

# Do we have the right to refuse dangerous work?



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**I**n many conversations through my years, I have been asked if an employee had the right to refuse to work under dangerous conditions. The answer is not cut and dry.

The home page for the Occupational Safety and Health Administration, [osha.gov](http://osha.gov), provides a number of worker rights educational items. From this main page you click on “Topics,” which opens up a drop-down menu revealing “Worker Rights,” which is the second item listed. Clicking that link takes you to many worker information items. Scroll down to the “Frequently Asked Questions” and the second item opens up the following:

## Workers’ Right to Refuse Dangerous Work

If you believe working conditions are unsafe or unhealthy, we recommend that you bring the conditions to your employer’s attention, if possible.

You may file a complaint with OSHA concerning a hazardous working condition at any time. However, you should not leave the worksite merely because you have filed a complaint. If the condition clearly presents a risk of death or serious physical harm, there is not sufficient time for OSHA to inspect, and, where possible, you have brought the condition to the attention of your employer, you **may** (emphasis added) [JK1.1][MS1.2] have a legal right to refuse to work in a situation in which you would be exposed to the hazard. (OSHA cannot enforce union contracts that give employees the right to refuse to work.)

**Your right to refuse to do a task is protected if all of the following conditions are met** (Emphasis added.)

- \* Where possible, you have asked the employer to eliminate the danger, and the employer failed to do so; and
- \* You refused to work in ‘good faith.’ This means that you must genuinely believe that an imminent danger exists; and
- \* A reasonable person would agree that there is a real danger of death or serious injury; and
- \* There isn’t enough time, due to the urgency of the hazard, to get it corrected through regular enforcement channels, such as requesting an OSHA inspection.

You should take the following steps:

- \* Ask your employer to correct the hazard, or to assign other work;
- \* Tell your employer that you won’t perform the work unless and until the hazard is corrected; and
- \* Remain at the worksite until ordered to leave by your employer.

If your employer retaliates against you for refusing to perform the dangerous work, contact OSHA immediately. Complaints of retaliation must be made to OSHA within 30 days of the alleged

reprisal. To contact OSHA call 1-800-321-OSHA (6742) and ask to be connected to your closest area office. No form is required to file a discrimination complaint, but you must call OSHA.

So, with the above, there must be a responsible approach to a dangerous hazard.

Note that the first statement in the above excerpt is a recommendation that you bring the hazard to the attention of your employer and the advice goes on to have you ask your employer to correct the hazard. Fill out and submit a PS Form 1767, keeping a copy for your records.

The advice continues by indicating “your right to refuse is protected if **all** of the following conditions are met... .”

You must be able to establish that your refusal was based on “good faith.” You must be able to establish that you genuinely believe that an imminent danger exists and that a reasonable person would agree that the condition there is a real danger (does the condition clearly present a risk of death or serious physical harm?).

We should be speaking to our co-workers and union stewards/officers to form an opinion on their reaction. I emphasize this as you are taking a great risk when you refuse to work under conditions that you have determined to be dangerous.

The section closes with a link to the relevant OSHA regulation, which reads as follows:

29 CFR §1977.12(b)(2)

However, occasions might arise when an employee is confronted with a choice between not performing assigned tasks or subjecting himself to serious injury or death arising from a hazardous condition at the workplace. If the employee, with no reasonable alternative, refuses in good faith to expose himself to the dangerous condition, he would be protected against subsequent discrimination. The condition causing the employee’s apprehension of death or injury must be of such a nature that a reasonable person, under the circumstances then confronting the employee, would conclude that there is a real danger of death or serious injury and that there is insufficient time, due to the urgency of the situation, to eliminate the danger through resort to regular statutory enforcement channels. In addition, in such circumstances, the employee, where possible, must also have sought from his employer, and been unable to obtain, a correction of the dangerous condition.

**Remember, you—and you only—are the one who will be making the decision to refuse if the above conditions are met.** If the employer in turn takes action that you believe to be retaliatory (discipline or discharge), then you have the right to file a complaint with OSHA, a grievance through Article 15 and, if necessary, file an OSHA Whistleblower Complaint. Management’s safety message throughout the USPS is “Safety depends on you.” Be responsible with the above, but be aware of this right.

Keep an eye on each other.