

## NOTICE

**Amendment to 803 KAR 2:125, Posting of citation, 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: 9:39 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 2:125. Posting of citation[s].

7 RELATES TO: KRS 338.101 [161]

8 STATUTORY AUTHORITY: KRS 338.051, 338.061 [KRS-Chapter-13A]

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 administrative regulations and authorizes the chairman to  
12 reference federal standards without board approval 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 procedures for [by KRS  
15 ~~338.051, the following rules and administrative regulations are adopted as they pertain to~~] the  
16 posting of citations by the employer.

17 Section 1. Definitions. (1) "Employee" is defined by KRS 338.015(2).

18 (2) "Employer" is defined by KRS 338.015(1).

19 (3) "Review commission" is defined by KRS 338.015(8).

20 (4) "Working days" means Monday through Friday and does not include Saturday, Sunday,

21 federal, or state holidays, as well as the day of receipt of notice.

1 Section 2. Posting [of Citations]. (1) Upon receipt of any citation [~~under KRS Chapter 338~~], the  
2 employer shall immediately post the unedited [~~such~~] citation, or a copy of the unedited citation [~~a~~  
3 ~~copy thereof, unedited~~], at or near each place the [~~an~~] alleged violation [~~referred to in the~~  
4 ~~citation~~] occurred, except as provided below.

5 (2) Where, because of the nature of the employer's operations, it is not practicable to post the  
6 unedited citation, or a copy of the unedited citation, at or near each place of alleged violation, the  
7 unedited [~~such~~] citation, or a copy of the unedited citation, shall be posted [~~, unedited,~~] in a  
8 prominent place where it is [~~will be~~] readily observable by all affected employees such as a [~~For~~  
9 ~~example, where employers are engaged in activities which are physically dispersed (see 803~~  
10 ~~KAR 2:060) the citation may be posted at the~~] location where [~~to which~~] employees report each  
11 day.

12 (3) The unedited citation, or a copy of the unedited citation, may be posted at the location  
13 employees carry out their activities if the employees do not primarily work at, or report to, a  
14 single location [~~Where employees do not primarily work at or report to a single location (see 803~~  
15 ~~KAR 2:060) the citation may be posted at the location from which the employees operate to~~  
16 ~~carry out their activities~~].

17 (4) The employer shall [~~take steps to~~] ensure [~~that~~] the unedited citation or copy of the unedited  
18 citation is not altered, defaced, or obscured [~~covered by other material which would obscure the~~  
19 ~~citation. Notices of de minimis violations need not be posted~~].

20 (5)(a) [(2)] Each unedited citation, or copy of the unedited citation [~~a copy thereof~~], shall remain  
21 posted until the violation is [~~has been~~] abated, or for three (3) working days, whichever is later.

22 (b) The filing by the employer of a notice [~~of intention~~] to contest shall not affect the [~~his~~]  
23 posting responsibility [~~under this section~~] unless [~~and until~~] the review commission issues a final

1 order vacating the citation.

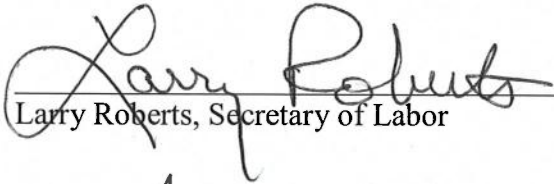
2 (3)(a) An employer that receives ~~[to whom]~~ a citation shall ~~[has been issued may]~~ post a notice  
3 indicating the citation is contested in the same location where the unedited ~~[such]~~ citation, or  
4 copy of the unedited citation, is posted ~~[indicating that the citation is being contested before the~~  
5 ~~review commission, and such].~~

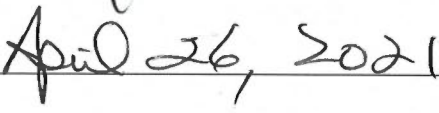
6 (b) The notice may explain the reason[s] for the ~~[such]~~ contest.

7 (c) The employer may ~~[also]~~ indicate specific ~~[that specified]~~ steps ~~[have been]~~ taken to abate the  
8 violation [-

9 ~~(4) Any employer failing to comply with the provisions of subsections (1) and (2) of this section~~  
10 ~~shall be subject to citation and penalty of \$100 per first instance per authority of KRS 338.991].~~

As approved by

  
\_\_\_\_\_  
Larry Roberts, Secretary of Labor

  
\_\_\_\_\_  
Date

**PUBLIC HEARING AND PUBLIC COMMENT PERIOD:** A public hearing on this administrative regulation shall be held on July 21, 2021 at 10:00 am (ET). The meeting will be conducted by live videoconference (ZOOM) pursuant to Senate Bill 150, Section 1, subparagraph (8) b (2020) and the continuing state of emergency. Public access to the meeting will be available at

<https://us02web.zoom.us/j/86731399141?pwd=Q2VOcDQ3ZkVBaUtoNERCMDNIKzZJZz09>, password 446261; or by telephone at (713) 353-0212, (888) 822-7517 toll free, conference code 194378.

Individuals interested in being heard at this hearing shall notify this agency in writing five (5) working days 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 attend the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through July 31, 2021. 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:** Robin Maples, OSH Standards Specialist, Labor Cabinet, Mayo-Underwood Building, 500 Mero Street, 3<sup>rd</sup> Floor, Frankfort, Kentucky 40601, Telephone: (502) 564-4107, Facsimile: (502) 564-4769, Email: Robin.Maples@ky.gov.

## REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Regulation Number: 803 KAR 2:125

Contact person: Robin Maples (502) 564-4107, [Robin.Maples@ky.gov](mailto:Robin.Maples@ky.gov), Facsimile: (502) 564-4769

(1) Provide a brief summary of:

(a) What this administrative regulation does: Section 1 of this administrative regulation, effective since December 11, 1974, defines terms. Section 2 regulation establishes procedures for the posting of citations pursuant to 29 CFR 1903.16. This amendment also updates this administrative regulation to meet KRS Chapter 13A considerations and was reviewed in accordance with House Bill (HB) 50 2017 from the Regular Session of the 2017 General Assembly.

(b) The necessity of this administrative regulation: This administrative regulation was reviewed in accordance with HB 50 from the Regular Session of the 2017 General Assembly. This regulation is necessary to meet the requirements established in Public Law 91-596 84 STAT. 1590 Section 18 (OSH Act of 1970), 29 CFR 1902.3(c), 29 CFR 1902.3(d), 29 CFR 1953.1(a), 29 CFR 1953.1(b), and 29 CFR 1956.2(a), which all require Kentucky OSH regulations to be as effective as the federal requirements. This regulation is equivalent.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 338.051(3) requires the Kentucky Occupational Safety and Health (OSH) Standards Board to promulgate OSH administrative regulations. This regulation is necessary to meet the requirements established in Public Law 91-596 84 STAT. 1590 Section 18 (OSH Act of 1970), 29 CFR 1902.3(c), 29 CFR 1902.3(d), 29 CFR 1953.1(a), 29 CFR 1953.1(b), and 29 CFR 1956.2(a), which all require Kentucky OSH regulations to be as effective as the federal requirements. This regulation complies and conforms with the authorizing statutes.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation promotes worker safety and health throughout Kentucky and ensures the state is as effective as the federal requirement. This regulation is necessary to meet the requirements established in Public Law 91-596 84 STAT. 1590 Section 18 (OSH Act of 1970), 29 CFR 1902.3(c), 29 CFR 1902.3(d), 29 CFR 1953.1(a), 29 CFR 1953.1(b), and 29 CFR 1956.2(a), which all require Kentucky OSH regulations to be as effective as the federal requirements. This regulation is equivalent.

(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: Section 1 of this administrative regulation, effective since December 11, 1974, defines terms. Section 2 regulation establishes procedures for the posting of citations pursuant to 29 CFR 1903.16. This amendment also updates this administrative regulation to meet KRS Chapter 13A considerations and was reviewed in accordance with HB 50 2017 from the Regular Session of the 2017 General Assembly.