

# Regulatory amendment: A primer on refusing unsafe work

On March 30, 2022, WorkSafeBC's Board of Directors approved amendments to Part 3 of the Occupational Health and Safety (OHS) Regulation, relating to the refusal of unsafe work. These amendments took effect on August 22, 2022.

## Background

The refusal of unsafe work is both a fundamental right and a responsibility held by workers. Workers who reasonably believe work is unsafe must refuse to perform that work, and their employer must investigate and correct the unsafe condition.

While section 3.12 of the OHS Regulation already established the process for refusing unsafe work and responding to such refusals, it did not previously require the employer to inform any subsequent worker about a previous work refusal. The gap in application of this Regulation was identified in the 2019 report *WorkSafeBC and Government Action Review: Crossing the Rubicon*.

## Objective of the regulatory amendments

The purpose of these amendments is to enhance worker safety and promote increased worker engagement by:

- Introducing new requirements for an employer to provide written notice of an unresolved work refusal to any worker who is subsequently assigned or permitted to perform that work
- Providing written notice of the reassignment of refused work to the joint health and safety committee or worker health and safety representative, when there is one at the workplace, or to the union or other worker

## Key provisions in the OHS Regulation

The new section (3.12.1, *Reassignment of refused work*) requires an employer to provide written notice of a work refusal while the employer is still working through the steps to resolve the work refusal. Written notice must be provided to any worker assigned or permitted to do the work that is the subject of the work refusal. When there is a joint health and safety committee or worker health and safety representative at the workplace, they must also be given notice in writing.

This section requires that the following be included in the written notice:

- The fact that another worker has refused the work
- The reason provided by the other worker for refusing the work
- The reason why the employer believes the work would not create an undue hazard for the subsequent worker, or to the health and safety of any other person
- Information about any subsequent worker's right to refuse unsafe work

## Employer responsibilities

Employers are required to manage risk in their workplaces by understanding what might cause harm to workers and then taking reasonable steps to prevent that harm from happening. When workers refuse work they think is unsafe, employers must follow the steps set out in OHS Regulation section 3.12 to investigate the work refusal and ensure that any unsafe conditions are remedied.

If an employer seeks to have another worker perform the refused work while they are following the steps to respond to the refusal, the employer must provide written notice as noted above. This written notice is required if another worker is explicitly requested to perform the refused work, as well as if any workers might inadvertently perform a work task or use a piece of equipment without knowing that the first worker has reported it as being unsafe.

The employer should consider their needs and the nature of their workplace and workforce when choosing how to provide workers with written notice of a work refusal. For example, notice can be through electronic communications, paper records, a collaboration form, or a combination of approaches. Employers should consider the number of workers to be advised and the need to retain records when choosing a communication method.

## Worker responsibilities

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Workers are required to:

- Report unsafe or harmful conditions to their employer or supervisor
- Refuse work that would create an undue hazard to the health and safety of any person
- Participate in the process for investigating and resolving the work refusal

## For more information

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- OHS Regulation [sections 3.12–3.13](#)
- OHS Guideline [G3.12](#)
- [Refusing unsafe work](#)