

LABOR CABINET
Department of Workplace Standards
Division of Occupational Safety and Health Compliance
Division of Occupational Safety and Health Education and Training
(Repealer)

803 KAR 2:096. Repeal of 803 KAR 2:095 and 803 KAR 2:430.

RELATES TO: KRS 338.015

STATUTORY AUTHORITY: KRS 338.051(3), 338.061

NECESSITY, FUNCTION, AND CONFORMITY: KRS 338.051(3) requires the Kentucky Occupational Safety and Health Standards Board to promulgate occupational safety and health administrative regulations and authorizes the chairman to reference federal standards without board approval if necessary to meet federal time requirements. KRS 338.061 authorizes the board to establish, modify, or repeal standards and reference federal standards. This administrative regulation repeals 803 KAR 2:095 and 803 KAR 2:430.

Section 1. The following administrative regulations are hereby repealed:

- (1) 803 KAR 2:095, Trade secrets; and
- (2) 803 KAR 2:430, Appendix A to 29 Code of Federal Regulations Part 1926.

LARRY ROBERTS, Secretary

APPROVED BY AGENCY: December 8, 2020

FILED WITH LRC: December 10, 2020 at 11:54 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on February 23, 2021 at 10:00 a.m. (ET). The meeting will be conducted by live videoconference (ZOOM) pursuant to Senate Bill 150, Section 1, subparagraph (8) b (2020) and the continuing state of emergency. Public access to the meeting will be available

at [CONTACT PERSON: Robin Maples, OSH Standards Specialist, Kentucky Department of Workplace Standards, 500 Mero Street, Frankfort, Kentucky 40601, phone \(502\) 564-4107, fax \(502\) 564-4769, email Robin.Maples@ky.gov.](https://us02web.zoom.us/j/83618567636?pwd=a2FuQnRFeXNNNE5wQjB5QnJDK1ITdz09, password 224995, or telephone (713) 353-0212, or (888) 822-7517 toll free, conference code 533004. Individuals interested in being heard at this hearing shall notify this agency in writing five (5) working days prior to the hearing of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to attend the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through February 28, 2020. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.</p></div><div data-bbox=)

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: Robin Maples

- (1) Provide a brief summary of:

(a) What this administrative regulation does: Section 1 of this administrative regulation repeals 803 KAR 2:095 related to the use of trade secrets, which restates KRS 338:171. Section 2 of this regulation repeals 803 KAR 2:430, which is an unnecessary informational appendix.

(b) The necessity of this administrative regulation: 803 KAR 2:096 is necessary to repeal 803 KAR 2:095 which restates KRS 338:171. This regulation is also necessary to repeal 803 KAR 2:430, which is an unnecessary informational appendix.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 13A.120(2)(e) establishes that an administrative body shall not promulgate administrative regulations when a statute prescribes the same or similar procedure for the matter regulated. 803 KAR 2:095 restates language contained in KRS 338.171. 803 KAR 2:430 is an unnecessary informational appendix.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: Not applicable.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: This is not an amendment, but a repeal of two (2) administrative regulations.

(b) The necessity of the amendment to this administrative regulation: 803 KAR 2:096 is necessary to repeal 803 KAR 2:095 which restates KRS 338:171. This regulation is also necessary to repeal 803 KAR 2:430, which is an unnecessary informational appendix.

(c) How the amendment conforms to the content of the authorizing statutes: This amendment conforms to the content of the authorizing statutes of KRS 338.051 and 338.061.

(d) How the amendment will assist in the effective administration of the statutes: Not applicable

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

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: This administrative regulation repeals 803 KAR 2:095, which restates language found in KRS 338.171. The regulation also repeals 803 KAR 2:430, which is an unnecessary informational appendix.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): There is no additional cost to the OSH Program.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): There are no compliance requirements associated with this repeal.

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

(a) Initially: There is no cost to the OSH Program related to this repeal.

(b) On a continuing basis: There is no continuing cost to the OSH Program related to this repeal.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Not applicable.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new or by the change if it is an amendment: There is neither an increase in fees nor an increase in funding necessary to implement this repeal.

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

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

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. Not applicable.

2. State compliance standards. KRS 13A.120(2)(e) states that an administrative body shall not promulgate administrative regulations when a statute prescribes the same or similar procedure for the matter regulated. 803 KAR 2:095 restates language found in KRS 338.171. 803 KAR 2:430 is an unnecessary informational appendix.

3. Minimum or uniform standards contained in the federal mandate. KRS 13A.120(2)(e) states that an administrative body shall not promulgate administrative regulations when a statute prescribes the same or similar procedure for the matter regulated. 803 KAR 2:095 restates language found in KRS 338.171. 803 KAR 2:430 is an unnecessary informational appendix.

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? Not applicable.

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements: Not applicable.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? This administrative regulation affects any unit, part, or division of local government covered by KRS Chapter 338 and engaged in general industry and construction activities.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 13A.120(2)(e), KRS 338.051, KRS 338.061

3. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect. None.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? None.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? None.

(c) How much will it cost to administer this program for the first year? There are no costs associated with this repeal.

(d) How much will it cost to administer this program for subsequent years? There are no costs associated with this repeal.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-): Unknown.

Expenditures (+/-): Unknown.

Other explanation: This repeal does not impose any additional requirements or expenditures to the employer.