*

Section 431.14(d) (relating to lapse of certification) has been amended to allow the Board to reactivate a constable's lapsed certification if the constable has successfully completed the basic training course.

Section 431.15 (relating to certification numbers) has been amended to allow the Board to reactivate the original certification of a constable who has been re-elected or re-appointed, after the constable has completed a basic training course. Subsection (b) has been deleted because it is not necessary.

Section 431.22 (relating to requirements) has been amended to require that a constable who fails a first and second examination in basic training bear the financial responsibility for a second and third basic training. Additionally, language has been amended for consistency.

Sections 431.25 and 431.35 (relating to attendance policies) have been amended to discourage 'no-shows', thereby saving the Board money for reserving a place in class. This final form rulemaking also places financial responsibility for subsequent class enrollments on the constable. Additionally, 431.35 will retain the following language in the current regulation 'prior to the start of classes' rather than change as was indicated in the Proposed Regulation. This language is consistent with 431.25 and 431.47.

Section 431.42 (related to eligibility for firearms qualification) has been amended to allow only certified constables who are 21 years of age or older to enroll in a firearms qualification course.

Section 431.43 (relating to firearm and ammunition) eliminates 10 MM caliber from the list of firearms in subsection (b).

Sections 431.45 and 431.46 have been rescinded to eliminate waivers of firearms training for law enforcement officers to ensure that all constables have the same level of training as provided by the Board.

Section 431.47 (relating to attendance policies and weapons) has been amended to discourage 'no shows' and to place financial responsibility for subsequent enrollments on the constable. Additional subsections have been added to reflect current Board policy.

Section 431.48 (relating to lapse of qualification) has been amended to address language consistency and add subsection (b) to address reactivation of firearms qualification.

#### *Paperwork*

The final form rulemaking will not increase paperwork and will not create new paperwork requirements. Paperwork will be decreased with the process of reactivating lapsed, rather than issuing new certifications.

#### *Fiscal Impact*

The final form rulemaking will not have adverse fiscal impact on the Commonwealth or its political subdivisions. Constables who fail to achieve a passing score in a second examination following basic training will be adversely affected because they will be required to bear financial

responsibility for a second training. Constables who fail the second training examination, will bear the responsibility for a third basic training course.

Because waiver of firearms training will be eliminated, additional costs will be incurred for training. However, the Constables' Education and Training Account is the only fund affected by this final form rulemaking. This account is funded by the \$5 surcharge collected for services that constables perform for the minor judiciary. Presuming that 11 law enforcement officers apply for training in a given year (an average of past years), the cost would be \$516 per law enforcement officer or \$5,676. The on-going costs of retraining those 11 constables every year would be \$3,333. These costs can be supported by the Constables' Education and Training Account.

### *Comments and Responses*

No public comments were submitted.

IRRC submitted the following comments which were considered by the Board in preparing the final-form rulemaking:

Comment #1: Fiscal impact. This regulation proposes various amendments relating to certification and attendance policies for training and continuing education of constables and deputy constables. In the Regulatory Analysis Form (RAF#20), the Board provides an estimate of savings and costs associated with the regulation for the current year and five subsequent years. The Board projects an increase in the savings and costs of 8% per year for the five subsequent fiscal years. The Board should explain how it derived the 8% increase. **NOTE: RAF#20 is now RAF#17 in the new RAF.**

Response: Upon further study, the Board has determined that the savings and costs would remain level. The dollar amount of estimated savings is derived from the number of constables who enroll in class and fail to show, which is not expected to change, and the permanent elimination of 10mm ammunition which will not change in the five subsequent years.

The dollar amount of estimated costs reflects additional costs for training law enforcement officers who could previously have waived firearms training and qualification. This amount is not expected to change because the number of law enforcement officers who are also constables is not expected to change in the five subsequent years.

Comment #2: Clarity. The first paragraph of the Preamble states that the Board is amending "§§ 431.14, 431.15, 431.22, 431.32, and 431.42." However, this citation does not reflect all of the sections amended by this rulemaking, as the Annex also includes amendments to §§ 431.25, 431.35, 431.43, 431.47 and 431.48. In addition, the regulation does not amend § 431.32. The Board should correct this citation in the Preamble for the final-form regulation.

Response: The revised Preamble now accurately reflects all of the sections that will be amended by this rulemaking.

Comment #3: Section 431.25. Attendance policies. – Clarity.

*“All or part”*

This phrase is used inconsistently throughout the regulation with respect to a school’s assessment for a failing grade in various types of courses. In Subsection (a), the Board deletes the phrase when referencing assessment of a failed basic training course. However, Section 431.35(a) is amended to permit schools to assess “all or part” of a failing grade for a continuing education course. However, Section 431.35(a) is amended to permit schools to assess “all or part” of a failing grade for a continuing education course. In Section 431.47(a), this phrase remains as existing language which would result in an assessment of “all or part” of a failing grade for a firearms qualification course. We recommend that this phrase be used consistently in the final-form regulation.

Response: Section 431.25, subsection (a) now references “all or part” of a failed basic training course.

*“Deemed untimely”*

Subsection (b) references a notice of a basic training course withdrawal that is “deemed untimely.” The final-form regulation should clarify how the Board establishes that notices are “deemed untimely.” Similar language is included for withdrawal notices for continuing education courses and firearms training courses in Sections 431.35(b) and 431.47(b)

Response: The following sentence has been added to Sections 431.25 (a), 431.35(a) and 431.47(a) to adequately address the “deemed untimely” statement: “A notification shall be deemed untimely if the notice is not received by the director of the school or a designee within 7 calendar days prior to the start of classes.”

*Subsection (c)*

Subsection (c) prohibits constables from attending another basic training course in the same training year of a successful completion of such a course. Section 431.47 (c)(1) also includes similar language with respect to firearms qualification courses. However, Section 431.35 (c) discusses a constable “or deputy constable” who successfully completes a continuing education course. Are only constables permitted to attend basic training and firearms qualification courses? The final-form regulation should clarify this issue.

Response: “or deputy constable” has been removed from the final form regulation because constables is currently defined in the Regulation in Section 431.12. Definitions. Constable—A person currently serving as constable or deputy constable. Since the term is interchangeable, the reference to “deputy constable” has been removed.

Comment #4: Section 431.47. Attendance policies. – Clarity

*“Good cause”*

Both sections 431.25 and 431.35 permit demonstration of “good cause” as a proper method of withdrawal from basic training and continuing education courses. However, Section 431.47(a) does not include “good cause” as a permissible manner of withdrawal. Nevertheless, Section 431.47(b) states that constables will bear the cost of additional firearms qualification courses if “good cause” is not shown. The Board should add a reference to “good cause” in Section 431.47(a) so that the attendance policies are consistent throughout the regulation.

In addition, Subsection (a) is titled “Withdrawal” and Subsection (b) is titled “Financial Responsibility.” Sections 431.25 (a) and (b) and 431.35 (a) and (b) contain similar language but have no titles included. Why are the subsections in Section 431.47 titled? The Board should clarify this issue.

Response: “Or to show good cause” has been added to the final form regulation under Section 431.47(a).

Section 431.47 subsection (a) and (b) were titled “Withdrawal and “Financial Responsibility” by the PA Bulletin. The Board has added titles to Section 431.25(a), (b) and (c) and Section 431.35(a), (b) and (c) to provide clarity to the Attendance Policies sections of the final form regulation. Section 431.47(c) title has been changed to Additional Attendance to reflect the actual intent of the subsection. Subsection (d) is now titled New weapons, subsection (e) is Advanced firearm failures and subsection (e) is Weapons malfunctions. These sections have been added to reflect current Board policy.

### *Regulatory Review*

On October 26, 2011, under section 5(a) of the Regulatory Review Act (71 P.S. § 745.5(a)) the Board submitted copies of the proposed rulemaking to IRRC and the Majority and Minority Chairpersons of the House and Senate Judiciary Committees. Notice of the proposed rulemaking was published at 41 Pa.B. 5961 (November 5, 2011) and provided a 30 day comment period. No comments were received from the Judiciary Committee or the public. In preparing the final-form rulemaking, the Board has considered the comments received from IRRC.

Under section 5.1(j.2) of the Regulatory Review Act (71 P.S. § 745.5a(j.2)), this final-form rulemaking was deemed approved by the House Judiciary Committee on \_\_\_\_\_ and Senate Judiciary Committee on \_\_\_\_\_. The Attorney General approved the final form Rulemaking on \_\_\_\_\_.

### *Findings*

The Commission finds that:

(1) Public notice of the intention to adopt these regulations 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.

(2) A public comment period was provided as required by law, but no public comments were received.

(3) The adoption of this final-form rulemaking in the manner provided by 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 Constables Education and Training Board at 37 Pa. Code Chapter 431 be amended to read as set forth in Annex A.

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

Constable Fred J. Contino, Jr.  
Chair, Constables' Education and  
Training Board

Please note that the Proposed Regulation was submitted through the former Board Chair, Honorable Richard Opiela.

Fiscal note: 35-32

**Annex A**

**TITLE 37. LAW**

**PART IV. COMMISSION ON CRIME  
AND DELINQUENCY**

**CHAPTER 431. CONSTABLES' EDUCATION  
AND TRAINING BOARD**

**CERTIFICATION**

**§ 431.14. Lapse of certification.**

\* \* \* \* \*

(d) The Board will ~~not~~ reactivate a certification 5 years or more after the lapse of a constable's certification. ~~The Board will issue a new certification upon the constable's successful completion of A basic training COURSE.~~

**§ 431.15. Certification numbers.**

\* \* \* \* \*

~~(b) If a person who successfully completes basic training has not been elected or appointed as constable, the Board will issue a certification number upon the individual's election or appointment and the notification to the Board by the constable of the election or appointment.~~

~~—(e) The Board will reissue the original certification number to a constable who successfully completes continuing education.~~

~~(c)~~ (c) A person is required to notify the Board by telephone, facsimile transmission or electronic mail within 48 hours after the person has vacated the office of constable or deputy constable. The Board will place the person's certification number into inactive status upon notification.

~~—(e)~~ (d) A person who is reelected or reappointed to the office of constable after vacating it shall notify the Board. Based upon the timing of reelection or reappointment, the Board will do one of the following:

\* \* \* \* \*

(3) If the reelection or reappointment occurs 5 years or more after the date on which the office was vacated, the Board will ~~issue a new certification number~~ REACTIVATE THE ORIGINAL CERTIFICATION upon the constable's successful completion of a basic training course.

## BASIC TRAINING

### § 431.22. Requirements.

(a) A constable ~~or other person shall~~ WILL be required to attain the following to complete A basic training COURSE:

\* \* \* \* \*

(b) A constable ~~or other person~~ who fails to achieve a passing score on a written examination may undergo a second WRITTEN examination.

(c) A constable ~~or other person~~ who fails to achieve a passing score ~~in~~ ON a second WRITTEN examination may attend and complete a second basic training COURSE in its entirety. THE CONSTABLE SHALL BEAR FINANCIAL RESPONSIBILITY FOR THE COST OF THE ADDITIONAL BASIC TRAINING COURSE.

(d) A constable ~~or other person~~ may attend a third basic training COURSE upon failing to complete the second BASIC TRAINING course, but ~~shall~~ WILL NOT be given ~~no~~ additional opportunities upon failing to complete the third course. THE CONSTABLE SHALL BEAR FINANCIAL RESPONSIBILITY FOR THE COST OF THE ADDITIONAL BASIC TRAINING COURSE.

### §431.25. Attendance Policies.

(a) ~~A person who is not a constable but who intends to seek election or appointment as a constable may register and attend basic training if an opening is available and the person bears financial responsibility for the cost.~~

(~~b~~) *WITHDRAWAL.* A constable ~~or other person who registers for~~ WHO ENROLLS IN A basic training COURSE may withdraw from the course without penalty upon timely notification to ~~the director of the school conducting~~ THE basic training COURSE. A notification shall be deemed timely if it is delivered to the director of the school OR A DESIGNEE no later than 7 CALENDAR days prior to the start of classes. The school may assess a failing grade for all or part of THE basic training COURSE, if the constable ~~or other person~~ fails to provide timely notification ~~and the Board finds that substantial mitigating circumstances do not exist~~ OR TO SHOW GOOD CAUSE. A NOTIFICATION IS DEEMED UNTIMELY IF THE NOTICE IS NOT RECEIVED BY THE DIRECTOR OF THE SCHOOL OR A DESIGNEE WITHIN 7 CALENDAR DAYS PRIOR TO THE START OF CLASSES.

(B) *FINANCIAL RESPONSIBILITY.* IF NOTIFICATION TO WITHDRAW IS NOT GIVEN OR IS DEEMED UNTIMELY AND GOOD CAUSE IS NOT SHOWN, AND THE CONSTABLE WANTS TO ATTEND ANOTHER BASIC TRAINING COURSE IN THE SAME TRAINING YEAR OR IN THE NEXT TRAINING YEAR, THE CONSTABLE SHALL BEAR FINANCIAL RESPONSIBILITY FOR THE COST OF THE ADDITIONAL BASIC TRAINING COURSE. PAYMENT MUST BE RECEIVED BY THE COMMISSION WITHIN TWO WEEKS OF CLASS START DATE IN THE FORM OF A CERTIFIED CHECK OR MONEY ORDER.

(C) *ADDITIONAL ATTENDANCE.* A CONSTABLE WHO SUCCESSFULLY COMPLETES A BASIC TRAINING COURSE, MAY NOT ATTEND ANOTHER BASIC TRAINING COURSE IN THE SAME TRAINING YEAR.

## CONTINUING EDUCATION

### §431.35. Attendance policies

(A) *WITHDRAWAL.* A constable who ~~registers for~~ ENROLLS IN A continuing education COURSE may withdraw without penalty upon timely notification to ~~the director of the school~~ conducting the continuing education COURSE. A notification ~~will~~ SHALL be deemed timely if it is delivered to the director of the school OR A DESIGNEE no later than 7 CALENDAR days prior to the start of classes. The school may assess a failing grade for ~~the entire course or applicable topic~~ ALL OR PART OF THE CONTINUING EDUCATION COURSE if the constable fails to provide timely notification ~~and the Board finds that substantial mitigating circumstances do not exist~~ OR TO SHOW GOOD CAUSE. A NOTIFICATION SHALL BE DEEMED UNTIMELY IF THE NOTICE IS NOT RECEIVED BY THE DIRECTOR OF THE SCHOOL OR A DESIGNEE WITHIN 7 CALENDAR DAYS PRIOR TO THE START OF CLASSES.

(B) *FINANCIAL RESPONSIBILITY.* IF NOTIFICATION TO WITHDRAW IS NOT GIVEN OR IS DEEMED UNTIMELY AND GOOD CAUSE IS NOT SHOWN, AND THE CONSTABLE WISHES TO ATTEND ANOTHER CONTINUING EDUCATION COURSE IN THE SAME TRAINING YEAR OR IN THE NEXT TRAINING YEAR, THE CONSTABLE SHALL BEAR FINANCIAL RESPONSIBILITY FOR THE COST OF THE ADDITIONAL CONTINUING EDUCATION COURSE. PAYMENT MUST BE RECEIVED BY THE COMMISSION WITHIN 2 WEEKS OF CLASS START DATE IN THE FORM OF A CERTIFIED CHECK OR MONEY ORDER.

(C) *ADDITIONAL ATTENDANCE.* A CONSTABLE WHO SUCCESSFULLY COMPLETES A CONTINUING EDUCATION COURSE MAY NOT ATTEND ANOTHER CONTINUING EDUCATION COURSE IN THE SAME TRAINING YEAR.

## FIREARMS QUALIFICATION

### § 431.42. Eligibility for firearms qualification.

A constable holding certification WHO IS 21 YEARS OF AGE OR OLDER AND who is not precluded under State or Federal law from possessing or using a firearm may enroll in a firearms qualification course.

### § 431.43. Firearm and ammunition.

\* \* \* \* \*

(b) The firearm provided shall be of a design generally acceptable for law enforcement usage, and shall be in a condition for safe operation as designed and intended by the firearm manufacturer. The firearm provided shall be one of the following calibers:

\* \* \* \* \*

~~(7)-10 MM.~~

### § 431.45. ~~Eligibility for waiver~~ (Reserved).

~~—(a) A constable who is currently employed as a municipal police officer, deputy sheriff or officer of the Game Commission or the Fish and Boat Commission may apply to the Board for a full or partial waiver of a Board firearms qualification course if the constable demonstrates that training and certification required to carry and use a firearm in the other occupation are current.~~

~~—(b) A constable shall apply to the Board for each separate firearms qualification course for which the constable is seeking waiver.]~~

### § 431.46. ~~Scope of waiver~~ (Reserved).

~~The Board may grant a waiver relating to a Board firearms qualification course for those topics that also were covered in the firearms training for the other occupation.~~

### §431.47. Attendance policies.

(a) *WITHDRAWAL.* A constable who enrolls in a firearms qualification course may withdraw from the course without penalty upon timely notification to the school conducting the FIREARMS QUALIFICATION course. A notification ~~will~~ SHALL be deemed timely if it is delivered to the director of the school ~~at least 7~~ OR A DESIGNEE NO LATER THAN 7 CALENDAR days prior to the start of classes. The school may assess a failing grade for all or

part of the course if the constable fails to provide timely notice ~~and the Board finds that substantial mitigating circumstances do not exist~~ OR TO SHOW GOOD CAUSE. A NOTIFICATION SHALL BE DEEMED UNTIMELY IF THE NOTICE IS NOT RECEIVED BY THE DIRECTOR OF THE SCHOOL OR A DESIGNEE WITHIN 7 CALENDAR DAYS PRIOR TO THE START OF CLASSES.

(B) *FINANCIAL RESPONSIBILITY*. IF NOTIFICATION TO WITHDRAW IS NOT GIVEN OR IS DEEMED UNTIMELY AND GOOD CAUSE IS NOT SHOWN, AND THE CONSTABLE WISHES TO ATTEND ANOTHER FIREARMS QUALIFICATION COURSE IN THE SAME TRAINING YEAR OR IN THE NEXT TRAINING YEAR, THE CONSTABLE SHALL BEAR FINANCIAL RESPONSIBILITY FOR THE COST OF THE ADDITIONAL FIREARMS QUALIFICATION COURSE. PAYMENT MUST BE RECEIVED BY THE COMMISSION WITHIN 2 WEEKS OF CLASS START DATE IN THE FORM OF A CERTIFIED CHECK OR MONEY ORDER.

(C) *ADDITIONAL ATTENDANCE*. A CONSTABLE WHO SUCCESSFULLY COMPLETES A FIREARMS QUALIFICATION COURSE MAY NOT ATTEND ANOTHER FIREARMS QUALIFICATION COURSE IN THE SAME TRAINING YEAR.

(D) *NEW WEAPONS*. IF A CONSTABLE OBTAINS A NEW WEAPON AFTER HAVING SUCCESSFULLY COMPLETED HIS OR HER ANNUAL FIREARMS QUALIFICATION, THE CONSTABLE MAY ATTEND, WITHOUT PENALTY, ANOTHER FIREARMS TRAINING CLASS AND COMPLETE THE QUALIFICATION COURSE-OF-FIRE USING THE NEW WEAPON. ATTENDANCE AT ANOTHER FIREARMS COURSE IS SUBJECT TO COURSE AVAILABILITY.

(E) *ADVANCED FIREARMS FAILURES*. IF A CONSTABLE ATTENDS AN ADVANCED FIREARMS QUALIFICATION COURSE AND FAILS TO SUCCESSFULLY COMPLETE THE QUALIFICATION COURSE-OF-FIRE, THE CONSTABLE MAY ATTEND, WITHOUT PENALTY, A BASIC OR ANNUAL FIREARMS QUALIFICATION COURSE IN ITS ENTIRETY.

(F) *WEAPONS MALFUNCTIONS*. IF A CONSTABLE FAILS TO SUCCESSFULLY COMPLETE THE QUALIFICATION COURSE-OF-FIRE DURING A FIREARMS QUALIFICATION COURSE BECAUSE OF A WEAPON MALFUNCTION, THE CONSTABLE MAY ATTEND, WITHOUT PENALTY, ANOTHER FIREARMS QUALIFICATION COURSE IN ITS ENTIRETY, OR MAY RETAKE, WITHOUT PENALTY, THE PORTION OF THE FIREARMS QUALIFICATION COURSE DURING AND AFTER WHICH THE MALFUNCTION OCCURRED. ATTENDANCE AT ANOTHER FIREARMS COURSE IS SUBJECT TO COURSE AVAILABILITY. A FIREARMS INSTRUCTOR WILL DOCUMENT WEAPONS MALFUNCTIONS.

#### **§431.48. Lapse of qualification.**

(a) A firearms qualification will lapse immediately if a ~~person~~ CONSTABLE no longer meets all of the eligibility criteria of IN §431.42 (relating to eligibility for firearms qualification), or

does not complete a firearms qualification course in the calendar year following the person's CONSTABLE'S most recent completion of such a FIREARMS QUALIFICATION course.

(B) THE BOARD WILL REACTIVATE A FIREARMS CERTIFICATION THAT IS LAPSED FOR 3 YEARS OR MORE UPON THE CONSTABLE'S SUCCESSFUL COMPLETION OF A BASIC FIREARMS QUALIFICATION COURSE.



COMMONWEALTH OF PENNSYLVANIA  
PENNSYLVANIA COMMISSION ON CRIME AND DELINQUENCY

November 14, 2013

Honorable Silvan B. Lutkewitte, III  
Chairman  
Independent Regulatory Review Commission  
333 Market Street, 14<sup>th</sup> Floor  
Harrisburg, PA 17101

RE: Final Regulation  
Pennsylvania Commission on Crime and Delinquency  
Constables' Education and Training Board  
37 Pa. Code Chapter 431  
Document Number: 35-32

Dear Chairman Lutkewitte:

Enclosed is a copy of a Final Regulation package of the Constables' Education and Training Board of the Pennsylvania Commission on Crime and Delinquency.

Our Chief Counsel, Mary Taylor, will be pleased to provide whatever information your committee may require during the course of its review of the rulemaking.

Sincerely yours,

A handwritten signature in black ink, appearing to read 'Linda Rosenberg', written over a white background.

Linda Rosenberg  
Executive Director

Enclosures

cc: Mark R Zimmer  
Chair, Pennsylvania Commission on  
Crime and Delinquency

Robert Merwine  
Director, Office of Criminal Justice System Improvements

John Pfau  
Manager, Bureau of Training Services

Mary R. Taylor, Esq.  
Chief Counsel

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

**I.D. NUMBER:** 35-32  
**SUBJECT:** CONSTABLES' EDUCATION AND TRAINING BOARD  
**AGENCY:** PENNSYLVANIA COMMISSION ON CRIME & DELINQUENCY

**TYPE OF REGULATION**

- Proposed Regulation
- X 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

2013 NOV 14 PM 2:06

RECEIVED  
RRC

**FILING OF REGULATION**

<u>DATE</u>	<u>SIGNATURE</u>	<u>DESIGNATION</u>
		<i>HOUSE COMMITTEE ON JUDICIARY</i>
11/14/13	<i>Lindsay G.</i>	MAJORITY CHAIR <u>HON. RON MARSICO</u>
11/14/13	<i>Patricia Turner</i>	MINORITY CHAIR
		<i>SENATE COMMITTEE ON JUDICIARY</i>
11/14/13	<i>Senise Patton</i>	MAJORITY CHAIR <u>HON. STEWART GREENLEAF</u>
11/14/13	<i>Cathy Smith</i>	MINORITY CHAIR
11/14/13	<i>K Cooper</i>	<i>INDEPENDENT REGULATORY REVIEW COMMISSION</i>
		<i>ATTORNEY GENERAL (for Final Omitted only)</i>
		<i>LEGISLATIVE REFERENCE BUREAU (for Proposed only)</i>