

803 KAR 2:127. Failure to correct violation.

RELATES TO: KRS 338.071, 338.141, 338.991(4)

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 failure to correct violation procedures followed by the Department of Workplace Standards and employers.

Section 1. Definitions.

- (1) "Commissioner" is defined by KRS 338.015.
- (2) "Employer" is defined in KRS 338.015(1).
- (3) "Review commission" is defined in KRS 338.015(8).
- (4) "Working day" means Monday through Friday and does not include Saturday, Sunday, federal, or state holidays, and the day of receipt of notice.

Section 2.

- (1) If an inspection discloses that an employer failed to correct an alleged violation for which a citation was issued within the period permitted for its correction, the commissioner shall notify the employer of the failure and the additional penalty proposed pursuant to KRS 338.991(4).
- (2) The period for the correction of a violation shall not begin until the entry of a final order of the review commission in the case of any proceedings initiated by the employer in good faith and not solely for delay or avoidance of penalties.

Section 3.

- (1) Any employer receiving a notification of failure to correct a violation and proposed additional penalty pursuant to KRS 338.991(4) may notify the commissioner or designee in writing that she or he contests.
- (2)
 - (a) The notice of contest shall be transmitted within fifteen (15) working days of receipt.
 - (b) The commissioner shall transmit the notice to the review commission in accordance with the rules of procedure prescribed by the commission in accordance with KRS 338.071.

Section 4. Each notification of failure to correct a violation and proposed additional penalty shall state that it shall be a final order of the review commission and not subject to review by any court or agency, as established by KRS 338.141, unless, within fifteen (15) working days from the date of receipt of the notification, the employer notifies the commissioner or designee in writing that she or he contests the notification of proposed additional penalty before the review commission.

(5 Ky.R. 834; eff. 6-6-1979; TAm eff. 8-9-2007; TAm eff. 9-8-2011; 47 Ky.R. 2671; 48 Ky.R. 808; eff. 11-30-2021.)