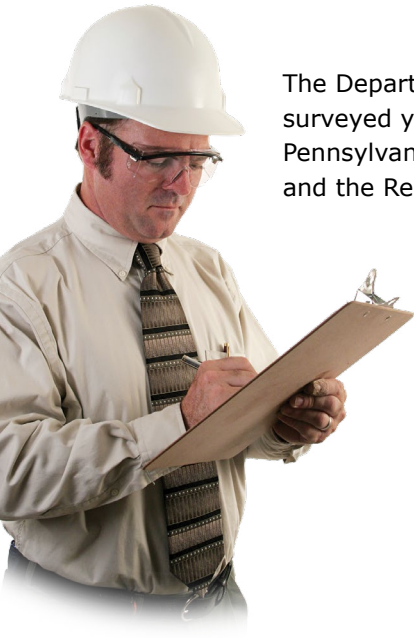


**AFTER THE  
INSPECTION:**



**WHAT  
HAPPENS  
NEXT?**



## **WHAT NOW?**

The Department of Labor & Industry inspector has surveyed your workplace for compliance with the Pennsylvania Worker and Community Right to Know Act and the Regulations . . . **WHAT HAPPENS NEXT?**

After completing an inspection of your workplace, the department's authorized representative will submit a written report to the Bureau of Workers' Compensation, Health & Safety Division. Although he/she may include information concerning possible violations, the inspector does not declare violations or determine penalties. The certification manager, division chief or their designee will review the inspector's report, if necessary with the assistance of a legal advisor, and then determine the results of the inspection.

## **IF YOU HAVE VIOLATED THE LAW, YOU WILL RECEIVE A WRITTEN "NOTICE OF VIOLATION AND AN ORDER TO COMPLY."**

This written notice and an order to comply will specifically describe the violation and will state a reasonable time period, not to exceed 90 days, in which you are to correct the violation. A separate notice will explain what fines or penalties are being applied, the amount, and the time frame for satisfying the fine.



## **IT IS TO YOUR BENEFIT TO CORRECT THE STATED VIOLATIONS AS SOON AS POSSIBLE.**

It is to your advantage to immediately correct the violations with which you have been charged. Reductions in penalties are granted to those who correct their violations within predetermined periods of time.

**UPON DETERMINATION OF A VIOLATION, THE DEPARTMENT HAS THE AUTHORITY TO ASSESS CIVIL PENALTIES FROM \$500 TO \$10,000 FOR EACH VIOLATION OF THE ACT. A POINT SYSTEM IS USED TO ASSESS PENALTIES.**

In determining a violator’s penalty, the department considers the appropriateness of the penalty with respect to the following four factors:

- Size of the business
- Severity of the violation
- Good faith of the employer
- Employer’s history of previous violations

A point system based on these four criteria is then used to assess the penalty.



**THE SIZE OF YOUR BUSINESS IS ONE FACTOR THAT IS USED TO DETERMINE THE PENALTY.**

The law requires that the department take into account the size of your business when assessing penalties.

Points are assigned according to size as follows:

<b>No. of Employees</b>	<b>Points</b>
1 - 9	5
10 - 19	10
20 - 29	15
30 - 49	20
More than 50	25

**ANOTHER FACTOR WHICH IS USED TO DETERMINE THE PENALTY IS THE SEVERITY OF THE VIOLATION.**

The department takes into account the severity of the violation in determining your penalty. Because the major purpose of the Worker and Community Right to Know Act is to encourage communication and the exchange of information between employers and their employees, severity depends upon:



The type of information not made available, and the extent to which it is not made available.

The points assigned under both of these components combined, as listed below, cannot exceed 25.

Type of Information	Points	Extent to which Information is not provided	Points
MSDS/SDS	1 - 5	Not Prepared	5 - 15
Labels	1 - 5	Incomplete	1 - 5
Workplace Notice	5 - 10	Inaccurate	1 - 10
List of Hazardous Substances	5 - 10	Out-of-Date	1 - 5
Training	5 - 10	Prepared but not Accessible	5 - 15

**A THIRD FACTOR WHICH THE DEPARTMENT CONSIDERS IS YOUR HISTORY OF PREVIOUS VIOLATIONS OF THE RIGHT TO KNOW LAW.**

The department will look at the number of violations which have occurred in your workplace within the last year, considering only those for which you have paid your fines and which have been formally and completely adjudicated. In short, the more violations you have incurred in the last year, the more points you will be assigned under the standard listed below.



Violations in the Past 12 Months	Points
0 - 5	0
6 - 10	5
11 - 15	10
Over 15	25

**THE FINAL FACTOR WHICH THE DEPARTMENT USES TO DETERMINE YOUR FINE IS YOUR GOOD FAITH IN CORRECTING THE VIOLATION. FOR THIS REASON, IT IS IMPORTANT THAT YOU CORRECT ANY VIOLATION WITH WHICH YOU ARE CHARGED AS SOON AS YOU RECEIVE AN ORDER TO COMPLY FROM THE DEPARTMENT.**



In assessing your fine, the department will reduce your point total if you immediately correct the violations charged to you. The sooner you respond to your order, the more your penalty points are reduced. The following chart lists the point reductions and their corresponding time periods.

Correction within one working day of the receipt of the order	25 Points
Correction within the time set by the order, without extensions	20 Points
Correction within the time set by the order, with extensions	15 Points

**AFTER THE DEPARTMENT CONSIDERS AND TABULATES POINTS UNDER THESE FOUR FACTORS, IT DETERMINES YOUR PENALTY.**

If your point total ranges from 0 to 25, you have no monetary penalty, although you must still correct the charged violation. For point 26, the department fines you \$500. For each penalty point from 27 to 75, \$194 may be added to the penalty. A penalty calculated under this section will not exceed \$10,000.



**FURTHER PENALTIES CAN BE IMPOSED IF YOU DO NOT CORRECT VIOLATIONS WITHIN THE ALLOTTED TIME.**

It is important that you correct the violations cited in your order, not only to reduce your penalty but also to avoid additional fines.

The department may levy additional penalties when:

- You fail to correct a violation within the time period given in the order. (Civil fines up to \$5,000 per day for each violation.)
- You fail to correct a violation for which no penalty has been assessed. (Civil penalty of \$500.)
- You fail to correct a violation for which a penalty has been assessed. For this offense, the department may fine you a daily penalty equal to the amount calculated under the penalty system, as long as it does not exceed \$5,000 per day.

The department will determine if and when you correct your charged violations through post-order inspections.

**YOU MAY REQUEST AN INFORMATIONAL CONFERENCE AFTER RECEIVING THE "NOTICE OF VIOLATION AND AN ORDER TO COMPLY."**

**IF YOU FEEL YOU HAVE BEEN WRONGLY PENALIZED, YOU HAVE A RIGHT TO APPEAL THE ORDER TO COMPLY AND THE PENALTY ASSESSMENT REQUESTING A HEARING WITH THE DEPARTMENT.**

Within 30 days of your notification of an order to comply or a penalty, you may request a hearing by writing to the department.

After the hearing, the department will affirm, reverse or modify its original ruling.



**YOU HAVE A RIGHT TO APPEAL A  
FINAL DETERMINATION OF THE DEPARTMENT.**

If you wish to appeal the department's final determination, you must file a petition for review in Commonwealth Court within 30 days. Commonwealth Court will not reverse or modify a decision unless it is deemed arbitrary, capricious, illegal or unsupported by substantial evidence.

**AS AN EMPLOYER IN THE COMMONWEALTH,  
YOU SHOULD MAKE AN EFFORT TO UNDERSTAND  
THESE POST-INSPECTION PROCEDURES.**

These are the standard procedures that follow a Right to Know inspection. It is to your benefit to understand and follow them, not only to avoid penalties but also to make your workplace safer for your employees and your community.

**THE INFORMATION IN THIS PAMPHLET IS DESIGNED TO  
PROVIDE GENERAL INFORMATION ON THE PENNSYLVANIA  
WORKER AND COMMUNITY RIGHT TO KNOW ACT.  
STATEMENTS IN THIS PAMPHLET ARE INTENDED FOR  
GENERAL INFORMATION ONLY AND ARE NOT TO BE  
CONSTRUED AS LEGAL INTERPRETATIONS OF THE LAW  
OR THE WORKER AND COMMUNITY RIGHT TO KNOW  
REGULATIONS.**

For more information contact:

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Bureau of Workers' Compensation  
Health & Safety Division  
1171 S. Cameron Street  
Room 324  
Harrisburg, PA 17104

Phone: 717-772-1635

FAX: 717-783-6365

Email: [RA-LI-BWC-SAFETY@pa.gov](mailto:RA-LI-BWC-SAFETY@pa.gov)

[www.dli.state.pa.us](http://www.dli.state.pa.us)



**pennsylvania**

DEPARTMENT OF LABOR & INDUSTRY

*Auxiliary aids and services are available upon request to individuals with disabilities.  
Equal Opportunity Employer/Program*