
TO: Members, House Veterans Affairs and Emergency Preparedness Committee
FROM: Lisa Schaefer, Government Relations Manager
DATE: 8/14/2012
RE: CCAP Comments on House Bill 2562

We appreciate the opportunity to offer comments on behalf of the County Commissioners Association of Pennsylvania (CCAP) on the current Pennsylvania Emergency Management Agency draft rewrite of the Emergency Management Services Code, commonly called Title 35, as embodied in House Bill 2562. The CCAP is a non-profit, non-partisan association providing legislative, educational, insurance, research, technology, and similar services on behalf of all of the Commonwealth's 67 counties.

It is important to note at the outset the counties' pivotal role in emergency management. For decades, going back to the old civil defense statutes, counties were seen as the level of government best able to plan for and coordinate the response to area-wide disasters. This role was reinforced in the current statute, and was expanded by subsequent enactments including the Public Safety Emergency Telephone Act under which counties and their telecommunications partners built the state's 911 system, the Hazardous Material Emergency Planning and Response Act under which counties are responsible for hazardous materials inventories and hazardous materials incident response planning, and Act 227 of 2002 which gave counties a key role in planning for homeland security. While municipalities, volunteers, and others – and in some circumstances state and federal resources -- form the core of our disaster response and have their own planning responsibilities, the primary planning and coordination role is ours. This fundamental public safety task is one which our counties undertake with utmost conviction and diligence, and one which they fulfill with professionalism and care.

Title 35 and related statutes, regulations, and guidelines set out the interrelationships and prerogatives among state, county, and local government, and how their respective responsibilities are to be accomplished. For the reasons noted, we concur that revision of Title 35 is necessary. The question is whether technical, terminology, and practice updates are sufficient, or whether there also needs to be any fundamental change in the relationship among the Title's governmental partners. The draft before you at the moment does both and, while we concur with most of the terminology and practice changes, we offer several thoughts and questions about the current language, which follow:

- We recommend that the term "local government" be replaced with "political subdivision" or "municipality," as appropriate (for example, see page 32, line 30, and page 33, line 19).
- Page 7, line 23 through page 8, line 3 – the definition of "incident command system" should include a term or statement such as "recognized under (or consistent with) the National Incident Management System."

- Page 8, lines 7-10 – under the definition of “incident management team,” the term “regional” should be added to the Federal and State guidelines, to reflect the regional task forces created by this legislation.
- Page 11, line 29 – the definition of “person” needs to read “including the Commonwealth and its political subdivisions.”
- Pages 14, lines 1-10 – it appears the specialized regional response teams must be organized in accordance with FEMA and PEMA standards, but the specialized statewide response teams do not have the same obligation, and we seek further clarity on that point.
- Page 21, lines 4-5 – with the proposed amendment, this clause now refers to a “political subdivision authority.” Is there a need for an additional comma here, or further definition of what a “political subdivision authority” is? (Occurs again in lines 9-10 and on page 22, lines 6-7).
- Page 21, line 6 – should this be “authorized nonprofit” or “authorized nongovernmental” organization? The definition of “emergency services” on page 6, line 25, refers to “nongovernmental organizations.” (Occurs again in line 10 and on page 22, line 7)
- Page 26, lines 14-18 – these lines allow PEMA to withhold state and federal public assistance funds from political subdivisions that do not have a current emergency operations plan or current hazard mitigation plan. This should be a point of further discussion; we understand this is tied to voluntary grants, but there may be mitigating circumstances and it is unclear what degree of discretion PEMA will have.
- Page 32, line 30 – we would seek further clarity on why schools are taken out of the list of entities that might receive assistance from PEMA under the state’s emergency plan, as it is ambiguous as to whether they would fall under the definition of “dependent care facility.” Later on in the legislation, schools are listed in addition to dependent care facilities (page 35, line 2, regarding recipients of technical guidance; and page 74, lines 23-24, regarding development of all-hazards emergency plans under PEMA guidelines).
- Page 32-33 – we notice some inconsistency in the terminology between “Commonwealth” and “state” (needs to be reviewed throughout).
- Page 33, line 26 through page 34, line 1– this clause indicates that PEMA, in its plan, can provide for accreditation programs for county and local emergency management programs, as well as qualification standards for appointed emergency management coordinators. Will any of these changes be subject to regulatory review or otherwise open to stakeholder comment?
- Should there be more consistency throughout regarding working with either the “political subdivision” or the “county emergency management program” or “local emergency management program”? On page 34, line 28 through page 35, line 3, and page 44, lines 12-13, the language favors

the latter, while on page 39, lines 5-18, there is a reference to “political subdivisions” regarding coordination of all search and rescue activities, as there is on page 43, lines 23-29 and in other locations.

- Page 44, lines 21-26 – rather than being authorized to establish a local emergency management organization, political subdivisions are required to establish an emergency management program consistent with the commonwealth’s plan within two years. Further discussion is needed regarding this timeframe, as it is not known how recently any of the political subdivisions have updated their plans, and with the Department of Health to provide technical assistance under the new Chapter 79, we imagine it will take some time for the department to be prepared to do so as well.
- Page 47, lines 6-14 – the language on intergovernmental cooperation is a significant improvement over prior versions.
- Page 47, lines 24-28 – all county and local emergency management programs would be required have a coordinator who meets standards of education and certification established by PEMA, and any other qualifications it deems necessary. Similar to our prior comment, will any of these changes be subject to regulatory review or otherwise open to stakeholder comment?
- Page 48, lines 9-18 – this language makes changes to the appointment of county coordinators; we need to verify that this is consistent with county hiring practices, including the designation of the chief elected executive officer as the appointer as opposed to the governing body of the political subdivision.
- Page 49, lines 6-20 – we recommend the language on appointment of local coordinators be reviewed by the municipalities.
- Page 49, line 26, to page 50, line 3 – this language refers to conditions under which a coordinator may be removed from his position; we need to ensure this does not preclude other local reasons for which an individual may need to be removed from his office.
- Page 51, lines 9-13 – are the counties and municipalities currently reimbursing these expenses, or is someone else?
- Page 52, lines 3-4 – the language clarifies that county and local emergency management must equip emergency operations centers “in accordance with agency directives”; is this already a matter of practice?
- Page 53, lines 6-9 – requires the county emergency management program to coordinate resource management to ensure that county and appropriate municipal resource are properly organized, trained and equipped and have adequate plans to safely and effectively accomplish assigned missions. How is the county to accomplish this task, as it can verify but has no capacity to ensure compliance?

- Page 53, lines 16-18 – requires the county program to monitor the progress by municipalities within the county in National Incident Management System implementation and provide assistance where feasible. Again, how can the county monitor the municipalities? The responsibility should be on the municipality to monitor and make reports to the county.
- Page 53, lines 27-29 – requires the county program to coordinate and monitor planning activities by municipalities within the county and providing assistance. Again, counties advise the municipalities but do not have sufficient capacity to monitor all municipalities' planning activities, nor the capability to enforce.
- Page 54, lines 2-3 – requires the county program to maintain the training records of local municipal coordinators. Currently, counties maintain the records that are required by the state for certification purposes, but this statement is so broad that it appears counties would be required to maintain all training records. In addition, on page 56, lines 27-29, municipalities are required to keep their own training records and certification documentation, so additional clarity is needed on this point.
- Page 54, lines 28-30 – requires a county to participate in planning for continuity of municipal government; this should be a municipal function, as indicated under local emergency management programs on page 57, lines 9-10.
- Page 55, lines 24-29 – requires a county to develop and maintain a countywide animal rescue capability; does this mean the county will be responsible to fund and keep the CART going?
- Page 67, line 11 and forward – each regional task force must prepare an all-hazards emergency operations plan in accordance with this section and guidelines developed by PEMA. What is the process for approval of a plan – majority rules? Must all parties agree? How must county, municipal and regional task force plans correspond and complement each other, if it at all? How are costs to be apportioned?
- Page 69, lines 1-2 – regional task forces must attend training as directed by PEMA; we would seek some clarity as to whether this is in addition to the training already needed for county and local coordinators?
- Page 69, lines 3-4 – regional task forces must participate in/conduct exercises as required by the federal government and PEMA, and participate in/conduct capabilities-based planning activities and assessments. As above, clarity is sought as to whether this is in addition to any exercises and activities already happening as part of a county or local plan?
- Page 69, line 28, through page 70, line 1 – a regional task force may establish one or more specialized response teams, which may be activated and deployed by the Governor or the board of the regional task force. Further clarity is needed on the entity responsible for costs if the Governor deploys the specialized response team (under urban search and rescue task forces on page 70, line 29 to page 71, line 4, the language specifies that costs are paid by the deploying agency).

- Page 74, line 30 to page 75, line 11 – requires large event plans where a disaster emergency could overwhelm the resources of emergency response. Conceptually, we agree with this idea, but would seek additional clarity on the details, such as who determines what a “congregation of a large number of people” is, and who if anyone has the authority to enforce.
- Page 81, line 28 to page 82, line 11 – changes volunteers’ workers’ compensation from specific eligible benefits to considering them to be employees of the commonwealth or county/local emergency management when deployed, going to or returning from emergency, or in scheduled training or exercises. While we understand the concern this language is trying to address, designating volunteers as county employees is likely to cause issues with return-to-work obligations under workers’ compensation, as the county would have no way to help these individuals return to work with their regular employer. We recommend further discussion on this issue.
- Page 91, line 26, through page 92, line 12 – If quarantined individuals are within the jurisdiction of a local health department, that county or municipality at its expense must provide food, water, shelter and appropriate medical care; if not in a local health jurisdiction, then the commonwealth provides. Is this a change from current law/regulation?

Again, thank you for the opportunity to comment on this important issue. We look forward to working with you as development of this legislation continues.