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# Due Diligence



**The actions and decisions we take on the part of AECL can affect the health and safety of employees, the public, and the state of the environment.**

*These actions and decisions must be based on a solid foundation of integrity, focus on quality, and ethical behaviour. Management practices that adhere to the Code of Conduct, ensure the safety and health of the workers and the public, protect the environment, and meet regulatory compliance in these areas will decrease the risk of non-compliance and create a better working climate, and a improve the likelihood of success.*

## Roles and Responsibilities

As employees, we are responsible for ensuring that our behaviour in our daily work activities exemplifies the principles set out in our Code of Conduct. These are:

- Integrity
- Laws and Regulations
- Commitment to Customers and Suppliers
- Public Accountability
- Environment, Health, Safety and Security
- Teamwork and Communication
- Community Relations
- Management Responsibilities

As a leader in AECL, you have the responsibility for the safe and smooth operation of your work unit. You are responsible for the employees within your work group and a clear understanding of your authority in dealing with health, safety and environmental issues in the workplace.

Employees need to be knowledgeable of corporate policies and procedures as they apply to their work and use the authority that they have to meet these.

## Definition of Due Diligence

Due Diligence is a **defense** to a prosecution. In simple terms, it means taking all reasonable care to ensure that your work and the work for which you are responsible are carried out in compliance with all applicable laws and regulations.

In a court of law, a corporation or employee charges with a due diligence offense may use due diligence as a defense if they can prove that reasonable steps were taken to prevent occurrence of the offense.

What constitutes “all reasonable steps” will vary according to the

situation and the magnitude of the risk as well as the nature of the potential harm.

## Meeting Today's Standards

What are considered to be reasonable steps will change with changes in science, technology, regulations and public concern.

Non-compliance with minimum standards of care established by the industry is strong evidence of the lack of due diligence. Departures from the industry standard, however, do not necessarily constitute negligence, if there are good reasons for taking them, and compliance to industry standards is not always accepted as demonstrating due diligence.

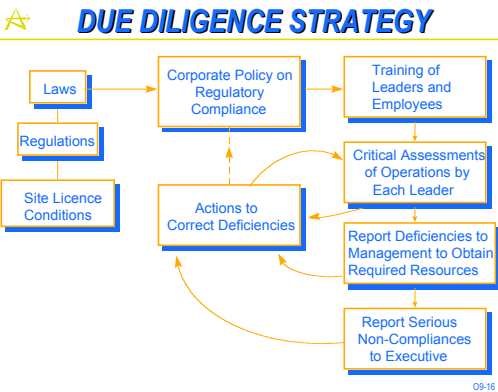
It is not enough to provide evidence of a positive regard for safety, although that is certainly a requirement. The employer must show that he exercised every precaution to ensure that the equipment or practices concerned met the operative and regulatory guidelines.

## AECL's Due Diligence Strategy

No corporation which runs environmental or health risks can afford to do without a due diligence strategy. Programs that are structured strictly on compliance will not serve an organization well. The due diligence factor is essential.

The effects of an effective due diligence strategy are numerous. It can greatly improve a company's chances of avoiding accidents, of minimizing the impacts of accidents that do occur, and achieving favourable results in court if charged.

AECL's due diligence strategy is depicted in the following diagram.



### Legislation and Regulations

AECL complies with the requirements of various statutes and regulations, including the:

- Nuclear Safety and Control Act
- Canadian Environmental Assessment Act
- Canadian Environmental Protection Act
- Canada Labour Code
- Fisheries Act

Each of these statutes specifies penalties for breach of the statute or its regulations, which may include fines or imprisonment. As leaders, you will want to endeavor to do as much as you can to ensure regulatory compliance in respect to health,

safety, and protection of the environment.

AECL's position is that it is subject only to federal regulation.

### Personal and Corporate Liability

To meet the increasing requirements of regulators and to prevent breaches of regulation which may lead to prosecution, AECL, its leaders, and its employees must all be duly diligent.

Leaders and employees need to be knowledgeable of requirements, either through the regulations themselves, or through policies and procedures which establish corporate standards for compliance.

AECL leaders and employees can be held personally responsible for:

- offenses which they themselves commit
- offenses which occur as a result of activities over which they exercise control or have responsibility.

When leaders delegate responsibility, they will be seen as duly diligent if they can demonstrate that the person to whom they delegated was competent, informed of the requirements, given adequate resources to comply with them, and an effective inspection and reporting system was in place that they could rely upon.

At all times, a leader or an employee must be able to demonstrate that s/he has implemented all actions within their own area of responsibility to address any non-compliance issues.

#### Leaders must:

- implement the policies and procedures established by AECL
- ensure team members are aware of their legal responsibilities
- ensure they receive regular and complete compliance reports
- advise their management when a deficiency cannot be dealt with



#### Employees must:

- adhere to company policies and procedures
- be aware of their legal responsibilities
- communicate any deficiencies in ability to adhere



Leaders must regularly assess their operations, identifying deficiencies and correcting them in a timely and effective manner. The management system must clearly define responsibilities and have reporting provisions so that the appropriate authorities are quickly informed of any potential non-compliance.

Employees should report any observed or potential breach of regulation or corporate policy and inform management of the need for additional resources for rectifying or preventing deficiencies.

Leaders need to act to correct deficiencies, and to provide adequate resources to their employees. If additional resources or authority are required, they can either obtain them or communicate the need and the circumstances to their line management.

*For more information, contact Organization Development and Training at your site.*