

**LABOR CABINET**  
**Department of Workplace Standards**  
**Division of Occupational Safety and Health Compliance**  
**Division of Occupational Safety and Health Education and Training**  
**(As Amended at ARRS, August 10, 2021)**

**803 KAR 2:062. Employer[Employers'] responsibility for an[when] employee[is]/[where employees are] exposed to toxic substances or harmful physical agents.**

RELATES TO: KRS Chapter 338

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

NECESSITY, FUNCTION, AND CONFORMITY: KRS 338.051(3) requires [authorizes] the Kentucky Occupational Safety and Health Standards Board to [adopt and] promulgate occupational safety and health [rules,] administrative regulations and authorizes the chairman to reference federal standards without board approval if necessary to meet federal time requirements. This [, and standards. The purpose and function of the following] administrative regulation establishes [is to provide that all employers] employer responsibility **for an employee[when employees are]** exposed to toxic substances or harmful physical agents [monitor areas and maintain accurate records of such monitoring where their employees are exposed to potentially toxic substances and to make available to those employees the records of such monitoring].

Section 1. Definitions. (1) "Board" is defined by KRS 338.015(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 [which] are required to be monitored or measured pursuant to [these] standards [as] adopted by the board **pursuant to KRS Chapter 338**[Kentucky Occupational Safety and Health Standards Board].

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

(3)(a) Each employer shall promptly notify every [any] employee [or employees] who was or is [have been or are being] exposed to toxic materials or harmful physical agents in concentrations or [at] levels that [which] exceed those **established[prescribed]** by [these] applicable [occupational safety and health] standards adopted by the board **pursuant to KRS Chapter 338**[Kentucky Occupational Safety and Health Standards Board].

(b) **If[Where]** [pursuant to those applicable occupational safety and health standards adopted and promulgated by the Kentucky Occupational Safety and Health Standards Board] it is required that exposure to certain toxic substances or agents is [be] limited or prohibited, each employer shall:

(1) Notify [notify his] employees who are subject to **[such]** exposure; [;]

(2) Inform employees [inform them] of the corrective action required, if any; [;] and

(3) Notify employees [notify them] when **[such]** action will be, or was, [has been] taken.

(4)(a) Each employer shall make and maintain records of all monitoring activity required by this administrative regulation and make appropriate provisions whereby each employee, former employee, or a representative of either, has [may have] access to **[such]** records that [which will] indicate the levels [to which] the [particular] employee or former employee was [has been] exposed.

(b) Each employee, former employee, or representative of either, [Said person] shall ~~[also]~~ be **allowed**~~[permitted]~~ to copy ~~[these]~~ records pertaining to her or his exposure levels or the exposure levels of the employee or former employee she or he is representing.

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