

## Right to Refuse Dangerous Work Procedure

### Introduction:

In support of Section 43(1) of the Workplace Safety and Health Act, the Turtle Mountain School Division (The Division) recognizes its responsibilities to investigate and remedy situations that arise where an employee refuses to perform work that they assess to be unsafe. All employees have this right to refuse dangerous work.

### **Definitions:**

**Reasonable grounds** is based on the criteria of "Would an average employee with the same training and experience, and using honest, professional judgment, would have reason to believe that the disputed work presents an unacceptable degree of hazard to themselves or to another person?" Also, "Has the employer provided training, personal protective equipment (PPE); and is the employer following industry best practice methods for the disputed work?" The employee must have reasonable cause to believe that it is unsafe to perform the work at the time the employee refuses to work.

**Workplace** means any building, site, workshop, structure, mobile vehicle, or any other premises or location, whether indoors or outdoors, in which one or more employees, or self-employed persons are engaged in work or have worked.

### Procedures:

All employees have the right to refuse dangerous work under the Workplace Safety and Health Act. The Division recognizes that as an employer who strives to provide a positive and safe environment the division strongly encourages any staff to communicate dangerous work immediately to their supervisor. The Division shall investigate and remedy any unsafe conditions as soon as possible.

#### **1. Refusal to Work**

- 1.1 A employee may refuse to work or do particular work at a workplace if he/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 employee or another person. To refuse dangerous work the employee **MUST** state exactly "*I (employee name) am refusing this work on the grounds that I believe that the work constitutes a danger to my safety or health or to the safety or health of another employee or person.*"
- 1.2 An employee who refuses to work or do particular work shall promptly report the refusal and the reasons for it to his or her employer or immediate Supervisor, or to any other person in charge at the workplace. At this time, the employee and the Supervisor shall fill in the Right to Refuse Dangerous Work Tracking Form Appendix. (Refer to the Flow Chart to assist in completing the Tracking Form).

- 1.3 When an employee exercises his/her right to refuse dangerous work in good faith, they will be entitled to normal wages and benefits.
- 1.4 The employee will remain available and may be assigned other work.
- 1.5 The employee may continue to refuse to do that particular work until the dangerous condition is remedied.
- 1.6 The Division cannot penalize, dismiss, discipline, or suspend an employee who has, in good faith, refused to work in accordance with the Workplace Safety and Health Act C.C.S.M. c. W210.
- 1.7 When an employee has refused to work or do particular work, the employer shall not request or assign a second employee to do the work unless the second employee has been advised by the first employee, or by a Provincial Safety and Health Officer, of the first employee's refusal and the reasons for it.
- 1.8 When the employer at a workplace or his/her designate, knows or ought to know of a condition at the workplace that is or is likely to be dangerous to the safety or health of an employee, he or she shall not require or permit any employee to do that work until the dangerous condition is remedied.
- 1.9 The above points do not prevent the completion of any work or repair at a workplace that may be necessary to remedy a condition that is, or is likely to become, dangerous to the safety or health of an employee.

## **2. Remediating of Unsafe Work**

- 2.1 If the employer does not remedy the dangerous condition immediately, the person who receives the report of refusal to work (e.g. Supervisor) or a person designated by that person, shall immediately inspect the workplace in the presence of the employee and one of the following persons:
  - 2.1.1 The employee Co-chairperson of the School Workplace Safety and Health Committee,
  - 2.1.2 A Committee Member who represents employees,
  - 2.1.3 If a Workplace Safety and Health Committee Member is not available, any other employee selected by the employee that initially refused the work.
- 2.2 The person required to inspect the workplace (e.g. Supervisor) shall take any action necessary to remedy any dangerous condition, or ensure that the employer takes such action.

## **3. Report of Dangerous Condition to The Division Workplace Safety and Health Officer**

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- 3.1 If the employee refusing the work and the Supervisor cannot agree that the work or task no longer endangers the safety or health of the employee, the Supervisor shall contact the Workplace Safety and Health Officer or designate responsible for The Division Workplace Safety and Health before contacting the Provincial Safety and Health Officer.

#### **4. Report of Dangerous Condition to a Provincial Officer**

- 4.1 If the dangerous condition is not remedied after following the steps in section two, The Division Workplace Safety and Health Officer or designate responsible for Workplace Safety and Health shall notify a Provincial Safety and Health Officer of the refusal to work.
- 4.2 If the dangerous condition is not remedied after the Division Workplace Safety and Health Officer or designate has been contacted, any of the persons present during the inspection may notify a Provincial Safety and Health Officer of the refusal to work and the reasons for it.

#### **5. Order by Provincial Officer**

- 5.1 If the Provincial Safety and Health Officer's decision is that the work is dangerous, he or she shall make a written report stating his/her findings. A copy of the report and any order shall be given to the employee who refused to do the work, the employer, and the Co-chairpersons of the Committee, or the representative.

#### **6. Decision Not To Issue an Order**

- 6.1 If the Provincial Officer's decision is that the work is not dangerous, he or she shall inform the employer and the employee of that decision, and inform the employee that he or she is no longer entitled to refuse to do the work.

#### **Conclusion/Review**

The Divisional Workplace Safety & Health committee will formally review the Safety & Health program every three years. A review of the Right to Refuse Dangerous Work program will commence if there are changes in the workplace that may affect the safety and health of the employees.