

RULES AND REGULATIONS

Title 37—LAW

BOARD OF PROBATION AND PAROLE

[37 PA. CODE CH. 79]

County Probation and Parole Officers' Firearm Education and Training Commission

The County Probation and Parole Officers' Firearm Education and Training Commission (FETC) amends §§ 79.2, 79.61 and 79.63 (relating to definitions; approval of instructors; and requirements for in-service training courses) and adds §§ 79.25 and 79.26 (relating to duty weapon change; and break-in-service).

Statutory Authority

This rulemaking is adopted under the authority of 61 Pa.C.S. § 6305(13) (relating to powers and duties of commission).

Purpose of Final-Form Rulemaking

This final-form rulemaking will serve to accelerate the firearm qualification process for officers and the approval process for in-service training courses while maintaining public safety by ensuring that officers are properly qualified on their duty weapons and instructors are properly certified to conduct training courses. Section 79.2(a) defines terms used in §§ 79.25 and 79.26. Section 79.25 explains the qualification requirements that county probation and parole officers shall adhere to in the event of a duty weapon change. Section 79.26 explains the requisite qualification requirements that county probation and parole officers shall adhere to depending on the duration of the officer's break-in-service. Section 79.61(b) updates the recertification and renewal requirements for Certified Firearms Instructors who attain Master Instructor status. Section 79.63 grants the FETC the discretion to waive certain requirements in the approval process for in-service training courses.

Affected Parties

This final-form rulemaking adds only a slight burden on county probation and parole officers depending on whether there has been a change in duty weapon or a break-in-service. Officers would have to adhere to these new requirements even if the officer would not otherwise be up for requalification.

Additionally, any FETC-approved school or vendor that provides in-service training courses may experience a slight increase in the number of officers it must test depending on whether the officer has had a duty weapon change or a break-in-service. Additionally, firearm instructors may derive a benefit from § 79.61(b) as it simplifies the recertification dates for instructors reaching Master Instructor status.

Fiscal Impact

Commonwealth

The FETC has determined that the final-form rulemaking will have a minimal financial impact on the Commonwealth since all funds budgeted for the FETC are derived from the County Probation and Parole Officers' Firearm Education and Training Fund (fund), which, under the law, is a restricted receipts account within the General Fund. Moneys for this fund are derived from costs imposed on a person who accepts Accelerated Reha-

bilitative Disposition, pleads guilty or nolo contendere, or is convicted of a felony or misdemeanor. This fund is used exclusively for the training activities and expenses of the FETC.

Political subdivisions

The projected fiscal impact of this final-form rulemaking is negligible. The costs associated with firearm qualification courses will only apply when the officer has a change in duty weapon or a break-in-service.

Overview of costs

The time an officer spends requalifying usually takes 1 hour. The subject county would have to pay that percentage of the officer's salary, plus the hourly percentage of the instructor's salary, plus the 60-180 rounds (50¢ per round) expended, plus the 2-6 targets (\$1 per target) used. When a written test is required, the county must pay the officer and the testing instructor a percentage of his salary based on the 50-minute test. Finally, when an officer must meet the requirements of a new hire because of break-in-service lasting 24 months or more, the county will have to pay for 18 hours of classroom time, 31 hours of range time, 1,000 rounds of ammunition, the cost for hotel rooms (maximum \$79 per night), a per diem and mileage.

Private sector

The proposed rulemaking will not have adverse fiscal impact on the private sector.

General public

The proposed rulemaking will not impose costs and will not have adverse fiscal impact on the general public.

Costs and Paperwork Requirements

The final-form rulemaking directly relates to implementation of a program which is already in effect and for which funding is already in place. Therefore, there will not be new fiscal impact. The final-form rulemaking may result in marginal increases in paperwork since weapon change information and qualification results shall be recorded in the Firearm Commission Training Management System. There may be a slight reduction in paperwork for certified firearm instructors since they would only have to document and demonstrate 12 hours of firearms training, rather than 12 hours of academic and range instruction when renewing Certified Firearms Instructor certification.

Public Comment

Comments were not received from the public, the House and Senate Judiciary Committees or the Independent Regulatory Review Commission (IRRC) on the proposed rulemaking or the final-form rulemaking.

Impact on Small Business

This final-form rulemaking will not have impact on small businesses as the regulations only affect county probation and parole officers and county probation departments.

Effective Date

This final-form rulemaking will become effective upon publication in the *Pennsylvania Bulletin*.

Sunset Date

A sunset date has not been assigned. The FETC will review the efficacy of these regulations on an ongoing basis.

Regulatory Review Act

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on April 30, 2013, the FETC submitted a copy of the notice of proposed rulemaking, published at 43 Pa.B. 2589 (May 11, 2013), to IRRC and the Chairpersons of the House and Senate Judiciary Committees for review and comment.

Under section 5(c) of the Regulatory Review Act, IRRC and the House and Senate Committees were provided with copies of the comments received during the public comment period, as well as other documents when requested. In preparing the final-form rulemaking, the FETC has considered all comments from IRRC, the House and Senate Committees and the public.

Under section 5.1(j.2) of the Regulatory Review Act (71 P. S. § 745.5a(j.2)), on November 20, 2013, the final-form rulemaking was deemed approved by the House and Senate Committees. Under section 5(g) of the Regulatory Review Act, the final-form rulemaking was deemed approved by IRRC effective November 20, 2012.

Findings

The FETC finds that:

(a) Public notice of intention to adopt 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 thereunder, 1 Pa. Code §§ 7.1 and 7.2.

(b) The adoption of this final-form rulemaking in the manner provided by this order is necessary and appropri-

ate for the administration and enforcement of 61 Pa.C.S. Chapter 63 (relating to County Probation Officers' Firearm Education and Training Law).

Order

The FETC, acting under 61 Pa.C.S. § 6305(13), orders that:

(a) The regulations of the FETC, 37 Pa. Code Chapter 79, are amended by adding §§ 79.25 and 79.26 and amending §§ 79.2, 79.61 and 79.63 to read as set forth at 43 Pa.B. 2589.

(b) The chairperson of the FETC shall submit this order and 43 Pa.B. 2589 to the Offices of General Counsel and Attorney General for approval as to legality and form as required by law.

(c) The chairperson of the FETC shall certify this order and 43 Pa.B. 2589 and deposit them with the Legislative Reference Bureau as required by law.

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

KEITH GRAYBILL,
Chairperson

(Editor's Note: For the text of the order of the Independent Regulatory Review Commission relating to this document, see 43 Pa.B. 7196 (December 7, 2013).)

Fiscal Note: Fiscal Note 41-21 remains valid for the final adoption of the subject regulations.

[Pa.B. Doc. No. 14-120. Filed for public inspection January 17, 2014, 9:00 a.m.]