

Kentucky's statutes contain no statute of limitations, but regulations implementing the statutes say that citations must be issued with reasonable promptness after termination of the inspection.

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Federal court ruled on time OSHA has to issue citations

By George J. Miller
Wyatt, Tarrant & Combs, LLP

The Federal Court of Appeals for the District of Columbia Circuit has ruled against federal OSHA in a case involving how much time OSHA has to issue citations for certain recordkeeping violations.

Although the federal Occupational Safety and Health Act contains a six-month statute of limitations within which OSHA may issue citations, in this case, OSHA argued that the limitations period for certain recordkeeping violations would not begin to run until the end of the five year time period during which employers are required to maintain certain records.

The Court rejected OSHA's position and held that the sixth month limitations period applies. As a result, the citations issued to the employer in this case were vacated.

Federal OSHA had issued 67 citations to the employer Volks Constructors because incident report forms (OSHA Form 301) were incomplete, Volks failed to record injuries on the OSHA injury log (OSHA Form 300), Volks failed to prepare the year end summary report (OSHA Form 300A) for the years 2002 through 2005, and in other years the wrong person certified the year end summary. OSHA recommended penalties of \$13,300 for these violations.

Citations were issued on November 8, 2006. Volks moved to dismiss the citations for any violations that occurred more than six months before that date, i.e., before May 8, 2006. The Court sided with Volks.

Unlike the federal statute, Kentucky's Occupational Safety and Health statute, KRS Chapter 338, contains no statute of limitations. However, Kentucky

Administrative Regulations implementing the statute say that citations must be issued "with reasonable promptness after termination of the inspection." 803 KAR 2:120(1).

The Kentucky Occupational Safety and Health Review Commission, and Kentucky courts, have held that "reasonable promptness" means six months. It does not appear that the issue addressed by the federal Court of Appeals in the Volks case has yet been addressed by the Kentucky Review Commission or the Kentucky courts. ▲

Fatalities on the job nationwide in 2011

The US Department of Labor released on Sept. 20, 2012, the preliminary totals of workplace fatalities in the United States last year. The number of workers killed on the job in 2011 was 4,609, a slight decrease from 4,690 in 2010.

Measured by the "rate" of fatalities, for every 100,000 full-time equivalent (FTE) workers last year, 3.5 were killed in workplace accidents.

Some of the findings of the 2011 Census of Fatal Occupational Injuries:

- Fatal work injuries in the private construction sector declined to 721 from 774 in 2010 — the fifth consecutive years of lower fatality counts.
- Violence and other injuries by persons or animals accounted for 780 deaths — about 17 of the fatal injuries at work. Included in that are 458 homicides and 242 suicides.
- Fatal injuries increased among non-Hispanic black or African-American workers and also among Hispanic or Latino workers declined among white worker by 3 percent.
- Fatal work injuries involving workers 55 years of age and older as well as workers under the age of 18 were both lower in 2011, but fatal work injuries among workers in the 20 to 24 age group were up nearly 18 percent. ▲