

**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 2:140. Contest of citation~~[Employer and employee contests]~~.**

RELATES TO: KRS Chapter 338

STATUTORY AUTHORITY: KRS 338.051, 338.061 ~~[KRS Chapter 13A]~~

NECESSITY, FUNCTION, AND CONFORMITY: KRS 338.051(3) requires ~~[Pursuant to the authority granted]~~ the Kentucky Occupational Safety and Health Standards Board to promulgate occupational safety and health ~~[by KRS 338.051, the following 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. ~~This [are adopted, governing the employer and employee contests before the review commission. The function of this]~~ administrative regulation establishes procedures ~~[is to inform the employer and employees of the proper procedure]~~ to be followed in contesting a citation **or[and/or]** penalty issued by the Commissioner of the Department of Workplace Standards.

Section 1. Definitions. (1) "Commissioner" is defined by KRS 338.015.

(2) "Employee" is defined by KRS 338.015(2).

(3) "Employer" is defined by KRS 338.015(1).

(4) "Review commission" is defined by KRS 339.015(8).

(5) "Working days" means Monday through Friday and does not include Saturday, Sunday, federal or state holidays, and the day of receipt of notice.

Section 2. ~~[Contesting]~~ Procedure. (1)(a) ~~An [Any] employer that receives a citation may [to whom a citation or notice or penalty has been issued may, under KRS Chapter]~~ notify the commissioner ~~[Commissioner of the Department of Workplace Standards]~~ in writing that she or he contests ~~[intends to contest]~~ the citation, proposed penalty, or both ~~[such citation, or notice of proposed penalty before the review commission].~~

(b) ~~The [Such] notice of [intention to] contest shall be~~ transmitted by the employer ~~[post-marked] within fifteen (15) working days of [the] receipt of citation [by the employer of the notice of proposed penalty].~~

(c) ~~The [Every] notice of [intention to] contest shall specify whether it is directed to the citation, proposed penalty, or both [the proposed penalty, or a variance].~~

(d) ~~The commissioner shall immediately transmit the [such] notice to the review commission in accordance with the rules of procedure prescribed by the commission~~ **in accordance with KRS 338.071.**

(2) Any employee or representative of employees of an employer that receives ~~[to whom]~~ a citation ~~[has been issued]~~ may **notify the commissioner in writing that she or he contests the:**

(a) **[Notify]** ~~[File a written notice with]~~ **[the commissioner in writing that she or he contests]** ~~[alleging that]~~ **[the]** ~~[period of]~~ Time established ~~[fixed]~~ in the citation for the abatement of the violation ~~[is unreasonable];~~ **or**

(b) **[Notify]** ~~[File a written notice to]~~ **[the commissioner in writing that she or he contests]** ~~[alleging that]~~ **[the]** Citation, or proposed penalty, or both ~~[and penalties are unreasonable]~~

ble].

~~(3)(a) The notice [Such notices] shall be postmarked within fifteen (15) working days of the receipt by the employer of the notice of the citation[proposed penalty or notice that no penalty is being proposed].~~

~~(b) The commissioner shall immediately transmit the [such] notice to the review commission in accordance with the rules of procedure prescribed by the commission ***in accordance with KRS 338.071.***~~

~~(3) If any party is adversely affected by a variance issued under KRS 338.151 he may file an appeal to the review commission.~~

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