

WAC 296-136-100 Department investigations. (1)(a) An employee may file a complaint with the department alleging a violation under this chapter or applicable rules under this section, except for violations and enforcement of RCW 49.84.032 and 49.84.040 and associated rules. The department must investigate the complaint.

(b) The department may not investigate any such alleged violation of rights that occurred more than three years before the date that the employee filed the complaint.

(c) If an employee files a timely complaint with the department, the department must investigate the complaint and issue either a citation and notice of assessment or a determination of compliance within 90 days after the date on which the department received the complaint, unless the complaint is otherwise resolved. The department may extend the period by providing advance written notice to the employee and the employer setting forth good cause for an extension of the period and specifying the duration of the extension.

(d) The department must send the citation and notice of assessment or the determination of compliance to both the employer and the employee by service of process or using a method by which the mailing can be tracked or the delivery can be confirmed to their last known addresses.

(2) If the department's investigation finds that the employee's allegation cannot be substantiated, the department must issue a determination of compliance to the employee and the employer detailing such finding.

(3) The director or their designated representatives may investigate and gather data regarding the wages, hours, and other conditions and practices of employment in any industry subject to this chapter, and may enter and inspect such places and such records (and make such transcriptions thereof), question such employees, and investigate such facts, conditions, practices, or matters as they may deem necessary or appropriate to determine whether any person has violated any provision of this chapter, or which may aid in the enforcement of the provisions of this chapter.

(4) The director may initiate an investigation without an employee's complaint to ensure compliance with this chapter. The department may also initiate an investigation on behalf of one or more employees when the director otherwise has reason to believe that a violation has occurred or will occur.

(5) The department may conduct a consolidated investigation for any alleged violation identified under chapter 49.84 RCW, or associated rules, when there are common questions of law or fact. If the department consolidates such matters into a single investigation, it will provide notice to the employer.

(6) The department may request an employer perform a self-audit of any records relating to chapter 49.84 RCW which must be provided within a reasonable time. Reasonable timelines will be specified in the self-audit request. The department must determine reasonable time based on the number of affected employees and the period of time covered by the self-audit. The records examined by the employer in order to perform the self-audit must be made available to the department upon request.

(7) Upon the department's request, an employer must notify affected employees in writing that the department is conducting an investigation. The department may require the employer to include a general description of each investigation as part of the notification, including the allegations and whether the notified employee may be affected.

The employer may consult with the department to provide the information for the description of the notification of investigation.

(8) Upon receiving a complaint, the department may request or subpoena the records of the warehouse distribution center.

(9) In addition to any enforcement authority provided in this chapter or applicable rules, the department may enforce any violation under this chapter or applicable rules, except for violations and enforcement of RCW 49.84.032, by filing an action in the superior court for the county in which the violation is alleged to have occurred. If the department prevails, it is entitled to reasonable attorneys' fees and costs, in the amount to be determined by the court.

[Statutory Authority: Chapter 49.84 RCW. WSR 24-12-045, § 296-136-100, filed 5/31/24, effective 7/1/24.]