

STATEMENT OF EMERGENCY

803 KAR 2:181E

This emergency amendment to an existing administrative regulation amends 803 KAR 2:181, Recordkeeping and reporting occupational injuries and illnesses. This emergency amendment requires employers to comply with 29 C.F.R. Part 1904, Recording and Reporting Occupational Injuries and Illnesses.

It is necessary to promulgate this emergency amendment to an existing regulation pursuant to House Bill 398 of the 2025 Regular Session and subsequent amendment to Kentucky Revised Statute KRS 338.062, effective June 27, 2025, and to meet the requirements established in Public Law 91-596 84 STAT. 1590 Section 18 of the Occupational Safety and Health ("OSH") Act of 1970, 29 CFR 1902.3(c)(1), 29 CFR 1902.3(d)(1), 29 CFR 1902.3(d)(2), 29 CFR 1902.7(a), 29 CFR 1904.37(a), 29 CFR 1904.37(b)(1), 29 CFR 1902.37(b)(3), 29 CFR 1953.1(a), 29 CFR 1953.1(b), 29 CFR 1956.2(a), 29 CFR 1956.10(d)(1), and 29 CFR 1956.10(i) which all require Kentucky OSH regulations to be as effective as the federal requirements.

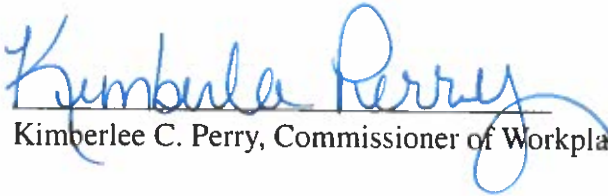
This emergency amendment to an existing administrative regulation shall be replaced by an ordinary administrative regulation, which is being filed simultaneously with the Regulations Compiler. The ordinary administrative regulation is identical to this emergency amendment.


A handwritten signature in blue ink, reading "Andy Beshear", written over a horizontal line.

ANDY BESHEAR, Governor


A handwritten signature in blue ink, reading "Jamie Link", written over a horizontal line.

JAMIE LINK, Secretary
Education and Labor Cabinet


A handwritten signature in blue ink, reading "Kimberlee Perry", written over a horizontal line.

Kimberlee C. Perry, Commissioner of Workplace Standards

1 EDUCATION AND 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 (Emergency Amendment)

6 803 KAR 2:181 E. Recordkeeping and reporting occupational injuries and illnesses.

7 RELATES TO: KRS 338.015(1), (2), 338.121(3), 338.161, 29 C.F.R. Part 1904

8 STATUTORY AUTHORITY: KRS 338.061, 338.161

9 NECESSITY, FUNCTION, AND CONFORMITY: KRS 338.161(1) requires the Department of

10 Workplace Standards to promulgate administrative regulations for the collection, compilation,

11 and analysis of occupational safety and health statistics. 29 C.F.R. Part 1904 authorizes

12 requirements for the recording and reporting of occupational illnesses and injuries. This

13 administrative regulation establishes recordkeeping and reporting requirements for employers

14 pursuant to KRS Chapter 338.

15 Section 1. Definitions.

16 (1)~~["Amputation" means an injury in which a portion of the body including bone tissue is~~
17 ~~removed.~~

18 (2) "C.F.R." means Code of Federal Regulations.

19 (2)~~(3)~~ "Employee" is defined by KRS 338.015(2).

20 (3)~~(4)~~ "Employer" is defined by KRS 338.015(1).

21 (5) ~~"Hospitalization" means formal admission to a hospital or clinic for care or treatment.~~

22 (6) ~~"Loss of eye" means the physical removal of an eye from the socket.~~

~~[(7) "Occupational Safety and Health Act" or "OSHA" means KRS Chapter 338].~~

~~(4)[(8)] "Secretary of Labor" means the Secretary of the United States Department of Labor or the Secretary of the Education and Labor Cabinet.~~

~~(5)[(9)] "Section 11(c) of the Act" means KRS 338.121(3).~~

~~[(10) "Work related" means "work related" or "work relatedness" as established in 29 C.F.R. 1904.~~

Section 2. Except as modified by the definitions in Section 1 ~~[and the requirements in Sections 3 and 4 of this administrative regulation,]~~ an employer shall comply with 29 C.F.R. Part 1904, Recording and Reporting Occupational Injuries and Illnesses, published by the Office of the Federal Register, National Archives and Records Administration.

~~[Section 3. Reporting Fatalities, Amputations, Hospitalizations, or Loss of Eye.~~

~~(1) The reporting requirements established in this section shall apply in lieu of 29 C.F.R. 1904.39.~~

~~(2) An employer shall orally report to the Kentucky Education and Labor Cabinet, Department of Workplace Standards, Division of Occupational Safety and Health Compliance, at (502) 564-3070, the death of an employee as a result of a work-related incident, including death resulting from a heart attack.~~

~~(3) The report required pursuant to subsection (2) of this section shall be made within eight (8) hours from when the death is reported to the employer, the employer's agent, or another employee.~~

~~(4) An employer shall orally report to the Kentucky Education and Labor Cabinet, Department of Workplace Standards, Division of Occupational Safety and Health Compliance, at (502) 564-3070, any of the following that occurs as a result of a work-related incident:~~

- 1 (a) Amputation suffered by an employee;
- 2 (b) Employee's loss of an eye; or
- 3 (c) Hospitalization of an employee, including hospitalization resulting from a heart attack.
- 4 (5) The report required pursuant to subsection (4) of this section shall be made within seventy-
- 5 two (72) hours from when the amputation, loss of an eye, or hospitalization is reported to the
- 6 employer, the employer's agent, or another employee.
- 7 Section 4. If the employer cannot speak with someone in the Frankfort office, the employer shall
- 8 make the report required pursuant to Section 3 of this administrative regulation to the OSHA toll-
- 9 free, central telephone number, 1-800-321-OSHA (1-800-321-6742).]

As approved by



Jamie Link, Secretary, Education and Labor Cabinet

7/1/2025

Date



Kimberlee C. Perry, Commissioner, Department of Workplace Standards

7.1.25

Date

PUBLIC HEARING AND PUBLIC COMMENT PERIOD

A public hearing on this administrative regulation shall be held August 21, 2025, at 3:00 pm EDT via Zoom. Public access to the meeting is available at:

<https://us06web.zoom.us/j/84374411820>, or by telephone at (713) 353-0212 or (888) 822-7517 toll free, conference code 194378.

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 was received by that date, the hearing may be cancelled. 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, 2025. 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, Education and Labor Cabinet, Mayo-Underwood Building, 500 Mero Street, 3rd Floor, Frankfort, Kentucky 40601, phone (502) 564-4107, fax (502) 564-4769, email robin.maples@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Regulation Number: 803 KAR 2:181E

Contact person: Robin Maples

Phone: (502) 564-4107

Email: 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 defines terms not found in the federal standard. Section 2 requires employers to comply with the requirements of 29 C.F.R. Part 1904, Recording and Reporting Occupational Injuries and Illnesses.

(b) The necessity of this administrative regulation: This emergency regulation is necessary pursuant to House Bill 398 of the 2025 Regular Session and subsequent amendment to Kentucky Revised Statute (KRS) 338.062, effective June 27, 2025, and to meet the requirements established in Public Law 91-596 84 STAT. 1590 Section 18 of the Occupational Safety and Health ("OSH") Act of 1970, 29 CFR 1902.3(c)(1), 29 CFR 1902.3(d)(1), 29 CFR 1902.3(d)(2), 29 CFR 1902.7(a), 29 CFR 1904.37(a), 29 CFR 1904.37(b)(1), 29 CFR 1902.37(b)(3), 29 CFR 1953.1(a), 29 CFR 1953.1(b), 29 CFR 1956.2(a), 29 CFR 1956.10(d)(1), and 29 CFR 1956.10(i) 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 338.061 authorizes the Kentucky Occupational Safety and Health Standards Board to adopt, modify, or repeal occupational safety and health administrative regulations. This emergency administrative regulation is necessary pursuant to House Bill 398 of the 2025 Regular Session and subsequent amendment to KRS 338.062, effective June 27, 2025, and to meet the requirements established in Public Law 91-596 84 STAT. 1590 Section 18 of the OSH Act of 1970), 29 CFR 1902.3(c)(1), 29 CFR 1902.3(d)(1), 29 CFR 1902.3(d)(2), 29 CFR 1902.7(a), 29 CFR 1904.37(a), 29 CFR 1904.37(b)(1), 29 CFR 1902.37(b)(3), 29 CFR 1953.1(a), 29 CFR 1953.1(b), 29 CFR 1956.2(a), 29 CFR 1956.10(d)(1), and 29 CFR 1956.10(i) 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 emergency administrative regulation is necessary pursuant to House Bill 398 of the 2025 Regular Session and subsequent amendment to KRS 338.062, effective June 27, 2025, and to meet the requirements established in Public Law 91-596 84 STAT. 1590 Section 18 of the OSH Act of 1970), 29 CFR 1902.3(c)(1), 29 CFR 1902.3(d)(1), 29 CFR 1902.3(d)(2), 29 CFR 1902.7(a), 29 CFR 1904.37(a), 29 CFR 1904.37(b)(1), 29 CFR 1902.37(b)(3), 29 CFR 1953.1(a), 29 CFR 1953.1(b), 29 CFR 1956.2(a), 29 CFR 1956.10(d)(1), and 29 CFR 1956.10(i) 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: This emergency amendment requires employers comply with 29 C.F.R. Part 1904, Recording and Reporting Occupational Injuries and Illnesses.

(b) The necessity of the amendment to this administrative regulation: It is necessary to promulgate this emergency regulation pursuant to House Bill 398 of the 2025 Regular Session and subsequent amendment to KRS 338.062, effective June 27, 2025, and to meet the requirements established in Public Law 91-596 84 STAT. 1590 Section 18 of the OSH Act of 1970), 29 CFR 1902.3(c)(1), 29 CFR 1902.3(d)(1), 29 CFR 1902.3(d)(2), 29 CFR 1902.7(a), 29 CFR 1904.37(a), 29 CFR 1904.37(b)(1), 29 CFR 1902.37(b)(3), 29 CFR 1953.1(a), 29 CFR 1953.1(b), 29 CFR 1956.2(a), 29 CFR 1956.10(d)(1), and 29 CFR 1956.10(i) which all require Kentucky OSH regulations to be as effective as the federal requirements. The Education and Labor Cabinet must promulgate this administrative to ensure the state is at least as effective as the federal requirement. This administrative regulation ensures Kentucky's compliance with the federal mandates, maintains Kentucky's primacy, and retains federal funding.

(c) How the amendment conforms to the content of the authorizing statutes: KRS 338.061 authorizes the Kentucky Occupational Safety and Health Standards Board to adopt, modify, or repeal occupational safety and health administrative regulations. This emergency administrative regulation is necessary pursuant to House Bill 398 of the 2025 Regular Session and subsequent amendment to KRS 338.062, effective June 27, 2025, and to meet the requirements established in Public Law 91-596 84 STAT. 1590 Section 18 of the OSH Act of 1970), 29 CFR 1902.3(c)(1), 29 CFR 1902.3(d)(1), 29 CFR 1902.3(d)(2), 29 CFR 1902.7(a), 29 CFR 1904.37(a), 29 CFR 1904.37(b)(1), 29 CFR 1902.37(b)(3), 29 CFR 1953.1(a), 29 CFR 1953.1(b), 29 CFR 1956.2(a), 29 CFR 1956.10(d)(1), and 29 CFR 1956.10(i) 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 the amendment will assist in the effective administration of the statutes: This amendment complies with the amendment to KRS 338.062 and keeps the state program consistent with the federal program.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This administrative regulation affects all employers in the Commonwealth covered by KRS Chapter 338.

(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: No additional compliance duties are imposed and no immediate action is required.

(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 additional cost to the OSH Program to implement this administrative regulation.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): This amendment complies with the amendment to KRS 338.062 and ensures the state requirement is as effective as the federal program.

(5) Provide an estimate of how much it will cost to implement this administrative regulation:

(a) Initially: There is no cost to the OSH Program to implement this administrative regulation.

(b) On a continuing basis: There are no new costs associated with this regulation.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Current state and federal funding.

(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: There is neither an increase in fees nor an increase in funding necessary to implement this administrative regulation.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: This administrative regulation neither establishes any fees nor directly or indirectly increases any fees.

(9) TIERING: Is tiering applied? Tiering is not applied. All employers covered by KRS Chapter 338 are treated equally.

FISCAL IMPACT STATEMENT

803 KAR 2:181E

Contact Person: Robin Maples

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Email: robin.maples@ky.gov

(1) Identify each state statute, federal statute, or federal regulation that requires or authorizes the action taken by the administrative regulation: KRS 338.061 authorizes the Kentucky Occupational Safety and Health Standards Board to adopt, modify, or repeal occupational safety and health administrative regulations. This administrative regulation is necessary pursuant to House Bill 398 of the 2025 Regular Session and subsequent amendment to KRS 338.062, effective June 27, 2025, and to meet the requirements established in Public Law 91-596 84 STAT. 1590 Section 18 of the OSH Act of 1970), 29 CFR 1902.3(c)(1), 29 CFR 1902.3(d)(1), 29 CFR 1902.3(d)(2), 29 CFR 1902.7(a), 29 CFR 1904.37(a), 29 CFR 1904.37(b)(1), 29 CFR 1902.37(b)(3), 29 CFR 1953.1(a), 29 CFR 1953.1(b), 29 CFR 1956.2(a), 29 CFR 1956.10(d)(1), and 29 CFR 1956.10(i) which all require Kentucky OSH regulations to be as effective as the federal requirements.

(2) State whether this administrative regulation is expressly authorized by an act of the General Assembly, and if so, identify the act: This administrative regulation is necessary pursuant to House Bill 398 of the 2025 Regular Session and subsequent amendment to KRS 338.062, effective June 27, 2025.

(3)(a) Identify the promulgating agency and any other affected state units, parts, or divisions: This administrative regulation affects any unit, part, or division of state or local government covered by KRS Chapter 338.

(b) Estimate the following for each affected state unit, part, or division identified in (3)(a):

1. Expenditures:

For the first year: None

For subsequent years: None

2. Revenues:

For the first year: None

For subsequent years: None

3. Cost Savings:

For the first year: None

For subsequent years: None

(4)(a) Identify affected local entities (for example: cities, counties, fire departments, school districts): This administrative regulation affects any unit, part, or division of state or local government covered by KRS Chapter 338.

(b) Estimate the following for each affected local entity identified in (4)(a):

1. Expenditures:

For the first year: None

For subsequent years: None

2. Revenues:

For the first year: None

For subsequent years: None

3. Cost Savings:

For the first year: None

For subsequent years: None

(5)(a) Identify any affected regulated entities not listed in (3)(a) or (4)(a): None

(b) Estimate the following for each regulated entity identified in (5)(a):

1. Expenditures:

For the first year: None

For subsequent years: None

2. Revenues:

For the first year: None

For subsequent years: None

3. Cost Savings:

For the first year: None

For subsequent years: None

(6) Provide a narrative to explain the following for each entity identified in (3)(a), (4)(a), and (5)(a):

(a) Fiscal impact of this administrative regulation: This administrative regulation imposes no new direct cost burden on employers and does not require them to take any action to comply.

(b) Methodology and resources used to reach this conclusion: Not applicable.

(7) Explain, as it relates to the entities identified in (3)(a), (4)(a), and (5)(a):

(a) Whether this administrative regulation will have a “major economic impact”, as defined by KRS 13A.010(13): This administrative regulation will not have a “major economic impact” as defined by KRS 13A.010(13).

(b) The methodology and resources used to reach this conclusion: Not applicable.

FEDERAL MANDATE ANALYSIS COMPARISON

Regulation Number: 803 KAR 2:181E

Agency Contact: Robin Maples

Phone: (502) 564-4107

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Facsimile: (502) 564-4769

1. Federal statute or regulation constituting the federal mandate. Public Law 91-596 84 STAT. 1590 Section 18 of the OSH Act of 1970), 29 CFR 1902.3(c)(1), 29 CFR 1902.3(d)(1), 29 CFR 1902.3(d)(2), 29 CFR 1902.7(a), 29 CFR 1904.37(a), 29 CFR 1904.37(b)(1), 29 CFR 1902.37(b)(3), 29 CFR 1953.1(a), 29 CFR 1953.1(b), 29 CFR 1956.2(a), 29 CFR 1956.10(d)(1), and 29 CFR 1956.10(i).

2. State compliance standards. The Kentucky OSH Program is mandated to be at least as effective as the federal requirement. This regulation is equivalent.

3. Minimum or uniform standards contained in the federal mandate. Public Law 91-596 84 STAT. 1590 Section 18 of the OSH Act of 1970), 29 CFR 1902.3(c)(1), 29 CFR 1902.3(d)(1), 29 CFR 1902.3(d)(2), 29 CFR 1902.7(a), 29 CFR 1904.37(a), 29 CFR 1904.37(b)(1), 29 CFR 1902.37(b)(3), 29 CFR 1953.1(a), 29 CFR 1953.1(b), 29 CFR 1956.2(a), 29 CFR 1956.10(d)(1), and 29 CFR 1956.10(i).

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: This amendment does not impose stricter requirements.

EMERGENCY REGULATION DOCUMENTATION

It is necessary to promulgate this emergency regulation pursuant to House Bill 398 of the 2025 Regular Session and subsequent amendment to Kentucky Revised Statute KRS 338.062, effective June 27, 2025, and to meet the requirements established in Public Law 91-596 84 STAT. 1590 Section 18 of the Occupational Safety and Health (“OSH”) Act of 1970, 29 CFR 1902.3(c)(1), 29 CFR 1902.3(d)(1), 29 CFR 1902.3(d)(2), 29 CFR 1902.7(a), 29 CFR 1904.37(a), 29 CFR 1904.37(b)(1), 29 CFR 1902.37(b)(3), 29 CFR 1953.1(a), 29 CFR 1953.1(b), 29 CFR 1956.2(a), 29 CFR 1956.10(d)(1), and 29 CFR 1956.10(i) which all require Kentucky OSH regulations to be as effective as the federal requirements.