GENERAL GOVERNMENT CABINET

Department of Military Affairs

Division of Emergency Management

(New Administrative Regulation)

106 KAR 1:221. Local exercise.


STATUTORY AUTHORITY: KRS 39A.050(2)(j), (m), 39A.070(3), 39E.040(6),
39E.080(4), 42 U.S.C. 11003(c)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 39A.050(2)(l) requires the
Division of Emergency Management to institute exercise programs. This administrative
regulation establishes requirements for exercising a local plan.

Section 1. Definitions.

(1) "Exercise" means a test and evaluation of a local plan.

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

(3) “Full-scale exercise” means a comprehensive test and evaluation of a local plan
utilizing written objectives that emphasize the practice of multiple emergency
management functions and require actual deployment of policy, coordination, and
operations personnel, equipment, and resources in response to a simulated emergency.

(4) “Functional exercise” means a limited test and evaluation of a local plan
utilizing written objectives that emphasize the practice of direction and control
procedures and require actual and simulated utilization of policy, coordination, and
operations personnel, equipment, and resources in response to a simulated emergency.

(5) "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.

(6) "Tabletop exercise" means a group discussion led by a facilitator utilizing a written scenario narrative and a set of problem statements, directed messages, or prepared questions designed to test and evaluate a local plan.

Section 2. Tabletop Exercise Requirement. A tabletop exercise shall consist of:

(1) Development and use of a written scenario based on a hypothetical emergency situation; and

(2) Development and use of at least fifteen (15) written problem statements, directed messages, or prepared discussion questions worded specifically to test or evaluate the provisions of the local plan.

Section 3. Functional Exercise Requirement. A functional exercise shall consist of:

(1) At least twenty-five (25) percent staffing of a primary or alternate local emergency operation center;

(2) An operational test of communications and emergency power equipment in a local emergency operations center;

(3) Use of message forms or status boards in a local emergency operations center;

(4) Development and use of a written scenario based upon one (1) or more hazards specified in the local plan;

(5) Development and use of five (5) or more written exercise objectives;

(6) Testing of seven (7) or more disaster and emergency response functions specified in a local plan;

(7) Development and use of written evaluation criteria;

(8) Designation and use of a lead evaluator; and

(9) Conduct of an exercise critique involving exercise participants.
Section 4. Full-scale Exercise Requirement. A full-scale exercise shall consist of:

1. Completion of the requirements of Section 3 of this administrative regulation, except subsections (1), (5), and (6);

2. At least seventy-five (75) percent staffing of a primary or alternate local emergency management operations center;

3. Development and use of ten (10) or more written exercise objectives;

4. Testing of fifteen (15) or more disaster and emergency services response functions specified in a local plan; and

5. Field deployment of at least five (5) emergency response and support agencies.

Section 5. Local Exercise Requirement.

1. Except as provided in subsection (2) of this section, a local director shall:

   a. Schedule, design, conduct, and document one (1) tabletop functional, or full-scale exercise by September 30 of each federal fiscal year; and

   b. At least once during each period of four (4) consecutive federal fiscal years, include in an exercise specified in paragraph (a) of this subsection, testing and validation of a local plan specified in KRS 39E.150.

2. During each period of four (4) consecutive federal fiscal years, a local director shall schedule, design, conduct, and document at least one (1) functional or full-scale exercise in lieu of one (1) tabletop exercise specified in subsection (1)(a) of this section.

3. Within thirty (30) days prior to conducting a tabletop exercise specified in subsection (1)(a) of this section, a local director shall submit a final draft of the following to the area manager:

   a. A completed KYEM Form 201, “Exercise Narrative Scenario,” or computer-generated equivalent;

   b. A copy of the written exercise discussion problem statements, directed messages, and prepared questions established pursuant to Section 2(2) of this
administrative regulation.

e) A completed KYEM Form 202, “Exercise Objectives,” or computer-generated equivalent.

(5) Within thirty (30) calendar days prior to conducting a scheduled functional or full-scale exercise, a local director shall submit the final draft of the following forms or computer-generated equivalent to the area manager:

(a) A completed KYEM Form 201, “Exercise Narrative Scenario;” and

(b) A completed KYEM Form 202, “Exercise Objectives.”

(6) Within thirty (30) calendar days following completion of a functional or full-scale exercise, a local director shall submit to a county judge/executive, mayor, or area manager a written local exercise report consisting of the following completed forms or their computer-generated equivalent:

(a) KYEM Form 201, “Exercise Narrative Scenario;”

(b) KYEM Form 202, “Exercise Objectives;”

(c) KYEM Form 203, “Exercise Evaluation Criteria;”

(d) KYEM Form 204, “Master Sequence of Events List;”

(e) KYEM Form 205, “Exercise Participant Roster;”

(f) KYEM Form 206, “Exercise Critique;” and

(g) KYEM Form 207, “Exercise After-Action Report.”

Section 6. Exercise Substitution.

(1) In lieu of conducting and documenting a scheduled tabletop, functional, or full-scale exercise in a federal fiscal year, a local director may request to substitute the actual response of a local disaster and emergency services organization to a major emergency situation or disaster occurrence in a local jurisdiction during the federal fiscal year of the
actual response.

(2) A local director requesting to substitute an actual response to a major
emergency or disaster occurrence, in lieu of conducting and documenting a
scheduled tabletop, functional, or full-scale exercise shall, within sixty (60) calendar days
following termination of associated emergency response operations, submit to the area
manager, for transmittal to the Director of the Division of Emergency Management, an
after-action report in memorandum form containing the following information:

(a) A brief description of the type or kind of emergency situation or disaster that
occurred in the local jurisdiction;

(b) Date of the emergency situation or disaster occurrence;

(c) The geographic area adversely affected by the emergency situation or disaster;

(d) The estimated population in the adversely affected geographic area;

(e) The major problems experienced and the actions taken by local government to
mitigate or respond to the major problems;

(f) Significant assets utilized to mitigate or respond to the emergency situation or
disaster; and

(g) Critique comments describing the general effectiveness of the mitigation or
response efforts of local government forces, including the adequacy of the local plan and
any significant deficiencies noted.

Section 7. Incorporation by Reference.

(1) The following material is incorporated by reference:

(a) KYEM Form 201, "Exercise Narrative Scenario;"

(b) KYEM Form 202, "Exercise Objectives;"

(c) KYEM Form 203, "Exercise Evaluation Criteria;"

(d) KYEM Form 204, "Master Sequence of Events List;"

(e) KYEM Form 205, "Exercise Participant Roster;"
(f) KYEM Form 206, “Exercise Critique;” and

(g) KYEM Form 207, “Exercise After-Action Report.”

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Division of Emergency Management, Emergency Operations Center, 100 Minuteman Parkway, Frankfort, Kentucky 40601-6168, Monday through Friday, 8 a.m. to 4:30 p.m.
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. Lambert
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 10:30 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.
REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

106 KAR 1:221 Local exercise.
Contact Person: Corey Ann Howard Jackson
Phone: (502) 330-3323
Email: corey.a.jackson23.nfg@army.mil

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes requirements for exercising a local plan.

(b) The necessity of this administrative regulation: Statute requires the development of a local plan. This regulation establishes the definition of “exercise” and the requirements for an exercise. It instructs the entities how to comply with the local plan exercise requirement.

(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. 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 1:221 establishes the requirements for exercising a local plan.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation defines the exercise of the local plan and requirements for the exercise.

(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
agency personnel will have to complete the required exercise for validation as required by 106
KAR 1:221.

(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 cost to these entities.

(c) As a result of compliance, what benefits will accrue to the entities identified in question
(3):
Local plan validation through exercise 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.

(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: N/A.

(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.
106 KAR 1.221 Local exercise.
Contact Person: Corey Ann Howard Jackson
Phone: (502) 330-3323
Email: corey.a.jackson23.nfg@army.mil

(1) Federal statute or regulation constituting the federal mandate.
42 U.S.C. 11003(c).

(2) State compliance standards.
KRS 39B.030(3) requires local emergency management directors 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 1:221 establishes the requirements for
exercising a local plan set forth in federal provisions.

(3) Minimum or uniform standards contained in the federal mandate.
Federal code requires that there be 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
(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),(m), 39A.070(3), 39E.040(6), 39E.080(4), 42 U.S.C. 11003(c)

(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. 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.
SUMMARY OF MATERIAL INCORPORATED BY REFERENCE

The following forms are required when conducting a local plan exercise pursuant to 106 KAR 1:221:

“Exercise Narrative Scenario,” KYEM Form 201

“Exercise Objectives,” KYEM Form 202

“Exercise Evaluation Criteria,” KYEM Form 203

“Master Sequence of Events List,” KYEM Form 204

“Exercise Participant Roster,” KYEM Form 205

“Exercise Critique,” KYEM Form 206

“Exercise After-Action Report,” KYEM Form 207

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. 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 1:221 establishes the requirements for exercising a local plan. These forms are required either prior to or after conducting an exercise as specified in 106 KAR 1:221.