GENERAL GOVERNMENT CABINET

Department of Military Affairs

Division of Emergency Management

(New Administrative Regulation)

106 KAR 1:201. Local plan.

39E.010(1), 39E110(1)(a)(e),(f), 39E150, 39F.190, 42 U.S.C. 11001-11050

STATUTORY AUTHORITY: KRS 39A.050(2)(j), (m), 39A.070(3), 39E.040(6),
39E.080(4), 42 U.S.C. 1102(c), 1103(c), (d).

NECESSITY, FUNCTION, AND CONFORMITY: KRS 39B.030(3) requires local
emergency management directors develop a local emergency management plan
consistent with administrative regulations promulgated by the Division of Emergency
Management. This administrative regulation establishes the requirements for processing
a local plan.

Section 1. Definitions.

(1) "Federal fiscal year" means a period beginning October 1 of a calendar year and
ending September 30 of the following calendar year.

(2) "Local plan" means the written emergency operations plan of a city, county,
charter county, or urban-county government pursuant to KRS Chapters 39A to 39F.

Section 2. Local Plan Requirement.

(1) A local plan shall:

(a) Specify title headings for a basic plan and annexes corresponding to the
Kentucky Emergency Management Operation Plan;

(b) Specify known hazards which may impact a local jurisdiction and a detailed analysis of each hazard;

(c) Catalogue emergency management and response personnel, equipment, facilities, supplies, materials, and services;

(d) Identify primary and alternate emergency operations center (EOC) locations by facility names, address, and latitude and longitude;

(e) Identify primary and alternate points of distribution (POD) locations by facility names, address, and latitude and longitude;

(f) Identify public, private, and volunteer agencies, entities, and departments comprising the membership of a local emergency management agency and emergency management functions (ESFs);

(g) Describe the duties and responsibilities of each local emergency management agency and emergency management functions (ESFs) assigned with a local plan; and

(h) Incorporate incident command or management system procedures into the direction and control annex.

(2) Local plan format and content shall comply with:

(a) Division of Emergency Management planning guidance;

(b) Kentucky Emergency Response Commission planning guidance;

(c) Responsibilities of the local emergency planning committee; and


Section 3. Local Plan Process.

(1) Before July 31 of each federal fiscal year, a local director shall ensure ensure completion of the local plan.
(2) To complete and process a local plan, a local director shall:

(a) Review the existing local plan;

(b) Consult the local emergency planning committee, the local search and rescue coordinator, elected officials, department heads, agency chiefs, and public and private officers and leaders or their designees who are members or participants of the emergency management agency and emergency management functions (ESFs);

(c) Prepare and submit a local plan draft to an area manager by May 1;

(d) Submit corrected, amended, revised, or supplemental plan material specified and requested by an area manager within thirty (30) calendar days following receipt of a written request;

(e) Upon receipt of written concurrence of the Director of the Division of Emergency Management or designee, submit a local plan draft for official adoption as specified in KRS 39B.030(3); and

(f) Distribute an officially adopted local plan to emergency management agency and emergency support functions (ESFs) plan custodians, the chairperson of the local emergency management planning committee, local search and rescue coordinator, area manager, and the Director of the Division of Emergency Management by July 31.

(3) To process a local plan, an emergency management committee, through its chairperson or other authorized representative, shall:

(a) Review the local plan for information reporting consistent with KRS 39E.120, 39E.210, and 39E.220, within thirty (30) calendar days of receipt;

(b) Identify within the local plan’s Hazard Analysis section, facilities required to report under EPCRA, SARA Tier III, and input data within the KYEM Tier II reporting software system;

(c) Reference within the local plan’s ESF 10 Annex, the Extremely Hazardous Substances (EHS) Facility Emergency Response Plan(s) in accordance with 106 KAR
1081 and the Local Emergency Planning Committee (LEPC) Annual Certification Letter (ACL).

   (4) A local search and rescue coordinator shall prepare and submit a local search and rescue plan draft to the local director by July 31 of each federal fiscal year, by:
   (a) Reviewing an existing local plan required by KRS 29F.190;
   (b) Preparing and submitting to the local director an updated plan draft or written notice that an existing local plan has been reviewed and is current as of the date of the notice.
This is to certify that The Adjutant General (TAG) has reviewed and approved this administrative regulation prior to its adoption, as required by KRS 39A.070(3).

Haldane B. Lamberton
Major General, KYNG
The Adjutant General

Jeremy C. Slinker
Director
Division of Emergency Management
Kentucky Department of Military Affairs

Charles T. Jones
Brigadier General US Army (Ret)
Executive Director
Office of Management & Administration
Kentucky Department of Military Affairs
PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on Wednesday, August 24, 2022, at 10:00 a.m. Eastern Time at 100 Minuteman Parkway, Bldg. 100, Room 202 (EOC 2nd Floor Conference Room) Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing by five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through August 31, 2022. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

Contact person: Corey Ann Howard Jackson, Legislative Liaison and Policy Specialist, Department of Military Affairs, 100 Minuteman Parkway, Frankfort, KY 40601, phone (502) 330-3323, fax (502) 607-1240, email corey.a.jackson23.nfg@army.mil.
106 KAR 1:201 Local plan.
Contact Person: Corey Ann Howard Jackson
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(1) Provide a brief summary of:
   (a) What this administrative regulation does: Establish the requirements for processing a
       local emergency management plan which is one of the requirements to receiving emergency
       management funding.
   (b) The necessity of this administrative regulation: The local plan is required by statute and
       this regulation establishes the requirements for compliance.
   (c) How this administrative regulation conforms to the content of the authorizing statutes:
       KRS 39A.050 authorizes the Division of Emergency Management to coordinate the development,
       implementation and maintenance of comprehensive emergency management programs by local
       emergency management agencies in a city, county, charter county or urban-county government.
       KRS 39A.050(2)(m) and 39A.070(3) allow the Division of Emergency Management to
       promulgate administrative regulations to carry out the provisions of KRS Chapter 39 A to 39F.
       KRS 39B.030(3) requires local emergency management directors develop a local emergency
       management plan. This administrative regulation establishes the requirements for processing a
       local plan. To process a local plan, an emergency management committee must review the local
       plan and verify that facilities required to report under EPCRA are included. 42 U.S.C. 11002(d)
       and 11003 (c) and (d) sets forth local plans shall include certain notification provisions if the
       facilities contains hazardous substances.
   (d) How this administrative regulation currently assists or will assist in the effective
       administration of the statutes: This regulation instructs requires local emergency management
       directors in the requirements for developing and implementing a local plan to comply with
       statutory requirements.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:
   (a) How the amendment will change this existing administrative regulation: N/A
   (b) The necessity of the amendment to this administrative regulation: N/A
   (c) How the amendment conforms to the content of the authorizing statutes: N/A
   (d) How the amendment will assist in the effective administration of the statutes: N/A

(3) List the type and number of individuals, businesses, organizations, or state and local
governments affected by this administrative regulation: This administrative regulation will affect
the Department of Military Affairs, Division of Emergency Management and city, county, urban-
county or charter county government emergency management agencies that request emergency
management funding.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either
the implementation of this administrative regulation, if new, or by the change, if it is an
amendment, including:
(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: Local emergency management directors must develop a local emergency management plan in accordance with KRS 39B.030(3) and 106 KAR 1:201.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): There is no costs to these entities.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): A local plan is required for funding which decreases the local entities’ obligations and expenses while allowing an increase in their ability to plan, train, operate, mitigate and respond to local disasters. In addition, the local plan is a result from the combines efforts of the local emergency planning committee, the local search and rescue coordinator, elected officials, department heads, agency chiefs, and public and private officers and leaders that are participants of the emergency management agency. The input from these individuals results in a local plan that identifies known hazards which may impact a local jurisdiction, catalogs emergency management personnel and equipment and identifies sets out the duties and emergency management functions. This greatly improves the local communities’ ability to respond during an emergency which reduces the loss of life and destruction of property.

(5) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:
   (a) Initially: N/A
   (b) On a continuing basis: N/A

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: State and federal funding including grants and cooperative agreements. These include: the Chemical Stockpile Emergency Preparedness Program Fund established in 50 USC 1521; The Federal Disaster and Emergency Assistance Fund granted to the division by the Federal Emergency Management Agency (FEMA), under 42 USC 5170(c), 5172, and 5173; The Federal Emergency Management Assistance Fund granted to the division by FEMA, under 42 USC 5196 and the Supplementary State Fund established in KRS 39C.010 and 39C.020.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment:

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: This administrative regulation does not establish or relate to fees.

(9) TIERING: Is tiering applied? Tiering was not used. The regulation will not reduce or modify substantive regulatory requirements, eliminate some requirements entirely, simplify and reduce reporting and recordkeeping requirements, reduce the frequency of inspections, provide exemptions from inspections and other compliance activities, or delay compliance timetables.
Federal Mandate Analysis Comparison

106 KAR 1:201 Local Plan.
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1. Federal statute or regulation constituting the federal mandate.
   42 U.S.C. 11002(d) and 42 U.S.C. 11003 (c) and (d).

2. State compliance standards.
   KRS 39B.030(3) requires local emergency management directors to develop a local emergency management plan. KRS 39E allows for the implementation of the federal hazardous materials program. KRS 39E.040(6) and KRS 39E.080 (4) give the division the ability to promulgate administrative regulations consistent with the federal statutes which include hazardous substances that require inventory reporting, quantities of each substance covered and the emergency notification procedure and requirements. 106 KAR 1:201 establishes the requirements for processing a local plan. To process a local plan, an emergency management committee must review the local plan and verify that facilities required to report under EPCRA are included and set forth the notification provisions required by federal provisions.

3. Minimum or uniform standards contained in the federal mandate.
   Federal code requires that an emergency plan shall include (but is not limited to) each of the following:
   a. Identification of facilities and identification of additional facilities contributing or subjected to additional risk due to their proximity to facilities subject to the requirements of this subchapter, such as hospitals or natural gas facilities.
   b. Methods and procedures to be followed by facility owners and operators and local emergency and medical personnel to respond to any release of hazardous substances.
   c. Designation of a community emergency coordinator and facility emergency coordinators, who shall make determinations necessary to implement the plan.
   d. Procedures providing notification by the facility emergency coordinators and the community emergency coordinator to persons designated in the emergency plan, and to the public, that a release of a hazardous substance has occurred.
   e. A description of emergency equipment and facilities in the community and at each facility in the community and the persons responsible for such equipment and facilities.
   f. Evacuation plans.
   g. Training programs.
   e. Methods and schedules for exercising the emergency plan.

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? NO

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. N/A
FISCAL NOTE

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(1) What units, parts, or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? Cities, Counties, urban-counties, or charter county governments

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 39A.050(2)(j), 39A.070(3), 39E.040 (6), 39E.080(4), 42 U.S.C. 11002(c), 11003(c)(d)

(3) Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.
   (a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? No additional revenue will be generated.
   (b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? No additional revenue will be generated.
   (c) How much will it cost to administer this program for the first year? No additional cost will be incurred.
   (d) How much will it cost to administer this program for subsequent years? No additional cost will be incurred.

   Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.
   Revenues (+/-): No additional revenue will be generated by the regulations.
   Expenditures (+/-): No additional expenditures will be incurred.
   Other Explanation:

(4) Estimate the effect of this administrative regulation on the expenditures and cost savings of regulated entities for the first full year the administrative regulation is to be in effect.
   (a) How much cost savings will this administrative regulation generate for the regulated entities for the first year? No additional cost savings.
   (b) How much cost savings will this administrative regulation generate for the regulated entities for subsequent years? No additional cost savings.
   (c) How much will it cost the regulated entities for the first year? No additional cost will be incurred.
   (d) How much will it cost the regulated entities for subsequent years? No additional cost will be incurred

   Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.
   Cost Savings (+/-): No additional cost savings will be realized.
Expenditures (+/-): No additional costs will be incurred
Other Explanation:

(5) Explain whether this administrative regulation will have a major economic impact, as defined below. "Major economic impact" means an overall negative or adverse economic impact from an administrative regulation of five hundred thousand dollars ($500,000) or more on state or local government or regulated entities, in aggregate, as determined by the promulgating administrative bodies. [KRS 13A.010(13)]
The administrative regulation will have no economic impact.