

LEGISLATIVE INTERPRETATIONS

Topic: Right to refuse – Boiler operators	Issued by: V.P., WorkSafe Services
Statute: Occupational Health & Safety Act	Date Issued: December 5, 2002
Section: 19	Date Revised:

19 An employee may refuse to do any act at his place of employment where he has reasonable grounds for believing that the act is likely to endanger his health or safety or the health or safety of any other employee.

Question:

If the operator of a boiler refuses to operate the boiler because he/she believes his/her health and safety or the health and safety of other employees is at risk, can the operator shut down the boiler?

Answer:

The procedure to be followed in a Right to Refuse situations permits the employer to assign someone else to the task that has been refused provided the second worker is informed of the first refusal, the reason for it and his/her right to refuse hazardous work under the *Act*.

Given the fact that a boiler cannot be in operation without an operator, once an operator Refuses to operate, another operator must accept to operate or the boiler must be shut down.

The knowledge and professionalism of the boiler operator is central to determining the length of time between the refusal and the shut down or reassignment.

There are situations where an operator considers the risk of injury to be very high. Shut down or reassignment in this situation would have to be within minutes of the Refusal. On the contrary, there might be situations where the employer would have time to contact other operators to determine if they would accept the assignment upon disclosure of Refusal.