

# **Right to Refuse Dangerous Work**



# Training Objectives

- Review of Resolution of Safety Concerns
- Overview of Right to Refuse Dangerous Work process.
- Roles and responsibilities of
  - Refusing worker
  - Supervisor
  - Health and Safety Committee (co-chair)
  - OESH
  - Department of Labour



# Operational Procedure

- Report and Resolution of Safety Concerns

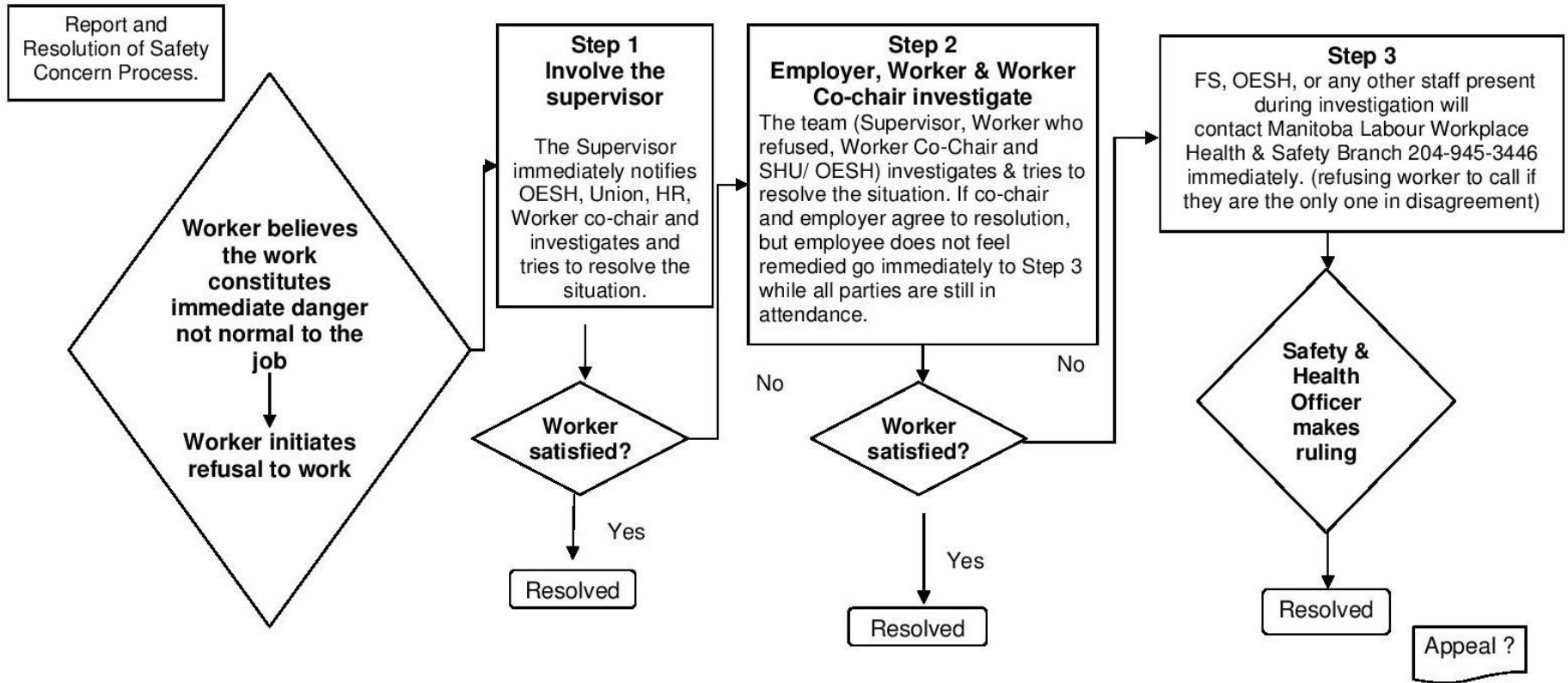


# Manitoba Workplace Safety and Health Act and Regulations

- Section 43: A worker may refuse to work or do a particular work at a workplace if he or she **believes** on reasonable grounds that the work constitutes a danger to his or her safety or health or to the safety or health of another worker or another person.
- “Dangerous” work generally means: work involving safety and health risks that are **not normal** for the job.
- There must be imminent danger to the worker



# Algorithm



# The Process...quick overview

There are 3 potential steps in the Right to Refuse Process.....

- Step 1...worker exercises their right to refuse and involves supervisor
- Step 2...Refusing worker, Employer, Worker Co Chair and SHU/OESH investigates
- Step 3...call placed to Department of Labour for ruling



# STEP 1

This only begins after the Report and Resolution of Safety Concerns Process has been followed!



# STEP 1

- Worker exercises their R2R by notifying their Supervisor immediately. This can be done by any of the following ways...





# STEP 1 Cont'd

- In person completes top section of page 1
- Worker notifies supervisor via email and Supervisor completes section based on email
- By phone worker provides R2R rationale to Supervisor-supervisor writes down and reads information back to refusing worker. Refusing worker confirms info and info is placed into section



# STEP 1 Cont'd

- Once top section has been completed then Supervisor needs to immediately notify OESH, Union (where applicable), Human Resources and the worker co chair of the WSH Committee via email that a Right to Refuse has been initiated.

*This email is a notification only to these people. It is the Supervisor's responsibility to attempt to resolve the Right to Refuse at Step 1.*



# STEP 1 Cont'd

- The Supervisor investigates/inspects and confirms whether there is a dangerous condition.
  - If dangerous condition tries to remedy immediately (SVP, SWP, PPE) and completes their section of form (page 1)
  - If no dangerous condition completes form with reason why the work does not constitute danger.
- If remedied then the refusal is closed...Refusal to Work Form is signed off by Supervisor and Refusing Worker and a copy of form is sent to OESH



# Other Considerations When Making Corrective Actions

- Explore all possible solutions
  - If no hazard then no need for corrective action
  - Ensure that the corrective action fits the hazard and risk
  - Follow Hierarchy of Controls
  - Personal Protective Equipment must match hazard and risk
  - Consider implications (long term, staffing, financial, etc.)
    - Examples
      - N95 respirators for nuisance odours
      - Only men can work with client



# STEP 1 Cont'd

- If not remedied, then the reasons for continued refusal details are entered on form (page 2)
- Alternate work/other directions are given to the refusing worker and documented on form

**YOU ARE NOW IMMEDIATELY ENTERING STEP  
2....**



# STEP 2 - NOTIFICATIONS

- Community Services - Team Manager is now involved
- Employer/Worker Co-Chairs or designate are notified
- OESH Safety and Health Coordinator/FS SHU is notified

*This section of the form is completed by the Worker Co-chair or designate of the WSH Committee*



## Step 2 *cont'd*

Note: if the worker co-chair is unavailable try

- A worker member of the health and safety committee
- A worker chosen by the refusing worker



## Step 2 *cont'd*

- The supervisor, worker co-chair or designate, and refusing worker perform a further investigation/inspection of the dangerous condition immediately.





## Step 2 *cont'd*

### The Worker Co-Chair or designate

- reviews the investigation details and
  - confirms whether there is a dangerous condition and it has been remedied or
  - identifies that there is no dangerous condition and explains documents the reason why the work does not constitute a danger.
- documents the results on page 2 of the form.



## Step 2 *cont'd*

- If remedied...then refusal is remedied and the right to refuse is closed. Sign the bottom of page 3 and send a copy to OESH/SHU
- If not....then provide details of the continued refusal on page 3 of form and go immediately to Step 3 while everyone is still present.



# New Information! Changes to Act

- As per the regulation, other workers cannot be assigned to the refused client/task until Step 2 has been completed



# New Information *cont'd*

- The employer must advise the other worker, in writing, of:
  - the first worker's refusal,
  - the reasons for the refusal,
  - the other worker's right to refuse dangerous work and
  - the reason why, in the opinion of the employer, the work does not constitute a danger to the safety or health of the other worker, another worker or any person.



# New Information *cont'd*

- Where practicable, the first worker has advised the other worker of the first worker's refusal, and the reasons for the refusal; and the inspection/investigation with committee and remedy (where required) have been completed.



# How do we provide this information?

- The Supervisor
  - Shows the completed form to the alternate worker
  - Community: Email, fax, courier the form to the other worker
- Refusing Worker
  - Speak to the other worker directly where practicable



# Assigning Other Workers Section

- The Supervisor completes the assignment of other workers portion of the form on Page 3.



# STEP 3

- OESH, SHU or any other staff member during the investigation/inspection may contact the Department of Labour.
- If the employer and the co chairs agree that there is no dangerous condition but the employee disagrees then the employee must call Labour while still present at the investigation/inspection.

*Note: Department of Labour is on call 24/7*





## STEP 3 *cont'd*

- The Workplace Safety & Health Officer may require
  - an in-person meeting
  - Telephone interviews
  - Submission of pertinent documents.
- If an in-person meeting is requested the Officer will notify the OESH Safety Coordinator of when they wish to meet and the OESH Safety Coordinator will notify the Supervisor to set up the meeting.
  - The meeting needs to take place as soon as possible.



# Working with Department of Labour

- The Refusal to Work form must be fully completed before it is sent into Labour
- Any supporting documents must accompany the Refusal to Work Form. This may include old SVP, updated SVP, and training records



# Decision of Officer – No Hazard Exists

If the officer decides that the work is not dangerous, the officer will:

- Inform the employer and the worker of their decision.
- Inform the worker that he or she is no longer entitled to refuse to do the work.



# Decision of Officer – Hazard exists

If the officer decides that the employer has not adequately addressed the safety concern, the officer will:

- Write an improvement order or a stop work order (dangerous condition) with a timeline for completion



## STEP 3 *cont'd*

- The final section on page 3 is for the Supervisor and or OESH/SHU to complete.
- Attach all documents that were issued by the Department of Labour.
- If the R2R has been remedied then sign off the bottom of page 3, send copy to OESH/SHU
- If not.....



## STEP 3 *cont'd*

- The worker can appeal the Department of Labour's decision....however they will not be paid while awaiting for the appeal.



# Closure of Right to Refuse....

**A Right to Refuse can only be closed by either the**

- Refusing worker
- Safety Officer from Department of Labour – Workplace Safety and Health Branch



# Wages

- An employee **MUST** initiate the Refusal to Work Report Form for the process to officially begin.
- Wage protection shall not begin until the employee has initiated the form.





# Payment of Wages During a Right to Refuse

- The worker is entitled to the same wages and benefits he/she would have received had the worker continued to work.
- The employer may re-assign the worker to other clients or work (i.e. in-service) to replace the hours lost. Replacement hours can be scheduled any time within the pay period.
- The worker must remain available for other assignments within their stated availability.



# Guiding Documents

Workplace Safety and Health Act and Regulations [www.safemanitoba.com](http://www.safemanitoba.com)

WRHA Operational Procedures, forms, algorithms, etc on Insite and website:

[www.wrha.mb.ca/professionals/safety/](http://www.wrha.mb.ca/professionals/safety/)

*In the Community Health Services and WIS specific safety and health information section of WRHA Internet/Intranet*



If you have any questions, safety concerns,

**please contact OESH at  
204-479-4197 or  
e-mail: [jpluchinski@wrha.mb.ca](mailto:jpluchinski@wrha.mb.ca)**

