

Commonwealth of Kentucky Enhanced Hazard Mitigation Plan: 2013 Version

ENHANCED PORTION

PART VII:

Commitment to a Comprehensive Mitigation Program

A. *Demonstrating That the Commonwealth of Kentucky is Committed to a Comprehensive State-Level Mitigation Program*

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B. *Demonstrating Progress in Implementing a Comprehensive State-Level Mitigation Program, Including New Mitigation Initiatives Developed or Implemented by the Commonwealth of Kentucky*

The Commonwealth of Kentucky has been and continues to be committed to a comprehensive state-level mitigation program. To convey this commitment and the Commonwealth's continuing progress in implementing a comprehensive state-level mitigation program, this section of the Enhanced Portion of the *Commonwealth of Kentucky Enhanced Hazard Mitigation Plan: 2013 Version* is divided into subsections discretely addressing the components that, in aggregate, define "commitment" as articulated in Requirement §201.5 (b) (4) (i-vi) listed above.

REQUIREMENT §201.5(B)(4)(I-VI):

The Commonwealth of Kentucky is committed to a comprehensive state mitigation program, which might include any of the following:

- *A commitment to support local mitigation planning by providing workshops and training, state-level planning grants, or coordinated capability development of local officials, including Emergency Management and Floodplain Management certifications;*
- *A statewide program of hazard mitigation through the development of legislative initiatives, mitigation councils, formations of public/private partnerships, and other executive actions that promote hazard mitigation;*
- *That a portion of the non-federal match for HMGP and other mitigation projects are provided by the Commonwealth of Kentucky;*
- *Encouragement toward or requirement of local governments to use a current version of a nationally-applicable model building code or standard that addresses natural hazards as a basis for design and construction of Commonwealth-sponsored mitigation projects;*
- *A comprehensive, multi-year plan to mitigate the risks posed to the existing buildings that have been identified as necessary for post-disaster response and recovery operations;*
- *A comprehensive description of how the Commonwealth of Kentucky integrates mitigation into its post-disaster recovery operations.*

I: Commitment to Support Local Mitigation Planning Through Training and Outreach

Listed as **Appendix E-7-1** is a summary-via-chart of training programs and outreach conducted by Kentucky Emergency Management (KYEM and its supporting agencies – the University of Kentucky Martin School of Public Policy and Administration’s Hazard Mitigation Grants Program (UK-HMGP) and the University of Louisville’s Center for Hazards Research and Policy Development (CHR) – that occurred during the 2010 – 2013 planning cycle.

The summary is an attempt to be exhaustive; however, it is possible that some instances of training and outreach have been omitted. If so, this is less an oversight than an admission that many of similar types of training and outreach occurred throughout the 2010 – 2013 planning cycle for the Commonwealth of Kentucky and that the results summarized derived from self-reporting with the omission errors that such reporting implies.

The summary-via-chart is organized according to whether the activity was “Training” or “Outreach.” This is, per the theme of this overall 2013 update of Kentucky’s hazard mitigation plan, an implicit differentiation between *inductive* and *deductive* planning: “Training” is implementation of *inductive* planning, according to the definition repeated throughout Kentucky’s 2013 update of its hazard mitigation plan. When mitigation activities categorized as “Training” were held, all relevant stakeholders to the training were invited and encouraged both financially and in terms of appealing to time-constraints to participate. An expected consequence of such inclusive training involved receiving feedback that would later be aggregated “upward” to be included in this plan and in other Commonwealth-wide planning activities.

One notable example of such training has been articulated in the Standard Portion of the *Commonwealth of Kentucky Enhanced Hazard Mitigation Plan: 2013 Version*, but can be readdressed here: Kentucky, during this 2010 – 2013 planning cycle was the first state to implement an Applicant Agent certification course.

The need for the Applicant Agent certification course stemmed from the following: Kentucky currently ranks seventh (7th) nationwide for frequency of disaster declarations, having received 56 presidential declarations since 1953. Kentucky’s value of disaster declaration damages ranks twelfth (12th) nationwide. From 2010-2012¹, Kentucky had five (5) disaster declarations.

In its oversight of its Public Assistance (PA) and hazard mitigation programs during this 2010-2013 planning cycle, Kentucky Emergency Management (KYEM) had become increasingly alarmed at the number of mitigation opportunities lost simply due to applicants and their authorized agents not fully understanding program benefits and requirements. Uncomfortably frequent de-obligated projects, nonparticipation, and compliance issues prompted KYEM to develop an applicant agent certification course.

¹ From 2012 to the writing of this plan (mid-2013), Kentucky has not experienced a presidential disaster declaration.

This course, launched in May of 2011, is offered quarterly to all applicants and potential applicants of the Public Assistance (PA) and the multiple hazard mitigation programs. The week-long course covers all aspects of the preparation for, response to, and recovery from disaster events. Attendees are encouraged to participate in rigorous mitigation, recovery, and debris removal planning. In addition to the emphasis on the Federal Emergency Management Agency (FEMA) programs, other state and federal agencies deliver instruction on various state and federal disaster grants, services, and opportunities.

Course attendees have included:

- County Judge/Executives, i.e. the elected heads of most county governments in Kentucky
- County Treasurers, i.e. the fiscal officers of county governments
- County Emergency Management Directors
- County Road Foremen
- City Mayors and Managers, i.e. the elected heads of cities in Kentucky
- City Clerks, i.e. the fiscal officers of cities
- KYEM Regional Response Managers (RRM)²
- University Emergency Management Staff
- University Fiscal Officers
- State Emergency Management Staff
- Representatives from Kentucky's State Parks
- Employees of the Kentucky Transportation Cabinet representing each of the Kentucky's 12 statewide transportation districts and its central office in Frankfort
- Employees and Representatives of Kentucky's Health and Family Services Cabinet
- Employees and Representatives of Kentucky's Department of Fish and Wildlife
- Employees and Representatives of the Kentucky National Guard
- Employees and Representatives of Kentucky's Office of the Auditor of Public Accounts
- Private sector contracts who specialize in disaster planning, response, and recovery activities

Conversely, the "Outreach" highlighted in **Appendix E-7-1** shows implementation of *deductive* planning, according to the definition repeated throughout this 2013 update of Kentucky's hazard mitigation plan. Kentucky Emergency Management (KYEM), along with UK-HMGP and CHR, traveled the Commonwealth making presentations in order to better educate about, encourage further participation in, and generally provide support and technical assistance toward all areas of hazard mitigation. The Commonwealth of Kentucky, through KYEM, UK-HMGP, and CHR, expanded the options and information available related to hazard mitigation in order to offer local jurisdictions a wider array of mitigation options and ways to participate with the expectation that a wider array of preferences would yield increased demand for mitigation activity.

² A Kentucky Emergency Management (KYEM) Regional Response Manager (RRM) is responsible for coordinating emergency disaster preparation, response, and recovery operations for designated "regions" in Kentucky. Each "region" generally is divided into ten (10) counties.

A concrete, narrative example of such outreach was articulated in the previous section of this Enhanced Portion of the *Commonwealth of Kentucky Enhanced Hazard Mitigation Plan: 2013 Version* (Part VI: Effective Use of Available Mitigation Funding). This section described the day-to-day activities of UK-HMGP's Esther White, who actively seeks opportunities for mitigation and consistently implements the means by which to bring about such mitigation activity.

Specifically addressing Element B. of this section of the Enhanced Portion of the State Hazard Mitigation Plan Review "Crosswalk," it should be noted that the a demonstration of progress in implementing a comprehensive state-level mitigation program likely is most quantitatively obvious in terms of Kentucky's increased "Training" initiatives, e.g. the development of the abovementioned path-breaking Applicant-Agent Certification Course and in training to utilize the efficiency-enhancing Community Hazard Assessment and Mitigation Planning System (CHAMPS) . However, qualitatively (and, perhaps, more significantly), progress has been made during this 2010-2013 planning cycle in terms of "Outreach": Increased staff, geographic area specialization of such staff, and increased focus of resources on ensuring the ability to travel *to* areas of Kentucky rather than require local representatives to adhere to KYEM/UK-HMGP/CHR locations (which decreases participation and demand for mitigation activity) all demonstrate progress in implementing a comprehensive mitigation program.

II: Development of Mitigation Councils, Legislative Initiatives, Public/Private Partnerships

Commitment to a comprehensive mitigation program via mitigation council, legislative initiative, public/private partnership, et al. largely was covered in the Standard Portion of the *Commonwealth of Kentucky Enhanced Hazard Mitigation Plan: 2013 Version* in its coverage of Kentucky's planning process and mitigation strategies. This Enhanced Portion elaborates upon some of those examples of mitigation council, legislative initiative, and public/private partnership. However, the Enhanced Portion also reminds that the following discussion is by no means exhaustive; it represents the most obvious examples of mitigation council formation, legislation-creating, and public/private partnership:

Mitigation Council: Kentucky Hazard Mitigation Council (KYMC)

The *Planning Process* section itself describes the Kentucky Hazard Mitigation Council (KYMC): It was developed in 1995. It meets quarterly to advise and consult with Kentucky Emergency Management's (KYEM) Mitigation staff. The official purposes of the Kentucky Hazard Mitigation Council are to:

- Identify and evaluate state and local hazards and vulnerabilities;
- Identify hazard mitigation strategies;
- Coordinate hazard mitigation resources;
- Review, rank, and recommend mitigation actions that have applied for funding under the FEMA Hazard Mitigation Grant Program (HMGP);
- Implement hazard mitigation projects and programs;
- Assist the State Hazard Mitigation Office on interim and final project inspections.
- Provide technical assistance to the State Hazard Mitigation Officer and local officials to reduce the hazard vulnerability of people, property, and infrastructure;
- Survey selected damages following a Presidential Disaster Declaration in order to develop (in conjunction with the Federal Hazard Mitigation Council) an Interagency Hazard Mitigation Report;
- Participate in regular and special business meetings;
- Receive and conduct hazard mitigation training;
- Assist Area Development Districts (discussed below) in developing regional (and oft-times multi-jurisdictional) hazard mitigation plans; and
- Plan for and develop the Commonwealth of Kentucky's hazard mitigation plan.

KYMC consists of up to 25 voting members in addition to technical advisors. Voting members represent: Kentucky Emergency Management (KYEM), the Kentucky Division of Water (DOW), Department of Local Governments (DLG), the Kentucky Office of Homeland Security (KOHS), the Area Development Districts (ADDs), the Kentucky Transportation Cabinet (KYTC), and the National Oceanic and Atmospheric Administration (NOAA).

Membership at the time of this writing includes:

- ***Voting Members:***

- Kentucky Emergency Management Director
- Stephanie Robey, Kentucky Emergency Management Assistant Director
- Kentucky Emergency Management Recovery Branch Manager
- State Hazard Mitigation Officer (SHMO)
- Mike Hale, Department for Local Governments
- Jim McKinney, Louisville/Jefferson County Metro Government
- Carey Johnson, Kentucky Division of Water
- Wendell Lawrence, Lincoln Trail Area Development District
- Nancy Price, Kentucky Emergency Management Governmental Liaison
- Jerry Rains, Kentucky Emergency Management Regional Response Manager
- Angela Satterlee, Hopkinsville Community Development Services
- Paul Whitman, Shelby County Emergency Management Director
- Noah Taylor, Kentucky Division of Water
- Josh Human, University of Louisville Center for Hazards Research
- Susan Wilkerson, Kentucky Office of Homeland Security
- Joe Sullivan, National Weather Service
- Stephen Noe, Kentucky Association of Mitigation Managers
- Kentucky Transportation Cabinet Representative

- ***Technical Advisors:***

- Doug Eades, Acting SHMO Kentucky Emergency Management
- Geni Jo Brawner, Acting SHMO Kentucky Emergency Management
- Ann Culbertson, Kentucky Emergency Management
- Ryan Hubbs, Kentucky Emergency Management
- Amanda LeMaster, Kentucky Emergency Management
- Todd Neal, Kentucky Emergency Management
- Brian Gathy, University of Kentucky HMGP
- W. Nick Grinstead, University of Kentucky HMGP
- Esther White, University of Kentucky HMGP

Mitigation Council: Silver Jackets

Kentucky also participates in the “Silver Jackets” program. This is a state-level program which includes participation from the United States Army Corps of Engineers (USACE), FEMA, other Federal agencies, and multiple state agencies. The goal of the program is to create an interagency team to develop and implement solutions to state natural hazard priorities. The Silver Jackets Program provides a formal and consistent strategy for an interagency approach to planning and implementing measures to reduce the risks associated with natural hazards. The program’s primary goals are to leverage information and resources, improve public risk communication through a united effort, and create a mechanism to collaboratively solve issues and implement initiatives.

The Silver Jackets program provides communities with an opportunity to work with all appropriate state and Federal agencies to develop a comprehensive flood risk management program. The Kentucky Emergency Management (KYEM) State Hazard Mitigation Officer (SHMO) and staff will promote mitigation project development through its representation on the Silver Jackets team, thereby integrating both FEMA and the State’s goals to mitigate flood-related damages and losses statewide. Related to this last statement, the Silver Jackets are one means by which Kentucky shows commitment to a comprehensive mitigation program by implementing mitigation into its post-disaster recovery operations.

From the Standard Portion of the *Commonwealth of Kentucky Enhanced Hazard Mitigation Plan: 2013 Version*, **Appendix 2-2** lists the organizations involved in the Silver Jackets program and proportion of membership organization categories comprise. For convenience, this appendix has been recreated here as **Appendix E-7-2**.

Mitigation Council: Kentucky Association of Mitigation Managers (KAMM)

The Kentucky Association of Mitigation Managers (KAMM) represents another mitigation council that conveys Kentucky's commitment to a comprehensive mitigation program.

The Kentucky Association of Mitigation Managers (KAMM) was formed to promote floodplain management and mitigation in Kentucky. Its members represent local floodplain coordinators, planning and zoning officials, engineers, surveyors, GIS specialists, hydrologists, and local emergency managers.

The purpose of KAMM is to provide a means for state and local floodplain managers to join with others regarding floodplain management policies and activities. Additionally, KAMM exists to advance the study, research, and exchange of information on the technical aspects of floodplain management to reduce flood damage within the Commonwealth of Kentucky. KYEM Mitigation staff has a history of serving on the KAMM board, helping to ensure mitigation is interwoven into floodplain management activities.

From the Standard Portion of the *Commonwealth of Kentucky Enhanced Hazard Mitigation Plan: 2013 Version*, **Appendix 2-3** lists the organizations currently participating in KAMM. For convenience, this appendix has been recreated here as **Appendix E-7-3**.

Legislative Initiatives

Again, the Standard Portion of the *Commonwealth of Kentucky Enhanced Hazard Mitigation Plan: 2013 Version* addressed what here is implied to be the Commonwealth of Kentucky's commitment to a comprehensive mitigation program via legislative initiative when it addressed state capability to implement and fund an effective mitigation program. In other words, it was pointed out in the Standard Portion³ how significant a proportion of the mitigation practices articulated in Kentucky's hazard mitigation plan were codified into law. Kentucky is bound to many of its most important mitigation practices and institutions by law. From the Standard Portion, **Appendix 4-10** attempts an exhaustive list of Kentucky legislation related to mitigation activity. Kentucky legislation is called a Kentucky Revised Statute (KRS). This list of mitigation-relevant KRS is recreated here as **Appendix E-7-4**.

Public/Private (Non-Profit) Partnership: Universities

Elaborated upon at length in the Standard Portion of the *Commonwealth of Kentucky Enhanced Hazard Mitigation Plan: 2013 Version* were the roles of two (2) of Kentucky's most notable universities: The University of Kentucky and the University of Louisville.

First, for purposes here, it should be established how the abovementioned universities are partners to the Commonwealth of Kentucky in mitigation programs:

The Martin School of Public Policy and Administration at the University of Kentucky houses the Hazard Mitigation Grants Program (UK-HMGP) Office. However, UK-HMGP exists entirely to perform the functions designated to it by Kentucky Emergency Management (KYEM). UK-HMGP represents a commitment to a comprehensive mitigation program: KYEM contracts the Martin School of Public Policy and Administration to use its expertise in public administration, its staff, its resources, its historical/institutional knowledge about the state, its graduate assistants, its flexibility with staff travel, and its various technical and facility options that are available in all counties throughout the state. Through this contract, KYEM does not have to support expanded infrastructure: The UK-HMGP Office removes from KYEM the sunk cost of staff recruitment and development, staff maintenance, and the need for recurring budget allocations. This combines flexibility and specialization while reducing custodial and recurring budgetary obligations. Contracting with the UK-HMGP Office and the Martin School of Public Policy and Administration brings efficiency: KYEM can do more and accomplish more in mitigation in less time and expending less money by being able to offload projects and mitigation research to UK-HMGP while it focuses on its other necessary day-to-day agency tasks and pursues other mitigation-related projects manageable by its existing staff and budget. Because UK-HMGP exists solely to support KYEM, UK-HMGP can devote itself entirely to and specialize in mitigation activity and outreach to a degree and an extent that would be unmanageable if operated

³ See Standard Portion of *Commonwealth of Kentucky Enhanced Hazard Mitigation Plan: 2013 Version*, p. 310 under the sub-heading "A Brief Note About Legislation Related to Hazard Mitigation"

from within a state agency tasked (as all state agencies countrywide are) with ever-increasing responsibility and scope. So, for example, through its partnership with UK-HMGP, KYEM is able to offer one-on-one planning services to local jurisdictions; KYEM is able to travel the state educating about and increasing participation in labor-intensive mitigation programs such as those regarding Severe Repetitive-Loss and Repetitive-Loss properties; and KYEM can pursue long-term investment projects that will further increase efficiency and the ability to increase mitigation activity (such as the Community Hazard Assessment and Mitigation Planning System, i.e. CHAMPS) because KYEM can always offload, when needed, tasks and time-consuming work to UK-HMGP.

The University of Louisville's partnership with the Commonwealth of Kentucky operates differently: The Center for Hazards Research and Policy Development (CHR) contracts with the University of Louisville (UofL). CHR does not contract wholly with KYEM. Rather, CHR focuses on developing tools and research and processes that it then "sells" (via individual contracts) with interested mitigation stakeholders. Many times individual contracts are with KYEM: CHR contracts for services related to the abovementioned CHAMP System. CHR contracted with KYEM to produce most of the Risk Assessment section of the Standard Portion of the *Commonwealth of Kentucky Enhanced Hazard Mitigation Plan: 2013 Version*. However, CHR also contracts with local jurisdictions, such as its contract with the Lexington-Fayette Urban County Government (LFUCG) to implement a streamlined and well-documented planning process and produce renowned risk assessment models. Though the partnership functions differently than the wholly-owned subsidiary-style partnership between UK-HMGP and KYEM, the work of CHR represents Kentucky's commitment to a comprehensive mitigation program. CHR's risk assessment model and subsequent research alone provides an efficiency-enhancement rare to other mitigation programs in other states: There is little that is more time-consuming and resource-consuming in hazard mitigation than accurately defining and graphically conveying vulnerability to the many hazards that affect a state (especially Kentucky). By independently researching (and specializing) in this increasingly technical and thus increasingly specialized task, CHR expands the capacity of the Commonwealth of Kentucky to engage in and be more deeply committed to hazard mitigation programs throughout the Commonwealth.

Public/Private Partnership: Area Development District

Perhaps most uniquely to Kentucky is the existence of its Area Development Districts (ADDs). Again, these were discussed throughout the Standard Portion of the *Commonwealth of Kentucky Enhanced Hazard Mitigation Plan: 2013 Version*⁴. For the purposes here, the important thing to note is that ADDs are not state agencies. They are partnerships of local governments/counties: By sharing the ADDs' staffs, counties collectively are able to access the professional expertise which many counties and cities individually could not afford.

The idea that would become the "Area Development District" was conceived for Kentucky in the early 1960s with the creation of Area Development *Councils* that were organized *within* each county comprising "Kentucky." The federal Appalachian Regional Development Act and the Public Works and Economic Development Act (both passed in 1965) allowed for the establishment and authorization of the Area Development *District* which provided an organizational and administrative linking of counties who shared common economic and general development interests⁵. The Appalachian Regional Development Act of 1965 was the vehicle for direct federal aid to Appalachia which spurred the need for ADDs specifically in that region. The Public Works and Economic Development Act established the Economic Development Administration within the U.S. Department of Commerce which would provide federal grants aimed toward employment and industrial policy within economically distressed areas more generally. This, provided impetus to establish the ADD concept state-wide: Professional administration and substantial resources would be required to apply for these grants and manage them. From 1966 to 1972, all fifteen (15) of Kentucky's ADDs were established.

It is also relevant to note that Kentucky's ADDs are not only partners to the Commonwealth of Kentucky's local governments due to their continued usefulness and success in providing the environment and support necessary for Kentucky to increase its commitment to a comprehensive mitigation program. Rather, Kentucky's ADDs are codified into Kentucky's laws: Kentucky Revised Statute (KRS) 147.050 legally establishes all fifteen (15) of Kentucky's Area Development Districts (ADDs).

⁴ See especially the *Planning Process* section, pp. 19 – 25.

⁵ This, of course, implies that most such "Districts" are arranged according to "geographic" commonalities: Geography is assumed to be correlated with economic and development needs. Thus, economic/development commonalities are correlated with geographic commonalities.

Public/Private (Non-Profit) Partnership: Private Sector Work Group (PSWG)

To show its commitment to a comprehensive mitigation program via partnership with the private (and non-profit) sectors, the Commonwealth of Kentucky established a Private Sector Work Group (PSWG) that mirrors the philosophy behind its national counterpart.

From the Standard Portion of the *Commonwealth of Kentucky Enhanced Hazard Mitigation Plan: 2013 Version* [Planning Process, p. 18]:

“In March 2010, KYEM established Kentucky’s Private Sector Working Group (PSWG). The PSWG, administered by KYEM, endeavors to build partnerships within the private sector community to help identify and fill gaps in the resources and supply chain during emergency response and recovery efforts. The PSWG is designed to act as a force multiplier between the private and public sectors in order to mitigate the impact of critical incidents, natural disasters, and crisis response events.

The goal in the creation of the program was to draft a comprehensive disaster mitigation, response, and recovery plan that would build upon the strengths, experience, and expanding capabilities of all partners. The resulting group forms a well-organized collaborative network of Commonwealth corporate, business, and industry entities that work in concert with emergency management tasking to protect and re-establish the necessary community infrastructure required to minimize damages and speed the recovery process.

The PSWG meets on a bi-monthly basis, supplemented with conference calls and KYEM annual workshop educational tracks. Meeting agenda items include updates of KYEM mitigation, response, and recovery efforts, member presentations, technology updates, training initiatives, and sector-based workshop sessions.

The primary objective of the program is to build on the strengths, experience, and expanding capabilities of KYEM’s private sector partners. To that end, the PSWG has demonstrated the effectiveness of the program during exercise events and response to Commonwealth disasters. The composition of the PSWG includes membership representing utilities, commodities, transportation, communications, infrastructures, logistics, food, and hospitality. **Appendix 2-4** records which organizations currently serve in the PSWG.”

Appendix 2-4 has been recreated here as **Appendix E-7-5**.

In addition to those private sector groups with whom the Commonwealth of Kentucky and Kentucky Emergency Management (KYEM) currently work, in the past (i.e. since 2010), Kentucky also has worked with:

- AEP Kentucky Power
- Al J. Schneider Company
- Baptist Health
- CONTINUUM (Recovery)
- E.ON US⁶
- Kentucky International Convention Center
- Louisville Regional Airport Authority
- National Incident Management System (NIMS) Support Center
- Norton Healthcare
- Toyota
- Transit Authority of River City (TARC)
- University of Louisville Department of Engineering

III. Providing a Portion of the Non-Federal Match for HMGP etc.

Generally, a project applied for using FEMA's Hazard Mitigation Grant Program (HMGP), if approved, is eligible for a 75% reimbursement rate from the federal government. The applicant or sub-applicant must be willing to contribute 25% to an HMGP-approved project. The Commonwealth of Kentucky shows its commitment to hazard mitigation by recognizing that for many local jurisdictions, this 25% contribution still prohibits hazard mitigation projects, or, at the very least, prohibits some of the more costly and capital-intensive projects that many local jurisdictions need to undertake in order to effectively mitigate hazards. Consequently, (and, again, generally), the Commonwealth of Kentucky contributes 12% of the 25% non-federal match for which the sub-applicant to an HMGP-funded project is responsible.

⁶ E.ON US no longer exists: Germany-based E.ON US was the holding company that owned Louisville Gas & Electric (LG&E) when Powergen, LG&E's previous holding company, was purchased by E.ON (with E.ON renaming to E.ON US). In November 2010, PPL (based in Pennsylvania) purchased E.ON US, thus placing LG&E under PPL.

IV. Encouragement to Use Nationally-Applicable Model Building Code

Construction and design in the Commonwealth of Kentucky follows the *Kentucky Building Code*. The *Kentucky Building Code* has been enforced for over thirty (30) years⁷. As of this writing, the most recent version of the *Kentucky Building Code* was implemented in 2007. However, in October 2013, a new version of the *Kentucky Building Code* will be released and implemented. Amendments to the *Kentucky Building Code* always are published as separate documents.

From the 2007 *Kentucky Building Code*:

“The *Kentucky Building Code*...is essentially the 2006 *International Building Code* published by the International Code Council, Inc., with the specific Kentucky code...It provides minimum standards to ensure the public safety, health, and welfare insofar as they are affected by building construction and to secure safety to life and property from all hazards incident to the occupancy of buildings, structures, or premises...[The 2007 *Kentucky Building Code*] presents the Code with changes approved by the Kentucky Board of Housing, Buildings, and Construction...

The *Kentucky Building Code* may be amended from time to time by proposals from code enforcement officials, industry and design professionals, and other interested persons and organizations. Changes are discussed in an open meeting of the Board [of Housing, Buildings, and Construction]. Changes approved are printed in the Kentucky Administrative Register and posted on the OHBC [Kentucky Department of Housing, Buildings, and Construction] website.

The *Kentucky Building Code* is a “mini/max” code, meaning that it is a statewide uniform mandatory building code and no local government shall adopt or enforce any other building code⁸...[Kentucky Building Code 2011, p. i⁹]

⁷ The use of a uniform state building code generally is also codified into Kentucky’s state laws (i.e. Kentucky Revised Statutes, or KRS) under Chapter 198B. See **Appendix E-7-4**.

⁸ The exception to this concerns detached single-family dwellings, two-family dwellings, and townhouses. Such structures are governed under the *Kentucky Residential Code*.

⁹ Kentucky Board of Housing, Buildings, and Construction. [November 2011]. “Kentucky Information on Code Enforcement.” *The Kentucky Building Code*, 9th edition: Department of Housing, Building, and Construction (OHBC), p. i.

V. Comprehensive Plan to Mitigate the Risks Posed to Existing Buildings That Have Been Identified as Necessary for Post-Disaster Response and Recovery

This Enhanced Portion of the *Commonwealth of Kentucky Enhanced Hazard Mitigation Plan: 2013 Version* here interprets the phrase “existing buildings that have been identified as necessary for post-disaster response and recovery” as generally referring to “critical facilities.”

Assuming this interpretation, the Standard Portion of Kentucky’s 2013 update of its hazard mitigation plan described as a major component of its mitigation strategy its system for prioritizing, ranking, and selecting hazard mitigation projects that, by its very definition, emphasized mitigating risks to “critical facilities”/“existing buildings that have been identified as necessary for post-disaster response and recovery.”

The project prioritization, ranking, and selection system at the level of the state involved first (and, hence, primarily) categorizing all potential projects (Mitigation Action Forms, F/K/A Letters of Intent) into either *A-Projects* or *B-Projects*.

Rather than assign what could only be an arbitrary letter “grading” system, all ranking specific to the project occurred only *after* the project was determined to be an *A-Project* or a *B-Project*. The Commonwealth of Kentucky recognized that all mitigation projects protect populations. Rather, the truly substantial and broad difference between most mitigation projects concerns whether or not they protect “critical facilities” along *with* populations. Consequently, *A-Projects* protect “critical facilities” and populations, while *B-Projects* protect only populations.

That, *prima facie*, potential mitigation projects (Mitigation Action Forms, F/K/A Letters of Intent) are distinguished between whether or not they protect “critical facilities”/“existing buildings that have been identified as necessary for post-disaster response and recovery” conveys a commitment to a comprehensive mitigation program that partially relies upon a comprehensive (and multi-year) plan to mitigate the risks posed to said “critical facilities.”

VI. Integration of Mitigation into Kentucky's Post-Disaster Recovery Operations

The argument that the Commonwealth of Kentucky shows a commitment to a comprehensive mitigation program by integrating mitigation into its post-disaster recovery operations is deemed most adequately made by the Commonwealth of Kentucky's (via Kentucky Emergency Management and the University of Kentucky Martin School of Public Policy and Administration's Hazard Mitigation Grants Program Office) success in implementing "Section 406" mitigation projects.

Included, as **Appendix E-7-6**, is a list of all of the mitigation projects that have been approved under "Section 406" of the Stafford Act from the years 2010 – 2012, i.e. all "Section 406" mitigation projects approved during the Commonwealth of Kentucky's 2010 – 2013 planning cycle¹⁰. This list includes under which presidentially-declared disaster the "Section 406" mitigation project was funded, for whom the "Section 406" project was funded, under which "Project Worksheet Number" (abbreviated as PW #) the "Section 406" project was approved, and the cost of the "Section 406" project.

During the Commonwealth of Kentucky's 2010 – 2013 planning cycle, over \$4.7 million was approved for "Section 406" mitigation projects.

To clarify for a wider audience: The Robert T. Stafford Disaster Relief and Emergency Assistance Act (i.e. the Stafford Act) under which federally-funded mitigation activity is justified and approved distinguishes between two types of mitigation funding: Those mitigation projects funded under Section 404 of the Stafford Act and those funded under Section 406¹¹. Mitigation projects funded under the latter "Section 406" of the Stafford Act can address *only* parts of facilities actually *damaged* by the disaster that, after presidential declaration, becomes the justification for a variable amount of money reserved for mitigation activity of all types (i.e. whether or not the activity addresses the specific presidentially-declared disaster). In contrast, "Section 404" of the Stafford Act allows broader mitigation activity that is not relegated to addressing only the damage wrought from the presidentially-declared disaster under which mitigation funds are justified.

The de facto differentiation between "Section 406" mitigation projects and "Section 404" mitigation projects is placement within time: "Section 404" mitigation projects do not have to address the presidentially-declared disaster under which they are justified and funded. Consequently, project approval is far less timely, far more regulated, and far more technocratic in nature. However, "Section 406 provides discretionary authority to fund mitigation measures in conjunction with the repair of...disaster-damaged facilities.

¹⁰ The list does not contain any "Section 406" mitigation projects approved for 2013 despite Kentucky's 2010 – 2013 planning cycle. This exclusion is due to Kentucky not suffering any presidentially-declared disasters (under which "Section 406" projects would be funded) from 2012 – 2013.

¹¹ Specifically, Section 406(e): Repair, Restoration, and Replacement of Damaged Facilities...

The mitigation measures must be related to eligible disaster-related damages and must directly reduce the potential of future, similar disaster damages to the eligible facility¹²...”

The fact that “Section 406” mitigation projects must address “disaster-damaged” facilities, that such projects must be funded “in conjunction with the repair” of said “disaster-damaged” facilities, and that FEMA has “discretionary authority” to release these mitigation funds implies that these projects are the most obvious example of the “integrat[ion of] mitigation into...post-disaster recovery operations” by which the Commonwealth of Kentucky shows its commitment to a comprehensive mitigation program.

To further the above claim, since 2011, Kentucky has made it administrative and mandated policy that all Public Assistance (PA) mitigation actions being assessed must also be assessed for eligibility as a possible “Section 406” mitigation project. Through this policy and since 2011, Kentucky has very explicitly “integrated mitigation into...post-disaster recovery operations”: Of \$4,272,072 in “post-disaster recovery” (i.e. Public Assistance) operations, \$420,284 (nearly 10%) of that total involved incorporating mitigation actions funded through FEMA’s “406” mitigation opportunities into 284 Public Assistance (PA) projects. That this \$420,284 worth of mitigation was added to “post-disaster recovery operations” is a direct result of Kentucky Emergency Management’s administrative policy mandating assessment of all potential PA projects for “406” eligibility. **Appendix E-7-7**¹³ breaks down the “406” mitigation portions of Public Assistance funding and is meant to work in tandem with **Appendix E-7-6**.

The Commonwealth of Kentucky, then, argues that it has been very successful in this one obvious measure of mitigation integration into post-disaster recovery. It is assumed, then, that such success is due to significant and effective post-disaster outreach and education and (since 2011) mandated policy, and that such success in this measure is generalizable into all other measures of “mitigation integration into post-disaster recovery operations.”

¹² Federal Emergency Management Agency (FEMA). “Hazard Mitigation Funding Under Section 406 (Stafford Act).” Can be found at the following website: <http://www.fema.gov/public-assistance-local-state-tribal-and-non-profit/hazard-mitigation-funding-under-section-406-0>. [Last accessed: 08/11/2013]

¹³ The results of FEMA “406” mitigation incorporation into Public Assistance also briefly is detailed in Section 6 of the Enhanced Portion of the Commonwealth of Kentucky’s Hazard Mitigation Plan. However, the Appendix was deemed more suitable for this section.