

## **803 KAR 2:100. Imminent danger.**

RELATES TO: KRS 338.131

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 occupational safety and health imminent danger procedures 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. Imminent Danger.**

- (1) When a compliance safety and health officer concludes on the basis of an inspection that conditions or practices exist that could reasonably be expected to cause death or serious physical harm immediately or before the imminence of the danger can be eliminated through the enforcement procedures otherwise provided by KRS Chapter 338, the compliance safety and health officer shall inform the affected employee and employer of the danger.
  - (2) The compliance safety and health officer shall notify the affected employee and employer that if the imminent danger is not immediately abated, the compliance safety and health officer is recommending a civil action to restrain the conditions or practices and for other appropriate relief pursuant to KRS 338.133.
  - (3) A citation may be issued even though, after being informed of the danger by the compliance safety and health officer, the employer immediately eliminates the imminence of the danger and initiates steps to abate the danger.
- (OSH 108; 1 Ky.R. 160; eff. 12-11-1974; 47 Ky.R. 1473, 2372; eff. 8-3-2021.)