



STANDARD OPERATING PROCEDURES FOR SAFETY

General - 01

DANGEROUS WORK AND RIGHT TO REFUSE

Rationale: To ensure that forest industry workers fully understand their rights and responsibilities with regard to refusal of work under the Occupational Health and Safety Act of the Province of Newfoundland and Labrador (OHS Act) and to ensure employees follow proper procedures in the event of a refusal to work.

Background: Forest industry workers are not required to carry out work which is dangerous to their health and safety, or the health and safety of any other person in the workplace. Where an employee has reasonable grounds to believe these conditions exist, he/she may, in accordance with the OHS Act, refuse to work without penalty, until the condition is corrected or otherwise resolved in accordance with provisions of the OHS Act. The following “**Right of Worker to Refuse to Work**”, (Section 45) of the OHS Act, states:

“A worker may refuse to do any work that he has reasonable grounds to believe is dangerous to his health or safety or the health and safety of any other person at the workplace.”

Procedures:

When a worker wishes to apply his/her right to refuse work, the following three-step procedure applies:

STEP 1. REPORT IMMEDIATELY TO HIS/HER SUPERVISOR OR FOREMAN GIVING THE PRE-CISE CONDITIONS FOR THE REFUSAL TO WORK (Section 46, OHS Act)

If the matter is resolved to the worker’s satisfaction by the employer, he/she must return to work. If the matter is not resolved to the worker’s satisfaction, then:

STEP 2. THE WORKER REPORTS TO A MEMBER OF THE OCCUPATIONAL HEALTH AND-SAFETY COMMITTEE OR THE WORKER HEALTH AND SAFETY REPRESENTATIVE FOR INVESTIGATION. (Section 45, OHS Act), AND ALSO TO THE OCCUPATIONAL HEALTH AND SAFETY DIVISION FOR INFORMATION AND FOLLOW UP (Section 45, OHS Act)

While the matter is under investigation, the employer may assign the worker other work that is reasonably equivalent to his/her normal work without loss of wages or benefits. Irrespective of reassignment, the employer shall pay him/her the same wages or salary and grant the same benefits as the worker would have received had he/she continued to work. (Section 45, OHS Act).

If the matter is not resolved by the Occupational Health and Safety Committee or Worker representative:

STEP 3. THE MATTER WILL BE INVESTIGATED BY AN OCCUPATIONAL HEALTH AND SAFETY OFFICER WHO MAKES THE FINAL DECISION. (Section 45 (1), OHS Act)

Where a worker has exercised the right to refuse to work, the employer shall not assign any other worker to perform his/her duties unless the substitute worker has been informed of the prior refusal and the reasons for that refusal. (Section 22 (3), OHS Regulations).

No worker shall take advantage of his/her right to refuse to work without reasonable grounds. (Section 48, OHS Act) A worker must be in the workplace and be familiar with the alleged hazards in order to refuse to work, a right of refusal cannot be exercised in absentia, or on behalf of others.