

Law and Policy Bulletin



Employers'
Advisers

*A Bulletin by the Employers' Advisers Office, Ministry of Jobs, Tourism and Skills Training and Responsible for Labour, B.C. Government.
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Bill 9 – New Timelines in Prevention Cases!

In addition to the amendments to the *Workers Compensation Act* (the *Act*) regarding investigation requirements and timelines ([Law and Policy Bulletin, June 2015](#)), two other amendments alter response times in an effort to expedite prevention matters. These amendments concern the requirement for employers to provide evidence of due diligence prior to the issuance of a penalty, and to the timeline within which an employer may request a review of a Prevention decision.

1. Showing Due Diligence

Evidence of due diligence has long been a defense against the imposition of a fine or administrative penalty. Prior to the amendments brought about by Bill 9, Safety Officers created a “recommendation for sanction” package which was reviewed by an Investigations Legal Officer. A back and forth assessment of “due diligence” ensued prior to the writing and issuance of a penalty order. Streamlining this process was recommended (see Administrator Gord Macatee’s July 1, 2014 report, [Review and Action Plan.pdf](#) page 17). Consequently, amendments were made to section 196(3) of the *Act* that now place the onus on the employer to establish due diligence before a penalty is issued ([Bill 9](#)).

In support of this amendment, WorkSafeBC has implemented a form entitled “Request for Due Diligence Information” that asks employers to submit evidence of due diligence. Employers can use this form to demonstrate that all reasonable steps were taken to comply with the *Act* and Occupational Health and Safety Regulation prior to the violation. The EAO has been advised that the provision of this information is generally required within **10 days** of WorkSafeBC’s request. If you receive this form and need help responding to it, an Employers’ Adviser can help you.

2. Requesting a Review – Shorter Timelines for Prevention Matters

Effective September 15, 2015, the timeline within which a request for review may be made regarding an order, penalty, or claims cost levy will be **45 days** (instead of the current 90 days) from the date the decision to issue the order, penalty or claims cost levy was issued. All employers should note this shortened timeline if considering a review of a prevention matter or claims cost levy.

The current time limit of 150 days within which to complete a review has not been varied by policy; however, the Review Division has identified and continues to look for opportunities to reduce the duration of Prevention reviews.

Where to Get Assistance or More Information: Please contact the Employers’ Advisers Office.