



# What You Need To Know About Kentucky OSHA's Proposed Injury and Illness Reporting Rule Change

Insights

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The Kentucky Labor Cabinet's Department of Workplace Standards released its proposed amendments to its injury and illness recordkeeping and reporting requirements on February 11, 2020. A public hearing on these amendments was set to be heard today at the Kentucky Labor Cabinet. Due to the COVID 19 pandemic, however, the public hearing has been cancelled and employers are encouraged to submit written comments on the proposed rule change by April 30, 2020. Until then, here's what employers need to know about these proposed changes and how they could potentially affect injury and illness reporting in Kentucky.

As background, Kentucky OSHA and other states that have their own OSHA plan are required to adopt and implement the federal OSHA reporting requirements or create their own that is substantially similar. Kentucky OSHA has never fully adopted the federal OSHA reporting requirement because it had a more stringent reporting requirement prior to federal OSHA updating its reporting regulations in January 2015.

With this in mind, parts of the proposed amendments to 803 KAR 2:180 track the federal reporting requirements (29 CFR 1904.39), but parts are different and potentially problematic. The parts that are different include the following:

- Kentucky OSHA proposes to change the definition of "hospitalization" to mean "a formal admission to a hospital or clinic for care, treatment, observation or diagnostic testing." The federal rule is not this expansive and does not require an employer to report hospitalization for just observation or diagnostic testing, but limits reporting to hospitalization for treatment.
- Kentucky OSHA's proposed rule also requires notification of the hospitalization of 3 or more employees within 8 hours. The federal rule requires reporting a hospitalization regardless of the number of employees within 24 hours. Kentucky OSHA's proposed rule would require reporting a hospitalization of less than 3 employees within 72 hours. So, this part of the proposed amendment is more lenient than the federal rule.
- Finally, Kentucky OSHA's emphasis of reporting deaths and hospitalizations attributed to heart attacks is only slightly different from the federal rule. For instance, Kentucky OSHA's proposed amendment explicitly provides that employers must report a heart attack that "occurs in the work environment," whether it is a work-related incident or not. The federal rule is a bit more lenient, requiring employers to report heart attacks that are "work-related."

Keep in mind that these amendments are not yet final. This means your company has the right to comment in writing by April 30, 2020 before these changes become effective. In the meantime, employers must continue to report any work-related fatality, in-patient hospitalization, amputation or eye loss by calling the KOSH's Division of Compliance at (502) 564-3535 or OSHA after hours at (800) 321-6742.

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