

34A-6-303 Enforcement procedures -- Notification to employer of proposed assessment -- Notification to employer of failure to correct violation -- Contest by employer of citation or proposed assessment -- Procedure.

- (1)
 - (a) If the division issues a citation under Subsection 34A-6-302(1), it shall within a reasonable time after inspection or investigation, notify the employer by certified mail of the assessment, if any, proposed to be assessed under Section 34A-6-307 and that the employer has 30 days to notify the Division of Adjudication that the employer intends to contest the citation, abatement, or proposed assessment.
 - (b) If, within 30 days from the receipt of the notice issued by the division, the employer fails to notify the Division of Adjudication that the employer intends to contest the citation, abatement, or proposed assessment, and no notice is filed by any employee or representative of employees under Subsection (3) within 30 days, the citation, abatement, and assessment, as proposed, is final and not subject to review by any court or agency.
- (2)
 - (a) If the division has reason to believe that an employer has failed to correct a violation for which a citation has been issued within the time period permitted, the division shall notify the employer by certified mail:
 - (i) of the failure;
 - (ii) of the assessment proposed to be assessed under Section 34A-6-307; and
 - (iii) that the employer has 30 days to notify the Division of Adjudication that the employer intends to contest the division's notification or the proposed assessment.
 - (b) The period for corrective action does not begin to run until entry of a final order by the commission.
 - (c) If the employer fails to notify the Division of Adjudication, in writing, within 30 days from the receipt of notification issued by the division, that the employer intends to contest the notification or proposed assessment, the notification and assessment, as proposed, is final and not subject to review by any court or agency.
- (3)
 - (a) If an employer notifies the Division of Adjudication that the employer intends to contest a citation issued under Subsection 34A-6-302(1), or notification issued under Subsection (1) or (2), or if, within 30 days of the issuance of a citation under Subsection 34A-6-302(1), any employee or representative of employees files a notice with the division alleging that the period of time fixed in the citation for the abatement of the violation is unreasonable, the division shall advise the commissioner of the notification, and the commissioner shall provide an opportunity for a hearing.
 - (b) Upon a showing by an employer of a good faith effort to comply with the abatement requirements of a citation, and that the abatement has not been completed because of factors beyond the employer's reasonable control, the division, after an opportunity for discussion and consideration, shall issue an order affirming or modifying the abatement requirements in any citation.

Renumbered and Amended by Chapter 375, 1997 General Session