

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

803 KAR 2:445. Confined spaces in construction.

RELATES TO: KRS 338.015, 29 C.F.R. 1926.1200-1926.1213

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 establishes standards that are enforced by the Department of Workplace Standards in 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.
- (6) "Standard" means "occupational safety and health standard," which is defined by KRS 338.015(3).
- (7) "U.S. Department of Labor" means U.S. Department of Labor or Kentucky Labor Cabinet, 500 Mero Street, 3rd Floor, Frankfort, Kentucky 40601.

Section 2. Except as modified by the definitions in Section 1 of this administrative regulation, the construction industry shall comply with 29 C.F.R. 1926, Subpart AA, Confined spaces in construction, published by the Office of the Federal Register, National Archives and Records Services, General Services Administration.

(10 Ky.R. 330; Am. 619; eff. 12-2-1983; 20 Ky.R. 638; 968; eff. 11-8-1993; 23 Ky.R. 1684; eff. 12-13-1996; 42 Ky.R. 110, 680; eff. 10-2-2015; Recodified from 803 KAR 2:200, 3-16-2021; 48 Ky.R. 2522; eff. 10-4-2022; TAm eff. 11-10-2022.)

JAMIE LINK, Secretary of Labor

APPROVED BY AGENCY: February 11, 2022

FILED WITH LRC: February 11, 2022 at 3 p.m.

PUBLIC HEARING AND COMMENT PERIOD: A public hearing on this administrative regulation shall be held on April 21, 2022 at 1:00 pm (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: <https://us06web.zoom.us/j/81934895287> or by telephone at (713) 353-0212, (888) 822-7517 toll free, conference code 194378. 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 April 30, 2022. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: Robin Maples, OSH Standards Specialist, 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.