



Working towards a global  
responsible coal supply chain

# Bettercoal Assessment Public Report: CONSOL Energy



**CONSOL Energy, a Bettercoal Supplier since 2018, is committed to a continuous improvement path for their operations in the USA. Their operations have been independently assessed against the Bettercoal Code.**

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#### **Disclaimer**

*This report is a summary of the Bettercoal Assessment. The full document is confidential and available only to Bettercoal Members. This is a live document and the latest version can be found on [Bettercoal.org](https://www.bettercoal.org)*



## A. Company Description

CONSOL Energy is a low-cost producer and exporter of high-Btu bituminous coal, focused on safely and responsibly producing coal in the Appalachian Basin. According to the company, its former parent and predecessors have been mining coal, primarily in the Appalachian Basin, since 1864.

CONSOL Energy was incorporated in Delaware on June 21, 2017 and became an independent, publicly traded company on November 28, 2017 when CONSOL Energy's former parent split into two independently traded public companies, a natural gas company known as CNX Resources Corporation, and CONSOL Energy Inc. As part of the separation, CONSOL Energy's former parent transferred to the company substantially all of its coal-related assets, including its Pennsylvania Mining Complex, all of its interest in CONSOL Coal Resources LP, the CONSOL Marine Terminal and approximately 1.5 billion tons of Greenfield Reserves located in the Northern Appalachian Basin ("NAPP"), the Central Appalachian Basin ("CAPP") and the Illinois Basin ("ILB").

CONSOL Energy's core businesses consist of:

- Pennsylvania Mining Complex (PAMC): includes the Bailey Mine, the Enlow Fork Mine, the Harvey Mine and the Central Preparation Plant. All three PAMC mines utilize longwall mining. CONSOL Energy owns a 75% undivided interest in PAMC, with the remaining 25% being owned by CCR.
- CONSOL Marine Terminal: located in the Port of Baltimore, the marine terminal provides coal and export terminal services. The terminal is served by two railroads, Norfolk Southern Corporation and CSX Transportation Inc. CONSOL Energy owns 100% of the terminal, through its subsidiary, CONSOL Marine Terminal LLC.
- CCR Ownership: CONSOL Energy owns, directly or indirectly, through CCR's general partner, 61.5% of the partnership, which is comprised of a 1.7% general partner interest and 59.8% limited partner interest. At December 31, 2019, CCR's assets included a 25% undivided interest in, and full operational control over, the PAMC.
- Itmann Mine: Construction of the Itmann Mine, located in Wyoming County, West Virginia, began in the second half of 2019; with full production expected in 2021 upon completion of a new preparation plant. When fully operational, the Company anticipates approximately 900 thousand tons per year of high-quality, low-vol coking coal capacity.

As of December 31, 2019, the PAMC controls 669.4 million tons of high-quality Pittsburgh seam reserves, enough to allow for approximately 23.5 years of full capacity production.



## **B. Context**

### ***Coal industry***

The U.S. Energy Information Administration's Annual Coal Report 2018 (published in October 2019) noted that in 2018, U.S. coal production dropped 2.4% year-over-year to 756.2 million short tons (MMst). Pennsylvania's production increased 1.6% to 49.9 MMst. Total U.S. coal stocks in 2018 ended at 130.5 MMst, 21.9% lower than at the same time in 2017.

### ***Regulation***

As a publicly traded company, CONSOL Energy operates in a relatively stringent and regularly enforced legal and regulatory context. Mining companies must obtain a wide range of permits that impose strict regulations on various environmental and safety matters. In addition, MSHA approval is required for a number of operations.

The EPA has the authority to veto permits should it be required. The public, including non-governmental organizations and individuals, have certain statutory rights to comment upon and otherwise impact the permitting process, including through court intervention.

### ***Occupational health and safety***

The Coal Mine Health and Safety Act of 1969, the Federal Mine Safety and Health Act of 1977 (the "1977 Act") and the Mine Improvement and New Emergency Response Act of 2006 ("MINER Act") impose stringent health and safety standards on mining operations. Regulations that have been adopted are comprehensive and affect numerous aspects of mining operations.

MSHA is the enforcement authority authorized to inspect all underground mining operations at least four times a year and issue citations with civil penalties for the violation of a mandatory health and safety standard. In addition to federal laws and regulations, the State of Pennsylvania has its own programs for mine safety and health regulation and enforcement. The MINER Act added more extensive health and safety compliance standards and increased civil and criminal penalties.

Under the United States Black Lung Benefits Revenue Act of 1977, each coal mine operator must secure payment of federal black lung benefits to claimants who have been diagnosed with coal workers' pneumoconiosis (CWP, commonly referred to as black lung disease) and are current or former employees. The Patient Protection and Affordable Care Act of 2010 states that a coal miner with 15 or more years of underground coal mining experience (or the equivalent) who develops this respiratory condition is presumed to be disabled due to coal dust exposure.



Two bills have been introduced (but not yet passed into law) in 2019 aimed at protecting miner pensions and health benefits: H.R. 934, Health Benefits for Miners Act of 2019 and H.R. 935, Miners Pension Protection Act.

### *Labour*

The Fair Labor Standards Act (FLSA) establishes minimum wage, overtime pay and youth employment standards affecting employees in the private sector and in Federal, State, and local governments.

**FLSA Minimum Wage:** the federal minimum wage is US\$7.25 per hour effective July 24, 2009. Many states also have minimum wage laws. In cases where an employee is subject to both state and federal minimum wage laws, the employee is entitled to the higher minimum wage. In Pennsylvania, the state minimum wage is the same as the Federal: US\$7.25/hour. According to the Massachusetts Institute of Technology (MIT) Living Wage Calculator, the living wage rate in Greene County, PA is: US\$10.71/hour. The Equal Pay Act of 1963 is an amendment to the FLSA which prohibits discrimination in wages based on gender.

**FLSA Overtime:** covered non-exempt employees must receive overtime pay for hours worked over 40 per workweek (any fixed and regularly recurring period of 168 hours — seven consecutive 24-hour periods) at a rate not less than one and one-half times the regular rate of pay. The FLSA does not require overtime pay for work on weekends, holidays, or regular days of rest, unless overtime is worked on such days.

**Hours Worked:** the FLSA does not place any limits on the number of hours employees 16 years or older may work in any workweek. It also does not provide for a mandatory seventh day of rest or any personal (holiday or illness) leave. The Family and Medical Leave Act of 1993 (FMLA) does require covered employers to provide employees with job-protected and unpaid leave for qualified medical and family reasons, including maternity (up to 12 weeks).

**Child Labour:** the FLSA contains provisions that are designed to protect the educational opportunities of minors and prohibit their employment in jobs and under conditions detrimental to their health or well-being. As coal mining has been designated by the U.S. Department of Labor as a Hazardous Occupation, no person under the age of 18 may be employed in any coal mining occupation except 4 specific occupations. No child under the age of 16 may be employed in any mining occupation.

**Freedom of Association and Collective Bargaining:** The National Labor Relations Act of 1935 guarantees basic rights of private sector employees to organize into trade unions, engage in collective bargaining for better terms and conditions at work, and take collective action including strike if necessary. The representation of miners in the U.S. by labour unions has been trending down in line with the market economics of the sector. From 1983 to 2015, union membership in the U.S. fell by half. Companies are required to fund salary retirement benefits in accordance with Employer Retirement Income Security Act of 1974 (“ERISA”) regulations.



### C. Assessment Information

Assessment Scope & Country	<p>Pennsylvania, United States of America:</p> <ul style="list-style-type: none"> <li>▪ CONSOL Corporate Headquarters in Canonsburg, PA</li> <li>▪ The Pennsylvania Mining Complex (PAMC): <ul style="list-style-type: none"> <li>○ Bailey Mine</li> <li>○ Enlow Fork Mine</li> <li>○ Harvey Mine</li> <li>○ Central Preparation Plant</li> </ul> </li> <li>▪ CONSOL Marine Terminal in Baltimore, MD</li> </ul>
Site-Assessment Scope	<ul style="list-style-type: none"> <li>▪ CONSOL Corporate Headquarters in Canonsburg, PA</li> <li>▪ The Pennsylvania Mining Complex (PAMC): <ul style="list-style-type: none"> <li>○ Bailey Mine</li> <li>○ Enlow Fork Mine</li> <li>○ Harvey Mine</li> <li>○ Central Preparation Plant</li> </ul> </li> <li>▪ Maintenance Yards</li> <li>▪ Bailey Mine Water Treatment Plant</li> <li>▪ CONSOL Marine Terminal in Baltimore, MD</li> </ul>
Step 1: Supplier Commitment	Completed in October 2018
Step 2: Desktop Review	Completed in June 2019
Step 3: Site-Assessment	Completed in October 2019
Step 4: Continuous Improvement Plan	Agreed in March 2020
Step 5: Re-Assessment	Planned for October 2024 <sup>1</sup>
Assessment Team	Soledad Mills (Lead Assessor), Luis (Tito) Campos, Edward Baltazar, Christie Jaime

### Stakeholders

The following organisations were interviewed as part of the Assessment:

- X-Coal (customer)
- Resource Environmental Solutions (provider of environmental mitigation offsets)
- Surety (insurance broker)
- PA State government representative
- International Longshoremens’ Association Local No. 333 (trade union)
- Greene County Department of Economic Development
- Greene County Industrial Development
- Former representative of PA Department of Environmental Protection
- Individual landowner

<sup>1</sup> The Assessment cycle is five years. See the [Assessment Manual](#) for more details.





- GMS (contractor – underground mining construction)
- 18Karat (contractor – excavation services)

The Mine Safety and Health Administration (MSHA) and the Department of Environmental Protection (DEP) for Pennsylvania declined to be interviewed.

### D. Supplier Performance

Supplier Performance is assessed against the 10 Principles of the [Bettercoal Code](#) and associated Provisions (1.1-10.7). The ratings are explained in Annex 2.

#### *Overall performance*

Below are CONSOL Energy’s ratings against the Bettercoal Code:

	Meets	Substantially Meets	Partially Meets	Misses
<b>General Implementation Expectations</b>				
Principle 1	1.1			
Principle 2	2.3	2.1, 2.2		
<b>Business Ethics</b>				
Principle 3	3.1			
Principle 4	4.1			
<b>Human Rights and Social Performance</b>				
Principle 5	5.3	5.1, 5.4		
Principle 6	6.1 – 6.6, 6.8	6.7, 6.9		
Principle 7	7.1			
<b>Environment</b>				
Principle 8	8.1			
Principle 9	9.3	9.1	9.2	
Principle 10	10.4 – 10.7	10.1 – 10.3		

#### *Immediate Resolutions*

An ‘Immediate Resolution’ is an action taken to address such eventualities and are different from other improvements identified by the Bettercoal Assessment Process as they are prioritised for completion in the Continuous Improvement Plan.

There were no immediate resolutions found during the Assessment of CONSOL Energy.

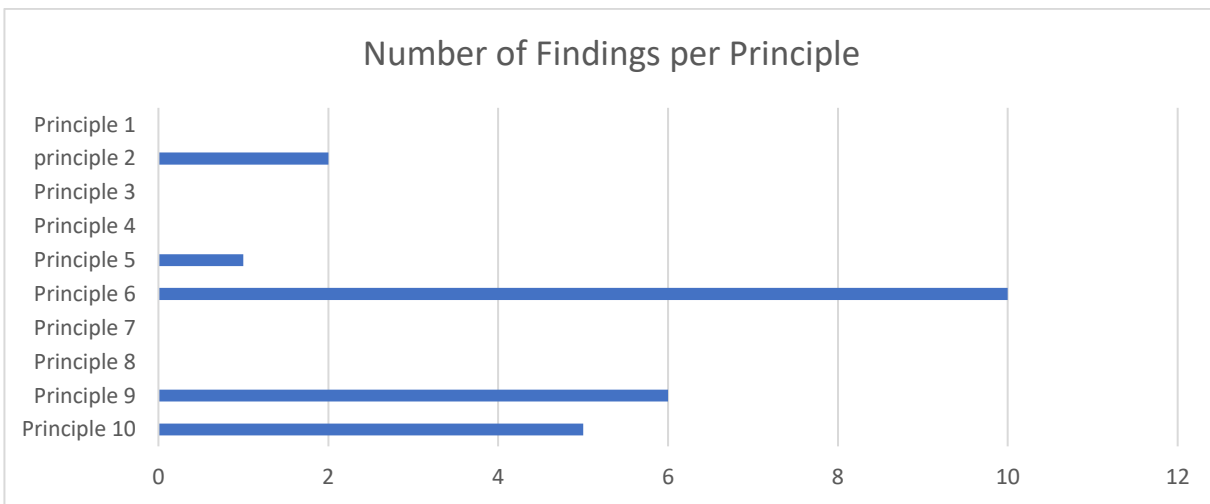


### Continuous Improvement

For each Provision that the Assessors identify a need for improvement, the Supplier will be responsible for implementing the steps recommended by the Assessors to ensure that it is continuously improving its systems, processes, procedures, and practices with the goal of full alignment with the requirements of the Code.

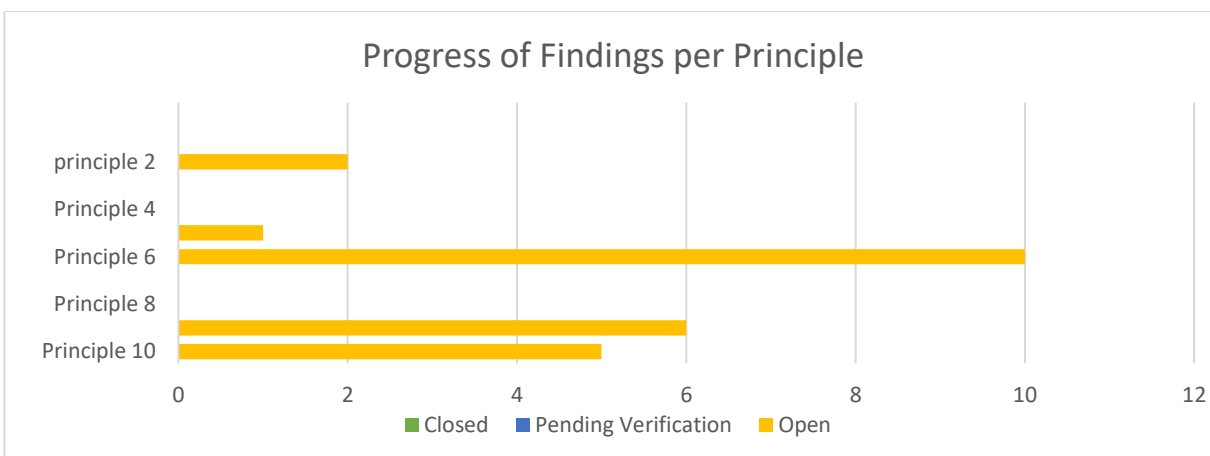
CONSOL’s Continuous Improvement Plan identified findings against Principles 2, 5, 6, 9, and 10 of the Bettercoal Code.

#### a. Number of Findings identified per Principle<sup>2</sup>



#### b. Supplier progress against the findings

Progress is monitored at least on a bi-annual basis. This section of the document will be updated as CONSOL reports on its progress.



<sup>2</sup> The number of findings is presented per Principle and it is counted based on the first Principle a finding was identified for. For example, if there is one finding for provisions 2.1.1 and 9.1.2, then the finding is counted under Principle 2.



## **E. Additional Supplier Information**

### ***Examples of good practice***

*Systemic delivery of positive performance:* CONSOL evidences a strong corporate culture of 'core values'. Examples of these values are 'continuous improvement' and the safety culture which has the goal "Absolute zero accidents". This is fostered throughout CONSOL to create a strong culture.

*Strengthening the community:* CONSOL has established a corporate foundation with community representation at the board level to structure their social investment strategy and target high impact, local programs. CONSOL is also heavily engaged in county efforts to attract other types of industry to the area.

*Employee health and happiness is priority:* CONSOL provides employees with a well-being day, a health coach, and incentives to promote wellness. CONSOL also covers adoption fees for employees choosing to adopt, and have positive relationships with unions. CONSOL has a clear philosophy considering protecting safety of employees above and beyond regulatory requirements.

### ***Examples of areas for improvement***

*System strength and documentation:* CONSOL has widely good performance, but in some areas, documentation could be improved. Processes and procedures can be strengthened to ensure work is done to the high standard expected, no matter who performs it. Although this performance is good currently, in the case of personnel turnover or growth, additional documentation of practices will promote preservation of the Company's current strengths in performance.

*Waste management:* CONSOL has developed a waste vendor verification and approval process, and CONSOL can build upon this base to create a waste management plan, classifying their wastes and identifying opportunities to avoid, reduce, recover, re-use and recycle wastes.

*Human Rights:* CONSOL has adopted a Human Rights Policy that references the Universal Declaration of Human Rights, the UN Guiding Principles, and the UN Global Compact that applies to all employees of CONSOL and its affiliates. Implementation of the Policy can be improved by defining a Human Rights due diligence process to identify and account for how CONSOL addresses its impacts on Human Rights.

CONSOL Energy:

- is fully certified under the National Mining Association's CORE Safety Initiative,
- has developed a Safety and Environmental Management Systems based upon OHSAS 18001 and ISO 14001, respectively, but has not yet sought certification under either standard,
- established the CONSOL Cares Foundation, to be operated exclusively to promote the health and safety of the communities in which the company operates.



## Annex 1: Bettercoal Assessment Process

### Step 1: Supplier Commitment

The coal mining company signs the Letter of Commitment and becomes a Bettercoal Supplier.

### Step 2: Desktop Review

An Approved Lead Assessor is allocated to the Bettercoal Supplier. The Supplier completes the Self-Assessment Questionnaire, which is reviewed by the Lead Assessor. The Assessment Scope is finalised and an Assessment Plan for the Site-Visit is developed and shared with Members.

### Step 3: Site-Assessment

A Site-Visit is planned at the Supplier’s mine site(s). A detailed Assessment Report is developed and once finalised, in consultation with the Supplier, is then shared with Bettercoal Members.

### Step 4: Continuous Improvement

The Continuous Improvement Plan (CIP) is finalised and shared with Members. Monitoring the CIP takes place according to timelines identified in the CIP. Verification methods include Desktop Review and Site-Visit. A public report will be uploaded on the Bettercoal website.

### Re-Assessment

A full Re-Assessment is due within maximum five years from the coal mining company becoming a Bettercoal Supplier. The process starts from the beginning.

For more detailed information, see the [Assessment Manual](#).





## Annex 2: Assessment Rating Options

Rating	Explanation
<b>Meets</b>	<p>Supplier's operating practices are fully aligned with the Code.</p> <p>There is strong evidence of implementation of the Suppliers' policies, systems, procedures and processes that enable alignment with the Code, and of a thorough understanding of the requirements of the Code Provisions.</p>
<b>Substantially Meets</b>	<p>The Supplier's practices are aligned mostly, but not fully, with the Code.</p> <p>The Supplier has policies, systems, procedures, and processes in place to enable alignment with the Code, but there are isolated incidents of gaps in implementation.</p>
<b>Partially Meets</b>	<p>The Supplier is demonstrating efforts to put in place the policies and practices to align with the Code, but implementation is at its early stages and is incomplete.</p> <p>For example, the Supplier has published a policy that aligns with a requirement of the Code, but the Assessment concludes that the policy is not being implemented fully or that the scope of the policy falls short of the coverage required by the Code.</p>
<b>Misses</b>	<p>The Supplier has not begun to put in place practices to align with Code, or there is systemic failure of the practices resulting in total misalignment with the Code.</p>

For more detailed information, see the [Assessment Manual](#).