

COMMONWEALTH OF LABOR  
OCCUPATIONAL SAFETY AND HEALTH  
REVIEW COMMISSION

KOSHRC NO. 2503-94

SECRETARY OF LABOR  
COMMONWEALTH OF KENTUCKY

COMPLAINANT

VS.

INCO ALLOYS INTERNATIONAL, INC.

RESPONDENT

DECISION AND ORDER  
OF THIS COMMISSION

\* \* \* \* \*

Our hearing officer issued his recommended order to us in this case on October 18, 1995. Respondent Inco Alloys filed a petition for discretionary review with this commission on November 10, 1995. We have reviewed the recommended order of our hearing officer, the evidence and the law in this case. Because we see no error in the recommended order, we deny respondent Inco's petition for discretionary review.

We call this case for review, however, on our own motion under our authority contained in section 47 (3) of our rules of procedure (ROP)<sup>1</sup> for the limited purpose of correcting a conclusion of law reached by our hearing officer.

In paragraph 24 of our hearing officer's recommended order, he wrote "...the Secretary issued its failure to abate notice..." (emphasis added). The citation issued to respondent Inco with the \$675 penalty was a serious citation which carries a penalty assessed under KRS 338.991 (2), not a failure to abate.

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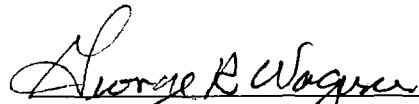
<sup>1</sup> Enacted as 803 KAR 50:010, section 47 (3).

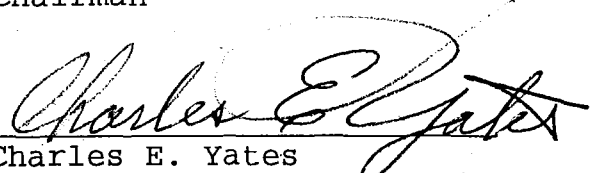
By this decision we substitute the words "serious citation" in place of the above phrase "failure to abate notice" in paragraph 24 of the recommended order.

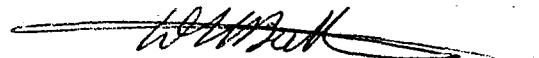
In all other respects we affirm and adopt our hearing officer's recommended order as if fully set out in this decision.

It is so ordered.

Entered this November 15, 1995.

  
George R. Wagner  
Chairman

  
Charles E. Yates  
Member

  
Donald A. Butler  
Member

Copy of the foregoing Order have been served upon the following parties in the manner indicated:

HON TERRY R ANDERSON  
COUNSEL  
KENTUCKY LABOR CABINET  
OFFICE OF GENERAL COUNSEL  
1047 U S 127 S - STE 4  
FRANKFORT KY 40601

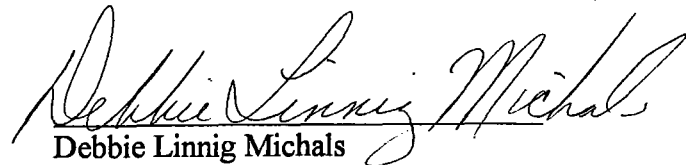
(Messenger Mail)

HON PATRICIA A JENNINGS  
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This 15th day of November, 1995.

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Debbie Linnig Michals  
Executive Director