803 KAR 2:080. Advance notice of inspections.

RELATES TO: KRS 338.991(9)
STATUTORY AUTHORITY: KRS 338.051, 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 enforced by the Department of Workplace Standards in construction and general industry.

Section 1. Definitions.
(1) "Commissioner" is defined by KRS 338.015(7).
(2) "Compliance Safety and Health Officer" means a person authorized by the commissioner to conduct occupational safety and health inspections.
(3) "Employee" is defined by KRS 338.015(2).
(4) "Employer" is defined by KRS 338.015(1).

Section 2. Advance Notice of Inspection.
(1) Advance notice of inspections shall not be given, except:
(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;
(c) When necessary to assure the presence of representatives of the employer or employees or the appropriate personnel needed to aid in the inspection; or
(d) When the commissioner, or designee, determines that advance notice would enhance the probability of an effective and thorough inspection.
(2)
(a) Advance notice may be given by the compliance safety and health officer without commissioner, or designee, authorization if the commissioner, or designee, is not immediately available.
(b) When advance notice is given, it shall be employer's responsibility to promptly notify the authorized representative of the employees of the inspection, if the identity of the representative is known to the employer.
(c) Upon the request of the employer, the compliance safety and health officer may inform the authorized representative of employees of the inspection, provided the employer furnishes the compliance safety and health officer the identity of the representative and with information necessary to enable him or her promptly to inform the representative.

Section 3. An employer who fails to comply with the requirements of this administrative regulation may be subject to citation and penalty pursuant to KRS 338.991.

Section 4. Except in apparent imminent danger situations or other unusual circumstances, advance notice shall not be given more than twenty-four (24) hours before the inspection is scheduled to be conducted.
(OSH 106; 1 Ky.R. 159; eff. 12-11-1974; TAm eff. 8-9-2007; TAm eff. 9-8-2011; 47 Ky.R. 1469, 2371; eff. 8-3-2021.)