

Kentucky
Occupational Safety and Health Standards
for
General Industry and Construction



Kentucky Education and Labor Cabinet
Department of Workplace Standards
Occupational Safety and Health Program
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INTRODUCTION

This unofficial publication contains Kentucky-specific regulations adopted by the Kentucky Occupational Safety and Health (OSH) Standards Board or the Kentucky Education and Labor Cabinet that supersede federal Occupational Safety and Health Administration (OSHA) standards. The Legislative Research Commission (LRC) maintains the official regulations.

The Kentucky OSH Program, under the statutory authority of KRS Chapter 338 and through a state plan approved by the U.S. Department of Labor, OSHA, maintains authority for enforcement, standards promulgation, on-site consultation, and training services related to job safety and health. Therefore, the Kentucky OSH Program may or may not adopt federal standards or policies.

This publication is not a comprehensive, all-inclusive presentation of every OSH requirement. When determining the applicable OSH regulatory requirement, the reader should initially refer to this publication to determine if any state-specific language exists that supersedes OSHA requirements. If state specific language does not exist that supersedes an OSHA requirement, the reader should comply with, at a minimum, the applicable OSHA requirement that has been adopted by the Kentucky OSH Standards Board and Education and Labor Cabinet. References to the Secretary of Labor, Assistant Secretary of Labor, OSHA Regional Administrator, or Area Director, may refer instead to the Kentucky Education and Labor Cabinet Secretary, Kentucky Department of Workplace Standards Commissioner, or designee. Employers and employees may contact the Kentucky OSH Program at (502) 564-3070 to determine if the Kentucky OSH Program comports with federal standards or policies.

This publication is presented in three (3) distinct parts. Part 1 contains Kentucky specific regulations that supersede OSHA standards and are applicable to both general industry and construction. Part 2 contains Kentucky specific regulations that supersede OSHA standards and are applicable to general industry along with those found in Part 1. Part 3 contains Kentucky specific regulations that supersede the OSHA standards and are applicable to the construction industry along with those found in Part 1.

Amendments to Kentucky OSH Program regulations appear in the *Administrative Register of Kentucky*, published by the LRC. You may contact the LRC at (502) 564-8100 for additional information or view the material online at www.legislature.ky.gov.

Additional information about the Education and Labor Cabinet, the Department of Workplace Standards, the Kentucky OSH Standards Board, and the Kentucky OSH Program, including cost-free services offered by the Division of Education and Training, may be found at www.labor.ky.gov or by calling (502) 564-3070.

NOTE: The Kentucky OSH Program is updating all OSH regulations; subsequently, amendments to the regulations are in various stages of promulgation. This publication is updated and posted at www.labor.ky.gov as amendments are promulgated. A hard copy of this publication will not be available until all updates are final.

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PART I
State Specific Regulations Applicable to Construction and General Industry

KENTUCKY REVISED STATUTE
Title XXVII
Labor and Human Rights

Chapter 338
Occupational Safety and Health of Employees

338.031 Obligations of Employers and Employees

(1) Each employer:

(a) Shall furnish to each of his employees employment and a place of employment which are free from recognized hazards that are causing or are likely to cause death or serious physical harm to his employees;

(b) Shall comply with occupational safety and health standards promulgated under this chapter.

(2) Each employee shall comply with occupational safety and health standards and all rules, regulations, and orders issued pursuant to this chapter which are applicable to his own actions and conduct.

803 KAR 2:019
RECEIVING AND UNLOADING BULK HAZARDOUS LIQUIDS

Section 1. Definitions. (1) “Compliance safety and health officer” means a person authorized by the Commissioner of the Department of Workplace Standards, Labor Cabinet, to conduct occupational safety and health inspections.

(2) “Employee” is defined in KRS 338.015(2).

(3) “Employer” is defined in KRS 338.015(1).

(4) “Hazardous liquid” means a chemical or mixture of chemicals that is toxic, an irritant, corrosive, a strong oxidizer, a strong sensitizer, combustible, flammable, extremely flammable, dangerously reactive or pressure generating or which otherwise may cause substantial personal injury or substantial illness during, or as a direct result of any customary or reasonably foreseeable handling or use.

Section 2. Scope. This regulation establishes specific requirements for chemical handling procedures to control receiving and transfer to storage of bulk hazardous liquids. This administrative regulation does not apply to receiving gasoline, fuel oil, or liquefied petroleum gas at retail or wholesale outlets or to industrial filling stations where the industry standard operating procedure requires the hauler to make connections and complete delivery.

Section 3. General Requirement. (1) Signs and labels shall be posted as established in paragraphs (a) through (c) of this subsection.

(a) At bulk chemical receiving and storage facilities capable of unloading tank trucks or trailers, signs and labels, readily legible at normal operating positions, shall indicate appropriate contents and item identification at receiving and dispensing connections, valves, tanks, and the storage area perimeter.

(b) Prominently displayed signs at critical access points shall direct tank truck drivers to plant security stations or to supervisory personnel. Signs at the unloading area shall give specific instruction to drivers not to connect truck tank hoses to chemical receiving lines.

(c) Bills of lading, freight bills or accompanying paper work shall have each hazardous chemical clearly identified by its shipping name or, if not otherwise specified, by its common name. Handling information clearly indicated for receiver information shall be included.

(2) Receiving liquid chemicals.

(a) Receiving of bulk liquid chemicals shall be coordinated by the receiving department or persons responsible for receiving. Only those persons trained and authorized shall make the required chemical identification and perform or supervise the unloading of hazardous chemicals.

(b) Prior to unloading, the person receiving bulk liquid chemicals shall make an inspection of the accompanying papers, check the load, and ascertain its identity.

(c) If necessary for identification, chemical testing shall be accomplished prior to acceptance.

(d) The person authorized to receive bulk liquid chemicals shall direct the driver to the proper unloading area.

(e) The receiving area, where chemicals are unloaded, shall be secured in a locked enclosure or all receiving connections shall be under lock and key or made secure by other positive means.

(f) The person authorized to receive bulk liquid chemicals shall be responsible for control of keys or combination to locking devices.

(g) The tank truck driver may make connection to the tank truck.

1. A person authorized to receive bulk liquid chemicals shall make connection to company receiving connections and supervise the unloading into storage.

2. The tank truck driver may make both connections provided a person authorized to receive bulk liquid chemicals is present to identify, check and supervise the connection and unloading.

3. In receiving areas where more than one (1) chemical is stored, the tank connection shall be individually keyed.

4. Connection to different chemical receiving systems shall be locked by separated keying arrangement.

5. Due caution shall be made to prevent spills and to assure that the receiving tank is not overfilled.

6. Prior arrangements shall be made to assure that inadvertent overflow is controlled without exposing employees.

(h) Upon completion of unloading, the receiving device or the enclosure shall be locked and the key returned to its designated security location or other equivalent action be taken to secure the chemical inventory.

(3) Training.

(a) Persons responsible for the acceptance of potentially hazardous chemicals shall have an understanding of the particular hazards associated with those chemicals individually and in combination.

(b) Internal written operating procedures shall be prepared. All employees exposed to the

hazards addressed by this regulation shall be trained in these procedures.

(c) Written emergency evacuation plans shall be prepared and practiced by all potentially affected employees.

(d) Copies of the operating procedures, emergency evacuation plans, and a listing of personnel authorized to receive bulk chemicals shall be on the premises and available to employees and to compliance safety and health officers.

803 KAR 2:050
SCOPE

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

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

Section 2. The administrative regulations promulgated under 803 KAR Chapter 2 shall apply to all employers, employees, and places of employment throughout the Commonwealth pursuant to KRS 338.021.

803 KAR 2:060
EMPLOYER RESPONSIBILITY TO POST NOTICE

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

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

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

Section 2. Posting. (1) The notice created by the Labor Cabinet shall be available on the Labor Cabinet website at Labor.ky.gov.

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

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

(4) If employers are engaged in activities that are physically dispersed, such as agriculture, construction, gas and sanitary services, transportation, communications, and electric services the notice or notices shall be posted at the location where employees report each day.

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

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

(7) Each employer shall take steps to ensure the notice or notices are not altered, defaced, or obscured.

Section 3. Availability of Administrative Regulations. (1) All applicable occupational safety and health administrative regulations shall be available on the Labor Cabinet website at Labor.ky.gov.

(2) If an employer has copies of these materials, the employer shall make the copies available upon request to any employee or authorized employee representative for review in the establishment where the employee is employed on the same day the request is made or at the earliest time mutually convenient to the employee or authorized employee representative and the employer.

803 KAR 2:062
EMPLOYER RESPONSIBILITY FOR AN EMPLOYEE
EXPOSED TO TOXIC SUBSTANCES OR HARMFUL PHYSICAL AGENTS

Section 1. Definitions. (1) “Board” is defined by KRS 33.015(6).

(2) “Employee” is defined by KRS 338.015(2).

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

(4) “Occupational safety and health standard” is defined by KRS 338.015(3).

Section 2. General Requirements. (1) Employers shall monitor areas where employees are exposed to potentially toxic substances or harmful physical agents that are required to be monitored or measured pursuant to standards adopted by the board pursuant to KRS Chapter 338.

(2) Employers shall provide employees or their representatives an opportunity to observe monitoring or measuring.

(3)(a) Each employer shall promptly notify every employee who was or is exposed to toxic materials or harmful physical agents in concentrations or levels that exceed those established by applicable standards adopted by the Kentucky Occupational Safety and Health Standards Board. Where pursuant to those applicable occupational safety and health standards adopted by the board pursuant to KRS Chapter 338.

(b) If it is required that exposure to certain toxic substances or agents is limited or prohibited, each employer shall

- (1) Notify employees subject to exposure;
- (2) Inform employees of the corrective action required, if any;
- (3) Notify employees when action will be, or was taken.

(4)(a) Each employer shall make and maintain records of all monitoring activity required by this regulation and make appropriate provisions whereby each employee, former employee, or a representative of either, has access to records that indicate the levels the employee or former employee was exposed.

(b) Each employee, former employee, or representative of either shall be permitted to copy records pertaining to her or his exposure levels or the exposure levels of the employee or former employee she or he is representing.

803 KAR 2:070
INSPECTIONS

Section 1. Definitions. (1) “Commissioner” is defined by KRS 338.015.

(2) “Compliance safety and health officer” means a person authorized by the commissioner to conduct occupational safety and health inspections and investigations.

(3) “Compulsory process” means the institution of any appropriate action, including ex parte application for an inspection, investigation, or warrant or its equivalent.

(4) “Director” means Director, Division of Occupational Safety and Health Compliance.

(5) “Employee” is defined by KRS 338.015(2).

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

Section 2. Authority for Inspections. (1) Compliance safety and health officers shall be authorized to conduct inspections pursuant to KRS 338.101.

(2) Prior to inspecting areas containing information classified by an agency of the United States Government in the interest of national security, compliance safety and health officers shall obtain the appropriate security clearance.

Section 3. Objection to Inspection. (1) If an employer refuses to permit a compliance safety and health officer to enter without delay and at reasonable times any place of employment to inspect; review records; question any employer, owner, operator, agent, or employee; or permit a representative of employees to accompany the compliance safety and health officer during the physical inspection of any workplace, the compliance safety and health officer shall terminate the inspection or confine the inspection to areas, conditions, structures, machines, apparatus, devices, equipment, materials, records, or interviews concerning which no objection is raised.

(2) The compliance safety and health officer shall endeavor to ascertain the reason for the refusal, and immediately report the refusal and reason to the commissioner.

(3) The commissioner shall promptly take appropriate action including compulsory process if necessary.

(4)(a) Compulsory process may be sought in advance of an inspection if, in the judgment of the commissioner, circumstances exist that make a pre-inspection process desirable or necessary.

(b) It may be desirable or necessary to seek compulsory process in advance of an attempt to inspect if:

1. The employer's past practice implicitly or explicitly puts the commissioner on notice

that a warrantless inspection will not be allowed;

2. Procuring a warrant prior to conducting the inspection would avoid, in case of refusal, the expenditure of significant time and resources to obtain a warrant and return to the establishment or worksite; or
3. An inspection includes the use of special equipment or the presence of an expert, or experts, is needed to conduct the inspection and procuring a warrant prior an inspection would alleviate the difficulties or costs encountered in coordinating the availability of equipment or an expert.

(5) With the approval of the commissioner as established in this section, the director or other designee may obtain compulsory process.

(6) Ex parte inspection warrants shall be the preferred form of compulsory process if compulsory process is relied upon.

Section 4. Entry not a Waiver. Any permission to enter, inspect, review records, or question any person, shall not imply or be conditioned upon a waiver of any cause of action, citation, or penalty pursuant to KRS Chapter 338.

Section 5. Conduct of Inspections. (1) Inspections shall take place at times and in places of employment as the commissioner or designee directs.

(2) At the beginning of an inspection, or as soon as practical, the compliance safety and health officers shall:

- (a) Present her or his credentials to the owner, operator, or agent in charge at the establishment or worksite;
- (b) Explain the nature and purpose of the inspection;
- (c) Indicate generally the scope of the inspection and the records she or he wishes to review. The designation of records shall not preclude access to additional records;
- (d) Have authority to take environmental samples, photographs, videos, oral recordings, and statements; and
- (e) Employ other reasonable investigative techniques, such as the use of devices to measure employee exposures and the attachment of personal sampling equipment such as dosimeters, pumps, badges, and other similar devices to employees in order to monitor their exposures.

(3) In taking photographs and samples, compliance safety and health officers shall take reasonable precautions to ensure that actions with flash, spark-producing, or other equipment shall not be hazardous.

(4) Compliance safety and health officers shall comply with employer safety and health rules and practices at the establishment or worksite and wear, as well as use, appropriate personal protective equipment.

(5) The conduct of an inspection shall preclude unreasonable disruption of operations at the employer's establishment or worksite.

(6)(a) At the conclusion of an inspection, the compliance safety and health officer shall offer conference with the employer and informally advise her or him of apparent violations.

(b) The employer shall be afforded an opportunity to bring to the attention of the compliance safety and health officer any pertinent information regarding conditions in the workplace.

803 KAR 2:080
ADVANCE NOTICE OF INSPECTIONS

Section 1. Definitions. (1) “Commissioner” is defined by KRS 338.015(7).

(2) “Compliance Safety and Health Officer” means a person authorized by the commissioner to conduct occupational safety and health inspections.

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

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

Section 2. Advance Notice of Inspections. (1) Advance notice of inspections may not be given, except:

(a) In cases of apparent imminent danger, to enable the employer to abate the danger as quickly as possible;

(b) In circumstances where the inspection can most effectively be conducted after regular business hours or where special preparations are necessary for an inspection;

(c) When necessary to assure the presence of representatives of the employer and employees or the appropriate personnel needed to aid in the inspection; and

(d) When the Commissioner, or designee, determines that advance notice would enhance the probability of an effective and thorough inspection.

(2) (a) Advance notice may be given by the compliance safety and health officer without authorization if the commissioner, or designee, is not immediately available.

(b) When advance notice is given, it shall be employer's responsibility to promptly notify the authorized representative of the employees of the inspection, if the identity of such representative is known to the employer.

(c) Upon the request of the employer, the compliance safety and health officer may inform the authorized representative of employees of the inspection, provided the employer furnishes the compliance safety and health officer the identity of such representative and with other information necessary to enable him promptly to inform such representative of the inspection.

Section 3. An employer who fails to comply with this requirement may be subject to citation and penalty pursuant KRS 338.991.

Section 4. Except in apparent imminent danger situations or other unusual circumstances advance notice shall not be given more than twenty-four (24) hours before the inspection is scheduled to be conducted.

803 KAR 2:090
COMPLAINT INSPECTIONS

Section 1. Definitions. (1) “Commissioner” is defined by KRS 338.015(7)

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

Section 2. (1) Inspections conducted pursuant KRS 338.121 shall not be limited to matters referred to in the complaint.

(2) If a citation is issued for a violation or danger alleged in the complaint, a copy of the citation shall be sent to the complainant on or about the same time it is sent to the employer.

Section 3. Informal review when no citation warranted. (1) If the commissioner determines that a citation is not warranted with respect to a danger or violation alleged in the complaint, the complainant shall be informed in writing of such determination and of her or his right of review of the determination.

(2) The complaining party may obtain review by submitting a written statement of position to the commissioner.

(3) Upon request of the complaining party, the commissioner, at her or his discretion, may hold an informal conference in which the complaining party may present her or his views.

(4) After considering all views presented, the commissioner shall affirm, modify, or reverse her or his determination and furnish the complaining party a written notification of her or his decision and the reasons therefore.

(5) The decision of the commissioner shall be final and not subject to further review.

Section 4. Informal review when inspection not warranted. (1) If the commissioner determines that an inspection is not warranted, she or he shall notify the complaining party in writing of the determination.

(2) The complaining party may obtain review of the determination by submitting a written statement of position to the commissioner.

(3) Upon request of the complaining party, the commissioner, at her or his discretion, may hold an informal conference in which the complaining party may present his views.

(4) After considering all views presented, the Commissioner shall affirm, modify, or reverse her or his determination and furnish the complaining party a written notification of her or his decision and the reasons therefore.

(5) The decision of the commissioner shall be final and not subject to further review.

(6) The determination shall be without prejudice to the filing of a new complaint pursuant to KRS 338.121.

803 KAR 2:100
IMMINENT DANGER

Section 1. Definitions. (1) “Commissioner” is defined by KRS 338.015(7).

(2) “Compliance Safety and Health Officer” means a person authorized by the Commissioner to conduct occupational safety and health inspections.

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

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

Section 2. Imminent Danger. (1) When a compliance safety and health officer concludes on the basis of an inspection that conditions or practices exist which could reasonably be expected to cause death or serious physical harm immediately or before the imminence of such danger can be eliminated through the enforcement procedures otherwise provided by KRS Chapter 338, the compliance safety and health officer shall inform the affected employee and employer of the danger.

(2) The compliance safety and health officer shall notify the affected employee and employer that if the imminent danger is not immediately abated, the compliance safety and health officer is recommending a civil action to restrain such conditions or practices and for other appropriate relief pursuant KRS 338.133.

(3) A citation may be issued even though, after being informed of such danger by the compliance safety and health officer, the employer immediately eliminates the imminence of the danger and initiates steps to abate the danger.

803 KAR 2:110
EMPLOYER AND EMPLOYEE REPRESENTATIVES

Section 1. Definitions. (1) "Compliance safety and health officer" means a person authorized by the commissioner to conduct occupational safety and health inspections or investigations.

(2) "Employee" is defined by KRS 338.015(2).

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

Section 2. Representatives of Employers and Employees.

- (1) The compliance safety and health officer shall be in charge of the inspection and questioning of persons.
- (2) A representative of the employer and a representative authorized by her or his employees shall be given an opportunity to accompany the compliance safety and health officer.
- (3) The compliance safety and health officer may permit additional employer representatives and additional representatives authorized by employees to accompany her or him where he determines that such additional representatives will further aid the inspection.
- (4) A different employer and employee representative may accompany the compliance safety and health officer during each different phase of an inspection if this will not interfere with the conduct of the inspection.
- (5) Compliance safety and health officers shall have authority to resolve all disputes as to who is the representative authorized by the employer and employees for the purpose of this section.
- (6) If there is no authorized representative of employees, or if the compliance safety and health officer is unable to determine with reasonable certainty who is such representative, he shall consult with a reasonable number of employees concerning matters of safety and health in the workplace.
- (7) The representative(s) authorized by employees shall be an employee(s) of the employer.
- (8) if in the judgment of the compliance safety and health officer, good cause has been shown why accompaniment by a third party who is not an employee of the employer (such as an industrial hygienist or a safety engineer) is reasonably necessary to the conduct of an effective and thorough physical inspection of the workplace, such third party may accompany the compliance safety and health officer during the inspection.
- (9) Compliance safety and health officers may consult with employees concerning matters of occupational safety and health to the extent they deem necessary for the conduct of an

effective and thorough inspection.

(10) During the course of an inspection, any employee shall be afforded an opportunity to bring any violation of KRS Chapter 338 which he has reason to believe exists in the workplace to the attention of the compliance safety and health officer.

(11) Compliance safety and health officers are authorized to deny the right of accompaniment under this section to any person whose conduct interferes with a fair and orderly inspection.

(12) The right of accompaniment in areas containing trade secrets shall be subject to KRS 338.171. With regard to information classified by an agency of the United States Government in the interest of national security,

(13) Only persons authorized to have access to such information may accompany a compliance safety and health officer in areas containing such information.

803 KAR 2:120
CITATIONS

Section 1. Definitions. (1) “Commissioner” is defined in KRS 338.015.

(2) “Compliance safety and health officer” means a person authorized by the commissioner to conduct occupational safety and health inspections.

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

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

(5) “Occupational safety and health standard” is defined by KRS 338.015(4)

(6) “Review commission” is defined by KRS 338.015(8).

(7) “Working days” means Monday through Friday and does not include Saturday, Sunday, federal or state holidays, or the day of receipt of notice.

Section 2. Citations. (1) If the commissioner has reason to believe that an employer violated a requirement of KRS Chapter 338, or any occupational safety and health standard, rule, or order promulgated pursuant to KRS Chapter 338, the commissioner shall issue, with delivery or receipt confirmation, the employer a citation indicating the violation.

(2) An appropriate citation shall be issued even though after being informed of an alleged violation by the compliance safety and health officer, the employer immediately abates, or initiates steps to abate, such alleged violation.

(3) Each citation shall be issued with reasonable promptness.

Section 3. Content of Citation. (1) Each citation shall describe with particularity the nature of the alleged violation, including a reference to the provision(s) of KRS Chapter 338, standard, rule, administrative regulation, or order alleged violated.

(2) Each citation shall establish a reasonable date by which the alleged violation shall be eliminated.

(3) Each citation may propose a civil penalty.

Section 4. Citations Issued for Requested Inspections. If a citation is issued for a violation alleged in request for inspection pursuant KRS 338.121, a copy of the citation shall be sent, with delivery or receipt confirmation, to the employee or representative of employees who made the request or notification.

Section 5. Final Order Statement. Each citation shall state the citation shall be deemed a final order of the review commission and not be subject to review by any court or agency if an

employer, employee, or representative of the employees fails to notify the commissioner within fifteen (15) working days from the receipt of the citation that he or she intends to contest the citation.

803 KAR 2:122
ABATEMENT

Section 1. Definitions. (1) "Abatement" means action by an employer to comply with a cited regulation, standard, statute, or order to eliminate a hazard identified by the Division of Occupational Safety and Health Compliance.

(2) "Abatement date" means as established in paragraphs (a) and (b) of this subsection.

(a) For an uncontested citation item, "abatement date" means the later of the date:

1. In the citation for abatement of the violation;
2. Approved by Division of Occupational Safety and Health Compliance or established in litigation as a result of a petition for modification of the abatement date (PMA); or
3. Established in a citation by an informal settlement agreement.

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

1. Identified in the final order for abatement;
2. Computed by adding the period allowed in the citation for abatement to the final order date; or
3. Established by a formal settlement agreement.

(3) "Affected employees" means employees who exposed to a hazard identified as violation in a citation.

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

(5) "Commissioner" is defined by 803 KRS 338.015(7).

(6) "Compliance officer" means a person authorized by the commissioner to conduct occupational safety and health inspections and investigations.

(7) "Employee" is defined by KRS 338.015(2).

(8) "Employer" is defined by KRS 338.015(1).

(9) "Final order date" means as established in paragraphs (a) and (b) of this subsection.

(a) For an uncontested citation item, "final order date" means the 15th working day after the employer's receipt of the citation.

(b) For a contested citation item, "final order date" means:

1. The 30th day after the date a decision or order of a commission hearing officer has been docketed with the commission, unless a member of the commission has directed review;
2. If review has been directed, the date the commission issues its decision or order disposing of all or pertinent part of a case; or
3. The date an appeals court issues a decision affirming the violation in a case if a final order of the review commission has been stayed.

(10) "Movable equipment" means a hand held or non-hand held machine or device, powered or unpowered, used to do work and moved within a worksite or between worksites.

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

(12) "Working days" means Monday through Friday and does not include Saturday, Sunday, federal, or state holidays, and the day of receipt of notice.

Section 2. Extension or Modification of Abatement. (1) An employer may apply for an extension or modification of abatement with the commissioner or designee after the employer made a good faith effort to comply with the abatement requirements but abatement is not completed due to factors reasonably beyond the employer's control.

(2) The application for extension or modification of abatement, as established in subsection (7) of this section, shall be made no later than 4:30 p.m. Eastern Time on the day abatement is required.

(3) A later filed petition shall be accompanied by the employer's written statement of exceptional circumstances explaining the delay.

(4) The application for extension or modification of abatement shall be posted for ten (10) working days in a conspicuous location where all affected employees have notice or near the location where the violation occurred.

(5) An application for extension or modification of abatement shall be in writing or may be made orally if time does not permit a written application.

(6) If an application for extension or modification of abatement is made orally, a written application shall follow the oral request within three (3) working days.

(7) Every application for extension or modification of abatement shall include:

- (a) All steps taken by the employer, and the dates of action, in an effort to achieve compliance during the established abatement period;

- (b) The specific additional time or modification necessary to achieve compliance;
- (c) The reason additional time or modification is necessary;
- (c) All interim steps implemented to safeguard employees against the hazard; and
- (d) Certification the application for extension or modification of abatement was posted for ten (10) working days and, if appropriate, provided to the authorized representative of affected employees including the date the posting and service were made.

(8)(a) Affected employees or their representatives may file a written objection to the application with the commissioner within ten (10) working days of the date of posting of the [such] petition or service upon an authorized representative.

(b) Failure to file an objection within ten (10) working days of the date of posting of the petition or service upon an authorized representative, shall constitute a waiver of any further right to object to the application.

(9) The commissioner or designee shall rule on the application for extension or modification of abatement within three (3) working days of receipt of the application.

(10). Adversely affected employees may appeal an extension or modification of abatement pursuant to KRS 338.141.

(11) If an application for extension or modification of abatement is denied, the employer may appeal pursuant to KRS 338.141.

Section 3. Abatement Certification. (1) Within ten (10) calendar days after the abatement date, the employer shall certify to the commissioner that each cited violation is abated, except as established in subsection (2) of this section.

(2) The employer shall [is] not be required to certify abatement if the compliance officer, during the on-site portion of the inspection:

- (a) Observes, within twenty-four (24) hours after a violation is identified, that abatement occurred; and
- (b) The citation states that abatement occurred.

(3) The employer's certification that abatement is complete shall include, for each cited violation, in addition to the information required by this administrative regulation, the date and method of abatement and a statement that affected employees and their representatives have been informed of the abatement.

Section 4. Abatement Documentation. (1) The employer shall submit documents demonstrating that abatement is complete for each cited violation.

(2) Documents demonstrating that abatement is complete may include evidence of the purchase or repair of equipment, photographic or video evidence of abatement, or other written records.

Section 5. Abatement Plan. (1) The commissioner may require an employer to submit an abatement plan if the time permitted for abatement is more than ninety (90) calendar days.

(2) The citation shall state that an abatement plan shall be required.

(3)(a) The employer shall submit an abatement plan for each cited violation within twenty-five (25) calendar days from the final order date if the citation indicates that a plan shall be required.

(b) The abatement plan shall identify the violation and the steps to be taken to achieve abatement including a schedule for completing abatement and, where necessary, how employees will be protected from exposure to the hazard or violative condition until abatement is complete.

(4) Progress reports. (a) An employer required to submit an abatement plan may be required to submit periodic progress reports for each cited violation.

(b) If an employer is required to submit periodic progress reports, the citation shall indicate:

1. That periodic progress reports shall be required and the citation items for which they shall be required;
2. The date the initial progress report shall be submitted, which shall be no sooner than thirty (30) calendar days after submission of an abatement plan;
3. Additional progress reports that shall be required; and
4. The dates additional progress reports shall be submitted.

(c) For each violation, the progress report shall identify the action taken to achieve abatement and the date the action was taken.

Section 6. Employee Notification. (1) The employer shall inform affected employees and their representative about abatement activities by posting a copy of each document submitted to the commissioner or a summary of the document near the place where the violation occurred.

(2) If posting does not effectively inform employees and their representatives about abatement activities, the employer shall:

- (a) Post each document or a summary of the document in a location where it is readily observable by affected employees and their representatives; or

(b) Take other steps to communicate fully to affected employees and their representatives about abatement activities.

(3)(a) The employer shall[must] inform employees and their representatives of their right to examine and copy all abatement documents submitted to the commissioner.

(b) An employee or an employee representative shall[must] submit a request to the employer to examine and copy abatement documents within three (3) working days of receiving notice that documents were submitted to the commissioner.

(c) The employer shall comply with an employee or employee representative request to examine and copy abatement documents within five (5) working days of receiving the request.

(4)(a) The employer shall ensure that notice to employees and employee representatives shall be provided at the same time or before the information is provided to the commissioner.

(c) The employer shall ensure that abatement documents:

1. Shall not be altered, defaced, or covered by other material; and
2. Remain posted for at least three (3) working days after submission to the commissioner.

Section 7. Transmitting Abatement Documents. (1) The employer shall include in each submission:

- (a) The employer's name and address;
- (b) The inspection number;
- (b) The citation and item number;
- (c) A statement that information submitted is accurate; and
- (e) The signature of the employer or the employer's authorized representative.

(2) The postmark date shall be the date of submission for mailed documents.

(3) For documents transmitted by other means, the date the commissioner receives the document shall be the date of submission.

Section 8. Moveable Equipment. (1) The employer shall attach a warning tag or a copy of the citation to the operating controls or to the cited component of equipment moved within the worksite or between worksites.

(2) Attaching a copy of the citation meets the tagging requirement of this administrative regulation as well as the posting requirement established in 803 KAR 2:125.

(3) The employer shall attach a warning tag that:

(a) Properly warns employees about the nature of the violation involving the equipment;
and

(b) Identifies the location of the citation issued.

(4)(a) If the violation is not abated, a warning tag or copy of the citation shall be attached to hand held equipment immediately after the employer receives the citation.

(b) If the violation is not abated, a warning tag or copy of the citation shall be attached to non-hand held equipment prior to moving the equipment within or between worksites.

(5) For the construction industry, a tag designed and used in accordance with 29 C.F.R. 1926.20(b)(3) and 29 C.F.R. 1926.200(h) meets the requirements of this section if the information required by this section is included on the tag.

(6) The employer shall ensure the tag or copy of the citation attached to movable equipment shall not be altered, defaced, or covered, or obscured by other material.

(7) The employer shall ensure the tag or copy of the citation attached to movable equipment shall remain attached until:

(a) The violation is abated and all abatement verification documents required by this administrative regulation are submitted to the commissioner;

(b) The cited equipment is permanently removed from service or is no longer in the employer's control; or

(c) The review commission issues a final order vacating the citation.

Section 9. The commissioner shall assume authority to modify abatement pursuant to KRS 338.141(2) if review commission jurisdiction expires.

Section 10. Nonmandatory examples of abatement-related forms that apply to 29 C.F.R. 1903.19 appendices shall include: (a) Appendix A, Sample Abatement Certification Letter; (b) Appendix B, Sample Abatement Plan or Progress Report; and (c) Appendix C, Sample Warning Tag.

Section 11. Incorporation by Reference. (1) The following nonmandatory appendices to 29 C.F.R. 1903.19 are incorporated by reference: (a) Appendix A, Sample Abatement Certification Letter; (b) Appendix B, Sample Abatement Plan or Progress Report; and (c) Appendix C, Sample Warning Tag.

803 KAR 2:125
POSTING OF CITATION

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

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

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

(4) "Working days" means Monday through Friday and does not include Saturday, Sunday, federal, or state holidays, and the day of receipt of notice.

Section 2. Posting. (1) Upon receipt of any citation, the employer shall immediately post the unedited citation, or a copy of the unedited citation, at or near each place the alleged violation occurred, except as established in subsections (1) through (6) of this section.

(2) If, because of the nature of the employer's operations, it is not practicable to post the unedited citation, or a copy of the unedited citation, at or near each place of alleged violation, the unedited citation shall be posted, unedited, in a prominent place where it is readily observable by all affected employees such as a location where employees report each day.

(3) The unedited citation, or a copy of the unedited citation, may be posted at the location employees carry out their activities if the employees do not primarily work at, or report to, a single location.

(4) Each citation, or a copy thereof, shall remain posted until the violation has been abated, or for three (3) working days, whichever is later. The filing by the employer of a notice of intention to contest shall not affect his posting responsibility under this section unless and until the review commission issues a final order vacating the citation.

(5)(a) Each unedited citation, or copy of the unedited citation, shall remain posted until the violation is abated, or for three (3) working days, whichever later.

(b) The filing by the employer of a notice to contest shall not affect the posting responsibility unless the review commission issues a final order vacating the citation.

(6)(a) An employer that receives a citation shall post a notice indicating the citation is contested in the same location where the unedited citation, or copy of the unedited citation, is posted.

(b) The notice may explain the reason for the contest.

(c) The employer may also indicate specific steps taken to abate the violation.

803 KAR 2:127
FAILURE TO CORRECT VIOLATION

Section 1. Definitions. (1) “Commissioner” is defined by KRS 338.015.

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

(3) “Review commission” is defined in KRS 338.015(8).

(4) "Working day" means Monday through Friday and does not include Saturday, Sunday, federal, or state holidays, and the day of receipt of notice.

Section 2. (1) If an inspection discloses that an employer failed to correct an alleged violation for which a citation was issued within the period permitted for its correction, the commissioner shall notify the employer of the failure and the additional penalty proposed pursuant to KRS 338.991(4).

(2) The period for the correction of a violation shall not begin to run until the entry of a final order of the review commission in the case of any proceedings initiated by the employer in good faith and not solely for delay or avoidance of penalties.

Section 3. (1) Any employer receiving a notification of failure to correct a violation and proposed additional penalty pursuant to KRS 338.991(4) may notify the commissioner or designee in writing that she or he contests.

(2)(a) The notice of contest shall be transmitted within fifteen (15) working days of receipt.

(b) The commissioner shall transmit the notice to the review commission in accordance with the rules of procedure prescribed by the commission in accordance with KRS 338.071.

Section 4. Each notification of failure to correct a violation and proposed additional penalty shall state that it shall be a final order of the review commission and not subject to review by any court or agency, as established by KRS 338.141, unless, within fifteen (15) working days from the date of receipt of the notification, the employer notifies the commissioner or designee in writing that she or he contests the notification of proposed additional penalty before the review commission.

803 KAR 2:130
INFORMAL CONFERENCE

Section 1. Definitions. (1) Commissioner is defined by [in] KRS 338.015.

(2) "Employee" is defined by KRS 338.015(2).

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

(4) "Working day" means Monday through Friday and does not include Saturday, Sunday, federal, or state holidays, and the day of receipt of notice.

Section 2. Informal Conference. (1) At the request of an affected employer, employee or representative of employees, the commissioner or designee may hold an informal conference for the purpose of discussing issues raised by an inspection, investigation, citation, notice of proposed penalty, or notice to contest.

(2) If the informal conference is requested by the employer, an affected employee or employee representative shall be afforded an opportunity to participate at the discretion of the commissioner or designee.

(3) If the informal conference is requested by an employee or representative of employees, the employer shall be afforded an opportunity to participate, at the discretion of the commissioner or designee.

(4) Any party may be represented by counsel.

(5) An informal conference or request for an informal conference shall not serve as a stay or extension of the fifteen (15) working day period to file a notice of contest pursuant to 803 KAR 2:140.

803 KAR 2:140
CONTEST OF CITATION

Section 1. Definitions. (1) "Commissioner" is defined by KRS 338.015.

(2) "Employee" is defined by KRS 338.015(2).

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

(4) "Review commission" is defined by KRS 339.015(8).

(5) "Working days" means Monday through Friday and does not include Saturday, Sunday, federal or state holidays, and the day of receipt of notice.

Section 2. Procedure. (1)(a) An employer that receives a citation may notify the commissioner in writing that she or he contests the citation, proposed penalty, or both.

(b) The notice of contest shall be transmitted by the employer within fifteen (15) working days of receipt citation.

(c) The notice of contest shall specify whether it is directed to the citation, proposed penalty, or both.

(d) The commissioner shall immediately transmit the notice to the review commission in accordance with the rules of procedure prescribed by the commission in accordance with KRS 338/.071.

(2) Any employee or representative of employees of an employer that receives a citation may notify the commissioner in writing that she or he contes the:

(a) Time established in the citation for the abatement of the violation; or

(b) Citation, or proposed penalty, or both.

(3)(a) The notice shall be postmarked within fifteen (15) working days of the receipt by the employer of the notice of the citation.

(b) The commissioner shall immediately transmit the notice to the review commission in accordance with the rules of procedure prescribed by the commission in accordance with KRS 338.071.

803 KAR 2:181

RECORDKEEPING AND REPORTING OCCUPATIONAL INJURIES AND ILLNESSES

Section 1. Definitions. (1) “Amputation” means an injury in which a portion of the body including bone tissue is removed.

(2) “C.F.R.” means Code of Federal Regulations.

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

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

(5) “Hospitalization” means formal admission to a hospital or clinic for care or treatment.

(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.

(8) “Secretary of Labor” means the Secretary of the United States Department of Labor or the Secretary of the Labor Cabinet.

(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, In-Patient 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 Labor Cabinet, Department of Workplace Standards, Division of Occupational Safety and Health Compliance, at (502) 564-3070, the work-related death of an employee, 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 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:

- (a) Amputation suffered by an employee;
- (b) Employee's loss of an eye; or
- (c) Hospitalization of an employee, including hospitalization resulting from a heart attack.

(5) The report required pursuant to subsection (4) of this section shall be made within seventy-two (72) hours from when the amputation, loss of an eye, or hospitalization is reported to the employer, the employer's agent, or another employee.

Section 4. If the employer cannot speak with someone in the Frankfort office, the employer shall make the report required pursuant to Section 3 of this emergency administrative regulation to the OSHA toll-free, central telephone number, 1-800-321-OSHA (1-800-321-6742).

803 KAR 2:220
REFUSAL TO WORK WHEN DANGEROUS CONDITION EXIST

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

Section 2. Employee Refusal to Work. (1) If an employee is confronted with a choice between not performing assigned tasks or being subjected to death, serious injury, or illness arising from a dangerous condition at the workplace, the employee may refuse in good faith to expose herself or himself to the dangerous condition.

(2) The condition causing the employee's apprehension of death, serious injury, or serious illness shall be of a nature that a reasonable person under the same or similar circumstances confronting the employee would conclude there is a real danger of death, serious injury, or serious illness and there is insufficient time, due to the urgency of the situation, to eliminate the danger through regular statutory enforcement channels.

(3) Additionally, the employee, if possible, shall have sought corrective action from her or his employer and was unable to obtain correction of the dangerous condition.

(4) If an employee in good faith refuses to expose herself or himself to a dangerous condition at the workplace, the employee shall not be subjected to subsequent discrimination by the employer.

(5) The provisions of this administrative regulation shall not apply if an employee acted unreasonably or in bad faith.

803 KAR 2:230
PAY DURING INSPECTION ACTIVITIES

Section 1. Definitions. (1) "Commissioner" is defined by KRS 338.015.

(2) "Compliance officer" means a person authorized by the commissioner to conduct occupational safety and health inspections.

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

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

Section 2. (1) Employees, when on regular duty time, shall be paid their regular rate of pay during the conduct of the walkaround inspection and other inspection related activities such as responding to compliance officer questions and participating in an opening and closing conference.

(2) An employer's failure to pay employees for time engaged in inspection activity is discriminatory pursuant to KRS 338.121(3).

803 KAR 2:240
TIME FOR FILING DISCRIMINATION COMPLAINT

Section 1. Definition. “Commissioner” is defined by KRS 338.015(7).

Section 2. Reasonable Time. A reasonable time as used in KRS 338.121(3)(b) shall be no more than 120 calendar days for the purpose of filing a complaint with the Commissioner.

803 KAR 2:250
DISCRIMINATION

Section 1. Definitions. (1) "Commissioner" is defined by KRS 338.015(7).

(2) "Complainant" means any person who makes a "complaint" as defined by subsection (3) of this section.

(3) "Complaint" means any oral or written communication related to an occupational safety and health concern made by an employee to an employer, governmental agency, or made to the commissioner or the commissioner's designee.

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

(5) "Secretary" is defined by KRS 338.015(12).

(6) "Working days" means Monday through Friday and does not include Saturday, Sunday, federal, or state holidays, and the day of receipt of notice.

Section 2. Complaint. (1) An employee or former employee may file an oral or written complaint with the commissioner or commissioner's designee alleging discrimination.

(2) A complaint shall be filed no more than 120 days from the occurrence of the alleged discriminatory activity.

(3) A complaint shall provide the name and address of the complainant, name and address of employer, and description of alleged discrimination.

(4) The commissioner or commissioner's designee shall provide the employer notification of the complaint upon initiation of an investigation.

Section 3. Settlement. (1) Settlement shall be encouraged at any stage of the proceedings if the settlement is consistent with KRS Chapter 338.

(2) Primary consideration shall be the reinstatement of a complainant to his or her former position with back pay and assurance of the future protection of the rights of all employees pursuant to KRS Chapter 338.

Section 4. Withdrawal of Complaint to the Commissioner. (1) A request by the complainant to withdraw a complaint filed with the commissioner shall be given careful consideration and substantial weight.

(2) The commissioner or commissioner's designee shall make the final determination if a complaint and subsequent investigation will be withdrawn and terminated.

Section 5. Arbitration or Other Agency Proceedings. (1) A complainant may pursue grievance arbitration proceedings in collective bargaining agreements while requesting relief from other agencies such as the National Labor Relations Board.

(2) The commissioner's jurisdiction to receive KRS 338.121(3) complaints, to investigate, and to determine if discrimination occurred shall be independent of the jurisdiction of other agencies or bodies.

(3) The commissioner or commissioner's designee may investigate and issue citations against any party found in violation regardless of the pendency or determination of other proceedings.

(4) If a complainant is pursuing remedies other than those established by KRS 338.121, the commissioner's determination shall be postponed.

Section 6. (1) Investigation.

(a) Upon receipt of a complaint, the commissioner or commissioner's designee shall initiate an investigation.

(b) The investigation shall be completed and the commissioner's determination issued within ninety (90) days, absent extenuating circumstances.

(2) Citation.

(a) If the commissioner finds a violation of KRS 338.121, he or she shall issue a citation, with delivery or receipt confirmation, and recommend a penalty pursuant to KRS 338.991.

(b) The citation shall include a determination by the commissioner as to the merits of the alleged violation.

(c) The commissioner or commissioner's designee shall provide notice of the determination to all affected parties.

(d) The citation shall state that it shall be deemed the final order of the review commission and not subject to review by any court or agency, as established by KRS 338.141, unless, within fifteen (15) working days from the date of receipt of the notice, the employer notifies the commissioner in writing that the employer intends to contest the citation before the review commission.

(e) The commissioner shall immediately transmit a notice to contest to the review commission in accordance with the rules of procedure prescribed by the commission in accordance with KRS 338.071.

(3) Penalty.

(a) The commissioner shall determine the amount of a proposed penalty, based on the appropriateness of the penalty with respect to the:

1. Size of the business of the employer being charged,
2. Gravity of the violation,
3. Good faith of the employer, and
4. History of previous violations.

(b) Penalties shall be proposed with respect to an alleged discriminatory act even if the employer immediately abates, or initiates steps to abate, the alleged violation.

(4)(a) If the commissioner determines there has not been discriminatory action, the complainant shall be notified of his or her rights of review.

- (b)1. The complainant may petition the secretary for a review of the determination.
2. The petition shall be in writing and state reasons why the review is requested.

(c) The secretary shall affirm the determination or remand it to the commissioner for further investigation.

PART II
State Specific Regulations Applicable to General Industry

803 KAR 2:307
HAZARDOUS MATERIALS

29 CFR 1910.106
Flammable and Combustible Liquids

Section 1. Definitions. (1) "Assistant secretary" means Secretary, Labor Cabinet, or Commissioner, Department of Workplace Standards, Labor Cabinet.

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

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

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

(5) "Standard" means "occupational safety and health standard" as defined by KRS 338.015(3).

Section 2. Except as modified by the definitions in Section 1 of this administrative regulation and the requirements established in Section 3 of this administrative regulation, general industry shall comply with the following federal requirements published by the Office of the Federal Register, National Archives and Records Services, General Services Administration:

(1) 29 C.F.R. 1910.101-1910.126, revised July 1, 2015; and

(2) The revisions to 29 C.F.R. 1910.106 as published in the March 1, 2016, Federal Register, Volume 81, Number 40.

Section 3. Automotive Service Station. (1) The language in subsection (2) of this section shall apply in lieu of 29 C.F.R. 1910.106(a)(3).

(2) Automotive service station, or service station, shall include that portion of property where flammable or combustible liquids used as motor fuels are stored and dispensed from fixed equipment into the fuel tanks of motor vehicles and shall include any facilities available for the sale and service of tires, batteries, or accessories, and for minor automotive maintenance work, and shall also include private stations not accessible or open to the public such as those used by commercial, industrial, or governmental establishments. This section shall not apply to agriculture.

803 KAR 2:309
GENERAL ENVIRONMENTAL CONTROLS

29 CFR 1910.147
The Control of Hazardous Energy Lockout

Section 1. Definitions. (1) "C.F.R." means Code of Federal Regulations.

(2) "Employee" is defined by KRS 338.015(2).

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

(4) "Standard" means "occupational safety and health standard" as defined by KRS 338.015(3).

Section 2. Except as established by Section 3 of this administrative regulation, general industry shall comply with 29 C.F.R. 1910, Subpart J, General Environmental Controls, published by the Office of the Federal Register, National Archives and Records Services, General Services Administration.

Section 3. (1)(a) Lockout. The requirements in paragraph (b) of this subsection shall apply in lieu of 29 C.F.R. 1910.147(c)(2)(ii).

(b) If an energy isolating device is capable of being locked out, the employer's energy control program under 29 C.F.R. 1910.147(c)(1) shall utilize lockout.

(2)(a) Full employee protection. The requirements in paragraphs (b) and (c) of this subsection shall apply in lieu of 29 C.F.R. 1910.147(c)(3)(i).

(b) If a tagout device is used on an energy isolating device that is incapable of being locked out, the tagout device shall be attached at the same location that the lockout device would have been attached and the employer shall demonstrate that the tagout program shall provide a level of safety equivalent to that obtained by using a lockout program.

(c) If a tagout device is used with an energy isolating device that is incapable of being locked out, the tagout device shall be fastened at the same point at which the lock would have been attached.

803 KAR 2:310
MEDICAL SERVICES & FIRST AID

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

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

Section 2. (1) The employer shall ensure the ready availability of medical personnel for advice and consultation on matters of occupational health.

(2) Employers with eight (8) or more employees within the establishment shall have persons adequately trained to render first aid and adequate first aid supplies shall be readily available.

(3) Outside salesmen, truck drivers, seasonal labor, and others who, while performing their duties, are away from the premises more than fifty (50) percent of the time shall not be included in determining the number of employees.

(4)(a) All other employers shall, in the absence of an infirmary, clinic, or hospital in near proximity to the workplace which is used for the treatment of all injured employees, have a person or persons adequately trained to render first aid.

(b) Adequate first aid supplies shall be readily available.

Section 3. (1) If the eyes or body of any person may be exposed to injurious corrosive material, suitable facilities for quick drenching or flushing of the eyes and body shall be provided within the work area for immediate emergency use.

(2) The facilities shall comply with the provisions of the ANSI/ISEA Z358.1-2014 "American National Standard for Emergency Eyewash and Shower Equipment", which is incorporated by reference, with the following exceptions: (a) In a remote area if a person is visibly or audibly separated from coworkers, an audible or visible alarm shall activate to alert appropriate personnel when the unit is in use, or in the alternative, a two (2) way communication device shall be used. (b) The alarm shall continue until the unit is no longer in use. (c) A facility shall be tested according to the standard monthly.

Section 4. Incorporation by reference. (1) ANSI/ISEA Z358.1-2014 "American National Standard for Emergency Eyewash and Shower Equipment" is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Labor Cabinet, Mayo-Underwood Building, 3rd Floor, Frankfort, Kentucky 40601, Monday through Friday 8:00 a.m. to 4:30 p.m. EST. The Labor Cabinet Web site is www.labor.ky.gov.

(3) The ANSI Web site is www.ansi.org.

803 KAR 2:314
MACHINERY & MACHINE GUARDING

29 CFR 1910 Subpart O
Machinery and Machine Guarding

Section 1. Definitions. (1) "Assistant Secretary of Labor" means Secretary, Labor Cabinet, Commissioner, Department of Workplace Standards, Labor Cabinet.

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

(3) "Employee" is defined in KRS 338.015(2).

(4) "Employer" of defined by KRS 338.015(1).

(5) "National consensus standard" is defined in KRS 338.015(9).

(6) "Occupational safety and health standard" or "Standard" is defined by KRS 338.015(3).

(7) "U.S. Department of Labor" means U.S. Department of Labor or Kentucky Labor Cabinet, Mayo-Underwood Building, 3rd Floor, 500 Mero Street, Frankfort, Kentucky 40601.

Section 2. Except as modified by the definitions in Section 1 and requirements in Section 3 of this administrative regulation, general industry shall comply with 29 C.F.R. 1910 Subpart O, Machinery and Machine Guarding published by the Office of the Federal Register, National Archives and Records Administration.

Section 3. Reporting Requirement. An employer required by this administrative regulation to report information to the United States Department of Labor, or any subsidiary thereof, shall instead report the information to the Kentucky Labor Cabinet.

803 KAR 2:318
ADOPTION OF 29 CFR PART 1910.301-399

29 CFR 1910.333
Selection and Use of Work Practices

Section 1. Definitions. (1) "Assistant Secretary" means Secretary, Labor Cabinet, or Commissioner of the Department of Workplace Standards, Labor Cabinet.

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

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

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

Section 2. (1) General industry shall comply with the following federal regulations published by the Office of the Federal Register, National Archives and Records Services, General Services Administration, except as modified by the definitions established in Section 1 and the requirements in Section 3 of this administrative regulation:

(a) 29 C.F.R. 1910.301 through 29 C.F.R. 1910.399, and Appendices, revised July 1, 2015; and

(b) The amendments to 29 C.F.R. 1910.331 as published in the October 5, 2015 Federal Register, Volume 80, Number 192.

(2) The term "may not" as used in the federal regulations shall be considered a prohibition.

Section 3. 29 C.F.R. 1910.333(b)(2)(iii)(C) is amended to read as follows: "If a lock cannot be applied, tagging procedures shall provide a level of safety equivalent to that obtained by the use of a lock, as outlined in paragraph (b)(2)(iii)(D)."

803 KAR 2:320
TOXIC & HAZARDOUS SUBSTANCES

Section 1. Definitions. (1) "Absolute filter" means a filter capable of retaining 99.97 percent of a mono disperse aerosol of zero and three-tenths (0.3) μ particles.

(2) "Area director" means Director, Division of Occupational Safety and Health Compliance, Kentucky Labor Cabinet.

(3) "Authorized employee" means an employee whose duties require the employee to be in the regulated area and who has been specifically assigned to that area by the employer.

(4) "Clean change room" means a room where employees put on clean clothing or protective equipment in an environment free of 4,4'-Methylene bis (2-chloroaniline).

(5) "Closed system" means an operation involving 4,4'-Methylene bis (2-chloroaniline) if containment prevents the release of 4,4'-Methylene bis (2-chloroaniline) into regulated areas, nonregulated areas, or the external environment.

(6) "Decontamination" means the inactivation of 4,4'-Methylene bis (2-chloroaniline) or its safe disposal.

(7) "Director" means the Director, National Institute for Occupational Safety and Health, or any person directed by the director or the Secretary of Health, Education, and Welfare to act for the director.

(8) "Disposal" means the safe removal of 4,4'-Methylene bis (2-chloroaniline) from the work environment.

(9) "Emergency" means an unforeseen circumstance or set of circumstances resulting in the release of 4,4'-Methylene bis (2-chloroaniline) that could result in exposure to or contact with 4,4'-Methylene bis (2-chloroaniline).

(10) "Employee" is defined by KRS 338.015(2).

(11) "Employer" is defined by KRS 338.015(1).

(12) "External environment" means any environment external to regulated and nonregulated areas.

(13) "Isolated system" means a fully enclosed structure, other than the vessel of containment, of 4,4'-Methylene bis (2-chloroaniline), which is impervious to the passage of entry of 4,4'-Methylene bis (2-chloroaniline), and which would prevent the entry of 4,4'-Methylene bis (2-chloroaniline) into regulated areas, or the external environment, if leakage or spillage from the vessel of containment occurs.

(14) "Laboratory type hood" means a device: (a) Enclosed on three (3) sides with the top and bottom designed and maintained to draw air inward at an average linear face velocity of 150 feet

per minute with a minimum of 125 feet per minute; and (b) Designed, constructed, and maintained so that an operation involving 4,4'-Methylene bis (2-chloroaniline) within the hood does not require the insertion of any portion of an employee's body other than hands and arms.

(15) "Nonregulated area" means any area under the control of the employer where entry and exit is neither restricted nor controlled.

(16) "Open vessel system" means an operation involving 4,4'-Methylene bis (2-chloroaniline) in an open vessel, which is not in an isolated system, a laboratory type hood, nor in any other system affording equivalent protection against the entry of 4,4'-Methylene bis (2-chloroaniline) into regulated areas, nonregulated areas, or the external environment.

(17) "Protective clothing" means clothing designed to protect an employee against contact with or exposure to 4,4'-Methylene bis (2-chloroaniline).

(18) "Regulated area" means an area where entry and exit is restricted and controlled.

(19) "Standard" means "occupational safety and health standards" as defined by KRS 338.015(3).

Section 2. 4,4'-Methylene bis (2-Chloroaniline). (1) Scope and application.

(a) This section shall apply to any area in which 4,4'-Methylene bis (2-chloroaniline), Chemical Abstracts Service Registry Number 101144, is manufactured, processed, repackaged, released, handled, or stored. This section shall not apply to trans-shipment in sealed containers, except for the labeling requirements under subsection (4)(b), (c), and (d) of this section.

(b) This section shall not apply to solid or liquid mixtures containing less than one and zero tenths (1.0) percent by weight of 4,4'-Methylene bis (2-chloroaniline).

(2) Requirements for areas containing 4,4'-Methylene bis (2-chloroaniline). A regulated area shall be established by an employer where 4,4'-Methylene bis (2-chloroaniline) is manufactured, processed, used, repackaged, released, handled, or stored. Those areas shall be controlled in accordance with the requirements established in paragraphs (a) through (g) of this subsection for the category or categories describing the operations involved. (a) Isolated systems. Employees working with 4,4'-Methylene bis (2-chloroaniline) within an isolated system such as a "glove box" shall wash their hands and arms upon completion of the assigned task and before engaging in other activities not associated with the isolated system.

(b) Closed system operation. Within regulated areas if 4,4'-Methylene bis (2-chloroaniline) is stored in a sealed container, or contained in a closed system including piping systems, with any sample ports or openings closed while 4,4'-Methylene bis (2-chloroaniline) is contained within:

1. Access shall be restricted to authorized employees only; and
2. Employees shall be required to wash hands, forearms, face, and neck upon each exit from the regulated areas, close to the point of exit and before engaging in other activities.

(c) Open vessel system operations. Open vessel system operations shall be prohibited.

(d) Transfer from a closed system, charging or discharging point operations, or otherwise opening a closed system. In operations involving a "laboratory type hood," or in locations where 4,4'-Methylene bis (2-chloroaniline) is contained in an otherwise "closed system," but is transferred, charged, or discharged into other normally closed containers, the provisions of this paragraph shall apply.

1. Access shall be restricted to authorized employees only.
2. Each operation shall be provided with continuous local exhaust ventilation so that air movement shall always be from ordinary work areas to the operation.
 - a. Exhaust air shall not be discharged to regulated areas, nonregulated areas, or the external environment unless it is decontaminated.
 - b. Clean make-up air shall be introduced in sufficient volume to maintain the correct operation of the local exhaust system.
3. Employees shall be provided with, and required to wear, clean, full body protective clothing (smocks, coveralls, or long-sleeved shirt and pants), shoe covers, and gloves prior to entering the regulated area.
4. Employees engaged in 4,4'-Methylene bis (2-chloroaniline) handling operations shall be provided with and required to wear and use a half-face, filter-type respirator for dusts, mists, and fumes, in accordance with 29 C.F.R. 1910.134. A respirator affording a higher level of protection may be substituted.
5. Prior to each exit from a regulated area, employees shall be required to remove and leave protective clothing and equipment at the point of exit and at the last exit of the day and to place used clothing and equipment in impervious containers at the point of exit for decontamination or disposal. The contents of the impervious containers shall be identified, as required under subsection (4)(b), (c), and (d) of this section.
6. Employees shall be required to wash hands, forearms, face, and neck on each exit from the regulated area, close to the point of exit, and before engaging in other activities.
7. Employees shall be required to shower after the last exit of the day.
8. Drinking fountains shall be prohibited in the regulated area.

(e) Maintenance and decontamination activities. In cleanup of leaks or spills, maintenance or repair operations on contaminated systems or equipment, or any operations involving work in an area where direct contact with 4,4'-Methylene bis (2-chloroaniline) could result, each authorized employee entering that area shall be:

1. Provided with and required to wear clean, impervious garments, including gloves, boots, and continuous-air supplied hood in accordance with 29 C.F.R. 1910.134;
2. Decontaminated before removing the protective garments and hood; and
3. Required to shower upon removing the protective garments and hood.

(f) Laboratory activities. The requirements of this paragraph shall apply to research and quality control activities involving the use of 4,4'-Methylene bis (2-chloroaniline).

1. Mechanical pipetting aids shall be used for all pipetting procedures.
2. Experiments, procedures, and equipment that could produce aerosols shall be confined to laboratory-type hoods or glove boxes.
3. Surfaces on which 4,4'-Methylene bis (2-chloroaniline) is handled shall be protected from contamination.
4. a. Contaminated wastes and animal carcasses shall be collected in impervious containers that are closed and decontaminated prior to removal from the work area.
b. The wastes and carcasses shall be incinerated so that no carcinogenic products are released.
5. All other forms of 4,4'-Methylene bis (2-chloroaniline) shall be inactivated prior to disposal.
6. Employees engaged in animal support activities shall be:
 - a. Provided with and required to wear, a complete protective clothing change, clean each day, including coveralls or pants and shirt, foot covers, head covers, gloves, and appropriate respiratory protective equipment or devices;
 - b. Required, prior to each exit from a regulated area, to remove and leave protective clothing and equipment at the point of exit and at the last exit of the day and to place used clothing and equipment in impervious containers at the point of exit for decontamination or disposal. The contents of the impervious containers shall be identified as required under subsection (4)(b), (c), and (d) of this section;
 - c. Required to wash hands, forearms, face, and neck upon each exit from the regulated area close to the point of exit and before engaging in other activities; and
 - d. Required to shower after the last exit of the day.
7. Employees, except for those engaged in animal support activities, each day shall be:
 - a. Provided with and required to wear a clean change of appropriate laboratory clothing, such as a solid front gown, surgical scrub suit, or fully buttoned laboratory coat;
 - b. Required, prior to each exit from a regulated area, to remove and leave protective clothing and equipment at the point of exit and at the last exit of the day and to place used clothing and equipment in impervious containers at the

point of exit for decontamination or disposal. The contents of the impervious containers shall be identified as required under subsection (4)(b), (c), and (d) of this section; and c. Required to wash hands, forearms, face, and neck upon each exit from the regulated area close to the point of exit and before engaging in other activities.

8. Air pressure in laboratory areas and animal rooms where 4,4'-Methylene bis (2-chloroaniline) is handled and bioassay studies are performed shall be negative in relation to the pressure in the surrounding area. Exhaust air shall not be discharged to regulated areas, nonregulated areas, or the external environment unless it is decontaminated.

9. There shall not be a connection between regulated areas and any other areas through the ventilation system.

10. A current inventory of 4,4'-Methylene bis (2-chloroaniline) shall be maintained.

11. Ventilated apparatus such as laboratory type hoods, shall be tested at least semiannually or immediately after ventilation modification of maintenance operations, by personnel fully qualified to certify correct containment and operation.

(g) Premixed solutions. If 4,4'-Methylene bis (2-chloroaniline) is present only in a single solution at a temperature not exceeding 120 degrees Celsius, the establishment of a regulated area shall not be required, except:

1. Only authorized employees shall be permitted to handle the materials;

2. Each day employees shall be provided with and required to wear a clean change of protective clothing (smocks, coveralls, or long-sleeved shirts and pants), gloves, and other protective garments and equipment necessary to prevent contact with the solution in the process used;

3. Employees shall be required to remove and leave protective clothing and equipment if leaving the work area at the end of the work day or if solution is spilled on the clothing or equipment. Used clothing and equipment shall be placed in impervious containers for decontamination or disposal. The contents of the impervious containers shall be identified, as required under subsection (4)(b), (c), and (d) of this section;

4. Employees shall be required to wash hands and face after removing protective clothing and equipment and before engaging in other activities;

5. Employees assigned to work covered by this paragraph shall be deemed to be working in regulated areas for the purposes of subsection (4)(a), (b), and (c) of this section; and

6. Work areas where solution could be spilled shall be:

a. Covered daily or after any spill with a clean covering; and

b. Cleaned thoroughly daily and after any spill.

(3) General regulated area requirements.

(a) Employee identification.

1. A daily roster of employees entering regulated areas shall be established and maintained.
2. The rosters or a summary of the rosters shall be retained for a period of twenty (20) years.
3. The rosters or summaries shall be provided upon request to authorized representatives of the assistant secretary and the director.
4. If the employer ceases business without a successor, rosters shall be forwarded by registered mail to the director.

(b) Emergencies. In an emergency, immediate measures, including the requirements of this paragraph, shall be implemented.

1. The potentially affected area shall be evacuated as soon as the emergency is determined.
2. Hazardous conditions created by the emergency shall be eliminated and the potentially affected area shall be decontaminated prior to the resumption of normal operations.
3. a. Special medical surveillance by a physician shall be instituted within twenty-four (24) hours for employees present in the potentially affected area at the time of the emergency.

b. A report of the medical surveillance and any treatment shall be included in the incident report, in accordance with subsection (5)(b) of this section.
4. If an employee has a known contact with 4,4'-Methylene bis (2-chloroaniline), the employee shall be required to shower as soon as possible, unless contraindicated by physical injuries.
5. An incident report on the emergency shall be reported as established in subsection (5)(b) of this section.

(c) Hygiene facilities and practices.

1. Storage or consumption of food, storage or use of containers of beverages, storage or consumption of beverages, storage or application of cosmetics, smoking, storage of smoking materials, tobacco products or other products for chewing, or the chewing of those products, shall be prohibited in regulated areas.

2. If employees are required by this section to wash, washing facilities shall be provided in accordance with 29 C.F.R. 1910.141.
3. If employees are required by this section to shower, facilities shall be provided in accordance with 29 C.F.R. 1910.141(d)(3).
4. If employees wear protective clothing and equipment, clean change rooms shall be provided, in accordance with 29 C.F.R. 1910.141(e), for the number of employees required to change clothes.
5. If toilets are located in regulated areas, the toilets shall be in a separate room.

(d) Contamination control.

1. Regulated areas, except for outdoor systems, shall be maintained under pressure negative with respect to nonregulated areas. a. Local exhaust ventilation may be used to satisfy this requirement. b. Clean make-up air in equal volume shall replace air removed.
2. Any equipment, material, or other item taken or removed from a regulated area shall be done so in a manner that does not cause contamination in nonregulated areas or the external environment.
3. Decontamination procedures shall be established and implemented to remove 4,4'-Methylene bis (2-chloroaniline) from the surface of materials, equipment, and the decontamination facility.
4. Dry sweeping and dry mopping shall be prohibited.

(4) Signs, information, and training. (a) Signs.

1. Entrance to regulated areas shall be posted with signs bearing the legend:

<p>CANCER-SUSPECT AGENT</p> <p>Authorized Personnel Only</p>

2. Entrances to regulated areas containing operations established in subsection (2)(e) of this section shall be posted with signs bearing the legend:

<p>Cancer-Suspect Agent Exposed In this Area</p> <p>Impervious Suit Including Gloves, Boots, and Air-Supplied Hood Required At All Times</p> <p>Authorized Personnel Only</p>

3. Appropriate signs and instructions shall be posted at the entrance to, and exit from, regulated areas, informing employees of the procedures that shall be followed in entering and leaving a regulated area.

(b) Container labeling. Containers shall be labeled in accordance with the requirements of 29 C.F.R. 1910.1200.

(c) Lettering.

1. Lettering on signs and instructions required by paragraph (a) of this subsection shall be a minimum letter height of two (2) inches.

2. Labels on containers required by paragraph (b) of this subsection shall:

a. Not be less than one-half (1/2) the size of the largest lettering on the package, up to a maximum required size of one (1) inch in height; and

b. Not use less than eight (8) point type.

(d) Prohibited statements. A statement shall not appear on or near any required sign, label, or instruction that contradicts or detracts from the effect of any required warning, information, or instruction.

(e) Training and indoctrination.

1. Each employee, prior to being authorized to enter a regulated area, shall receive a training and indoctrination program including:

a. The nature of the carcinogenic hazards of 4,4'-Methylene bis (2-chloroaniline), including local and systemic toxicity;

b. The specific nature of the operation involving 4,4'-Methylene bis (2-chloroaniline) that could result in exposure;

c. The purpose for and application of the medical surveillance program, including, as appropriate, methods of self-examination;

d. The purpose for and application of decontamination practices and procedures;

e. The purpose for and significance of emergency practices and procedures; f. The employee's specific role in emergency procedures;

g. Specific information to aid the employee in recognition and evaluation of conditions and situations that could result in the release of 4,4'-Methylene bis (2-chloroaniline); and

h. The purpose for and application of specific first-aid procedures and practices.

2. Each employee shall receive a review of this section at the employee's first training and indoctrination program and annually thereafter.

3. Specific emergency procedures shall be established and posted, and employees shall be familiarized with their terms and rehearsed in their application.

4. All materials relating to the program shall be provided if requested by authorized representatives of the assistant secretary and the director.

(5) Reports.

(a) Operations. Not later than March 1 of each year, the information required by this paragraph shall be reported in writing by the employer to the nearest Area Director. Any change in the reported information shall be reported in writing within fifteen (15) calendar days of the change. The report shall contain:

1. A brief description and in-plant location of the areas regulated and the address of each regulated area;
2. The names and other identifying information as to the presence of 4,4'-Methylene bis (2-chloroaniline) in each regulated area;
3. The number of employees in each regulated area, during normal operations including maintenance activities; and
4. The manner in which 4,4'-Methylene bis (2-chloroaniline) is present in each regulated area, such as whether or not it is manufactured, processed, used, repackaged, released, stored, or otherwise handled.

(b) Incidents. Incidents that result in the release of 4,4'-Methylene bis (2-chloroaniline) into any area where employees may be exposed shall be reported in accordance with this paragraph.

1. A report of the incident and the facts obtainable at that time, including a report on any medical treatment of affected employees, shall be made within twenty-four (24) hours to the nearest Area Director.
2. A written report shall be filed with the nearest Area Director within fifteen (15) calendar days of the initial report and shall include:
 - a. A specification of the amount of material released, the amount of time involved, and an explanation of the procedure used in determining this figure;
 - b. A description of the area involved, and the extent of known and possible employee and area contamination;
 - c. A report of any medical treatment of affected employees and any medical surveillance program implemented; and

d. An analysis of the steps to be taken, with specific completion dates, to avoid further similar release.

(6) Medical surveillance. At no cost to the employee, a program of medical surveillance shall be established and implemented for employees considered for assignment to enter regulated areas, and for authorized employees.

(a) Examinations.

1. Before an employee is assigned to enter a regulated area, a preassignment physical examination by a physician shall be provided. The examination shall include the personal history of the employee, family, and occupational background, including genetic and environmental factors.

2. Authorized employees shall be provided with periodic physical examinations at least annually, following the preassignment examination.

3. In all physical examinations, the examining physician shall consider whether or not there exist conditions of increased risk, including reduced immunological competence, current treatment with steroids or cytotoxic agents, pregnancy, and cigarette smoking.

(b) Records.

1. Employers of employees examined pursuant to this subsection shall maintain complete and accurate records of all medical examinations. Records shall be maintained for at least the duration of the employee's employment. If the employee's employment is terminated, including by retirement or death, or if the employer ceases business without a successor, records, or notarized true copies thereof, shall be forwarded by registered mail to the director.

2. Records required by this paragraph shall be provided if requested by authorized representatives of the assistant secretary or the director. If requested by an employee or former employee, the records shall be provided to a physician designated by the employee or to a new employer.

3. Any physician who conducts a medical examination required by this subsection shall furnish to the employer a statement of the employee's suitability for employment in the specific exposure.

Section 3. Laboratory Activities. The requirements of this section shall apply to research and quality control activities involving the use of chemicals covered by 29 C.F.R. 1910.1003 through 1910.1016.

(1) Mechanical pipetting aids shall be used for all pipetting procedures.

(2) Experiments, procedures, and equipment that could produce aerosols shall be confined to laboratory-type hoods or glove boxes.

- (3) Surfaces on which chemicals covered by 29 C.F.R. 1910.1003 through 1910.1016 are handled shall be protected from contamination.
- (4) Contaminated wastes and animal carcasses shall be collected in impervious containers that are closed and decontaminated prior to removal from the work area. The wastes and carcasses shall be incinerated so that carcinogenic products shall not be released.
- (5) All other forms of chemicals covered by 29 C.F.R. 1910.1003 through 1910.1016 shall be inactivated prior to disposal.
- (6) Laboratory vacuum systems shall be protected with high-efficiency scrubbers or with disposal absolute filters.
- (7) Employees engaged in animal support activities shall be:
- (a) Provided with and required to wear, a complete protective clothing change, clean each day, including coveralls, or pants and shirt, foot covers, head covers, gloves, and appropriate respiratory protective equipment or devices;
 - (b) 1. Required, prior to each exit from a regulated area, to remove and leave protective clothing and equipment at the point of exit and at the last exit of the day, to place used clothing and equipment in impervious containers at the point of exit for decontamination or disposal; and 2. The contents of the impervious containers shall be identified as required under Section 2(4)(b), (c), and (d) of this administrative regulation;
 - (c) Required to wash hands, forearms, face, and neck upon each exit from the regulated area close to point of exit, and before engaging in other activities; and
 - (d) Required to shower after the last exit of the day.
- (8) Employees, except for those engaged only in animal support activities, each day shall be:
- (a) Provided with and required to wear a clean change of appropriate laboratory clothing, such as a solid front gown, surgical scrub suit, or fully buttoned laboratory coat;
 - (b) 1. Required, prior to each exit from a regulated area, to remove and leave protective clothing and equipment at the point of exit and at the last exit of the day, to place used clothing and equipment in impervious containers at the point of exit for decontamination or disposal; and
 - 2. The contents of the impervious containers shall be identified as required under Section 2(4)(b), (c), and (d) of this administrative regulation; and (c) Required to wash hands, forearms, face, and neck upon each exit from the regulated area close to point of exit, and before engaging in other activities.
- (9) Air pressure in laboratory areas and animal rooms where chemicals covered by 29 C.F.R. 1910.1003 through 1910.1016 are handled and bioassay studies are performed shall be negative in relation to the pressure in surrounding areas. Exhaust air shall not be discharged to regulated areas, nonregulated areas, or the external environment unless it is decontaminated.

(10) There shall not be a connection between regulated areas and any other areas through the ventilation system.

(11) A current inventory of chemicals covered by 29 C.F.R. 1910.1003 through 1910.1016 shall be maintained.

(12) Ventilated apparatus such as laboratory-type hoods shall be tested at least semiannually or immediately after ventilation modification or maintenance operations, by personnel fully qualified to certify correct containment and operation.

Section 4. Access to Exposure or Medical Records. (1) The language relating to the access to exposure or medical records in subsection (2) of this section shall apply in lieu of 29 C.F.R. 1910.1020(e)(1)(i).

(2) If an employee or designated representative requests access to an exposure or medical record, the employer shall ensure that access is provided in a reasonable time, place, and manner, but not longer than fifteen (15) days after the request for access is made unless sufficient reason is given why that time is unreasonable or impractical.

(3) The language relating to the access to exposure or medical records in subsection (4) of this section shall apply in lieu of 29 C.F.R. 1910.1020(e)(1)(iii).

(4) If an employee or designated representative requests a copy of a record, the employer shall, except as specified in 29 C.F.R. 1910.1020(e)(1)(v) of this section, within the period of time established in subsection (2) of this section, ensure that either:

(a) A copy of the record shall be provided without cost to the employee or representative;

(b) The necessary mechanical copying facilities (for example, photocopying) shall be made available without cost to the employee or representative for copying the record; or

(c) The record shall be loaned to the employee or representative for a reasonable time to enable a copy to be made.

Section 5. (1) The language relating to gloves in subsection (2) of this section shall apply in lieu of 29 C.F.R. 1910.1030(d)(3)(ix).

(2) Gloves shall be worn if it can be reasonably anticipated that the employees might have hand contact with blood, other potentially infectious materials, mucous membranes, and nonintact skin if performing vascular access procedures or if handling or touching contaminated items or surfaces.

Section 6. Except as established by Sections 1 through 5 of this administrative regulation, general industry shall comply with 29 C.F.R. Subpart Z, Toxic and Hazardous Substances, published by the Office of the Federal Register, National Archives and Records Services, General Services Administration and the revisions to 29 C.F.R. 1910.1024 published in the July 14, 2020 Federal Register, Volume 85, Number 135.

803 KAR 2:325
GENERAL INDUSTRY STANDARDS

Section 1. (1) "C.F.R." means Code of Federal Regulations.

(2) "Employee" is defined by KRS 339.015(2).

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

Section 2. Batteries. Changing and charging storage batteries for automotive-type battery charging installations, in-vehicle charging of batteries, and battery jump starting of vehicles.

(1)(a) Facilities shall be provided for flushing electrolyte from the eyes and skin with water when changing or charging storage batteries.

(b) An adequate water supply shall be within twenty-five (25) feet of the work area.

(2)(a) A battery shall not be charged or discharged within a closed or unvented container.

(b) The batteries shall be charged:

1. In the open;
2. In a mechanically-ventilated space; or
3. In a space providing at least twenty (20) cubic feet per ampere of charging capacity.

(3)(a) A face shield or goggles shall be provided and available at each charging unit.

(b) The use of the face shield or goggles shall be required for connection and disconnection of vehicle or charger leads to the battery terminals and for the addition or pouring of electrolyte.

(4) Employees shall wear face shields or goggles during installation and removal of batteries from vehicles, while connecting and disconnecting battery charger or jumper cable leads, or while handling electrolyte.

(5) Employees shall be instructed to:

- (a) Turn off the battery charger to connect or disconnect the battery;
- (b) Wash acid spills immediately; and
- (c) Flush electrolyte from eyes and skin with water for ten (10) minutes.

Section 3. Off-Highway Motor Vehicles and Equipment.

(1) General requirements.

- (a) Heavy machinery, equipment, or parts suspended or held aloft by use of slings, hoists, or jacks shall be substantially blocked or cribbed to prevent falling or shifting before employees are permitted to work under or between them.
- (b) 1. Bulldozers and scraper blades, end-loader buckets, dump bodies, and similar equipment, shall be either fully lowered or blocked when being repaired or when not in use.

2. All controls shall be in a neutral position, with the motors stopped and brakes set, unless work being performed requires otherwise.
- (c) Whenever the equipment is parked, the parking brake shall be set.
- (d) Equipment parked on inclines shall have the wheels chocked and the parking brake set.
- (e) All cab glass shall be safety glass, or equivalent, that introduces no visible distortion affecting the safe operation of any machine covered by this section.
- (f) All equipment covered by this section shall comply with the requirements of 29 C.F.R. 1910.333 when working or being moved in the vicinity of power lines or energized transmitters.

(2) Motor vehicles.

(a) Coverage. Motor vehicles covered by this section are those vehicles that operate within an off-highway job site not open to public traffic. The requirements of this section do not apply to equipment in subsection (3) of this section.

(b) General requirements.

- 1. All vehicles shall have a service brake system, an emergency brake system, and a parking brake system.
 - 2. These systems may use common components, and shall be maintained in operable condition.
- (c) Whenever visibility conditions warrant additional light, all vehicles, or combinations of vehicles, in use shall be equipped with at least two (2) headlights and two (2) taillights in operable condition.
- (d) All vehicles, or combination of vehicles, shall have brake lights in operable condition regardless of light conditions.

- (e) All vehicles shall be equipped with an adequate audible warning device at the operator's station and in an operable condition.
- (f) Motor vehicle equipment shall not be used having an obstructed view to the rear unless:
1. The vehicle has a reverse signal alarm audible above the surrounding noise level; or
 2. The vehicle is backed only when an observer signals that it is safe to do so.
- (g)
1. All vehicles with cabs shall be equipped with windshields and powered wipers.
 2. Cracked and broken glass shall be replaced.
 3. Vehicles operating in areas or under conditions that cause fogging or frosting of the windshields shall be equipped with operable defogging or defrosting devices.
- (h) All haulage vehicles loaded by means of cranes, power shovels, loaders, or similar equipment, shall have a cab shield or canopy adequate to protect the operator from shifting or falling materials.
- (i) Tools and material shall be secured to prevent movement when transported in the same compartment with employees.
- (j) Vehicles used to transport employees shall have seats firmly secured and adequate for the number of employees carried.
- (k) The employer shall provide and ensure the use of seat belts and anchorages meeting the requirements of 49 C.F.R. Part 571, Department of Transportation, Federal Motor Vehicle Safety Standards.
- (l) Trucks with dump bodies shall be equipped with positive means of support, permanently attached, and capable of being locked in position to prevent accidental lowering of the body while maintenance or inspection work is being done.
- (m) Operating levers controlling hoisting or dumping devices on haulage bodies shall be equipped with a latch or other device that prevents accidental starting or tripping of the mechanism.
- (n) Trip handles for tailgates of dump trucks shall be so arranged that, in dumping, the operator will be in the clear.
- (o)
1. Each employer shall assure the following parts, equipment, and accessories are in safe operating condition and free of apparent damage that could cause failure while in use:
 - a. Service brakes, including trailer brake connections;
 - b. Parking system brake;
 - c. Brakes
 - d. Tires;
 - e. Horn;
 - f. Steering mechanism;

- g. Coupling devices;
- h. Seat belts;
- i. Operating controls; and
- j. Safety devices.

2. All defects shall be corrected before the vehicle is placed in service.

3. These requirements shall also apply to equipment such as lights, reflectors, windshield wipers, defrosters, and fire extinguishers.

(3) Material handling equipment.

(a) General. The requirements of this subsection shall apply to scrapers, loaders, crawler or wheel tractors, bulldozers, off-highway trucks, graders, agricultural and industrial tractors, and similar equipment.

(b) Seating and seat belts.

1. Each employer shall insure safe seating with seat belts on all equipment covered by this section, and shall meet the requirement of J386, Society of Automotive Engineers Handbook, 1986, Operator Restraint Systems for Off-road Work Machines.

2. Seat belts for agricultural and light industrial tractors shall meet the seat belt requirements of Society of Automotive Engineers J1194, Society of Automotive Engineers Handbook, 1986, Rollover Protective Structures (ROPS) for Wheeled Agricultural Tractors.

(c) Seat belts need not be provided for equipment designed only for stand-up operation.

(d) Seat belts need not be provided for equipment that does not have rollover protective structure or adequate canopy protection.

(e) Audible alarms.

1.a. All bidirectional machines, such as rollers, compactors, front-end loaders, bulldozers, and similar equipment, shall be equipped with a horn, distinguishable from the surrounding noise level, which shall be operated as needed when the machine is moving in either direction.

b. The horn shall be maintained in an operative condition.

2. Material handling equipment or compacting equipment that has an obstructed view to the rear shall not be used in reverse gear unless the equipment has in operation a reverse signal alarm distinguishable from the surrounding noise level or an employee signals that it is safe to do so.

(f) Scissor points. Scissor points on all front-end loaders that constitute a hazard to the operator during normal operation shall be guarded.

Section 4. Fire Apparatus and Fire Department Facilities. (1) Scope. This section shall apply to industrial fire departments and private, public or contractual type fire departments. This section shall not apply to volunteer fire departments.

(2) Persons riding on fire apparatus. Beginning September 1, 1991, a person riding on fire apparatus shall be secured to the vehicle by seat belts or safety harnesses when the vehicle is in motion.

(3) Inspection, maintenance, and repair of vehicles. Beginning January 1, 1992:

(a) All fire department vehicles shall be inspected at least weekly and within twenty-four (24) hours after any use or repair to identify and correct unsafe conditions.

(b) A fire department vehicle found to be unsafe shall be placed out of service until repaired. After being repaired, the vehicle shall be inspected prior to being placed back in service.

(c) The inspection shall include:

1. Tires, brakes, warning lights and devices, headlights and clearance lights, windshield wipers and mirrors;

2. Starting the apparatus, and verification of the operation of pumps and other equipment; and

3. Inspection of the safety equipment carried on fire department vehicles.

(d) A fire department shall maintain inspection, maintenance, repair, and service records for all vehicles and equipment used for emergency operations.

(4) Facility safety.

(a) Sleeping areas in fire stations shall:

1. Be separated from vehicle storage areas by at least one (1) hour fire resistive assemblies; or

2. Have operable fire suppression or operable smoke detection systems.

(b) A fire station shall have a system capable of ventilating.

Section 5. Material Incorporated by Reference. (1) The following material is incorporated by reference:

(a) J386, Society of Automotive Engineers Handbook, "Operator Restraint Systems for Off-road Work Machines", 1986; and

(b) J1194, Society of Automotive Engineers Handbook, “Rollover Protective Structures (ROPS) for Wheeled Agricultural Tractors”, 1986.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Labor Cabinet, Mayo-Underwood Building, 3rd Floor, Frankfort, KY 40601, Monday through Friday, 8:00 a.m. to 4:30 p.m. EST. The Labor Cabinet Web site is www.labor.ky.gov.

(3) The Society of Automotive Engineers Web site is SAE.org.

PART III

State Specific Regulations Applicable to Construction

803 KAR 2:320
TOXIC & HAZARDOUS SUBSTANCES

29 CFR 1910.1030
Bloodborne Pathogens

(a) Scope and Application. This section applies to all occupational exposure to blood or other potentially infectious materials as defined by paragraph (b) of this section.

(b) Definitions. For purposes of this section, the following shall apply:

“Assistant Secretary” means the Secretary of Labor, Kentucky Labor Cabinet, or Commissioner, Department of Workplace Standards, Kentucky Labor Cabinet.

“Blood” means human blood, human blood components, and products made from human blood.

“Bloodborne Pathogens” means pathogenic microorganisms that are present in human blood and can cause disease in humans. These pathogens include, but are not limited to, hepatitis B virus (HBV) and human immunodeficiency virus (HIV).

“Clinical Laboratory” means a workplace where diagnostic or other screening procedures are performed on blood or other potentially infectious materials.

“Contaminated” means the presence or the reasonably anticipated presence of blood or other potentially infectious materials on an item or surface.

“Contaminated Laundry” means laundry which has been soiled with blood or other potentially infectious materials or may contain sharps.

“Contaminated Sharps” means any contaminated object that can penetrate the skin including, but not limited to, needles, scalpels, broken glass, broken capillary tubes, and exposed ends of dental wires.

“Decontamination” means the use of physical or chemical means to remove, inactivate, or destroy bloodborne pathogens on a surface or item to the point where they are no longer capable of transmitting infectious particles and the surface or item is rendered safe for handling, use, or disposal.

“Director” means the Director of the National Institute for Occupational Safety and Health, U.S. Department of Health and Human Services, or designated representative.

“Engineering Controls” means controls (e.g., sharps disposal containers, self-sheathing needles, safer medical devices, such as sharps with engineered sharps injury protections and needleless systems) that isolate or remove the bloodborne pathogens hazard from the workplace.

“Exposure Incident” means a specific eye, mouth, other mucous membrane, non-intact skin, or

parenteral contact with blood or other potentially infectious materials that results from the performance of an employee's duties.

“Handwashing Facilities” means a facility providing an adequate supply of running potable water, soap and single use towels or hot air drying machines.

“Licensed Healthcare Professional” is a person whose legally permitted scope of practice allows him or her to independently perform the activities required by paragraph (f) Hepatitis B Vaccination and Post-exposure Evaluation and Follow-up.

“Needleless Systems” means a device that does not use needles for:

- (1) the collection of bodily fluids or withdrawal of body fluids after initial venous or arterial access is established;
- (2) the administration of medication or fluids; or
- (3) any other procedure involving the potential for occupational exposure to bloodborne pathogens due to percutaneous injuries from contaminated sharps.

“HBV” means hepatitis B virus.

“HIV” means human immunodeficiency virus.

“Occupational Exposure” means reasonably anticipated skin, eye, mucous membrane, or parenteral contact with blood or other potentially infectious materials that may result from the performance of an employee's duties.

“Other Potentially Infectious Materials” means

- (1) The following human body fluids: semen, vaginal secretions, cerebrospinal fluid, synovial fluid, pleural fluid, pericardial fluid, peritoneal fluid, amniotic fluid, saliva in dental procedures, any body fluid that is visibly contaminated with blood, and all body fluids in situations where it is difficult or impossible to differentiate between body fluids;
- (2) Any unfixed tissue or organ (other than intact skin) from a human (living or dead); and
- (3) HIV-containing cell or tissue cultures, organ cultures, and HIV- or HBV-containing culture medium or other solutions; and blood, organs, or other tissues from experimental animals infected with HIV or HBV.

“Parenteral” means piercing mucous membranes or the skin barrier through such events as needlesticks, human bites, cuts, and abrasions.

“Personal Protective Equipment” is specialized clothing or equipment worn by an employee for protection against a hazard. General work clothes (e.g., uniforms, pants, shirts or blouses) not intended to function as protection against a hazard are not considered to be personal protective equipment.

“Production Facility” means a facility engaged in industrial-scale, large-volume or high concentration production of HIV or HBV.

“Regulated Waste” means liquid or semi-liquid blood or other potentially infectious materials; contaminated items that would release blood or other potentially infectious materials in a liquid or semi-liquid state if compressed; items that are caked with dried blood or other potentially infectious materials and are capable of releasing these materials during handling; contaminated sharps; and pathological and microbiological wastes containing blood or other potentially infectious materials.

“Research Laboratory” means a laboratory producing or using research-laboratory-scale amounts of HIV or HBV. Research laboratories may produce high concentrations of HIV or HBV but not in the volume found in production facilities.

“Sharps with Engineered Sharps Injury Protections” means a nonneedle sharp or a needle device used for withdrawing body fluids, accessing a vein or artery, or administering medications or other fluids, with a built-in safety feature or mechanism that effectively reduces the risk of an exposure incident.

“Source Individual” means any individual, living or dead, whose blood or other potentially infectious materials may be a source of occupational exposure to the employee. Examples include, but are not limited to, hospital and clinic patients; clients in institutions for the developmentally disabled; trauma victims; clients of drug and alcohol treatment facilities; residents of hospices and nursing homes; human remains; and individuals who donate or sell blood or blood components.

“Sterilize” means the use of a physical or chemical procedure to destroy all microbial life including highly resistant bacterial endospores.

“Universal Precautions” is an approach to infection control. According to the concept of Universal Precautions, all human blood and certain human body fluids are treated as if known to be infectious for HIV, HBV, and other bloodborne pathogens.

“Work Practice Controls” means controls that reduce the likelihood of exposure by altering the manner in which a task is performed (e.g., prohibiting recapping of needles by a two-handed technique).

(c) Exposure Control. (1) Exposure Control Plan. (i) Each employer having an employee(s) with occupational exposure as defined by paragraph (b) of this section shall establish a written Exposure Control Plan designed to eliminate or minimize employee exposure.

(ii) The Exposure Control Plan shall contain at least the following elements:

(A) The exposure determination required by paragraph (c)(2),

(B) The schedule and method of implementation for paragraphs (d) Methods of Compliance, (e) HIV and HBV Research Laboratories and Production Facilities, (f)

Hepatitis B Vaccination and Post-Exposure Evaluation and Follow-up, (g) Communication of Hazards to Employees, and (h) Recordkeeping, of this standard, and

(C) The procedure for the evaluation of circumstances surrounding exposure incidents as required by paragraph (f)(3)(i) of this standard.

(iii) Each employer shall ensure that a copy of the Exposure Control Plan is accessible to employees in accordance with 29 CFR 1910.20(e).

(iv) The Exposure Control Plan shall be reviewed and updated at least annually and whenever necessary to reflect new or modified tasks and procedures which affect occupational exposure and to reflect new or revised employee positions with occupational exposure. The review and update of such plans shall also:

(A) reflect changes in technology that eliminate or reduce exposure to bloodborne pathogens; and

(B) document annually consideration and implementation of appropriate commercially available and effective safer medical devices designed to eliminate or minimize occupational exposure.

(v) An employer, who is required to establish an Exposure Control Plan shall solicit input from non-managerial employees responsible for direct patient care who are potentially exposed to injuries from contaminated sharps in the identification, evaluation, and selection of effective engineering and work practice controls and shall document the solicitation in the Exposure Control Plan.

(vi) The Exposure Control Plan shall be made available to the Assistant Secretary and the Director upon request for examination and copying.

(2) Exposure Determination

(i) Each employer who has an employee(s) with occupational exposure as defined by paragraph (b) of this section shall prepare an exposure determination. This exposure determination shall contain the following:

(A) A list of all job classifications in which all employees in those job classifications have occupational exposure;

(B) A list of job classifications in which some employees have occupational exposure, and

(C) A list of all tasks and procedures or groups of closely related task and procedures in which occupational exposure occurs and that are performed by employees in job classifications listed in accordance with the provisions of paragraph (c)(2)(i)(B) of this standard.

(ii) This exposure determination shall be made without regard to the use of personal protective

equipment.

(d) Methods of Compliance. (1) General. Universal precautions shall be observed to prevent contact with blood or other potentially infectious materials. Under circumstances in which differentiation between body fluid types is difficult or impossible, all body fluids shall be considered potentially infectious materials.

(2) Engineering and Work Practice Controls. (i) Engineering and work practice controls shall be used to eliminate or minimize employee exposure. Where occupational exposure remains after institution of these controls, personal protective equipment shall also be used.

(ii) Engineering controls shall be examined and maintained or replaced on a regular schedule to ensure their effectiveness.

(iii) Employers shall provide handwashing facilities which are readily accessible to employees.

(iv) When provision of handwashing facilities is not feasible, the employer shall provide either an appropriate antiseptic hand cleanser in conjunction with clean cloth/paper towels or antiseptic towelettes. When antiseptic hand cleansers or towelettes are used, hands shall be washed with soap and running water as soon as feasible.

(v) Employers shall ensure that employees wash their hands immediately or as soon as feasible after removal of gloves or other personal protective equipment.

(vi) Employers shall ensure that employees wash hands and any other skin with soap and water, or flush mucous membranes with water immediately or as soon as feasible following contact of such body areas with blood or other potentially infectious materials.

(vii) Contaminated needles and other contaminated sharps shall not be bent, recapped, or removed except as noted in paragraphs (d)(2)(vii)(A) and (d)(2)(vii)(B) below. Shearing or breaking of contaminated needles is prohibited.

(A) Contaminated needles and other contaminated sharps shall not be recapped or removed unless the employer can demonstrate that no alternative is feasible or that such action as required by a specific medical procedure.

(B) Such recapping or needle removal must be accomplished through the use of a mechanical device or a one-handed technique.

(viii) Immediately or as soon as possible after use, contaminated reusable sharps shall be placed in appropriate containers until properly reprocessed. These containers shall be:

(A) puncture resistant;

(B) labeled or color-coded in accordance with this standard;

(C) leakproof on the sides and bottom; and

(D) in accordance with the requirements set forth in paragraph (d)(4)(ii)(E) for reusable

sharps.

(ix) Eating, drinking, smoking, applying cosmetics or lip balm, and handling contact lenses are prohibited in work areas where there is a reasonable likelihood of occupational exposure.

(x) Food and drink shall not be kept in refrigerators, freezers, shelves, cabinets or on countertops or benchtops where blood or other potentially infectious materials are present.

(xi) All procedures involving blood or other potentially infectious materials shall be performed in such a manner as to minimize splashing, spraying, spattering, and generation of droplets of these substances.

(xii) Mouth pipetting/suctioning of blood or other potentially infectious materials is prohibited.

(xiii) Specimens of blood or other potentially infectious materials shall be placed in a container which prevents leakage during collection, handling, processing, storage, transport, or shipping.

(A) The container for storage, transport, or shipping shall be labeled or color-coded according to paragraph (g)(1)(i) and closed prior to being stored, transported, or shipped. When a facility utilizes Universal Precautions in the handling of all specimens, the labeling/color-coding of specimens is not necessary provided containers are recognizable as containing specimens. This exemption only applies while such specimens/containers remain within the facility. Labeling or color-coding in accordance with paragraph (g)(1)(i) is required when such specimens/containers leave the facility.

(B) If outside contamination of the primary container occurs, the primary container shall be placed within a second container which prevents leakage during handling, processing, storage, transport, or shipping and is labeled or color-coded according to the requirements of this standard.

(C) If the specimen could puncture the primary container, the primary container shall be placed within a secondary container which is puncture-resistant in addition to the above characteristics.

(xiv) Equipment which may become contaminated with blood or other potentially infectious materials shall be examined prior to servicing or shipping and shall be decontaminated as necessary, unless the employer can demonstrate that decontamination of such equipment or portions of such equipment is not feasible.

(A) A readily observable label in accordance with paragraph (g)(1)(i)(H) shall be attached to the equipment stating which portions remain contaminated.

(B) The employer shall ensure that this information is conveyed to all affected employees, the servicing representative, and/or the manufacturer, as appropriate, prior to handling, servicing, or shipping so that appropriate precautions will be taken.

(3) Personal Protective Equipment. (i) Provision. When there is occupational exposure, the employer shall provide, at no cost to the employee, appropriate personal protective equipment such as, but not limited to, gloves, gowns, laboratory coats, face shields or masks and eye

protection, and mouthpieces, resuscitation bags, pocket masks, or other ventilation devices. Personal protective equipment will be considered “appropriate” only if it does not permit blood or other potentially infectious materials to pass through to or reach the employee's work clothes, street clothes, undergarments, skin, eyes, mouth, or other mucous membranes under normal conditions of use and for the duration of time which the protective equipment will be used.

(ii) Use. The employer shall ensure that the employee uses appropriate personal protective equipment unless the employer shows that the employee temporarily and briefly declined to use personal protective equipment when, under rare and extraordinary circumstances, it was the employee's professional judgment that in the specific instance its use would have prevented the delivery of health care or public safety services or would have posed an increased hazard to the safety of the worker or co-worker. When the employee makes this judgement, the circumstances shall be investigated and documented in order to determine whether changes can be instituted to prevent such occurrences in the future.

(iii) Accessibility. The employer shall ensure that appropriate personal protective equipment in the appropriate sizes is readily accessible at the worksite or is issued to employees.

Hypoallergenic gloves, glove liners, powderless gloves, or other similar alternatives shall be readily accessible to those employees who are allergic to the gloves normally provided.

(iv) Cleaning, Laundering, and Disposal. The employer shall clean, launder, and dispose of personal protective equipment required by paragraphs (d) and (e) of this standard, at no cost to the employee.

(v) Repair and Replacement. The employer shall repair or replace personal protective equipment as needed to maintain its effectiveness, at no cost to the employee.

(vi) If a garment(s) is penetrated by blood or other potentially infectious materials, the garment(s) shall be removed immediately or as soon as feasible.

(vii) All personal protective equipment shall be removed prior to leaving the work area.

(viii) When personal protective equipment is removed it shall be placed in an appropriately designated area or container for storage, washing, decontamination or disposal.

(ix) Gloves. Gloves shall be worn if it can be reasonably anticipated that the employees may have hand contact with blood, other potentially infectious materials, mucous membranes, and nonintact skin if performing vascular access procedures or if handling or touching contaminated items or surfaces.

(A) Disposable (single use) gloves such as surgical or examination gloves, shall be replaced as soon as practical when contaminated or as soon as feasible if they are torn, punctured, or when their ability to function as a barrier is compromised.

(B) Disposable (single use) gloves shall not be washed or decontaminated for re-use.

(C) Utility gloves may be decontaminated for re-use if the integrity of the glove is not compromised. However, they must be discarded if they are cracked, peeling, torn, punctured, or

exhibit other signs of deterioration or when their ability to function as a barrier is compromised.

(D) Removed

(x) Masks, Eye Protection, and Face Shields. Masks in combination with eye protection devices, such as goggles or glasses with solid side shields, or chin-length face shields, shall be worn whenever splashes, spray, spatter, or droplets of blood or other potentially infectious materials may be generated and eye, nose, or mouth contamination can be reasonably anticipated.

(xi) Gowns, Aprons, and Other Protective Body Clothing. Appropriate protective clothing such as, but not limited to, gowns, aprons, lab coats, clinic jackets, or similar outer garments shall be worn in occupational exposure situations. The type and characteristics will depend upon the task and degree of exposure anticipated.

(xii) Surgical caps or hoods and/or shoe covers or boots shall be worn in instances when gross contamination can reasonably be anticipated (e.g., autopsies, orthopaedic surgery).

(4) Housekeeping. (i) General. Employers shall ensure that the worksite is maintained in a clean and sanitary condition. The employer shall determine and implement an appropriate written schedule for cleaning and method of decontamination based upon the location within the facility, type of surface to be cleaned, type of soil present, and tasks or procedures being performed in the area.

(ii) All equipment and environmental and working surfaces shall be cleaned and decontaminated after contact with blood or other potentially infectious materials.

(A) Contaminated work surfaces shall be decontaminated with an appropriate disinfectant after completion of procedures; immediately or as soon as feasible when surfaces are overtly contaminated or after any spill of blood or other potentially infectious materials; and at the end of the work shift if the surface may have become contaminated since the last cleaning.

(B) Protective coverings, such as plastic wrap, aluminum foil, or imperviously-backed absorbent paper used to cover equipment and environmental surfaces, shall be removed and replaced as soon as feasible when they become overtly contaminated or at the end of the workshift if they may have become contaminated during the shift.

(C) All bins, pails, cans, and similar receptacles intended for reuse which have a reasonable likelihood for becoming contaminated with blood or other potentially infectious materials shall be inspected and decontaminated on a regularly scheduled basis and cleaned and decontaminated immediately or as soon as feasible upon visible contamination.

(D) Broken glassware which may be contaminated shall not be picked up directly with the hands. It shall be cleaned up using mechanical means, such as a brush and dust pan, tongs, or forceps.

(E) Reusable sharps that are contaminated with blood or other potentially infectious materials shall not be stored or processed in a manner that requires employees to reach by hand into the containers where these sharps have been placed.

(iii) Regulated Waste. (A) Contaminated Sharps Discarding and Containment. (1) Contaminated sharps shall be discarded immediately or as soon as feasible in containers that are:

- (i) Closable;
- (ii) Puncture resistant;
- (iii) Leakproof on sides and bottom;
- (iv) Labeled or color-coded in accordance with paragraph (g)(1)(i) of this standard.

(2) During use, containers for contaminated sharps shall be:

- (i) Easily accessible to personnel and located as close as is feasible to the immediate area where sharps are used or can be reasonably anticipated to be found (e.g., laundries);
- (ii) Maintained upright throughout use; and
- (iii) Replaced routinely and not be allowed to overfill.

(3) When moving containers of contaminated sharps from the area of use, the containers shall be:

- (i) Closed immediately prior to removal or replacement to prevent spillage or protrusion of contents during handling, storage, transport, or shipping;
- (ii) Placed in a secondary container if leakage is possible. The second container shall be:
 - (A) Closable;
 - (B) Constructed to contain all contents and prevent leakage during handling, storage, transport, or shipping; and
 - (C) Labeled or color-coded according to paragraph (g)(1)(i) of this standard.

(4) Reusable containers shall not be opened, emptied, or cleaned manually or in any other manner which would expose employees to the risk of percutaneous injury.

(B) Other Regulated Waste Containment.

(1) Regulated waste shall be placed in containers which are:

- (i) Closable;
- (ii) Constructed to contain all contents and prevent leakage of fluids during handling, storage, transport or shipping;
- (iii) Labeled or color-coded in accordance with paragraph (g)(1)(i) this standard; and
- (iv) Closed prior to removal to prevent spillage or protrusion of contents during handling,

storage, transport, or shipping.

(2) If outside contamination of the regulated waste container occurs, it shall be placed in a second container. The second container shall be:

(a) Closable;

(b) Constructed to contain all contents and prevent leakage of fluids during handling, storage, transport or shipping;

(c) Labeled or color-coded in accordance with paragraph (g)(1)(i) of this standard; and

(d) Closed prior to removal to prevent spillage or protrusion of contents during handling, storage, transport, or shipping.

(C) Disposal of all regulated waste shall be in accordance with applicable regulations of the United States, States and Territories, and political subdivisions of States and Territories.

(iv) Laundry. (A) Contaminated laundry shall be handled as little as possible with a minimum of agitation. (1) Contaminated laundry shall be bagged or containerized at the location where it was used and shall not be sorted or rinsed in the location of use.

(2) Contaminated laundry shall be placed and transported in bags or containers labeled or color-coded in accordance with paragraph (g)(1)(i) of this standard. When a facility utilizes Universal Precautions in the handling of all soiled laundry, alternative labeling or color-coding is sufficient if it permits all employees to recognize the containers as requiring compliance with Universal Precautions.

(3) Whenever contaminated laundry is wet and presents a reasonable likelihood of soak-through or leakage from the bag or container, the laundry shall be placed and transported in bags or containers which prevent soak-through and/or leakage of fluids to the exterior.

(B) The employer shall ensure that employees who have contact with contaminated laundry wear protective gloves and other appropriate personal protective equipment.

(C) When a facility ships contaminated laundry off-site to a second facility which does not utilize Universal Precautions in the handling of all laundry, the facility generating the contaminated laundry must place such laundry in bags or containers which are labeled or color-coded in accordance with paragraph (g)(1)(i).

(e) HIV and HBV Research Laboratories and Production Facilities. (1) This paragraph applies to research laboratories and production facilities engaged in the culture, production, concentration, experimentation, and manipulation of HIV and HBV. It does not apply to clinical or diagnostic laboratories engaged solely in the analysis of blood, tissues, or organs. These requirements apply in addition to the other requirements of the standard.

(2) Research laboratories and production facilities shall meet the following criteria:

(i) Standard Microbiological Practices. All regulated waste shall either be incinerated or

decontaminated by a method such as autoclaving known to effectively destroy bloodborne pathogens.

(ii) Special Practices. (A) Laboratory doors shall be kept closed when work involving HIV or HBV is in progress.

(B) Contaminated materials that are to be decontaminated at a site away from the work area shall be placed in a durable, leakproof, labeled or color-coded container that is closed before being removed from the work area.

(C) Access to the work area shall be limited to authorized persons. Written policies and procedures shall be established whereby only persons who have been advised of the potential biohazard, who meet any specific entry requirements, and who comply with all entry and exit procedures shall be allowed to enter the work areas and animal rooms.

(D) When other potentially infectious materials or infected animals are present in the work area or containment module, a hazard warning sign incorporating the universal biohazard symbol shall be posted on all access doors. The hazard warning sign shall comply with paragraph (g)(1)(ii) of this standard.

(E) All activities involving other potentially infectious materials shall be conducted in biological safety cabinets or other physical-containment devices within the containment module. No work with these other potentially infectious materials shall be conducted on the open bench.

(F) Laboratory coats, gowns, smocks, uniforms, or other appropriate protective clothing shall be used in the work area and animal rooms. Protective clothing shall not be worn outside of the work area and shall be decontaminated before being laundered.

(G) Special care shall be taken to avoid skin contact with other potentially infectious materials. Gloves shall be worn when handling infected animals and when making hand contact with other potentially infectious materials is unavoidable.

(H) Before disposal all waste from work areas and from animal rooms shall either be incinerated or decontaminated by a method such as autoclaving known to effectively destroy bloodborne pathogens.

(I) Vacuum lines shall be protected with liquid disinfectant traps and high-efficiency particulate air (HEPA) filters or filters of equivalent or superior efficiency and which are checked routinely and maintained or replaced as necessary.

(J) Hypodermic needles and syringes shall be used only for parenteral injection and aspiration of fluids from laboratory animals and diaphragm bottles. Only needle-locking syringes or disposable syringe-needle units (i.e., the needle is integral to the syringe) shall be used for the injection or aspiration of other potentially infectious materials. Extreme caution shall be used when handling needles and syringes. A needle shall not be bent, sheared, replaced in the sheath or guard, or removed from the syringe following use. The needle and syringe shall be promptly placed in a puncture-resistant container and

autoclaved or decontaminated before reuse or disposal.

(K) All spills shall be immediately contained and cleaned up by appropriate professional staff or others properly trained and equipped to work with potentially concentrated infectious materials.

(L) A spill or accident that results in an exposure incident shall be immediately reported to the laboratory director or other responsible person.

(M) A biosafety manual shall be prepared or adopted and periodically reviewed and updated at least annually or more often if necessary. Personnel shall be advised of potential hazards, shall be required to read instructions on practices and procedures, and shall be required to follow them.

(iii) Containment Equipment. (A) Certified biological safety cabinets (Class I, II, or III) or other appropriate combinations of personal protection or physical containment devices, such as special protective clothing, respirators, centrifuge safety cups, sealed centrifuge rotors, and containment caging for animals, shall be used for all activities with other potentially infectious materials that pose a threat of exposure to droplets, splashes, spills, or aerosols.

(B) Biological safety cabinets shall be certified when installed, whenever they are moved and at least annually.

(3) HIV and HBV research laboratories shall meet the following criteria:

(i) Each laboratory shall contain a facility for hand washing and an eye wash facility which is readily available within the work area.

(ii) An autoclave for decontamination of regulated waste shall be available.

(4) HIV and HBV production facilities shall meet the following criteria:

(i) The work areas shall be separated from areas that are open to unrestricted traffic flow within the building. Passage through two sets of doors shall be the basic requirement for entry into the work area from access corridors or other contiguous areas. Physical separation of the high-containment work area from access corridors or other areas or activities may also be provided by a double-doored clothes-change room (showers may be included), airlock, or other access facility that requires passing through two sets of doors before entering the work area.

(ii) The surfaces of doors, walls, floors and ceilings in the work area shall be water resistant so that they can be easily cleaned. Penetrations in these surfaces shall be sealed or capable of being sealed to facilitate decontamination.

(iii) Each work area shall contain a sink for washing hands and a readily available eye wash facility. The sink shall be foot, elbow, or automatically operated and shall be located near the exit door of the work area.

(iv) Access doors to the work area or containment module shall be self-closing.

(v) An autoclave for decontamination of regulated waste shall be available within or as near as possible to the work area.

(vi) A ducted exhaust-air ventilation system shall be provided. This system shall create directional airflow that draws air into the work area through the entry area. The exhaust air shall not be recirculated to any other area of the building, shall be discharged to the outside, and shall be dispersed away from occupied areas and air intakes. The proper direction of the airflow shall be verified (i.e., into the work area).

(5) Training Requirements. Additional training requirements for employees in HIV and HBV research laboratories and HIV and HBV production facilities are specified in paragraph (g)(2)(ix).

(f) Hepatitis B Vaccination and Post-exposure Evaluation and Follow-up. (1) General.

(i) The employer shall make available the hepatitis B vaccine and vaccination series to all employees who have occupational exposure, and post-exposure evaluation and follow-up to all employees who have had an exposure incident.

(ii) The employer shall ensure that all medical evaluations and procedures including the hepatitis B vaccine and vaccination series and post-exposure evaluation and follow-up, including prophylaxis, are:

(A) Made available at no cost to the employee;

(B) Made available to the employee at a reasonable time and place;

(C) Performed by or under the supervision of a licensed physician or by or under the supervision of another licensed healthcare professional; and

(D) Provided according to recommendations of the U.S. Public Health Service current at the time these evaluations and procedures take place, except as specified by this paragraph (f).

(iii) The employer shall ensure that all laboratory tests are conducted by an accredited laboratory at no cost to the employee.

(2) Hepatitis B Vaccination. (i) Hepatitis B vaccination shall be made available after the employee has received the training required in paragraph (g)(2)(vii)(I) and within 10 working days of initial assignment to all employees who have occupational exposure unless the employee has previously received the complete hepatitis B vaccination series, antibody testing has revealed that the employee is immune, or the vaccine is contraindicated for medical reasons.

(ii) The employer shall not make participation in a prescreening program a prerequisite for receiving hepatitis B vaccination.

(iii) If the employee initially declines hepatitis B vaccination but at a later date while still covered under the standard decides to accept the vaccination, the employer shall make available

hepatitis B vaccination at that time.

(iv) The employer shall assure that employees who decline to accept hepatitis B vaccination offered by the employer sign the statement in Appendix A.

(v) If a routine booster dose(s) of hepatitis B vaccine is recommended by the U.S. Public Health Service at a future date, such booster dose(s) shall be made available in accordance with section (f)(1)(ii).

(3) Post-exposure Evaluation and Follow-up. Following a report of an exposure incident, the employer shall make immediately available to the exposed employee a confidential medical evaluation and follow-up, including at least the following elements:

(i) Documentation of the route(s) of exposure, and the circumstances under which the exposure incident occurred;

(ii) Identification and documentation of the source individual, unless the employer can establish that identification is infeasible or prohibited by state or local law;

(A) The source individual's blood shall be tested as soon as feasible and after consent is obtained in order to determine HBV and HIV infectivity. If consent is not obtained, the employer shall establish that legally required consent cannot be obtained. When the source individual's consent is not required by law, the source individual's blood, if available, shall be tested and the results documented.

(B) When the source individual is already known to be infected with HBV or HIV, testing for the source individual's known HBV or HIV status need not be repeated.

(C) Results of the source individual's testing shall be made available to the exposed employee, and the employee shall be informed of applicable laws and regulations concerning disclosure of the identity and infectious status of the source individual.

(iii) Collection and testing of blood for HBV and HIV serological status;

(A) The exposed employee's blood shall be collected as soon as feasible and tested after consent is obtained.

(B) If the employee consents to baseline blood collection, but does not give consent at that time for HIV serologic testing, the sample shall be preserved for at least 90 days. If, within 90 days of the exposure incident, the employee elects to have the baseline sample tested, such testing shall be done as soon as feasible.

(iv) Post-exposure prophylaxis, when medically indicated, as recommended by the U.S. Public Health Service;

(v) Counseling; and

(vi) Evaluation of reported illnesses.

(4) Information Provided to the Healthcare Professional. (i) The employer shall ensure that the healthcare professional responsible for the employee's Hepatitis B vaccination is provided a copy of this regulation.

(ii) The employer shall ensure that the healthcare professional evaluating an employee after an exposure incident is provided the following information:

(A) A copy of this regulation;

(B) A description of the exposed employee's duties as they relate to the exposure incident;

(C) Documentation of the route(s) of exposure and circumstances under which exposure occurred;

(D) Results of the source individual's blood testing, if available; and

(E) All medical records relevant to the appropriate treatment of the employee including vaccination status which are the employer's responsibility to maintain.

(5) Healthcare Professional's Written Opinion. The employer shall obtain and provide the employee with a copy of the evaluating healthcare professional's written opinion within 15 days of the completion of the evaluation.

(i) The healthcare professional's written opinion for Hepatitis B vaccination shall be limited to whether Hepatitis B vaccination is indicated for an employee, and if the employee has received such vaccination.

(ii) The healthcare professional's written opinion for post-exposure evaluation and follow-up shall be limited to the following information:

(A) That the employee has been informed of the results of the evaluation; and

(B) That the employee has been told about any medical conditions resulting from exposure to blood or other potentially infectious materials which require further evaluation or treatment.

(iii) All other findings or diagnoses shall remain confidential and shall not be included in the written report.

(6) Medical Recordkeeping. Medical records required by this standard shall be maintained in accordance with paragraph (h)(1) of this section.

(g) Communication of Hazards to Employees. (1) Labels and Signs. (i) Labels. (A) Warning labels shall be affixed to containers of regulated waste, refrigerators and freezers containing blood or other potentially infectious material; and other containers used to store, transport or ship blood or other potentially infectious materials, except as provided in paragraph (g)(1)(i)(E), (F)

and (G).

(B) Labels required by this section shall include the following legend:



(C) These labels shall be fluorescent orange or orange-red or predominantly so, with lettering or symbols in a contrasting color.

(D) Labels required by paragraph (g)(1)(i) shall either be an integral part of the container or shall be affixed as close as feasible to the container by string, wire, adhesive, or other method that prevents their loss or unintentional removal.

(E) Red bags or red containers may be substituted for labels.

(F) Containers of blood, blood components, or blood products that are labeled as to their contents and have been released for transfusion or other clinical use are exempted from the labeling requirements of paragraph (g).

(G) Individual containers of blood or other potentially infectious materials that are placed in a labeled container during storage, transport, shipment or disposal are exempted from the labeling requirement.

(H) Labels required for contaminated equipment shall be in accordance with this paragraph and shall also state which portions of the equipment remain contaminated.

(I) Regulated waste that has been decontaminated need not be labeled or color-coded.

(ii) Signs. (A) The employer shall post signs at the entrance to work areas specified in paragraph (e), HIV and HBV Research Laboratory and Production Facilities, which shall bear the following legend:



(Name of the Infectious Agent)
(Special requirements for entering the area)
(Name, telephone number of the laboratory director or other responsible person.)

(B) These signs shall be fluorescent orange-red or predominantly so, with lettering or symbols in a contrasting color.

(2) Information and Training. (i) Employers shall ensure that all employees with occupational exposure participate in a training program which must be provided at no cost to the employee and during working hours.

(ii) Training shall be provided as follows:

(A) At the time of initial assignment to tasks where occupational exposure may take place;

(B) Within 90 days after the effective date of the standard; and

(C) At least annually thereafter.

(iii) For employees who have received training on bloodborne pathogens in the year preceding the effective date of the standard, only training with respect to the provisions of the standard which were not included need be provided.

(iv) Annual training for all employees shall be provided within one year of their previous training.

(v) Employers shall provide additional training when changes such as modification of tasks or procedures or institution of new tasks or procedures affect the employee's occupational exposure. The additional training may be limited to addressing the new exposures created.

(vi) Material appropriate in content and vocabulary to educational level, literacy, and language of employees shall be used.

(vii) The training program shall contain at a minimum the following elements:

(A) An accessible copy of the regulatory text of this standard and an explanation of its contents;

- (B) A general explanation of the epidemiology and symptoms of bloodborne diseases;
- (C) An explanation of the modes of transmission of bloodborne pathogens;
- (D) An explanation of the employer's exposure control plan and the means by which the employee can obtain a copy of the written plan;
- (E) An explanation of the appropriate methods for recognizing tasks and other activities that may involve exposure to blood and other potentially infectious materials;
- (F) An explanation of the use and limitations of methods that will prevent or reduce exposure including appropriate engineering controls, work practices, and personal protective equipment;
- (G) Information on the types, proper use, location, removal, handling, decontamination and disposal of personal protective equipment;
- (H) An explanation of the basis for selection of personal protective equipment;
- (I) Information on the hepatitis B vaccine, including information on its efficacy, safety, method of administration, the benefits of being vaccinated, and that the vaccine and vaccination will be offered free of charge;
- (J) Information on the appropriate actions to take and persons to contact in an emergency involving blood or other potentially infectious materials;
- (K) An explanation of the procedure to follow if an exposure incident occurs, including the method of reporting the incident and the medical follow-up that will be made available;
- (L) Information on the post-exposure evaluation and follow-up that the employer is required to provide for the employee following an exposure incident;
- (M) An explanation of the signs and labels and/or color coding required by paragraph (g)(1); and
- (N) An opportunity for interactive questions and answers with the person conducting the training session.

(viii) The person conducting the training shall be knowledgeable in the subject matter covered by the elements contained in the training program as it relates to the workplace that the training will address.

(ix) Additional Initial Training for Employees in HIV and HBV Laboratories and Production Facilities. Employees in HIV or HBV research laboratories and HIV or HBV production facilities shall receive the following initial training in addition to the above training requirements.

(A) The employer shall assure that employees demonstrate proficiency in standard microbiological practices and techniques and in the practices and operations specific to the facility before being allowed to work with HIV or HBV.

(B) The employer shall assure that employees have prior experience in the handling of human pathogens or tissue cultures before working with HIV or HBV.

(C) The employer shall provide a training program to employees who have no prior experience in handling human pathogens. Initial work activities shall not include the handling of infectious agents. A progression of work activities shall be assigned as techniques are learned and proficiency is developed. The employer shall assure that employees participate in work activities involving infectious agents only after proficiency has been demonstrated.

(h) Recordkeeping. (1) Medical Records. (i) The employer shall establish and maintain an accurate record for each employee with occupational exposure, in accordance with 29 CFR 1910.20.

(ii) This record shall include:

(A) The name and social security number of the employee;

(B) A copy of the employee's hepatitis B vaccination status including the dates of all the hepatitis B vaccinations and any medical records relative to the employee's ability to receive vaccination as required by paragraph (f)(2);

(C) A copy of all results of examinations, medical testing, and follow-up procedures as required by paragraph (f)(3);

(D) The employer's copy of the healthcare professional's written opinion as required by paragraph (f)(5); and

(E) A copy of the information provided to the healthcare professional as required by paragraphs (f)(4)(ii)(B)(C) and (D).

(iii) Confidentiality. The employer shall ensure that employee medical records required by paragraph (h)(1) are:

(A) Kept confidential; and

(B) Are not disclosed or reported without the employee's express written consent to any person within or outside the workplace except as required by this section or as may be required by law.

(iv) The employer shall maintain the records required by paragraph (h) for at least the duration of employment plus 30 years in accordance with 29 CFR 1910.20.

(2) Training Records. (i) Training records shall include the following information:

- (A) The dates of the training sessions;
- (B) The contents or a summary of the training sessions;
- (C) The names and qualifications of persons conducting the training; and
- (D) The names and job titles of all persons attending the training sessions.

(ii) Training records shall be maintained for 3 years from the date on which the training occurred.

(3) Availability. (i) The employer shall ensure that all records required to be maintained by this section shall be made available upon request to the Assistant Secretary and the Director for examination and copying.

(ii) Employee training records required by this paragraph shall be provided upon request for examination and copying to employees, to employee representatives, to the Director, and to the Assistant Secretary in accordance with 29 CFR 1910.20.

(iii) Employee medical records required by this paragraph shall be provided upon request for examination and copying to the subject employee, to anyone having written consent of the subject employee, to the Director, and to the Assistant Secretary in accordance with 29 CFR 1910.20.

(4) Transfer of Records. (i) The employer shall comply with the requirements involving transfer of records set forth in 29 CFR 1910.20(h).

(ii) If the employer ceases to do business and there is no successor employer to receive and retain the records for the prescribed period, the employer shall notify the Director, at least three months prior to their disposal and transmit them to the Director, if required by the Director to do so, within that three month period.

(5) Sharps Injury Log. (i) The employer shall establish and maintain a sharps injury log for the recording of percutaneous injuries from contaminated sharps. The information in the sharps injury log shall be recorded and maintained in such manner as to protect the confidentiality of the injured employee. The sharps injury log shall contain, at a minimum:

- (A) the type and brand of device involved in the incident,
- (B) the department or work area where the exposure incident occurred, and
- (C) an explanation of how the incident occurred.

(ii) The requirement to establish and maintain a sharps injury log shall apply to any employer who is required to maintain a log of occupational injuries and illnesses under 29 CFR 1904.

(iii) The sharps injury log shall be maintained for the period required by 29 CFR 1904.6.

(i) Dates. (1) Effective Date. The standard shall become effective on March 6, 1992.

(2) The Exposure Control Plan required by paragraph (c)(2) of this section shall be completed on May 5, 1992.

(3) Paragraph (g)(2) Information and Training and (h) Recordkeeping shall take effect on June 4, 1992.

(4) Paragraphs (d)(2) Engineering and Work Practice Controls, (d)(3) Personal Protective Equipment, (d)(4) Housekeeping, (e) HIV and HBV Research Laboratories and Production Facilities, (f) Hepatitis B Vaccination and Post-Exposure Evaluation and Follow-up, and (g) (1) Labels and Signs, shall take effect on July 6, 1992.

(j) Appendix

**APPENDIX A
(Mandatory)**

I understand that due to my occupational exposure to blood or other potentially infectious materials I may be at risk of acquiring hepatitis B virus (HBV) infection. I have been given the opportunity to be vaccinated with hepatitis B vaccine, at no charge to myself. However, I decline hepatitis B vaccination at this time. I understand that by declining this vaccine, I continue to be at risk of acquiring hepatitis B, a serious disease. If in the future I continue to have occupational exposure to blood or other potentially infectious materials and I want to be vaccinated with hepatitis B vaccine, I can receive the vaccination series at no charge to me.

803 KAR 2:412
FALL PROTECTION

29 CFR 1926.501(b)(13)
Residential Construction

Amended by 803 KAR 2:412

Section 1. Definitions. (1) “C.F.R.” means Code of Federal Regulations.

(2) “Employee” is defined in KRS 338.015(2).

(3) “Employer” is defined in KRS 338.015(1).

(4) “Fall restraint system” means a system that:

(a) Is used to prevent an employee from falling any distance consisting of an anchorage, connectors, and body belt or harness; and

(b) May include, lanyards, lifelines, or rope grabs designed for that purpose.

(5) “Guardrail system” is defined in 29 C.F.R. 1926.500(b).

(6) “Leading edge” is defined in 29 C.F.R. 1926.500(b).

(7) “Personal fall arrest system” is defined in 29 C.F.R. 1926.500(b).

(8) “Platform” is defined by 29 C.F.R. 1926.450

(9) “Rake edge” means the roof edge at the gable end of a structure.

(10) “Residential construction” means construction work on a stand alone single family dwelling, duplex, threeplex, or fourplex structure.

(11) “Roofing work” is defined in 29 C.F.R. 1926.500(b).

(12) “Safety monitoring system” is defined in 29 C.F.R. 1926.500(b).

(13) “Safety net system” means a system used in accordance with 29 C.F.R. 1926.502(c).

(14) “Slope” means the roof vertical rise in inches for every horizontal twelve (12) inch length, with:

(a) The horizontal twelve (12) inch length referred to as the run;

(b) The slope referred to as pitch; and

(c) The slope expressed with the rise (vertical) mentioned first and the run (horizontal) mentioned second, such as “4 in 12” or “4 on 12” and written as “4 in 12” or “4:12” or “4/12.”

(15) “Standard” is defined in KRS 338.015(3).

(16) “Three (3) points of contact” means either:

- (a) One (1) hand and both feet; or
- (b) One (1) foot and both hands.

Section 2. (1) The construction industry shall comply with the following federal regulations, except as modified by the definitions in Section 1 and requirements of Section 3 of this administrative regulation:

- (a) 29 C.F.R. 1926.500 through 29 C.F.R. 1926.501(b)(12), revised July 1, 2016; and
- (b) 29 C.F.R. 1926.501(b)(14) through 29 C.F.R. 1926.503, revised July 1, 2016.

(2) An employer may utilize Appendices A, B, C, D, and E to Subpart M of 29 C.F.R. Part 1926, revised July 1, 2016, except the Sample Fall Protection Plan for Residential Construction found in Appendix E.

(3) The Non-Mandatory Sample Fall Protection Plan for Residential Construction may be used and is incorporated by reference in Section 4 of this administrative regulation.

Section 3. Residential Construction. (1) General.

(a) While engaged in residential construction activities, employees working six (6) feet or more above a lower level shall be protected by guardrail systems, safety net systems, personal fall arrest systems, or a measure provided in this section.

(b) The employer shall use a measure that meets the criteria established in this section and shall not be required to demonstrate that it is infeasible or creates a greater hazard to use guardrail systems, safety net systems, or personal fall arrest systems before using a measure provided in this section.

(c) If an employer can demonstrate that it is infeasible or creates a greater hazard to use guardrail systems, safety net systems, personal fall arrest systems, or a measure established in this section, the employer shall develop and implement a written fall protection plan which meets the requirements of 29 C.F.R. 1926.502(k) for a particular workplace situation in lieu of implementing guardrail systems, safety net systems, personal fall arrest systems, or a measure provided in this section.

(2) Floor system.

(a) Employees engaged in residential construction floor system work exposed to a fall hazard six (6) feet or more above a lower level to the exterior of the structure being constructed shall be protected by guardrail systems, safety net systems, personal fall arrest systems, or personal fall restraint systems.

(b) Employees engaged in residential construction floor system work exposed to an interior fall hazard six (6) feet or more above a lower level shall be protected by guardrail systems, safety net systems, personal fall arrest systems, personal fall restraint systems, or, if the floor joists or trusses are eighteen (18) inches on center or less, the measures established in this paragraph.

1. The first joist or truss shall be placed into position and secured by workers on the ground, from ladders, or from a scaffold system.
2. Successive joists or trusses shall be placed into position and then secured from a secured temporary platform.
3. The temporary platform shall be at least eighteen (18) inches wide and secured.
4. The employee performing the work shall work from the platform and remain on the platform.

(c) Employees engaged in leading edge residential construction floor system work six (6) feet or more above a lower level shall be protected by guardrail systems, safety net systems, personal fall arrest systems, personal fall restraint systems, or, if the floor joists or trusses are eighteen (18) inches on center or less, the measures established in this paragraph.

1. The first row of floor sheathing shall be placed into position, installed, and secured from the ground, from ladders, from a scaffold system, or from a secured temporary platform at least eighteen (18) inches wide.
2. The employee performing the work shall work from the platform and remain on the platform.
3. After the first row of sheathing has been installed and secured, only employees performing the installation shall work from the established and secured deck or from a secured temporary platform at least eighteen (18) inches wide.
4. After two (2) rows of sheathing have been installed, only an employee performing the installation shall work from the established and secured deck or from a secured temporary platform at least eighteen (18) inches wide.
5. All other employees shall remain at least four (4) feet away from the leading edge.

(3) Roof system.

(a) Employees engaged in residential construction roof truss or rafter work six (6) feet or more above a lower level shall:

1. Be protected by guardrail systems, safety net systems, personal fall arrest systems; or

2. Personal fall restraint systems or implement the measure established in paragraph (b) of this subsection.

(b) The employee releasing the hoist line or installing the bracing shall:

1. Move or work from within the webbing of the truss or within the rafters on a secured temporary platform at least eighteen (18) inches wide; or
2. Maintain three (3) points of contact while moving or working within the webbing of the trusses or within the rafters.

(c) Employees shall not move or work outside the webbing of the trusses or outside the rafters unless utilizing a personal fall arrest system or personal fall restraint system.

(d) Employees engaged in residential construction attic work six (6) feet or more above a lower level shall be protected by guardrail systems, safety net systems, personal fall arrest systems, personal fall restraint systems, or the measures established in this paragraph.

1. Each employee shall move or work from within the webbing of the trusses or within the rafters on a secured temporary platform at least eighteen (18) inches wide.
2. Each employee shall remain on the platform while performing the work.

(4) Roofing work.

(a) Supplies or materials shall not be placed or stored within six (6) feet of the roof edge.

(b) An employee shall not ascend, work on, or descend the roof within six (6) feet of the rake edge except while applying or removing roofing materials or equipment.

(c) Warning line systems. 1. Employees engaged in residential construction roofing work six (6) feet or more above a lower level on roof slopes three (3) in twelve (12) or less shall be protected by guardrail systems, safety net systems, personal fall arrest systems, personal fall restraint systems, or a combination of warning line system and guardrail system, warning line system and safety net system, warning line system and personal fall arrest system, warning line system and personal fall restraint system, or warning line system and safety monitoring system. On roofs fifty (50) feet or less in width, a safety monitoring system alone may be used. Appendix A to Subpart M of 29 C.F.R. Part 1926, revised July 1, 2005, may be used as a guideline to determine roof width.

2. Employees performing residential construction roofing work between a roof edge and a warning line shall be protected by guardrail systems, safety net systems, personal fall arrest systems, or personal fall restraint systems.

Section 4. Incorporation by Reference. (1) A “Non-Mandatory Sample Fall Protection Plan for Residential Construction,” August 2005, is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Labor Cabinet, Mayo-Underwood Building, 500 Mero Street, 3rd Floor, Frankfort, Kentucky 40601, Monday through Friday, 8:00 am to 4:30 pm EDT, or at www.labor.ky.gov.

Non-Mandatory Sample Fall Protection Plan for Residential Construction
August 2005

Employers engaged in residential construction work who demonstrate that it is infeasible or creates a greater hazard to use fall protection systems or a measure provided in 803 Kentucky Administrative Regulation 2:412, must develop and implement a written fall protection plan. This non-mandatory Fall Protection Plan for Residential Construction is a sample program intended to provide guidance to employers on the type of information that is required to be discussed in fall protection plans. This sample plan outlines the minimum elements that must be addressed in any fall protection plan.

(Company Name)

This Fall Protection Plan is for:

(Location of Job)

Plan Prepared by:

(Name of Qualified Person)

Date Plan Prepared:

Plan Implemented by:

(Name of Competent Person)

Date Plan Change Made:

Plan Change Approved by:

(Name of Qualified Person)

COMPANY POLICY

_____ is dedicated to the protection of its employees from on-the-job injuries.
(Company Name)

All employees of _____ have the responsibility to work safely on the job. The
(Company Name)

purpose of this Fall Protection Plan is to supplement our existing safety and health program and to ensure

that every employee who works for _____ recognizes workplace fall hazards and
(Company Name)

takes the appropriate measures to address those hazards.

IMPLEMENTATION

This Plan is designed to enable employees to recognize the fall hazards associated with this job and to establish the safest procedures that are to be followed in order to prevent falls.

It is the responsibility of _____ to implement this Fall Protection Plan. Continual
(Name of Competent Person)

observational safety checks of work operations and the enforcement of this Plan shall be regularly

enforced. _____ is responsible for correcting any unsafe practices or conditions
(Name of Competent Person)

immediately. Any changes to this Plan must be approved by _____.
(Name of Qualified Person)

It is the responsibility of the employer to ensure that all employees understand and adhere to the

procedures of this Plan and to follow the instructions of _____. It is the
(Name of Competent Person)

responsibility of each employee to bring attention to any unsafe or hazardous conditions or practices that may cause injury to either themselves or any other employees. Each employee will be trained in these procedures established in this Plan and will strictly adhere to them except when doing so would expose the employee to a greater hazard. If, in the employee's opinion, this is the case, the employee is to notify

_____ of their concern and have the concern addressed before proceeding.
(Name of Competent Person)

INFEASIBILITY/GREATER HAZARD

During residential construction, sometimes it is infeasible or creates a greater hazard to use fall protection systems or a measure established in 803 KAR 2:412 at specific areas of the job. This Fall Protection Plan addresses the use of fall protection on this project and those locations that require alternative means of fall protection. In the locations identified in this Plan, fall protection systems or a measure established in 803 KAR 2:412 is infeasible / creates a greater hazard.
(Choose and circle one)

ALTERNATIVE MEASURE(s)

This Plan establishes the safest procedures to be followed at the work site to prevent falls when it is infeasible or creates a greater hazard to comply with 803 KAR 2:412. These alternative measures reduce the risk of falling and are designed to accomplish the work with minimum employee exposure to fall hazards. Possible alternative measures include, but are not limited to scaffolds, scissor lifts, aerial lifts, use of ladders, and safety monitor system with warning line system, and catch platforms.

CONTROLLED ACCESS ZONE(s)

When using this Plan, employees must be protected through limited access to high hazard locations.

Before any alternatives are used as part of this Plan, a controlled access zone (CAZ) shall be clearly

defined and under the control of _____. The demarcation of the CAZ shall be in
(Name of Competent Person)

accordance with 29 CFR 1926.502(g). All access to the CAZ is restricted to authorized entrants. All

workers who are permitted in the CAZ shall be listed in the appropriate sections of this Plan and be

identifiable by _____ prior to implementation of the CAZ.
(Name of Competent Person)

_____ shall ensure that all protective elements of the CAZ are
(Name of Competent Person)

implemented prior to the beginning of work.

Location 1: _____

Infeasible / Creates a Greater Hazard
(Choose and circle one)

Reason(s):

Alternative Measure(s):

Authorized CAZ Entrant(s):

Location 2: _____

Infeasible / Creates a Greater Hazard
(Choose and circle one)

Reason(s): _____

Alternative Measure(s):

Authorized CAZ Entrant(s):

ENFORCEMENT

Constant awareness of and respect for fall hazards and compliance with all safety rules are considered conditions of employment. _____ reserves the right to discipline employees,
(Company Name)

including, but not limited to, warnings up to and including, termination, for failure to follow this Plan.

ACCIDENT INVESTIGATIONS

All accidents that result in injury to workers, regardless of their nature, shall be immediately reported. If a fall or some other related incident occurs, such as a near miss, it will be investigated and documented. It is an integral part of this Plan that documentation take place as soon as possible so that the cause and means of prevention can be identified to prevent similar types of falls or incidents. This Plan shall be reviewed to determine if additional practices, procedures, or training is needed to prevent similar types of falls or incidents from occurring.

CHANGES TO PLAN

Any changes to this Plan will be approved by _____. This Plan shall be reviewed
(Name of Qualified Person)

by _____ as the job progresses to determine if additional practices, procedures, or
(Name of Qualified Person)

training needs to be implemented by _____ to improve or provide additional fall
(Name of Competent Person)

protection. All employees shall be notified and trained in the new procedures. A copy of this Plan and all approved changes shall be maintained at the jobsite.

803 KAR 2:417
STEEL ERECTION

29 CFR 1926.760
Fall Protection

Amended by 803 KAR 2:417 Steel erection

Section 1. Definitions. (1) "C.F.R." means Code of Federal Regulations.

(2) "Employee" is defined by KRS 338.015(2).

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

Section 2. Except as established in Section 1 and the requirements in Section 3 of this administrative regulation, the construction industry shall comply with 29 C.F.R. 1926, Subpart R, Steel Erection, published by the Office of the Federal Register, National Archives and Records Administration. Section

3. Fall Hazards. (1)(a) Paragraph (b) of this subsection shall apply in lieu of 29 C.F.R. 1926.760(a)(1).

(b) Each employee engaged in a steel erection activity who is on a walking or working surface with an unprotected side or edge ten (10) feet or more above a lower level shall be protected from fall hazards by guardrail systems, safety net systems, personal fall arrest systems, positioning device systems, or fall restraint systems.

(2)(a) Paragraph (b) of this subsection shall apply in lieu of 29 C.F.R. 1926.760(a)(3).

(b) Connectors and employees working in controlled decking zones shall be protected from fall hazards in accordance with subsection (5) of this section, respectively.

(3)(a) Paragraph (b) of this subsection shall apply in lieu of 29 C.F.R. 1926.760(b)(1).

(b) Each connector shall be protected in accordance with subsection (2) of this section from fall hazards of ten (10) feet or more above a lower level.

(4)(a) Paragraph (b) of this subsection shall apply in lieu of 29 C.F.R. 1926.760(b)(3).

(b) Each connector shall be provided with, wear, and utilize, at heights of ten (10) feet or more above a lower level, a personal fall arrest system, positioning device system, or fall restraint system or be provided with other means of protection from fall hazards in accordance with subsection (1) of this section.

(5)(a) Paragraph (b) of this subsection shall apply in lieu of 29 C.F.R. 1926.760(c).

(b) A controlled decking zone (CDZ) may be established in that area of the structure over six (6) feet and up to ten (10) feet above a lower level if metal decking is initially being installed and forms the leading edge of a work area. In each CDZ: 1. Subparagraph 2 of this paragraph shall apply in lieu of 29 C.F.R. 1926.760(c)(1); and 2. Each employee working at the leading edge in a CDZ shall be protected from fall hazards of ten (10) feet or more above a lower level.

803 KAR 2:435
SUPPLY LINES IN EXCESS OF 600 VOLTS

Section 1. Definitions. (1) "Disconnected" means disconnected from any electrical source or supply.

(2) "Employee" is defined by KRS 338.015(2).

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

(4) "Guarded" means protected by personnel, covered, fenced, or enclosed by means of suitable castings, barrier, rails, screens, mats, platforms, or other suitable devices in accordance with standard barricading techniques designed to prevent dangerous approach or contact by persons or objects but does not include insulated wires not otherwise protected.

(5) "Hold cards" or "hold tags" means a card or tag-type device, usually having a predominant color of white or red that warns against or cautions against the operation of a particular switch, device, circuit, tool, machine, or other piece of equipment.

(6) "Near" means a distance no closer than shown in the table in Section 2 of this administrative regulation.

(7) "Qualified person" means a person who, because of experience and training is familiar with the construction and operation of the apparatus or equipment and the hazards involved in the performance of the job.

Section 2. Safety and Testing. (1) This administrative regulation shall apply to nonutility electrical employees engaged in electrical construction of electrical conductors and equipment rated at 600 volts and above.

(2) Energized conductors and equipment. (a) Only qualified employees shall work on or near high voltage conductors or equipment.

(b) Personal protective equipment shall be provided by the employer and used by the employee when working on or near energized, ungrounded high voltage conductors, or equipment.

(3)(a) An employee shall not approach or take any conductive object, without an approved insulating handle, within the minimum distance specified in the Minimum Clear Distance From Live Parts table below, unless the energized part is insulated or guarded from the employee, or the employee is effectively insulated from the energized part.

(b) Rubber gloves, and sleeves if necessary, rated for the voltage involved shall be considered effective insulation of the employee from the energized part.

Minimum Clear Distance From Live Parts

Voltage Phase to Phase (Kilovolts)	Distance Phase to Employee
0.6 to 34.5	2'
34.5 to 46	2 1/2'
46 to 69	3'
69 to 115	3' 4"
115 to 138	3' 6"
138 to 169	3' 8"

Section 3. Deenergized conductor or equipment.

- (1) Existing conditions shall be determined before starting work on an electrical conductor or equipment.
- (2) Before any work is performed, all electrical switches, breakers, and associated disconnecting devices shall be opened, made inoperable and hold tagged out by the person in charge.
- (3) Employees shall be trained and thoroughly instructed in the tagging procedure.
- (4) One (1) qualified person such as the foreman, general foreman, or first class electrician of each crew shall be responsible for attaching hold tags or hold cards to the disconnecting means.
- (5) If more than one (1) crew is involved in the work, multiple hold tags or hold cards shall be placed in the handle of the disconnecting equipment.
- (6) The use of such tags shall be respected.
- (7) Equipment or items tagged shall not be activated or used without full and proper authority of the responsible person whose signature appears on the tag.
- (8) Conductors shall be short-circuited and grounded wherever possible.
- (9) Capacitors may be components of apparatus of the disconnected electrical system.
- (10) Before employees are allowed to work, the capacitors shall be discharged, shortcircuited, and grounded.
- (11) If deenergizing conductors and equipment and the means of disconnecting from the energy source is not visibly open, a voltage test shall be made before starting work.
- (12) An operational check shall be made of the voltage tester prior to and following the voltage test to determine reliability of the testing device.
- (13) The test device shall be handled and used while wearing or using approved protective equipment during the test.

(14) All conductors and equipment shall be treated as energized until tested, short-circuited and effectively grounded except if the circuit involved is isolated from all possible sources of energizing voltage from another circuit, induced voltage or back feed.

(15) The voltage condition of deenergized conductors and equipment shall be determined with testing equipment designed for the applicable voltage.

(16) Upon completion of work on deenergized conductors and equipment, the person responsible shall ascertain that all employees under her or his jurisdiction are clear and that all protective short-circuit and grounding lines are removed.

(17) The qualified person shall then remove her or his hold tag.

(18) Only at this time shall conductors and equipment be reenergized.

803 KAR 2:440
CRANES AND DERRICKS IN CONSTRUCTION

29 CFR 1926.1423
FALL PROTECTION

Amended by 803 KAR 2:505

Section 1. Definitions. (1) "C.F.R." means Code of Federal Regulations.

(2) "Employee" is defined by KRS 338.015(2).

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

(4) "Secretary of Labor" means Secretary, Labor Cabinet, or Commissioner, Department of Workplace Standards, Labor Cabinet.

(5) "Standard" means "occupational safety and health standard" as defined by KRS 338.015(3).

Section 2. Except as modified by the definitions in Section 1 and the requirements in Section 3 of this administrative regulation, the construction industry shall comply with 29 C.F.R. 1926, Subpart CC, Cranes and Derricks in Construction published by the Office of the Federal Register, National Archives and Records Services, General Services Administration.

Section 3. Fall Protection. (1)(a) The language in paragraph (b) of this subsection shall apply in lieu of 29 C.F.R. 1926.1423(e)(1)(iii).

(b) On horizontal lattice booms where the fall distance is ten (10) feet or more.

(2)(a) The language in paragraph (b) of this subsection shall apply in lieu of 29 C.F.R. 1926.1423(f).

(b) For assembly/disassembly work, the employer shall provide and ensure the use of fall protection equipment for any employee who is on a walking/working surface with an unprotected side or edge more than ten (10) feet above a lower level, except when the employee is at or near draw-works (when the equipment is running), in the cab, or on the deck.

(3)(a) The language in paragraph (b) of this subsection shall apply in lieu of 29 C.F.R. 1926.1423(h)(2).

(b) For erecting, climbing, and dismantling work, the employer shall provide and ensure the use of fall protection equipment for any employee who is on a walking/working surface with an unprotected side or edge more than ten (10) feet above a lower level.

SOURCES OF INFORMATION REGARDING OCCUPATIONAL SAFETY AND HEALTH IN KENTUCKY

For information concerning occupational safety and health training, consultation, technical assistance, publications, and recordkeeping, contact:

**Division of Occupational Safety and Health Education and Training
Frankfort, Kentucky 40601
(502) 564-3070**

For information concerning occupational safety and health enforcement, contact:

**Division of Occupational Safety and Health Compliance
Frankfort, Kentucky 40601
(502) 564-3070**

For information concerning the occupational safety and health standards, interpretations, and actions of the Kentucky Occupational Safety and Health Standards Board, contact:

**Department of Workplace Standards
Standards Interpretation and Development
Frankfort, Kentucky 40601
(502) 564-3070**



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