

Sec. 31-371-6. Advance notice of inspections

(a) Advance notice of inspections may not be given, except in the following situations: (1) In cases of apparent imminent danger, to enable the employer to abate the danger as quickly as possible; (2) in circumstances where the inspection can most effectively be conducted after regular business hours or where special preparations are necessary for an inspection; (3) where necessary to assure the presence of representatives of the employer and employees or the appropriate personnel needed to aid in the inspection; and (4) in other circumstances where the Occupational Safety and Health Director determines that the giving of advance notice would enhance the probability of an effective and thorough inspection.

(b) In the situations described in sub-section (a) of this section, advance notice of inspections may be given only if authorized by the Director of Occupational Safety and Health, except that in cases of apparent imminent danger, advance notice may be given by the Occupational Safety or Health Officer without such authorization if the Director is not immediately available. When advance notice is given, it shall be the employer's responsibility promptly to notify the authorized representative of employees of the inspection, if the identity of such representative is known to the employer. Upon the request of the employer, the Occupational Safety or Health Officer will inform the authorized representative of employees of the inspection, provided that the employer furnishes the Occupational Safety or Health Officer with the identity of such representative and with such other information as is necessary to enable him promptly to inform such representative of the inspection. An employer who fails to comply with his obligation under this subsection promptly to inform the authorized representative of employees of the inspection or to furnish such information as is necessary to enable the Occupational Safety or Health Officer promptly to inform such representative of the inspection, may be subject to citation and penalty under section 31-382 (c) of the Act. Advance notice in any of the situations described in subsection (a) of this section shall not be given more than 24 hours before the inspection is scheduled to be concluded, except in apparent imminent danger situations and in other unusual circumstances.

(e) The Act provides in section 31-382 (f) that any person who gives advance notice of any inspection to be conducted under the Act, without authority from the Commissioner or his designees, shall be fined not more than one thousand dollars or imprisoned not more than six months, or both.

(Effective September 11, 1974)