

**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 2:440. Cranes and derricks in construction.**

RELATES TO: KRS 338.015, 29 C.F.R. ~~[Part]~~ 1926.1400-1926.1441

STATUTORY AUTHORITY: KRS 338.051(3), 338.061~~[, E.O. 2018-586]~~

NECESSITY, FUNCTION, AND CONFORMITY: KRS 338.051(3) requires ~~[and 338.061 authorize]~~ the Kentucky Occupational Safety and Health Standards Board to promulgate occupational safety and health ~~[rules and]~~ 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 ~~[standards. Executive Order 2018-586 transfers the authority to adopt, amend, or repeal administrative regulations from the Occupational Safety and Health Standards Board to the Secretary of the Kentucky Labor Cabinet].~~ This administrative regulation establishes the standards that are ~~[to be]~~ enforced by the Department of Workplace Standards in ~~[Division of Occupational Safety and Health Compliance in the area of]~~ construction.

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) ~~["Established federal standard" is defined by KRS 338.015(10).~~

(5) "Secretary of Labor" means Secretary, Labor Cabinet, or Commissioner, Department of Workplace Standards, Labor Cabinet.

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

Section 2. Except as modified ~~[established]~~ 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 ~~[the following established federal standards]~~ published by the Office of the Federal Register, National Archives and Records Services, General Services Administration [:

(1) ~~29 C.F.R. 1926.1400-1926.1441, effective July 1, 2018; and~~

(2) ~~The amendments to 29 C.F.R. 1926.1427 published in the November 9, 2018 Federal Register, Volume 83, Number 218].~~

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) [shall be replaced with: "On horizontal lattice booms where the fall distance is ten (10) feet or more."].

(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) [shall be replaced with: "For assembly — disassembly work, the employer must provide and ensure the use of fall protection equipment for employees who are 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."].~~

(b) For assembly/disassembly work, the employer **shall/must** 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) [shall be replaced with: "For erecting, climbing, and dismantling work, the employer must provide and ensure the use of fall protection equipment for employees who are on a walking—working surface with an unprotected side or edge more than ten (10) feet above a lower level."].~~

(b) For erecting, climbing, and dismantling work, the employer **shall/must** 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.

CONTACT PERSON: Robin Maples, OSH Standards Specialist, Labor Cabinet, Mayo-Underwood Building, 500 Mero Street, 3rd Floor, Frankfort, Kentucky 40601, phone (502) 564-4107, fax (502) 564-4769, email Robin.Maples@ky.gov.