

AND THAT THE EMPLOYER HAS FIFTEEN WORKING DAYS WITHIN WHICH TO NOTIFY THE COMMISSIONER IN WRITING THAT HE WISHES TO CONTEST THE COMMISSIONER'S NOTIFICATION OR THE PROPOSED ASSESSMENT OF PENALTY, IF ANY. IF, WITHIN FIFTEEN WORKING DAYS FROM THE RECEIPT OF NOTIFICATION ISSUED BY THE COMMISSIONER, THE EMPLOYER FAILS TO NOTIFY THE COMMISSIONER THAT HE INTENDS TO CONTEST THE NOTIFICATION OR PROPOSED ASSESSMENT OF PENALTY, IF ANY, THE NOTIFICATION AND ASSESSMENT AS PROPOSED SHALL BE DEEMED A FINAL ORDER OF THE COMMISSIONER.

(C) IF AN EMPLOYER NOTIFIES THE COMMISSIONER, IN WRITING, THAT HE INTENDS TO CONTEST A CITATION ISSUED UNDER SECTION 36 (A) OR NOTIFICATION ISSUED UNDER SUBSECTIONS (A) AND (B) OF THIS SECTION, OR IF, WITHIN FIFTEEN WORKING DAYS OF THE ISSUANCE OF A CITATION UNDER SECTION 36(A) ANY EMPLOYEE OR REPRESENTATIVE OF EMPLOYEES, FILES A NOTICE, IN WRITING, WITH THE COMMISSIONER ALLEGING THE PERIOD OF TIME FIXED IN THE CITATION FOR THE ABATEMENT OF THE VIOLATION IS UNREASONABLE, THE COMMISSIONER SHALL GRANT A HEARING WITHIN THIRTY DAYS AFTER RECEIPT OF SUCH NOTIFICATION BY THE COMMISSIONER. AFFECTED EMPLOYEES OR REPRESENTATIVES OF AFFECTED EMPLOYEES SHALL BE PROVIDED AN OPPORTUNITY TO PARTICIPATE AS PARTIES TO HEARINGS UNDER THIS SUBSECTION.

(D) THE COMMISSIONER MAY APPOINT A HEARING EXAMINER TO HEAR AND MAKE A DETERMINATION UPON ANY PROCEEDING INSTITUTED BEFORE THE COMMISSIONER AND ANY MOTION IN CONNECTION THEREWITH ASSIGNED TO HIM BY THE COMMISSIONER. SUCH HEARING EXAMINER SHALL PREPARE AN OFFICIAL RECORD WHICH SHALL INCLUDE TESTIMONY AND EXHIBITS AND SHALL MAKE A REPORT IN WRITING OF HIS DETERMINATION WHICH CONSTITUTES HIS FINAL DISPOSITION OF THE PROCEEDINGS. THE REPORT OF THE HEARING EXAMINER SHALL BECOME THE FINAL ORDER OF THE COMMISSIONER UNLESS WITHIN FIFTEEN WORKING DAYS AFTER SUCH REPORT BY THE HEARING EXAMINER, ANY AFFECTED EMPLOYER OR EMPLOYEE OR REPRESENTATIVE OF EMPLOYEES SHALL REQUEST IN WRITING A REVIEW BY THE COMMISSIONER OF SUCH PROCEEDINGS BEFORE THE HEARING EXAMINER.

(E) THE COMMISSIONER SHALL, AFTER A REVIEW OF THE PROCEEDINGS IF REQUESTED AS PROVIDED IN SUBSECTION (D) HEREOF, EITHER WITH OR WITHOUT A HEARING, ISSUE AN ORDER, BASED ON FINDINGS OF FACT, AFFIRMING, MODIFYING OR VACATING THE CITATION OR PROPOSED PENALTY, OR DIRECTING OTHER APPROPRIATE RELIEF, AND SUCH ORDER SHALL BECOME FINAL FIFTEEN DAYS AFTER ITS ISSUANCE.

(F) THE COMMISSIONER MAY, AFTER AN OPPORTUNITY FOR HEARING AS PROVIDED IN THIS SECTION, UPON A SHOWING BY AN EMPLOYER OF A GOOD FAITH EFFORT TO COMPLY WITH THE ABATEMENT REQUIREMENTS OF A CITATION, THAT ABATEMENT HAS NOT BEEN COMPLETED BECAUSE OF FACTORS BEYOND HIS REASONABLE CONTROL, ISSUE AN ORDER AFFIRMING OR MODIFYING THE ABATEMENT REQUIREMENTS IN SUCH CITATION.