

163.24 **ARTICLE 12**

163.25 **REFINERY SAFETY**

163.26 Section 1. Minnesota Statutes 2020, section 177.27, subdivision 4, is amended to read:

163.27 Subd. 4. **Compliance orders.** The commissioner may issue an order requiring an
163.28 employer to comply with sections 177.21 to 177.435, 181.02, 181.03, 181.031, 181.032,
163.29 181.101, 181.11, 181.13, 181.14, 181.145, 181.15, 181.172, paragraph (a) or (d), 181.275,
163.30 subdivision 2a, 181.722, 181.79, ~~and~~ 181.939 to 181.943, and 181.987, or with any rule
163.31 promulgated under section 177.28. The commissioner shall issue an order requiring an

164.1 employer to comply with sections 177.41 to 177.435 or 181.987 if the violation is repeated.
164.2 For purposes of this subdivision only, a violation is repeated if at any time during the two
164.3 years that preceded the date of violation, the commissioner issued an order to the employer
164.4 for violation of sections 177.41 to 177.435 or 181.987 and the order is final or the
164.5 commissioner and the employer have entered into a settlement agreement that required the
164.6 employer to pay back wages that were required by sections 177.41 to 177.435. The
164.7 department shall serve the order upon the employer or the employer's authorized
164.8 representative in person or by certified mail at the employer's place of business. An employer
164.9 who wishes to contest the order must file written notice of objection to the order with the
164.10 commissioner within 15 calendar days after being served with the order. A contested case
164.11 proceeding must then be held in accordance with sections 14.57 to 14.69. If, within 15
164.12 calendar days after being served with the order, the employer fails to file a written notice
164.13 of objection with the commissioner, the order becomes a final order of the commissioner.

164.14 **EFFECTIVE DATE.** This section is effective October 15, 2022.

164.15 Sec. 2. **[181.987] USE OF SKILLED AND TRAINED CONTRACTOR**

164.16 **WORKFORCES AT PETROLEUM REFINERIES.**

164.17 **Subdivision 1. Definitions.** (a) For purposes of this section, the following terms have
164.18 the meanings given.

164.19 (b) "Contractor" means a vendor that enters into or seeks to enter into a contract with
164.20 an owner or operator of a petroleum refinery to perform construction, alteration, demolition,
164.21 installation, repair, maintenance, or hazardous material handling work at the site of the
164.22 petroleum refinery. Contractor includes all contractors or subcontractors of any tier
164.23 performing work as described in this paragraph at the site of the petroleum refinery.
164.24 Contractor does not include employees of the owner or operator of a petroleum refinery.

164.25 (c) "Registered apprenticeship program" means an apprenticeship program providing
164.26 each trainee with combined classroom and on-the-job training under the direct and close
164.27 supervision of a highly skilled worker in an occupation recognized as an apprenticeable
164.28 occupation registered with the Department of Labor and Industry under chapter 178 or with
164.29 the United States Department of Labor Office of Apprenticeship or a recognized state
164.30 apprenticeship agency under Code of Federal Regulations, title 29, parts 29 and 30.

164.31 (d) "Skilled and trained workforce" means a workforce in which employees of the
164.32 contractor or subcontractor of any tier working at the site of the petroleum refinery meet
164.33 one of the following criteria:

165.1 (1) are currently registered as apprentices in a registered apprenticeship program in the
165.2 applicable trade;

165.3 (2) have graduated from a registered apprenticeship program in the applicable trade; or

165.4 (3) have completed all of the classroom training and work hour requirements needed to
165.5 graduate from the registered apprenticeship program their employer participates in.

165.6 (e) A contractor's workforce must meet the requirements of paragraph (d) according to
165.7 the following schedule:

165.8 (1) 65 percent of the contractor's workforce by October 15, 2022;

165.9 (2) 75 percent of the contractor's workforce by October 15, 2023; and

165.10 (3) 85 percent of the contractor's workforce by October 15, 2024.

165.11 (f) "Petroleum refinery" means a facility engaged in producing gasoline, kerosene,
165.12 distillate fuel oils, residual fuel oils, lubricants, or other products through distillation of
165.13 petroleum or through redistillation, cracking, or reforming of unfinished petroleum
165.14 derivatives.

165.15 (g) "Apprenticeable occupation" means any trade, form of employment, or occupation
165.16 approved for apprenticeship by the United States secretary of labor or the commissioner of
165.17 labor and industry.

165.18 (h) "Original equipment manufacturer" or "OEM" means an organization that
165.19 manufactures or fabricates equipment for sale directly to purchasers or other resellers.

165.20 **Subd. 2. Use of contractors by owner, operator; requirement.** (a) An owner or operator
165.21 of a petroleum refinery shall, when contracting with contractors for the performance of
165.22 construction, alteration, demolition, installation, repair, maintenance, or hazardous material
165.23 handling work at the site of the petroleum refinery, require that the contractors performing
165.24 that work, and any subcontractors of any tier, use a skilled and trained workforce when
165.25 performing all work at the site of the petroleum refinery.

165.26 (b) The requirement under this subdivision applies only when each contractor and
165.27 subcontractor of any tier is performing work at the site of the petroleum refinery.

165.28 (c) This subdivision does not apply to contractors or subcontractors hired to perform
165.29 OEM work necessary to comply with equipment warranty requirements.

165.30 **Subd. 3. Penalties.** The Division of Labor Standards shall receive complaints of violations
165.31 of this section. The commissioner of labor and industry shall fine an owner, operator,
165.32 contractor, or subcontractor of any tier not less than \$5,000 nor more than \$10,000 for each

166.1 violation of the requirements in this section. Each shift on which a violation of this section
166.2 occurs shall be considered a separate violation. This penalty is in addition to any penalties
166.3 provided under section 177.27, subdivision 7. In determining the amount of a civil penalty
166.4 under this subdivision, the appropriateness of the penalty to the size of the violator's business
166.5 and the gravity of the violation shall be considered.

166.6 Subd. 4. **Civil actions.** A person injured by a violation of this section may bring a civil
166.7 action for damages against an owner or operator of a petroleum refinery. The court may
166.8 award to a prevailing plaintiff under this subdivision damages, attorney fees, costs,
166.9 disbursements, and any other appropriate relief as otherwise provided by law.

166.10 **EFFECTIVE DATE.** This section is effective October 15, 2022.