

**Affiliated Construction Trades Ohio Foundation**

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June 14, 2023

Honorable Haraz Ghanbari  
Ohio Homeland Security Committee  
77 S. High Street, 12<sup>th</sup> Floor  
Columbus, OH 43215

Chairman Ghanbari, Vice-Chair Plummer, Ranking Member Thomas & Members of the House Homeland Security Committee:

Please be advised that the Affiliated Construction Trades Ohio Foundation (“ACT Ohio”) is a 501(c)(5) organization created to help foster economic and industrial development opportunities, and to promote industry-best practices for Ohio’s public and private construction.

ACT Ohio currently has 141 local affiliates across the state, who in the aggregate represent more than 97,000 building trades members. ACT Ohio has invested hundreds of thousands of dollars to promote careers in construction to Ohioans of all ethnic and socio-economic circumstances. We are aggressively recruiting the best and the brightest to seek an apprenticeship and develop skills that can sustain a family. We strongly support the concept of getting young people, minorities, females and veterans involved and interested in Ohio’s construction industry.

For the reasons that following please be advised that ACT Ohio supports HB 205.

**Overview:**

Per the very tight definition of owner or operator, HB 205 only applies to oil refineries in Ohio – no other facilities. There are four oil refineries in Ohio:

Cenovus-Lima	Lima, Ohio	179,000 barrels per calendar day
PBF Energy*	Toledo, Ohio	172,800 barrels per calendar day
Cenovus-Toledo	Oregon, Ohio	152,200 barrels per calendar day
Marathon**	Canton, Ohio	97,000 barrels per calendar day

\*Please note that PBF Energy is a proponent of HB 205.

\*\* Marathon Refinery is not included in scope of bill as it does not meet the 120,000 barrels of crude oil per day production requirement – only the 3 NW Ohio refineries are subject to the bill.

For purposes of HB 205 it is important to note the distinction between the refinery's full-time (internal or operations) workforce and the external construction workforce brought in for projects on a contract basis.

Full-time employees of the refineries are represented by the United Steelworkers Union which is separate from the Building Trades. The Steelworkers and refineries have their own extensive training programs. By all accounts the refineries and the Steelworkers invest in significant training of their workforce. Accordingly, HB 205 does not apply to the employees of the refineries.

The external construction workforce is employed by contractors and sub-contractors hired by the refinery for projects that are typically very short in duration because refineries lose millions of dollars for each day they are not in production. It is not uncommon for a large facility shut down or turnaround to last 30-40 days and involve upwards of 2000-3000 construction workers to be brought on site just for that period of time. "Partial" shutdowns also occur with more frequency – these are instances where only a portion of the refinery is shut down for construction work while the remainder of the facility remains on-line. With this many construction workers brought in for such a short period of time, the refineries invest in absolutely no training for the external construction workforce. This is why enactment of HB 205 is necessary.

**The bill does not include the full-time workforce/employees of the refineries – only the contracted for construction workforce brought on site for capital improvements/maintenance + shut-downs and turn-around projects.**

***Craft Labor Standards:***

To ensure that contractors/subcontractors have sufficient capabilities, they must comply with the following craft labor workforce standards: (1) Training Certification and (2) Safety Credential

***(1) TRAINING / Experience Requirements:***

Classification A: This standard is for construction workers (union or non-union) that have gone through ANY STATE OR DOL APPROVED apprenticeship programs (this includes currently registered apprentices).

Classification B: This standard is for those workers (union or non-union) that have not gone through an approved state or DOL approved apprenticeship training program. It requires that workers must have at least 6,000 hours of prior experience in the trade in which they are employed on the project which is the equivalent of a 3<sup>rd</sup> year apprentice.

Thus, all workers on the project who do not meet the Class A Training Requirement must meet this Experience Requirement.



According to the U.S. Department of Labor, here are the number of qualifying apprenticeship programs for construction:

Ohio:	272 Total Number of HB 205 Qualifying Programs	
	163 Non-Union registered apprenticeship training programs	(59.92%)
	109 Building Trades apprenticeship training programs	(40.07%)
Michigan:	307 Total Number of HB 205 Qualifying Programs	
	257 Non-Union registered apprenticeship training programs	(83.71%)
	50 Building Trades apprenticeship training programs	(16.28%)
Indiana	623 Total Number of HB 205 Qualifying Programs	
	570 Non-union registered apprenticeship training programs	(91.49%)
	53 Building Trades apprenticeship training programs	(8.50%)
National	4,793 Total Active Registered HB 205 Qualifying Programs	
	3,168 Construction Programs Not Affiliated with BT Unions	(66.09%)
	1,625 Building Trades apprenticeship training programs	(33.90%)

For clarification, **nowhere** in HB 205 is there a requirement for “union” apprenticeship programs. While I personally believe our programs to be the best, we certainly do not have the most.

***(2) SAFETY Credential Requirements:***

All construction workers subject to the Act—regardless of A or B classification, must have completed a 30-hour course in safety and health hazard recognition and prevention approved by the occupational safety and health administration (OSHA) of the U.S. Department of Labor.

No Exceptions.

***Implementation:***

SLIDING SCALE FOR IMPLEMENTATION PERIOD:

1 <sup>st</sup> year:	Classification A: 65%	-	Classification B: 35%
After 1 <sup>st</sup> year:	Classification A: 80%	-	Classification B: 20%

Why the emphasis on Classification A workers? Per HB 205:

Apprenticeship training is a system in which workers are fully trained through organized, formally registered apprenticeship standards, designed in accordance with established quality, safety and performance standards approved and monitored by the U.S. Department of Labor and state labor agencies, including the Ohio Department of Job and Family Services.

A skilled workforce is essential to safety, productivity and sustainability of construction and maintenance activities. Conversely, the use of workers with inadequate training can seriously undermine project safety. When a project is executed by less qualified craft workers, increases in human errors, less familiarity with safety procedures and inadequate safety training will be the factors that adversely influence safety performance.

Finally, as set forth by the United States Department of Commerce and Case Western Reserve University in *The Benefits and Costs of Apprenticeship: A Business Perspective* (2016) apprenticeship programs are widely supported by contractors and other employers as highly cost-effective due to higher productivity of trained workers, improved safety, improved project quality, more reliable project staffing, and reduction in employee turnover.

### *Need for Legislation*

On March 8, 2022, when I testified in support of HB 235, I read the following to the committee:

**Purpose of Bill: As set forth at Lines 432 – 437 of the bill:**

**The risks inherent in construction are substantially higher in high hazard facilities that handle dangerous materials or substances insofar as unsafe work practices may cause explosions, chemical spills and other hazardous conditions, which may expose workers and the public, especially populations in nearby communities, to dangerous conditions that can lead to serious bodily injuries and death.**

The U.S. Department of Labor, Occupational Safety and Health Administration (OSHA) found that, since the agency began monitoring safety management at these facilities in 1992, *"no other industry sector has had as many fatal or catastrophic incidents related to the release of highly hazardous chemicals . . . as petroleum refining. . . ."* See Occupational Safety and Health Administration, OSHA 3918-08 2017, Process Safety Management for Petroleum Refineries (2017) (emphasis added)

Petroleum refineries also have experienced numerous fatal and/or catastrophic process-related incidents since 2019, including 3 explosions in Texas last month. Here is just a sampling of the coverage:

- May 23, 2023 - (Oklahoma)      “One person dies after explosion at Wynnewood Refinery, another injured”
- May 17, 2023 - (Texas)            “TCEQ monitoring air quality after second Valero fire in 6 months”
- May 15, 2023 - (Texas)            “Fire breaks out at Marathon refinery in Texas; 1 worker dead”



May 5, 2023 - (Texas) “Massive explosion and fire at Deer Park oil plant in Texas, air monitoring is being conducted;” – 9 contractors released from hospital after Shell Chemical Plant fire in Deer Park”

January 17, 2023 (Texas) “6 injured in fire at Texas oil refinery”

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September 21, 2022 (Ohio) **“Brothers killed in refinery fire, family confirms”**  
“BP layoffs at Ohio refinery after fire indicate prolonged shutdown”  
“BP’s Ohio Refinery May Stay Shut Down into 2023 After Deadly Fire”  
“Federal investigators cite BP for safety violations after fatal 2022 refinery explosion”  
“Union workers mourn, express frustration for brothers who dies in BP explosion”

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February 22, 2022 - (Louisiana) “Explosion at Marathon Refinery in Garyville injures 6 workers...”  
“Marathon’s huge Louisiana refinery rocked by explosion, fire”

December 23, 2021 – (Texas) “Major industrial accident sets off fire at ExxonMobil refinery”  
“At least 4 injured after Baytown refinery explosion...”

“Dylan Purcell and Nicholas Moore were tasked with sealing a leaking pipe that contained Naphthalene, a flammable gas, with two other individuals who worked for Team Industrial Services. As the four contractors worked, a metal piece became stuck on a bolt, prompting one of the Team Industrial workers to using their wrench “as a hammer” to loosen the piece, the lawsuit read. The other Team Industrial worker, who was tasked with ensuring that steam was sprayed on the area to prevent sparks, failed to do so, according to the lawsuit. The wrench created a spark, causing the flammable gas to ignite, which knocked all four workers down, and engulfed them in flames...”

October 29, 2021 – (Ohio) “Four injured in fire at Cenovus Refinery in Lima, Ohio

February 27, 2020 - (California) “Fire Exploded from part of Carson Refinery recently cited for workplace safety issues”  
“Fire breaks out at largest oil refinery on the West Coast”

December 5, 2020 – (Texas) “7 injured when oil storage tank explosion rocks Corpus Christi’s refinery region”

November 27, 2019 – (Texas) “Massive explosion rips through Texas Petrochemical Plant”  
“Explosion erupts at Texas chemical refinery, injuring at least 3 people”  
“60,000 people forced to evacuate after explosions at Texas refinery”

July 31, 2019 – “Explosion, fire injures 37 at ExxonMobil refinery in Texas”  
(Texas)

June 21, 2019 – “Giant explosion rocks largest refinery complex on the East Coast, sends  
(Penn.) gasoline prices higher”  
“S. Philly refinery blast released 5,000 pounds of deadly chemical...”

April 2, 2019 - “Huge explosion and fire rocks Texas chemical plant; at least 1 person killed”  
(Texas)

March 19, 2019 – “Houston chemical fire: Huge flames seen engulfing plant in Deer Park  
(Texas)

These findings, along with incidents that have occurred more recently all lead to the conclusion that the reasonable, narrowly tailored approach outlined in HB 205 represents good public policy.

Accordingly, I strongly urge the House Homeland Security Committee to favorably report House Bill 205. Thank you for your consideration and I would be happy to take any questions.



## Brothers killed in refinery fire, family confirms

9/21/2022

BY DAVID JACOBS AND NANCY GAGNET / THE BLADE



Emergency crews were called to the BP-Husky Refinery Tuesday evening.

THE BLADE/DAVID JACOBS

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Family confirmed that the two men killed in the BP-Husky Toledo oil refinery explosion Tuesday are brothers.

Max and Ben Morrissey died early Wednesday at a University of Michigan medical facility in Ann Arbor, family in Oregon said later in the afternoon.

Max Morrissey was 34 and Ben was 32, Max's wife, Darah Morrissey said.

"Both were the best dads in the world," Mrs. Morrissey said. "Both had very small children."

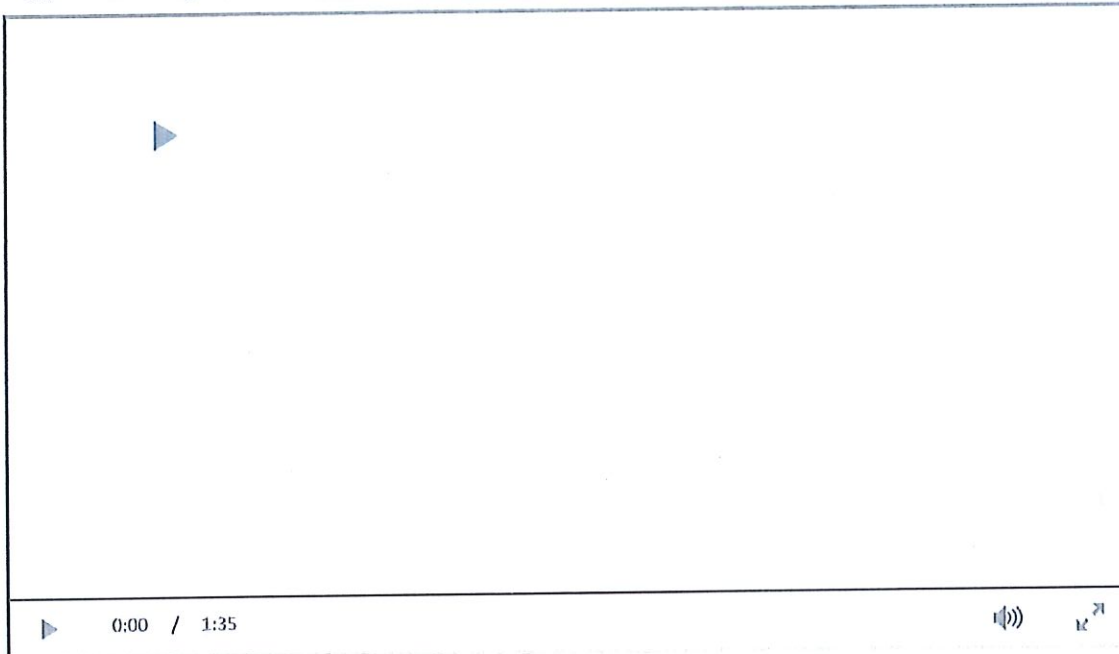
Max Morrissey had children ages 2 and 4 while Ben Morrissey was the father of a 2-year-old, Mrs. Morrissey said.

Both brothers were graduates of Clay High School where they were wrestlers, Mrs. Morrissey said.



Family members said they had no information on the circumstances involving the explosion at the refinery on Tuesday night.

“Our thoughts are with the families and loved ones of these two individuals,” BP spokesman Megan Baldino said in a statement. “All other staff is accounted for and our employee assistance team is on site in Toledo to support our employees impacted by this tragedy.”



There was no word on how it started or the extent of the damage.

The fire was reported around 7 p.m. Tuesday at the refinery at 4001 Cedar Point Rd.

The city of Oregon Fire Department responded as smoke and flames were seen coming from the facility.

A total of 19 Oregon firefighters and five vehicles responded to the call, in which their main job was transporting the injured men initially to Mercy Health St. Vincent Medical Center and assisting BP's fire response team.

The fire was extinguished Tuesday at around 10:15 p.m., and the refinery was safely shut down and remained offline Wednesday, Ms. Baldino said.

“Our highest priority remains the safety of our staff, the responders and the public and we continue to update local, state, and federal officials,” she said.

The men were members of International Steelworkers Local 1-346, in which approximately 315 members work at the refinery.

Staff representative Eric Sweeney said Wednesday afternoon that union representatives are meeting with company officials at the refinery to determine what happened.

“We're doing everything we can to help the families and assist the families and the members who lost co-workers,” he said.

Occupational Safety and Health Administration compliance officers were on site Wednesday, said Scott Allen, the U.S. Department of Labor's regional director for public affairs and media relations.

As soon as it is safe to get into the facility, they will begin the investigation to determine what caused the accident, he said Wednesday. By law, OSHA has six months to complete an investigation.

In March, 2022, OSHA issued a serious violation and \$3,874 fine when employees were exposed to methanol, OSHA records show.

Treating a burn victim is not only of utmost importance, but it is also the most difficult part of a firefighter's job, Oregon Fire Chief Denny Hartman said.



"As far as a human reaction that's tough, when someone is tremendously burned," he said

While firefighters train to battle industrial fires like these, and have trained at the refinery, the situation is always dangerous, the chief said.

"The refinery can be a scary place especially when there is an unusual event like that," Chief Hartman said. "They operate hours and hours and hours in a year without problems, but when there is a problem, it's a scary place to be."

Oregon Mayor Michael Seferian posted condolences on the city's website.

"Our thoughts and prayers are with the family of the employees at BP-Husky that lost their lives in the catastrophic fire on Tuesday evening at the refinery," Mayor Seferian said. "It is such a difficult time especially for the family experiencing this horrific loss, and for so many in our community that knows these families, we all grieve together."

In a social media update Wednesday, the Steelworkers said they have set up a fund for the families at Croghan Colonial Bank 4157 Navarre Ave., Oregon, Ohio, 43616

Contributions can also be made at the union hall at USW Local 1-346 2910 Consaul St. in Toledo, the post added.

Christopher Howard, whose friends and family work at the facility, said on Wednesday that the aftermath of the explosion has been stressful for those involved with the refinery.

He headed to the site after the explosion to check on the people he knows who work there.

Mr. Howard described a "giant plume of black smoke everywhere."

"I don't know if that flare is usually that big," he said as the fire burned Tuesday night. "I've never seen it that big."

The refinery, just east of Toledo, can process up to 160,000 barrels of crude oil per day and "has been an important part of the region's economy for more than 100 years," according to BP's website.

BP announced last month it had agreed to sell its 50 percent interest in the Husky Toledo refinery to its joint venture partner Cenovus Energy.

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## Production resumes at Cenovus Toledo refinery more than 6 months after fatal fire



The bp Husky Toledo Refinery has been shut down after two people lost their lives in a fire at the facility Tuesday. (WTVG)

By [WTVG Staff](#)

Published: Apr. 28, 2023 at 4:15 PM EDT



OREGON, Ohio (WTVG) - The former BP-Husky Toledo refinery is back up and running following last year's fire at the plant that [killed two brothers](#).

The refinery, [now owned by Cenovus Energy](#), went back online this month, a company spokesperson confirmed to 13abc. Its smaller capacity crude oil unit restarted and is once again producing refined products, the company said. The larger capacity unit is expected to start in May and ramp up to full rates through the second quarter.

The refinery [shut down](#) in September when a fire at the facility killed brothers Ben and Max Morrissey.

Cenovus acquired the refinery in February. BP owned the company at the time of the fire and is [contesting](#) nearly a dozen [safety violations](#) federal

