

803 KAR 2:080. Advance notice of inspections.

RELATES TO: KRS 338.991(9)

STATUTORY AUTHORITY: KRS Chapter 13A

NECESSITY, FUNCTION, AND CONFORMITY: Pursuant to the authority granted the Kentucky Occupational Safety and Health Standards Board by KRS 338.051, the following rules and administrative regulations are adopted, governing advance notice of inspections.

Section 1. Advance Notice of Inspection. (1) Advance notice of inspections may not be given, except in the following situations:

(a) In cases of apparent imminent danger, to enable the employer to abate the danger as quickly as possible;

(b) In circumstances where the inspection can most effectively be conducted after regular business hours or where special preparations are necessary for an inspection;

(c) Where necessary to assure the presence of representatives of the employer and employees or the appropriate personnel needed to aid in the inspection; and

(d) In other circumstances where the Commissioner of the Department of Workplace Standards determines that the giving of advance notice would enhance the probability of an effective and thorough inspection.

(2)(a) In the situations described in subsection (1) of this section, advance notice of inspections may be given only if authorized by the Commissioner of the Department of Workplace Standards, except that in cases of apparent imminent danger, advance notice may be given by the compliance safety and health officer without such authorization if the commissioner is not immediately available. When advance notice is given, it shall be employer's responsibility promptly to notify the authorized representative of the employees of the inspection, if the identity of such representative is known to the employer. (See 803 KAR 2:110(2) as to situation where there is no authorized representative of employees.) Upon the request of the employer, the compliance safety and health officer will inform the authorized representative of employees of the inspection, provided that the employer furnishes the compliance safety and health officer the identity of such representative and with such other information as is necessary to enable him promptly to inform such representative of the inspection. An employer who fails to comply with his obligation under this paragraph promptly to inform the authorized representative of employees of the inspection or to furnish such information as is necessary to enable the compliance safety and health officer promptly to inform such representative of the inspection may be subject to citation and penalty under KRS 338.991.

(b) Advance notice in any of the situations described in subsection (1) of this section shall not be given more than twenty-four (24) hours before the inspection is scheduled to be conducted, except in apparent imminent danger situations and in other unusual circumstances.

(3) KRS Chapter 338.991(9) provides that any person who gives advance notice of any inspection to be conducted under this chapter, without authority from the commissioner, shall, upon conviction, be punished by fine of not more than \$1,000 or by imprisonment for not more than six (6) months, or by both. (OSH 106; 1 Ky.R. 159; eff. 12-11-74; TAm eff. 8-9-2007; TAm eff. 9-8-2011.)