

**Statement for the Senate and House
Veterans Affairs & Emergency Preparedness Committees
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PENNSYLVANIA EMERGENCY MANAGEMENT AGENCY

Glenn M. Cannon, Esq.

Director and Homeland Security Advisor

Chairwoman Baker, Chairman Barrar, Chairman Solobay, Chairman Sainato and Members of the Committee, I am Glenn Cannon, Director and Homeland Security Advisor for the Pennsylvania Emergency Management Agency (PEMA). I am pleased to have the opportunity to appear before you to discuss the concept of a state disaster assistance program.

Before discussing that matter, I would like to give the Committee an update regarding the recent storms that devastated parts of Pennsylvania and led to several federal disaster declarations.

Hurricane Irene & Tropical Storm Lee

Over a month ago, PEMA, other state agencies, and county and local emergency management agencies began preparing for Hurricane Irene. Since then, we have responded to Irene, started the recovery process from Irene, prepared for Tropical

Storm Lee, responded to Lee, started the recovery process from Lee, and also are back in the recovery phase for Irene. Moreover, and I don't want to be an alarmist, but there are still about 3 more weeks until the peak portion of the hurricane season ends and about 9 weeks until the official end of the Atlantic hurricane season.

It has been a very hectic and stressful month -- with long hours -- for those at the state, county and local level who have been involved with Irene and Lee. The State Emergency Operations Center (SEOC) has been at elevated levels just about every day since August 25. For several days, the SEOC was at Level 1 for the first time since September 11, 2001.

At the state level, Governor Corbett took a hands-on approach regarding the disasters and committed all necessary state resources. Governor Corbett, his Executive Staff, Lieutenant Governor Cawley, and Cabinet Secretaries were camped out at PEMA during these storms and actively involved in the operations. I think we may have set a record for Cabinet meetings held at an agency during a one week time period.

I thank everyone involved -- in the preparation for, the response to, and the recovery from these storms -- for the tremendous effort and work that has been done to protect and help the citizens and communities that have been so adversely affected. Our first responders and rescue teams were heroes who went beyond the

call of duty to save lives. Additionally, the cooperation and coordination among state, county, local, and federal entities truly has been remarkable.

Status of Recovery & Disaster Assistance

We have requested the following federal assistance for both Hurricane Irene and Tropical Storm Lee: Public Assistance (PA) (damage to public infrastructure such as road, bridges, schools, water authorities, etc.) and Individual Assistance (IA) (damage to private property such as homes, driveways, etc.).

For Hurricane Irene the following counties currently have been declared for IA: Bucks, Chester, Delaware, Lehigh, Luzerne, Monroe, Montgomery, Northampton, Philadelphia, Sullivan, and Wyoming.

For Hurricane Irene the following counties currently have been declared for PA: Chester, Delaware, Luzerne, Northampton, Philadelphia, Pike, Sullivan, Susquehanna, Wayne and Wyoming.

For Tropical Storm Lee the following counties currently have been declared for IA: Adams, Berks, Bradford, Bucks, Chester, Columbia, Cumberland, Dauphin, Delaware, Lancaster, Lebanon, Luzerne, Lycoming, Montgomery, Montour, Northampton, Northumberland, Perry, Philadelphia, Schuylkill, Snyder, Sullivan, Susquehanna, Union, Wyoming, and York.

For Tropical Storm Lee, FEMA and PEMA are continuing to do Preliminary Damage Assessments (PDAs) for PA. Once the PDAs are finished, we will be requesting federal assistance for PA.

In addition, 13 counties received federal Emergency Declarations for Hurricane Irene and 42 counties received Emergency Declarations for Tropical Storm Lee. Those declarations allow the state, counties and municipalities to be reimbursed for money expended "to save lives and protect property and public health and safety, or to lessen or avert the threat of a catastrophe."

Governor Corbett has reconstituted the State Disaster Recovery Task Force and its Chair is Lieutenant Governor Cawley. Numerous state agencies are part of the Task Force and it is coordinating the recovery efforts. To date, over \$61 million in funds have been approved for IA assistance. In addition, 20 Disaster Recovery Centers (DRCs) have been opened throughout the commonwealth. On the housing front, the Federal Emergency Management Agency (FEMA) is bringing in housing units to address the shortage of temporary housing available in the northern tier counties.

Non-Federally Declared Disasters

Federal disaster assistance is based on an "impact" that exceeds the state's ability to respond or recover from an event. Federal law specifically precludes use of an "arithmetic formula" from being "solely" determinative of a request for federal

assistance. However, the reality is that the estimated cost of assistance is a major factor in whether a state will get federal disaster assistance.

There are per capita "threshold" guidelines that are used to assess impact. To receive Public Assistance (damage to public infrastructure such as roads, bridges, schools, water authorities, etc.), Pennsylvania needs to meet or exceed its threshold of at least \$16.5 million in statewide damage for a single event. If we exceed the statewide \$16.5 million threshold, to receive assistance a county then needs to meet its county threshold of damages for the event (e.g. Allegheny is about \$4 million, Chester is about \$1.8 million, Luzerne is about \$1 million, Wyoming is about \$92,000). To receive Individual Assistance (damage to private property such as homes, driveways, etc.), there needs to be a large number of homes in a county that have been destroyed or had major damage. However, FEMA's current definition of "major damage" does not include basement flooding.

Over the past several years, Pennsylvania had weather events that caused significant damage but did not meet the \$16.5 million statewide threshold. A number of Members here today had their Districts affected by these weather events. In the summer of 2009, we had major flooding events throughout Western Pennsylvania that caused about \$16 million in damages. We requested federal disaster assistance for Public Assistance but the request was denied. In January 2010, several counties in Northeastern Pennsylvania had flooding that caused about \$10 to 12 million in damage. In February 2010, we had major snow and ice storms across the commonwealth. For Pennsylvania, it was the snowiest February on

record and the second snowiest month ever recorded. While we did receive federal disaster assistance, it was only for about one-third of our counties. This past July 4th weekend, Plymouth Township and Plymouth Borough in Luzerne County were decimated by severe flooding that caused about \$5 million in damages to these small communities. Each of those events -- though devastating at the local level -- did not meet the threshold impact level to trigger federal disaster assistance.

Disaster Assistance Programs in Other States

There are states that have established "state" disaster assistance programs. These state disaster assistance programs vary in what things they cover, but the purpose is to have funds available to assist for non-federally declared disasters. For example, in 1993 Florida established the Emergency Management Preparedness and Assistance Trust Fund (EMPA). The EMPA's purpose is to provide funds for emergency management preparedness and assistance at the state and local levels. EMPA is funded by surcharges on insurance policies. In addition, in 2004 Florida established the Florida Disaster Recovery Fund (FDRF). The FDRF assists the unmet and long-term needs of disaster survivors. FDRF is managed by a nonprofit foundation and funded entirely by private sector donations, with grants made to long-term recovery organizations.

Recently, Virginia Governor Bob McDonnell established the Virginia Disaster Relief Fund (VDRF) to help residents who were impacted by the April 2011 severe weather and tornadoes. Virginia had requested federal assistance for that disaster but the

request was denied. VDRF is funded by donations from individuals, companies, nonprofit organizations and faith-based groups. The Governor also authorized a state contribution of \$600,000 from unspent general funds. North Carolina and Texas have similar disaster funds that are funded by voluntary donations and managed in whole or part by nonprofit organizations. New York has a disaster appropriation to support non-federal disasters. Tennessee gives the Governor authority to re-direct money from previous appropriations and to establish a “rainy day” fund for common and catastrophic emergencies.

Key Matters to Be Considered

The purpose of having a state disaster program is to help citizens and communities recover from the effects of a non-federally declared disaster. I am certain the people in Plymouth Township would say that the storm over the July 4th weekend was just as devastating as Hurricane Irene and Tropical Storm Lee. Yet the July 4th storm was not eligible for federal disaster assistance. But, as with any program, many aspects need to be considered before establishing a state disaster assistance program. I will highlight matters that I believe you should consider.

First, the purpose behind federal assistance is to help when a disaster is beyond the resources of a state. The Code of Federal Regulations (42 C.F.R § 206.36 (b) (1)) states that for a major disaster, the event must be “of such severity and magnitude that effective response is beyond the capabilities of the State and local governments.” If a state had a very large fund committed to dealing with

disasters, it might be hard for the state to argue that the situation is beyond the capability of the "State or local government." With a large disaster fund, the federal government might require those funds to be expended before giving federal disaster assistance. To the best of my knowledge, this does not occur, but there is a concern it could happen in the future. Pennsylvania's threshold for receiving federal PA is \$16.5 million. In light of C.F.R. § 206.36 (b) (1), not exceeding that amount possibly should be taken into consideration in establishing any state disaster fund.

Second, and possibly most important matter, is how do you fund the program and sustain it? In order to ensure that funds generated for a state disaster program cannot be retargeted for other projects, any funds should be "fenced." That is what the General Assembly did with the 911 program, Act 147 for radiological matters, and Act 165 for hazardous material. For the funding the program, one option to consider is to have it funded by voluntary contributions such as other states have done.

Third, what type of assistance should be available? Under federal disaster assistance, there are essentially five categories of assistance: individual property (e.g. homes, driveways, etc.), public property (e.g. roads, bridges, schools, nonprofits, etc.), business property, hazard mitigation projects and emergency protective measures (referred to as "Category B" assistance). Some of the assistance is in the form of grants, some are loans. With IA, the grant amount is capped at \$30,200 for this fiscal year. There also are matching dollar requirements

for some of the programs such as Public Assistance (25% state match) or hazard mitigation (some are a 10% local match).

Fourth, what eligibility requirements will be part of the program? In 2007, HB 1989 was introduced as a state disaster assistance program and it initially had direct grants to individuals. There apparently was a concern that the Pennsylvania Constitution may prohibit such direct assistance (having a nonprofit solely manage the fund, as is the case in Florida, Virginia, and Texas, possibly would resolve that matter). As a result of the Constitutional concern, HB 1989 was amended to provide zero interest loans instead of grants. Of course, loans must be repaid whereas grants are not. Another eligibility consideration might be similar to what happens under federal law. Under federal law, if you receive IA you are required to maintain flood insurance on the property for at least 3 years. If you do not maintain the flood insurance and are flooded, you are not eligible to receive IA if the flooding is under a subsequent federally declared disaster.

Fifth, how will the funds be disbursed? This may be a matter that will require some very careful consideration. For simplicity, let's use calendar year 2011 instead of the state fiscal year. Assume there is a state disaster assistance fund and at the beginning of the year it is \$15 million. This past April, Pennsylvania had a number of bad floods. One resulted in a federal declaration, most did not. Assume the non-federally declared disasters resulted in \$5 million being disbursed from the fund. Next we have the July, Plymouth Township/Plymouth Borough, flooding which takes another \$5 million out of the fund. Then we have the federally

declared storms of Irene and Lee. A week from now we have another tropical storm that comes up and slams into Western Pennsylvania causing \$10 million in damage. Unfortunately, there is only \$5 million remaining in the fund. Therefore, the remaining \$5 million is paid out but there is still \$5 million in uncompensated damages. For the citizens, municipalities and business that had the misfortune of having their flooding damage be last, I feel certain that they would question the fairness of how the funds were disbursed under the program. While all programs do not have an unlimited amount of money, I do think the General Assembly needs to be sensitive to how a "first-come, first-served" disbursement could play out in practice.

I raise the above questions for your consideration as you begin the process of deciding whether or not to establish a state disaster assistance program. As always, my staff and I are available as a resource to discuss matters in further detail should you decide to move forward with any legislation.

On behalf of Governor Corbett and the twelve million Pennsylvanians we serve, I again want to thank you the Members of this Committee and the entire General Assembly for your continued support of PEMA and our partners in public safety across the state. I would be happy to answer any questions you may have.