

Regulatory Analysis Form

(Completed by Promulgating Agency)



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IRRC
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Independent Regulatory Review Commission

SECTION I: PROFILE

(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) Short Title:

Constables' Education and Training Board (CETB)

(4) PA Code Cite:

37 Pa. Code Chapter 431

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

Primary Contact: John Pfau, Manager, Bureau of Training Services, P.O. Box 1167, Harrisburg, PA 17108-1167; (717) 265-8546-Phone; (717) 783-7140 (Fax); jpfau@state.pa.us

Secondary Contact: Donald Horst, Supervisor, Constables' Education and Training Program, P.O. Box 1167, Harrisburg, PA 17108-1167; (717) 265-8551-Phone; (717) 783-7140 (Fax); dhorst@state.pa.us

(6) Primary Contact for Public Comments (List Telephone Number, Address, Fax Number and Email Address) – Complete if different from #5:

(All Comments will appear on IRRC'S website)

(8) Briefly explain the regulation in clear and nontechnical 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);

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- eliminate waivers of firearms training for law enforcement officers, eliminate 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.

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

- | | |
|---|--|
| A. The date by which the agency must receive public comments: | 30 days after
<u>publication in PA Bulletin</u> |
| B. The date or dates on which public meetings or hearings will be held: | <u>N/A</u> |
| C. The expected date of promulgation of the proposed regulation as a final-form regulation: | <u>June 2012*</u> |
| D. The expected effective date of the final-form regulation: | <u>June 2012*</u> |
| E. The date by which compliance with the final-form regulation will be required: | <u>June 2012*</u> |
| F. The date by which required permits, licenses or other approvals must be obtained: | <u>N/A</u> |

* Tentative date, based on a general timeline

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

Annual review.

SECTION II: STATEMENT OF NEED

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(11) 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).

(12) 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? 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.

(13) 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 proposed rulemaking 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 two identifying numbers being associated with one constable. An average of 1,200 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 11 law enforcement officers attend basic training each year. This is the current practice of the CETB.

Currently only 23 constables have used 10 mm ammunition during the firearms qualification course. However, the cost of 10 mm ammunition is very costly and because only a small percentage of the population uses this ammunition, it is the best interest of the Board to eliminate this type of ammunition due to the cost savings.

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 duties of constable. Therefore it is in the public interest to require a certified constable or

Regulatory Analysis Form

deputy constable to be 21 years of age or older in order to enroll in the 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 their 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.

(14) If scientific data, studies, references are used to justify this regulation, please submit material with the regulatory package. Please provide full citation and/or links to internet source.

Not applicable.

(15) Describe who and how many 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 2010 training year, approximately 26 constables and deputy constables failed to attend the basic training course after having enrolled. If those 26 would have 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 their designee, of their non-attendance at a training class will be charged to attend a subsequent training class. In the 2010 training year, approximately 44 constables failed to attend a continuing education class without timely notification to the school director or their designee. If those constables would have enrolled for a second class they each would have been required to bear the financial responsibility.

(16) 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 April 27, 2011, there are 1,370 active and certified constables and deputy constables who would be required to comply with this rulemaking.

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SECTION III: COST AND IMPACT ANALYSIS

(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. 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 cost for basic training of a constable or deputy constable is currently \$617. In 2010, there was one failure and 26 no shows for the 80-hour basic training. A no show is considered a failure. If all of those 27 constables attend another basic training, the total cost of \$16,659 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.

2010 statistics for other courses:

Annual firearms training cost - 21 no shows x \$366 = \$7,686.

Basic firearms training cost - 2 no shows x \$1,124 = \$2,248.

Advanced firearms training cost - 1 no show x \$366 = \$366

Continuing Education cost - 20 no shows x \$121 = \$2,420

If all those no-shows had registered for a subsequent class, a total of \$28,762 would have been charged to the Constables' Education and Training Account.

In 2009, there were no failures and one no show for the 80-hour basic training. 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. The cost to the Constables' Education and Training Account would have been \$6,170 if all 18 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. If the seven no-shows had attended another basic training in 2007, the constables would have been required to pay, at no cost to the Constables' Education and Training Account.

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.

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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 CETB-provided 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 waivers, there are increased costs associated with firearms training of law enforcement officers in the constable training program. In training year 2010, 27 constables, who are also law enforcement officers, successfully completed the firearms qualification course. The cost of \$366 per law enforcement constable, a total of \$9,072 per year. The on-going costs of recertifying these 27 constables every year would be \$9,072. 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 future cost impact is expected.

There is no cost impact for eliminating 10MM caliber firearms from the firearms qualification course or for requiring constables to have reached the age of 21 prior to registering for a firearms qualification course.

(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. Explain how the dollar estimates were derived.

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

(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. Explain how the dollar estimates were derived.

See number 18 above.

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(20) 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.

	Current FY Year	FY +1 Year	FY +2 Year	FY +3 Year	FY +4 Year	FY +5 Year
SAVINGS:	\$35,386*	\$38,217	\$41,274	\$44,576	\$48,142	\$51,993
Regulated Community	\$0	\$0	\$0	\$0	\$0	\$0
Local Government	\$0	\$0	\$0	\$0	\$0	\$0
State Government	\$0	\$0	\$0	\$0	\$0	\$0
Total Savings	\$35,386*	\$38,217	\$41,274	\$44,576	\$48,142	\$51,993
COSTS:	\$9,072**	\$9,798	\$10,582	\$11,429	\$12,343	\$13,330
Regulated Community	\$9,072	\$9,072	\$9,072	\$9,072	\$9,072	\$9,072
Local Government	\$0	\$0	\$0	\$0	\$0	\$0
State Government	\$0	\$0	\$0	\$0	\$0	\$0
Total Costs	\$9,072**	\$9,798	\$10,582	\$11,429	\$12,343	\$13,330
REVENUE LOSSES:	\$0	\$0	\$0	\$0	\$0	\$0
Regulated Community	\$0	\$0	\$0	\$0	\$0	\$0
Local Government	\$0	\$0	\$0	\$0	\$0	\$0
State Government	\$0	\$0	\$0	\$0	\$0	\$0
Total Revenue Losses	\$0	\$0	\$0	\$0	\$0	\$0

*This number reflects the savings for persons who do not show for training classes, which is approximately \$28,762 annually, plus the savings of \$6,624 for elimination of 10 mm ammunition, for a total of \$35,386 annually. For subsequent fiscal years, savings are increased 8% per annum.

**This number reflects the total estimated cost for training law enforcement officers who had previously waived firearms training and qualification. For subsequent fiscal years, costs are increased 8% per annum.

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(20a) 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: \$8,010,579.73 Revenue: \$2,099,297.07 Expenditures: \$2,171,152.33 Ending Balance: \$7,938,725.37	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

(21) 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.

(22) 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.

(23) 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.

(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 regulations.

No.

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

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Not applicable.

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

No.

(27) 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.

(28) 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.

Not applicable.

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REVIEW COMMISSION

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SUPPLEMENTAL PAGE VALID FOR USE THROUGH 11/1/2011

(Completed by Promulgating Agency)

(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 (CETB)

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

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

Secondary Contact: Donald Horst, Supervisor, Constables' Education and Training Program (717) 265-8551; dhorst@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) 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

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

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2921

DO NOT WRITE IN THIS SPACE

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



BY: _____
(DEPUTY ATTORNEY GENERAL)

OCT 20 2011

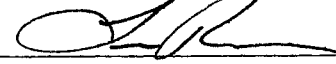
DATE OF APPROVAL

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

Pennsylvania Commission on Crime and Delinquency/Constables' Education & Training Board
(AGENCY)

DOCUMENT/FISCAL NOTE NO. 35 - 32

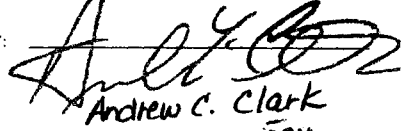
DATE OF ADOPTION: _____

BY: 

TITLE: Executive Director
(EXECUTIVE OFFICER, CHAIRMAN OR SECRETARY)

Check if applicable
Copy not approved. Objections attached.

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

BY: 
Andrew C. Clark

SEP 29 2011
DATE OF APPROVAL

(Deputy General Counsel)
(Chief Counsel, Independent Agency)
(Strike inapplicable title)

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

Pennsylvania Commission on Crime & Delinquency

Constables' Education and Training Board

Proposed Regulation

37 Pa. Code Chapter 431

PROPOSED RULEMAKING

TITLE 37 LAW

PART IV. COMMISSION ON CRIME AND DELINQUENCY

CHAPTER 431.

CONSTABLES' EDUCATION AND TRAINING BOARD

The Constables Education and Training Board (CETB) of the Pennsylvania Commission on Crime and Delinquency (PCCD) proposes to amend §§431.14, 431.15, 431.22, 431.32 and 431.42 to read as set forth in Annex A, and delete entirely the provisions of §§431.45 and 431.46.

Statutory Authority

The proposed rulemaking is authorized under the authority of 44 Pa.C.S. §7144(10).

Purpose

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

Effective Date

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

Contact Person

For further information on the proposed rulemaking, contact John Pfau, Manager, Bureau of Training Services, PCCD, P.O. Box 1167, Harrisburg, PA 17108-1167, (717) 265-8546. This proposed rulemaking is available on PCCD's website at www.pccd.state.pa.us.

Summary of Amendments

Section 431.14(d) (related to lapse of constable 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 (related 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 basic training course. Subsection (b) was deleted because it is not necessary.

Section 431.22 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, and for language consistency.

Sections 431.25 and 431.35 have been amended to discourage 'no-shows', thereby saving the Board money for reserving a place in class, and to place financial responsibility for subsequent class enrollments on the constable.

Section 431.42 (related to 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 (related to firearms and ammunition) has been amended to eliminate 10 MM caliber.

The provisions of sections 431.45 and 431.46 (relating to waiver of firearms training) will be deleted entirely, to eliminate all waivers of firearms training for law enforcement officers, in order to ensure that all constables have the same level of training as provided by the CETB.

Sections 431.45 – 431.46 are reserved.

Section 431.47, relating to attendance policies for the firearm qualification course, has been amended to discourage 'no shows' and to place financial responsibility for subsequent enrollments on the constable. Subsections c, d and e have been added to the regulations to reflect current existing policies.

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

Paperwork

The proposed 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 proposed rulemaking will have no 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. If the constable fails the second basic training examination, he 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 proposed rulemaking. This account is funded by the \$5 surcharge collected for services that constables perform for the minor judiciary. Presuming that eleven 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 re-training those eleven constables every year would be \$3,333. These costs can be supported by the Constable's Education and Training Account.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P.S. § 745.5(a)) CETB submitted a copy of these proposed amendments to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the House and Senate Local Government Committees (committees) on October 26, 2011. In addition to submitting the proposed amendments, CETB has provided IRRC and the committees with a copy of a detailed Regulatory Analysis Form. A copy of this material is available to the public upon request.

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

Public Comments

Interested persons are invited to submit written comments about the proposed rulemaking to John Pfau, Manager, Bureau of Training Services, PCCD, P.O. Box 1167, Harrisburg, PA 17108-1167, within 30 days after this publication in the *Pennsylvania Bulletin*. Comments submitted by facsimile will not be accepted.

Please note that all public comments will be posted on the Independent Regulatory Review Commission's website. No personal information will be redacted from the public comments received.

Honorable Richard Opiela
Chair, Constables' Education and
Training Board

Fiscal note: 35-32

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.]

[(c)] (b) The Board will reissue the original certification number to a constable who successfully completes continuing education.

[(d)] (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] reactivate the original certification [number] upon the constable's successful completion of a basic training course.

BASIC TRAINING

* * * * *

§ 431.22. Requirements.

* * * * *

(a) A constable [or other person] shall 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 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] (a) A constable [or other person] who [registers for] 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 his or her designee no later than [7] seven 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.

(b) 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 must 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) 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) 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 his or her designee no later than [7] seven calendar days prior to the class start [of classes] date. 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.
- (b) 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 must bear financial responsibility for the cost of the additional continuing education 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) A constable or deputy 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:
 - (1) .380.
 - (2) .38 special.
 - (3) .357.
 - (4) .40.
 - (5) .45.
 - (6) 9MM.
 - [(7) 10 MM.]

* * * * *

[§ 431.45. Eligibility for waiver.

(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.

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.]

§ 431.45 (Reserved)

§ 431.46 (Reserved)

§431.47. Attendance policies.

(a) 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 be deemed timely if it is delivered to the director of the school or his or her designee no later than [7] seven 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].

(b) If notification to withdraw is not given or is deemed untimely and good cause is not shown, and the constable wants 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 two weeks of class start date in the form of a certified check or money order.

(c) New Weapons: A constable who successfully completes a firearms qualification course may not attend another firearms qualification course in the same training year with the following exception: 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.

(d) 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.

(e) Weapons Malfunctions: If a constable fails to successfully complete the qualification course-of-fire during any 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. Firearms instructors 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 §431.42 (relating to eligibility for firearms qualification), or does not complete a firearms qualification course in the calendar year following the person's most recent completion of such a 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

October 26, 2011

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

RE: Proposed 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 Proposed 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 cursive script, appearing to read "Linda Rosenberg".

Linda Rosenberg
Executive Director

Enclosures

cc: Mark Zimmer, Esq.
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
- 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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FILING OF REGULATION

DATE	SIGNATURE	DESIGNATION
10/26/11	<u>MMony</u>	HOUSE COMMITTEE ON JUDICIARY MAJORITY CHAIRMAN <u>Honorable Ron Marsico</u>
10/26/11	<u>Christy K... ..</u>	
10/26/11	<u>Ruth Willard</u>	SENATE COMMITTEE ON JUDICIARY MAJORITY CHAIRMAN <u>Honorable Stewart Greenleaf</u>
10/26/11	<u>Jim Smalley</u>	
10/26/11	<u>Sen. J. Hoffman</u>	INDEPENDENT REGULATORY REVIEW COMMISSION
		ATTORNEY GENERAL (for final omitted only)
10/26/11	<u>Marysa Bances</u>	LEGISLATIVE REFERENCE BUREAU (for proposed only)