## RIGHT TO REFUSE UNSAFE WORK

[Organization Name] understands all workers have a right to a safe and healthy working environment. The purpose of this policy is to outline:

* The right to refuse work under the *Occupational Health and Safety Regulation (OHSR)*
* Who has the right to refuse
* The procedure that must be followed in the event of a work refusal

SCOPE

This policy applies to all workers at [Organization Name].

In British Columbia, all workers have the right to refuse unsafe work except for workers such as: police officers, firefighters, workers in correctional institutions, most types of health care workers and supporting worker classifications.

DEFINITIONS

“Discriminatory action: according to Section 150 of the Workers Compensation Act is:

* any act or omission by an employer or union that adversely affects a worker with respect to any term or condition of employment, or of membership in a union;
* suspension, lay-off or dismissal;
* demotion or loss of opportunity for promotion;
* transfer of duties, change of location of workplace, reduction in wages or change in working hours;
* coercion or intimidation;
* imposition of any discipline, reprimand, or other penalty; and
* the discontinuation or elimination of the job of the worker.”

The following definitions have been taken directly from WorkSafe BC:

*"Undue hazard":* A "hazard" is identified in Part 1 of the Regulation as "a thing or condition that may expose a person to a risk of injury or occupational disease." Further, "undue" is defined by the Oxford dictionary as "unwarranted, inappropriate, excessive or disproportionate." Therefore, a thing or condition that may expose a worker to an excessive or unwarranted risk of injury or occupational disease represents an undue hazard for the purposes of section 3.12 of the Regulation.

*"Reasonable cause to believe":* The use of the term "reasonable" in "reasonable cause to believe" means that the worker must assess the situation as a reasonable person, taking into account relevant and available information and exercising good faith judgment with respect to the hazard with due regard to the worker's training and experience.

POLICY

[Organization Name] respects the legal right of employees to refuse work they have reasonable cause to believe is unsafe and will take the appropriate actions set out by the *Occupational Health and Safety Act* (OH&SA), *Occupational Health and Safety Regulation (OHSR), or* WorkSafeBC. This includes if the worker believes they themselves are in danger, another person may be at risk, or if they feel endangered by the risk of workplace violence.

The OH&SA specifically sets out certain conditions in which a worker may refuse work. They are when a worker has reason to believe that:

* Any machine, equipment, or tool that the worker is using or is told to use is likely to endanger themselves or another worker;
* The physical condition of the workplace or workstation is likely to endanger themselves;
* Workplace violence is likely to endanger themselves; or if
* Any machine, equipment, or tool that the worker is using, or the physical condition of the workplace, contravenes the Act or regulations and is likely to endanger themselves or another worker.

When an employee exercises their right to refuse unsafe work, the work refusal process set out by the *Occupational Health and Safety Regulation (OHSR)* must be followed explicitly. To initiate the work refusal, a worker must immediately report the circumstances of the unsafe condition to his or her supervisor or employer.

There will be no negative consequence or discriminatory action for employees who exercise their right to refuse in good faith and who adhere to the processes set out by law and in this policy. This includes negative action towards the worker’s benefits, including sick leave.

Disciplinary action may be taken if it can be shown that a worker maliciously refused work, meaning they did not believe the work was unsafe.

WORK REFUSAL PROCESS

Under the law, the following procedure as outlined by WorkSafeBC and the Government of British Columbia must be followed in the event of a work refusal.

**Step 1: Report the circumstances**

* A worker who feels unsafe must report the circumstances of the unsafe condition to his or her supervisor or employer. This must be done immediately.

**Step 2: Investigation**

* The supervisor must then immediately investigate the situation.
	+ If it is agreed the work is unsafe, the supervisor must take steps to fix the issue
	+ If the supervisor does not agree the work is unsafe, they must report this to the worker who refused the work

**Step 3: Further Investigation**

* If the worker still feels the work is unsafe, they may continue to refuse the unsafe work. The supervisor must then investigate with the worker using the following guidelines:
	+ Investigation at this step must be done with a *worker* member of the Joint Occupational Health and Safety Committee (JOHSC), or an employee selected by the employee
	+ The worker may be given a temporary assignment to alternate work, without loss in pay, until the matter is resolved. The worker is required to accept the reassignment of work until it is safe to return to their regular duties
	+ The supervisor must inform the worker about the investigation results

**Step 4: Notify WorkSafeBC**

If the issue is not resolved after investigation with the committee member and the worker continues to believe that the work is unsafe, both the worker and the supervisor must notify WorkSafeBC immediately so they can send a WorkSafeBC Prevention Officer to investigate.

* The WorkSafeBC officer may issue an inspection report or an order if they find that an undue hazard does exist, or they will advise the parties that no undue hazard is present, and the employee can safely perform the work.
* Where the Officer believes a hazard is present, they will issue a “stop work” order

Where a WorkSafeBC has investigated the circumstances and determined no undue hazard exists, the worker must return to work as they are no longer protected by the provisions of the OHSR. If the worker continues to refuse after this point, disciplinary action may be required at [Organization Name]’s discretion.