

March 3, 2023

Minnesota Senate Judiciary and Public Safety Committee
S.F. 10
Flint Hills Resources Testimony

Chairman Latz and Members of the Committee:

Thank you for the opportunity to provide this testimony in response to S.F. 10

Flint Hills Resources is a leading refining company with operations primarily in the Midwest and Texas.

We own and operate the Pine Bend refinery in Rosemount, which is responsible for supplying most of the transportation fuels Minnesotans rely on and a significant portion of the fuels used in surrounding states. We also produce other essential products such as asphalt for roads and roofing, fertilizer, home heating fuels and the raw materials that are used to make the many different types of plastics that are in products people use every day.

Our facility is one of the most active work sites in Minnesota. In addition to our fulltime workforce of approximately 1,000 employees, we hire hundreds, sometimes thousands of highly skilled contractors to support our operations, including project work and maintenance events. For perspective, in the last 10 years, we've invested in projects equivalent to building two Minnesota Vikings stadiums and we've had years where we average more than 1,000 contractors on site every day. We also have short-term maintenance events that can exceed 3,500 contractors daily.

The vast majority of the contractors we hire come from the Minnesota Building Trades. We have long worked collaboratively with the leadership of the Minnesota Building Trades to promote the trades and to deepen the pool of skilled labor available in Minnesota to help support our operations. It's a partnership we value.

We also work collaboratively with the Minnesota Building Trades and others on workplace safety, which is our top priority. Since the late 90s, we've reduced injuries by 70 percent. We are a both a certified MNSTAR and PRO-10 site. In fact, we were the first work site in the nation to achieve PRO-10 status, which is a professional development and safety program that we helped develop and specifically tailor to the construction and building trades. Our contractors' site agreements also have additional safety and training requirements.

Today, the Pine Bend refinery is known for being among the safest industrial sites in Minnesota.

Concerns with S.F 10

It's important to emphasize there is nothing more important than safety. We share the same goal as the authors and supporters of this legislation. We all want a safe, well-trained, well-qualified contractor workforce.

However, Flint Hills Resources has several concerns with S.F. 10, which would require a certain minimum percentage of our contractors to be certified apprentices or journeymen, prior to being allowed to enter our refinery.

First, we believe singling out Minnesota refineries in legislation is inappropriate. According to U.S. Building Codes, refineries are considered no more hazardous than other Occupancy H businesses that deal with hazardous substances, including chemical plants, ethanol plants, and numerous other facilities.

We have received no complaints about workplace safety that would merit a change in state law and to our knowledge there is no data supporting the need for this policy or validating the notion that a minimum apprentice-level labor requirement would make refineries safer. Our data shows there is no such correlation.

All trade experience and training are not the same. Direct experience working in refineries is typically a more valuable qualification than someone who is an apprentice but has no experience working in refineries. This is why we work so diligently with the building trades and our contractors – both merit and union -- to require additional refinery-specific training. These training requirements and safety expectations are codified in our site agreements. Contractors who fail to meet our safety expectations can be and have been expelled from our facility.

We ask that this legislation not supersede or otherwise interfere with these site agreements and our ability to enforce our site-specific safety standards and requirements.

We also have significant concerns with the restrictiveness and punitive nature of the policy, which could limit our ability to access needed labor in a timely manner, especially during large, dynamic maintenance events and emergency situations.

Our maintenance events can require more than 3,500 contractors for a period of days or weeks. This far exceeds the amount of qualified local labor that would be available on a short-term basis. Workers from other states that augment the local labor force during these large maintenance events are often experienced refinery workers who travel state to state to perform their specialty craft. Some but not all these workers have the type of apprentice-level certified training that would be deemed satisfactory under this legislation.

As an example, last spring we requested 20 journeyman boilermakers to support a maintenance event, but the union hall informed our contractor they had only one journeyman available. The contractor said they would use apprentices instead but at that time only five apprentices could be found to fill the call. This contractor ultimately had to look elsewhere for experienced labor.

Unplanned or emergency maintenance events are another matter. Delays in dispatching needed labor to our facility could have real-world consequences for this state and people who depend on the fuels and other products we produce. The longer it takes to get the labor we need to respond to these events the greater the disruption to the marketplace and potentially to individual consumers.

The scope of S.F. 10 as currently written also includes roles that fall outside of the traditional trades such as specialty crafts, work involving original manufacturer warranties and various support roles, including security, environmental and safety inspectors, software technicians and IT and other technology roles. The requirement would also seemingly apply to contract labor who may have extensive expertise in certain aspects of refinery maintenance, such as replacing catalyst or conducting other engineering-level maintenance work, but do not have nor do they need apprentice-level certification to perform their work safely.

Following is an example of some of the regular contracted roles we believe this legislation could affect, seemingly making the experienced individuals who currently provide these services unqualified to work at our refinery, and therefore, potentially unemployed:

- LDAR services (averaging 12 people on site daily)
- Vac truck and wash pad services (averaging 21 people on site daily, including some on weekends)
- Inspection services (averaging 20 people on site daily)
- Railroad support services (averaging 18 people on site daily, including weekends)
- Industrial support services (10 people on site daily)

It is our understanding, based on a review of other states that have adopted similar policies, none are as restrictive as S.F. 10. For example, California's policy, which applies to refining and other H Occupancy businesses, including chemical plants, requires a minimum apprentice or journeyman level workforce of 60 percent. California also allows exemptions for large scale, complex maintenance events, emergency situations and specifically exempts roles that typically fall outside of those provided by the trades, such as those previously mentioned.

We also have significant concerns with the punitive nature of the penalty provision in the policy and the Private Right of Action, which would add considerable compliance costs, including the prospect of continuous litigation. This too is uncommon from other states that have adopted similar contractor training requirements.

Flint Hills Resources is committed to maintaining a safe workplace. There is nothing more important than the health and safety of our employees, contractors, and neighbors. If there are safety deficiencies, we welcome the opportunity to work with labor leaders to address their concerns, as we have traditionally done. We would prefer these discussions take place directly between our business and labor leaders as opposed to involving the Legislature, but if this legislation moves forward we would ask that changes be considered to address the concerns we've raised here today.

Thank you.

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