

## NOTICE

Amendment to 803 KAR 2:060, Employer responsibility to post notice, was filed with the Legislative Research Commission on April 27, 2021.

The amendment is posted at <https://legislature.ky.gov>. Select the Kentucky Law Tab, Kentucky Administrative Regulations, KAR List by Title, then Title 803 Labor Cabinet and scroll down to the regulation under Chapter 2 Occupational Safety and Health.

Changes to the regulation and public hearing information is available at the aforementioned website or in the pages below following this notice.

FILED WITH LRC  
TIME: 9:34 am  
APR 27 2021  
Emily B Caudill  
REGULATIONS COMPILER

1 LABOR CABINET  
2 Department of Workplace Standards  
3 Division of Occupational Safety and Health Compliance  
4 Division of Occupational Safety and Health Education and Training  
5 (Amendment)  
6 803 KAR 2:060. Employer responsibility to post notice [~~Employers' responsibilities~~].  
7 RELATES TO: KRS 338.051, 29 C.F.R. Part 1903  
8 STATUTORY AUTHORITY: KRS 338.051, 338.061  
9 NECESSITY, FUNCTION, AND CONFORMITY: KRS 338.051(3) requires [~~Pursuant to the~~  
10 ~~authority granted~~] the Kentucky Occupational Safety and Health Standards Board to promulgate  
11 occupational safety and health [~~by KRS 338.051 to adopt administrative~~] regulations and  
12 authorizes the chairman to reference federal standards if necessary to meet federal time  
13 requirements. KRS 338.061 authorizes the board to establish, modify, or repeal standards and  
14 reference federal standards. This administrative regulation establishes employers' responsibility  
15 to post notices provided by the Labor Cabinet and availability of safety and health administrative  
16 regulations [~~required by federal law, this administrative regulation identifies the responsibility~~  
17 ~~place upon the employer to post notices furnished by the Occupational Safety and Health~~  
18 ~~Program, Department of Workplace Standards, verify abatement of cited hazards to the~~  
19 ~~department, and also to furnish certain information to employees for their safety and protection.~~  
20 ~~Necessary for effective enforcement of the purposes and policies of the~~

1 Occupational Safety and Health Act which is to insure so far as is possible, safe and healthful  
2 working conditions of Kentucky workers (KRS 338.011)].

3 Section 1. Definitions. (1) “Employee” is defined by KRS 338.015(2).

4 (2) “Employer” is defined by KRS 338.015(1).

5 (3) “Establishment” means a single physical location where business is conducted or where  
6 services or industrial operations are performed such as a factory, mill, store, hotel, restaurant,  
7 movie theater, farm, ranch, bank, sales office, warehouse, or central administrative office.

8 ~~“Abatement” means action by an employer to comply with a cited standard or regulation or to~~  
9 ~~eliminate a recognized hazard identified by Division of Occupational Safety and Health~~  
10 ~~Compliance during an inspection.~~

11 ~~(2) “Abatement date” means:~~

12 ~~(a) For an uncontested citation item, the later of:~~

13 ~~1. The date in the citation for abatement of the violation;~~

14 ~~2. The date approved by Division of Occupational Safety and Health Compliance or established~~  
15 ~~in litigation as a result of a petition for modification of the abatement date (PMA); or~~

16 ~~3. The date established in a citation by an informal settlement agreement.~~

17 ~~(b) For a contested citation item for which the Kentucky Occupational Safety and Health Review~~  
18 ~~Commission (KOSHRC) has issued a final order affirming the violation, the later of:~~

19 ~~1. The date identified in the final order for abatement; or~~

20 ~~2. The date computed by adding the period allowed in the citation for abatement to the final~~  
21 ~~order date;~~

22 ~~3. The date established by a formal settlement agreement.~~

1     ~~(3) “Affected employees” means those employees who are exposed to the hazard(s) identified as~~  
2     ~~violation(s) in a citation.~~

3     ~~(4) “Final order date” means:~~

4     ~~(a) For an uncontested citation item, the 15th working day after the employer's receipt of the~~  
5     ~~citation;~~

6     ~~(b) For a contested citation item:~~

7     ~~1. The 30th day after the date on which a decision or order of a commission hearing officer has~~  
8     ~~been docketed with the commission, unless a member of the commission has directed review; or~~

9     ~~2. Where review has been directed, the 30th day after the date on which the commission issues~~  
10    ~~its decision or order disposing of all or pertinent part of a case; or~~

11    ~~3. The date on which an appeals court issues a decision affirming the violation in a case in which~~  
12    ~~a final order of KOSHRC has been stayed.~~

13    ~~(5) “Movable equipment” means a hand-held or nonhand-held machine or device, powered or~~  
14    ~~unpowered, that is used to do work and is moved within or between worksites.~~

15    ~~(6) “Establishment” means a single physical location where business is conducted or where~~  
16    ~~services or industrial operations are performed [, (for example: A] factory, mill, store, hotel,~~  
17    ~~restaurant, movie theater, farm, ranch, bank, sales office, warehouse, or central administrative~~  
18    ~~office.) Where distinctly separate activities are performed at a single physical location (such as~~  
19    ~~contract construction activities from the same physical location as a lumber yard), each activity~~  
20    ~~shall be treated as a separate physical establishment, and a separate notice or notices shall be~~  
21    ~~posted in each such establishment, to the extent that such notices have been furnished by the~~  
22    ~~Division of Occupational Safety and Health Compliance. Where employers are engaged in~~  
23    ~~activities which are physically dispersed, such as agriculture, construction, transportation,~~

1 communications, and electric, gas and sanitary services, the notice or notices required by this  
2 section shall be posted at the location to which employees report each day. Where employees do  
3 not usually work at, or report to, a single establishment, such as traveling salesmen, technicians,  
4 engineers, etc., such notice or notices shall be posted at the location from which the employees  
5 operate to carry out their activities. In all cases, such notice or notices shall be posted in  
6 accordance with the requirements of Section 2 of this administrative regulation].

7 Section 2. Posting. [Purpose and Scope. (1) KRS Chapter 338 requires, in part, that every  
8 employer shall furnish to his employees employment and a place of employment which are free  
9 from recognized hazards that are causing or are likely to cause death or serious physical harm to  
10 his employees. Covered employers shall comply with the occupational safety and health  
11 standards promulgated pursuant to KRS Chapter 338. Employees shall comply with standards,  
12 rules, administrative regulations and orders issued under KRS Chapter 338 which are applicable  
13 to their own actions and conduct.

14 (2) The Division of Occupational Safety and Health Compliance is authorized to conduct  
15 inspections and issue citations and proposed penalties for alleged violations.

16 Section 3. Posting of Notice, Availability of Act, Administrative Regulations, and Applicable  
17 Standards]. (1) Each employer shall post and keep posted a notice or notices created [to be  
18 furnished] by the Labor Cabinet [Division of Occupational Safety and Health Compliance, Labor  
19 Cabinet,] informing employees of the protections and obligations established [provided for] in  
20 KRS Chapter 338 including information that [, and that for assistance and information, including  
21 health standards,] employees may [should] contact the employer or the Labor Cabinet for  
22 occupational safety and health assistance and information [Division of Occupational Safety and  
23 Health Compliance].

1 (2) The notice created by the Labor Cabinet is available on the Labor Cabinet website.

2 (3) The [Such] notice or notices shall be posted by the employer in each establishment in a  
3 conspicuous place or places where notices to employees are customarily posted.

4 (4) Where distinctly separate activities are performed at a single physical location such as  
5 construction activities at the same physical location, each activity shall be treated as a separate  
6 physical establishment and a separate notice or notices shall be posted in each such  
7 establishment.

8 (5) Where employers are engaged in activities which are physically dispersed such as agriculture,  
9 construction, gas and sanitary services, transportation, communications, and electric services, the  
10 notice or notices shall be posted at the location to which employees report each day.

11 (6) Where employees do not usually work at, or report to, a single establishment, such as  
12 traveling salesmen, technicians, and engineers, the notice or notices shall be posted at the  
13 location where employees operate to carry out their activities.

14 (7) In all cases, such notice or notices shall be posted in accordance with the requirements of this  
15 administrative regulation.

16 (8) Each employer shall take steps to ensure the notice or [that such] notices are not altered,  
17 defaced, or obscured [covered by other material that obscures the poster].

18 Section 3. Availability of Administrative Regulations. (1) All applicable occupational safety and  
19 health administrative regulations are available on the Labor Cabinet website [(2) Copies of KRS  
20 Chapter 338, all administrative regulations filed pursuant thereto, and all applicable standards  
21 will be available at the Department of Workplace Standards, Labor Cabinet].

22 (2) If an employer has [obtained] copies of these materials, she or he shall make them available  
23 upon request to any employee or [his] authorized employee representative for review in the