

TESTIMONY REGARDING TITLE 35 AMENDMENTS

Presented to:

**THE VETERANS AFFAIRS AND EMERGENCY PREPAREDNESS COMMITTEES
OF THE SENATE AND HOUSE OF REPRESENTATIVES**

Presented by:

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Good Morning, my name is Tom Savage, the Executive Director of the Pennsylvania Fire and Emergency Services Institute (PFESI). Thank you for this opportunity to comment on the proposed amendments to Title 35.

PFESI distributed the draft revisions to Title 35 to about 850 persons, many of whom are involved in or are leaders in emergency services. In addition, many of those who received my correspondence forward my notes along to others who are involved in the delivery of emergency services. Each person was asked to forward any comments about the draft back to me for consolidation into today's testimony.

The Title 35 rewrite of the Emergency Management laws is a significant undertaking and those involved in the project are to be commended for their efforts to modernize the existing laws. I have been told that the review has been underway for over three years and has taken on special meaning and increased priority since the Witt Report was issued.

First I would like to share some general comments and thoughts. Whether we like it or understand it, Pennsylvania is unique and different when compared to other states because it is a Commonwealth, with authority for emergency services within the jurisdiction of local governmental entities. In addition, Pennsylvania is served by mostly volunteer emergency services, Fire and EMS responders.

I understand this makes things more difficult as there are approximately 2400 Fire Departments, about 1000 EMS providers, (with about 45-50 percent fire department based) and about 2581 municipal governments. Any coordination, education, or communications among these various groups is monumental. Add to that the many Pennsylvania state agencies involved in the process and you can begin to understand the complexity of the assignment given to PEMA and Homeland Security.

It is becoming more imperative that Pennsylvania Emergency Management move in the direction of not only delegating authority and responsibility, but following that up with a strong dose of accountability. It is appalling to note that 60 percent of the municipalities in Pennsylvania have no emergency plan completed after many years and funding to complete it.

It is unsettling to think that we are attempting to solve that problem by transferring the responsibility for it from some of the local governments to county governments that have no responsibility in law to provide it, nor do we give them any additional staffing or financial resources to accomplish it.

From my reading of both the Witt Report and the Title 35 draft rewrite it appears that little discussion and input was gathered from Pennsylvania's Fire and EMS first responders. We need to be more successful in developing working relationships between the state agencies, Emergency management folks, Homeland Security, Regional task forces, first responders and others involved in actual emergencies.

The glue necessary to make it all come together effectively in an emergency event is well defined in a recent Federal report on the I35 Bridge collapse. (I-35 Bridge Collapse and Response USFA-TR-166 report of August 2007)

“When key personnel from the primary response agencies were asked to what they attributed their excellent response, without exception they answered, “Relationships.” Those relationships were developed as a result of all the planning, training, and exercises that multiple agencies and levels of government shared in recent years. Responders knew whom to call for what resources. They knew to work through the established chain of command. They knew each other’s names and faces and had built a level of trust that made it possible to move quickly through channels and procedures.”

Building relationships and establishing true partnerships are the goals that we should be striving to meet. As part of the combination of PEMA and Homeland Security and the rewrite of Title 35, an additional Sub-Chapter should be developed defining the roles, relationships, and what action steps will be taken by the department to enhance, develop, and maintain the necessary “relationships” and partnerships with first responders and others that is so needed during an incident.

That said; let’s move on to some more specific comments received on the Title 35 Draft. These are direct quotes or paraphrasing of the comments received by me and represents the opinions of those responding to our request for comment.

Section 7701 Large Event Plans

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Wording suggests the event organizer will develop and present the plan. The Plan should be developed jointly with local emergency services.

A suggestion was made that the section set a reference number of 5000 unless the local municipality establishes one. Another suggested that Guidelines identifying the characteristics of a ‘large event’ subject to the planning requirement should be identified by the municipality and published as part of their permitting requirements.

The language should allow the local municipality to require the event planner to provide security, fire, and/or medical protection for an event in lieu of relying solely on the local resources. The event may contract with the local resources or provide for private outside resources. This may prevent a large crowd intense venue from adversely impacting a small local municipality’s citizens’ paid for services.

Section 7312 PEMA and Homeland Security Council

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EMS Director should be included as a named member of the Council, just as the State Fire Commissioner is a named member of the council. It is imperative that both be members.

There needs to be more representation from the Fire and EMS first responder community. While we agree that KEMA and local government associations should be council members, we also believe there needs to be some additional non-voting organizations included as members that represent Fire and EMS first responders.

We recommend that the quorum of 5 members be raised based on the number of members of the council.

A comment was made that the Chair of the Council not be one of the responding agencies but someone from the department.

Section 7501 (a) and (g)

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We received the most comments about this section and the proposal to exempt incorporated areas of less than 10,000 populations from developing a plan and to transfer that responsibility to the county without any personnel resources or financial support for the additional function provided to them.

Many, many persons commented on this proposal and do not believe it will work well, nor that it should be done. It also does not address the root cause of the problem as to why 60 percent of those responsible today do not comply. There is no action taken to insure that the incorporated areas greater than 10,000 comply in the future.

While many believe emergency management might be better handled at using a county or regional system, or utilizing an authority or district concept, no one can be expected to succeed without the proper resources to complete the tasks assigned.

Section 7512 (b)

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There was concern mentioned by several over the \$25.00 limitation on funds expended in section 7512 (b) as being illogical. One comment was, "the delay in obtaining permissions for adequate emergency funding would be unacceptable". Another was, "the personal financial liability imposed is a disincentive to participation".

Section 7706 Compensation for accidental injury

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The greatest concern had to do with the workers' comp and death benefits issue, and the "inferior" benefits provided to EMA operatives when compared to firefighters and law enforcement personnel, especially in the area of death benefits.

Miscellaneous Concerns Raised by respondents

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There were a number of comments made regarding the information sharing, most of which had to do with those at the municipal level feeling communication was a one way street. Information is fed up stream, but getting nothing back in return. I would say that a general feeling was that downward communication seemed to stop at the county level. Not sure whether those comments pertain directly to the section 7701, but it was a major concern.

There were questions regarding whether we were looking at the latest draft rewrite or not, and whether the legislature was looking at something different than what PEMA had presented at their meetings. One person indicated that during the PEMA meeting they referred to a fifth version of the draft. We have only seen one, the 3/10/08 version. Is that the latest? Another responder referred to a section of the report that I did not have in my review document, section 7507 (g) (3), and he indicated it was shown to him at a regional review meeting.

PEMA required every municipality to have a Emergency Management Program, but it didn't require those people to get anything for their service, there is a lot of training and planning and responsibility placed on those individuals who are the coordinators and PEMA made no efforts to give them anything for their efforts, not even suggesting to the municipalities that they should.

The local Emergency Management Program almost always involves the local fire companies with emergency services backgrounds, some municipalities put people in those coordinator positions who have little or no emergency services backgrounds, then when an emergency evolves, the appointed coordinator and the local emergency response organizations clash on what should be done. PEMA has no guidance on who should be appointed to those positions.

The current language requires plans to be formatted in a manner specified by the department. The preferred format should be an IAP using NIMS standard forms supplemented by narrative information as necessary.

The document appears to be like a NIMS compliance tool, not a problem solving system. Was there input from local Fire Chiefs, Police Chiefs and EMS Chiefs? Based on the structure and format, I assume not as there are a number of contradictory process where counties can basically design and mandate local services - needs local scrutiny.

The approach taken leads me to think this is very much like a VA/MD county based approach. That may work in highly populated areas with career staffing that follow a large county based system - that is not 95% of PA. Is this even doable without changing county and township/borough/city statutes?

I doubt that most local municipalities can meet the expectations of local performance from this. I do like the idea of PDHS and PEMA combining, but that is about it. Too much county control for a commonwealth!

This concludes my testimony regarding the Title 35 rewrite.