

		SAFETY MANAGEMENT SYSTEM	
SMS Category: 100 - Organizational Commitment	SMS Number: 115	Document ID: REFUSAL OF UNSAFE WORK	
Approved By: <input type="checkbox"/> Council <input checked="" type="checkbox"/> CAO <input type="checkbox"/> Department Head			
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1. Scope

This procedure applies to the employees and contractors working under the City of Mission (COM). Where the City of Mission is the prime contractor, work refusals from contractors are ultimately handled by the prime contractor.

2. Purpose

To ensure that each refusal of unsafe work is promptly, effectively and correctly handled to develop a resolution in a timely matter.

3. Definitions

Terms	Definition
Unsafe work	Any work process or operation of tools, equipment, or appliances that may expose a person to an excessive or unwarranted risk of injury or occupational disease.
Undue hazard	A thing or condition that may expose a person to an excessive or unwarranted risk of injury or occupational disease.

Reasonable cause to believe	The employee must assess the situation as a reasonable person, considering relevant and available information and exercising good faith judgment with respect to the hazard with due regard to the employee's training and experience.
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4. Roles & Responsibilities

Position of Person Responsible / Department	Task or Procedure
Managers	<ul style="list-style-type: none"> Ensure employees complete all mandatory training and understand the process for work refusal. Review investigations for refusal of unsafe work in their departments. Provide assistance and/or guidance to resolve unsafe conditions, if requested by their supervisors.
Supervisors	<ul style="list-style-type: none"> Once notified, attend and investigate the work refusal as soon as possible. Receive the work refusal, and be open and responsive to the worker's concern and help the worker identify the specific problem. Ensure the procedure is followed correctly and where required, corrective actions are identified, implemented and followed-up. Re-assign an employee to other duties while conducting the investigation. If reassigning the refused work to another employee, notification in writing must be provided to the other employee and the worker representative from JHSC or the Union. Record the details of the work refusal and investigation using the work refusal form. Complete Part B of the Work Refusal Form clearly and precisely and report the findings to management. Maintain and forward to the Health & Safety Advisor records of all work refusal situations. Contact the Joint Health & Safety Committee Representative and the Health & Safety Advisor if decision in Part B is not agreed upon. Contact the Health & Safety Advisor prior to contacting WorkSafe BC when appropriate (see 4.3).

Employees	<ul style="list-style-type: none"> ▪ Stop work immediately and report to their supervisor if there is reasonable cause to believe that their job task is unsafe and would create an undue hazard. ▪ Complete Part A of the Work Refusal Form, and be as precise as possible about the reason for your concern. ▪ Actively participate and be readily available during investigations for work refusals.
Joint Health & Safety Committee (JHSC) Representative	<ul style="list-style-type: none"> ▪ Ensure an employee safety representative is available for investigations resulting from work refusals. (See 4.2 for alternates if a JHSC rep is not available) ▪ Assist the employee where possible in identifying the nature of the concern, and the action(s) necessary to address the concern. ▪ Complete Part C of the Work Refusal Form and determine if WorkSafe BC intervention is required. ▪ Report work refusal result to the committee.
Health & Safety Advisor	<ul style="list-style-type: none"> ▪ Update and maintain SMS 115- Refusal of Unsafe Work. ▪ Provide training and maintain records. ▪ Assist in the second stage of the investigation (Part C), if requested. ▪ When required, contact WorkSafeBC and request assistance from an officer to investigate the unsafe work claim if the employee disagrees with the joint investigation findings.

5. Procedure & Process

Under WorkSafeBC Regulation Part 3, Section 3.12, an employee may refuse to work, or perform particular work activities where they have reason to believe that:

- Operation of any tool, appliance or equipment would create an undue hazard to the health and/or safety of any person; or
- The physical condition of the workplace in which they work is likely to endanger themselves or others.

A work refusal cannot be made in advance of reporting for work, or on behalf of another employee.

A work refusal is not allowed under two scenarios:

- 1) The refusal puts the life, health or safety of another person directly in danger; or
- 2) The danger referred to in subsection (1) above is a normal condition of employment.

All City of Mission employees **MUST** exercise their right to refuse unsafe work when they have reasonable cause to believe an undue safety hazard exists in the workplace.
Refer to Appendix A- Refusal of Unsafe Work Process Flow Chart

Supervisors and employees must distinguish this work refusal procedure from everyday due diligence associated with the recognition, reporting and correcting of workplace safety hazards. Departments are to internally control substandard and unsafe conditions through reporting, identification and assessment of hazards, hazard inspections, investigations and implementation of correction actions.

5.1. First Stage Refusal

1. Upon refusing to work, the employee must notify their supervisor or manager immediately of the work refusal with an explanation of the circumstances they believe puts themselves or others in danger.
2. Employee must document the work refusal in [Part A of the Work Refusal Form](#), specifically explain in detail their reason for refusing work. Submit the form to their supervisor.
3. Employee to remain in a safe place near as reasonably possible to their workstation, equipment, etc. and be available to the supervisor for the purpose of the investigation.
4. Supervisor must immediately investigate the report in the presence of the employee. Supervisor may request assistance from subject matter expert(s) at this stage.
5. Upon the investigation, if the work refusal is deemed:
 - a. Not safety related – the work refusal stops, and the employee returns to work. The concern will be addressed using other appropriate venues.
 - b. Not valid – this information and its reasoning is communicated back to the employee.
 - c. Valid – If action can be taken to resolve the report without need for further investigation, the supervisor will carry out the action and complete the [Part B of the Work Refusal Form](#).

During the investigation, the supervisor must record as many details as possible regarding the refusal, using the Work Refusal Form.

6. If the worker is satisfied with the corrective action, they can return to work and sign the [Part D of the Work Refusal Form](#).

ATTENTION

If a supervisor is reassigning the refused work to another employee **notification in writing MUST** be provided to the other employee and a worker representative from JHSC or the Union.

5.2. Second Stage Refusal

7. If the employee is dissatisfied with the results from the first stage of the investigation, and has reasonable grounds to believe that the circumstances are still such that the work

continues to be dangerous, then they may continue to refuse work. The supervisor must initiate a joint investigation with the employee who made the report and in the presence of:

- a. A worker member of the Joint Health & Safety Committee (JHSC);
 - b. A worker who is selected by a trade union representing the worker; or
 - c. If there is no joint committee or the worker is not represented by a trade union, any other reasonably available worker selected by the worker.
8. The JHSC representative will actively participate in the investigation and record their details or any new findings in [Part C of the Work Refusal Form](#).
9. If the worker is satisfied with the corrective action(s) proposed, they can return to work and sign-off the [Part D of the Work Refusal Form](#).

5.3. Third Stage Refusal

10. If the joint investigation parties have exhausted their efforts to resolve the matter, employee continues to refuse to carry out the work process or operate the tool, appliance, or equipment. Both the supervisor/employer, and the employee must immediately notify the Health & Safety Advisor. The Health & Safety Advisor will contact a WorkSafeBC Officer. The WorkSafeBC officer will investigate the matter in consultation with the supervisor, the employee who made the report, and the JHSC worker's representative.
11. The WorkSafeBC officer will perform a site visit and investigate the details surrounding the work refusal.
12. If the WorkSafeBC officer finds that an undue hazard is present, the WorkSafeBC officer will issue an inspection report addressing the violations that apply to the undue hazard. This may include compliance orders, as well as stop use or stop work order(s).
13. If an undue hazard is not identified, the WorkSafeBC officer will inform the parties of this finding. The decision will be given in writing, as soon as practicable, and must be posted on the safety bulletin boards.

PLEASE NOTE:

Where a WorkSafeBC officer has made a finding that the investigation into a work refusal has not identified an undue hazard, and the employee refuses to return to work, a review of the employee's misconduct will be organized with Human Resources.

5.4. While pending investigation

The refusing employee may be offered other work if it doesn't conflict with the collective agreement. Refused work may be offered to another employee. However, the supervisor must inform the second employee in writing that the offered work is the subject of a work refusal. This must also be provided to one of the following:

- A worker member from the JHSC; or
- A worker who is selected by the union representing the worker, or
- If there is no worker member from JHSC or the worker is not represented by the union, any other reasonably available worker selected by the worker.

5.5. No Prohibited Action

As defined in the OHS Regulation Part 3, section 3.13(1), A worker must not be subject to prohibited action as defined in section 47 of the *Workers Compensation Act* because the worker has acted in compliance with the right to refuse work, or with an order made by an officer.

Temporary assignment to alternative work at no loss in pay to the worker shall be given until the matter is resolved and deemed safe.

6. Training

All new employees will attend training on the work refusal policy and procedure. Work refusal training will be provided to all newly hired management and workers at new employee orientation by Human Resources and/or the Health & Safety Advisor. Refresher training can be provided in the form of a toolbox talk, safety meeting, etc.

7. Related Documents

Forms

- [SMS 115- Work Refusal Form](#)

8. Legal & Other Requirements

Regulations

- OHS Regulation Part 3, Section 3.12-3.13 – [Refusal of Unsafe Work](#)

Guidelines

- OHS Guidelines Part 3, Section 3.12 – [Refusal of Unsafe Work](#)

9. Document Control

Version #	Revised By	Revision Date	Reviewed By	Review Date	Approved By	Approval Date
1.0	Kelsey Hynes	2022.08.19				
Description of change:						
1.0 – Updated format and included new section regarding ‘reassignment of refused work (in writing).						

Appendix A- Refusal of Unsafe Work Process Flow Chart



