



# CENTER FOR COALFIELD JUSTICE

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December 9, 2022

Rajesh D. Nayak, Assistant Secretary for Policy  
Office Of The Assistant Secretary for Policy  
U.S. Department of Labor  
Washington, D.C. 20210

## **RE: Department of Justice Environmental Justice Strategy Feedback**

Thank you for the opportunity to provide input on the Department of Labor's ("DOL") Environmental Justice Strategy. The Center for Coalfield Justice ("CCJ") respectfully submits the following comments.

CCJ is a Pennsylvania-incorporated not-for-profit organization with federal Internal Revenue Service § 501(c)(3)-status recognition located in Washington, PA. Our mission is to "improve policy and regulations for the oversight of fossil fuel extraction and use; to educate, empower and organize coalfield citizens; and to protect public and environmental health." CCJ has over three thousand members and supporters and is governed by a volunteer Board of Directors.

The communities that CCJ serves are energy communities.<sup>1</sup> Corporations make billions of dollars off resources extracted from under where we live and work, but our communities and workers have not seen equitable benefits.<sup>2</sup> To represent the greatest needs and barriers facing us, CCJ offers the following comments.

### **1. Define which communities the Environmental Justice Strategy benefits.**

CCJ applauds DOL's thorough definition of environmental justice as it relates to labor.<sup>3</sup> However, a thorough definition is useless if it is unclear when and where the Environmental Justice Strategy applies. DOL needs to identify which communities are environmental justice communities as it relates to labor so the agency can be held accountable for implementing its strategy.

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<sup>1</sup> *Priority Energy Communities*, Interagency Working Group on Coal & Power Plant Communities & Economic Revitalization (<https://energycommunities.gov/priority-energy-communities/>).

<sup>2</sup> *The Natural Gas Fracking Boom and Appalachia's Lost Economic Decade*, OHIO RIVER VALLEY INSTITUTE (last updated February 12, 2021) [https://ohiorivervalleyinstitute.org/wp-content/uploads/2021/02/Frackalachia-Report-update-2\\_12\\_01.pdf](https://ohiorivervalleyinstitute.org/wp-content/uploads/2021/02/Frackalachia-Report-update-2_12_01.pdf).

<sup>3</sup> "Environmental Justice in the Labor context is fair treatment and meaningful involvement of all people, regardless of race, ethnicity, culture, income, or education level, with respect to the development, implementation, and enforcement of employment laws, regulations, programs, and policies. Fair treatment means ensuring that all persons enjoy the same degree of protection from workplace safety and health hazards. Meaningful involvement is when all stakeholders have informed participation in decision making that could affect their places of work. Traditionally, many minority, low-income, and tribal communities have lacked access to the required information and technical advisers to be informed participants with respect to various risks that accompany numerous workplace activities." Office of the Assistant Secretary for Policy, *2012 Environmental Justice Strategy* at 4, DEPARTMENT OF LABOR (February 2012) <https://www.dol.gov/sites/dolgov/files/OASP/ej/ej-strategy.pdf>.

Definitions for low-income and disadvantaged communities should include those with a median household income within 250% of the federal poverty level. Many of our communities will not benefit from an environmental justice community designation if the income cap sits at 200% of the federal poverty level. A slight increase to a 250% threshold with a tiered system to receive benefits would expand environmental justice protections to many who need it. Under a tiered approach, those with the most need would see the greatest benefit. For example, communities with a median household income within 100% of the federal poverty level should receive the most targeted outreach and assistance. Those communities with a median household income between 200% and 250% should receive more targeted outreach and assistance than those not designated as disadvantaged but less than those with greater need. However, even if a community does not have an official designation as an environmental justice community, they are still deeply impacted by the decisions made regarding their home. Still, environmental justice designations help those who need it most.

Along with income, DOL must consider other factors cumulatively. The Department of Energy (“DOE”) does a good job of considering cumulative impacts when identifying Disadvantaged Communities for Justice40 purposes. However, our communities are still not designated as disadvantaged under their methodology. One fix to this issue is not to give equal weight to all indicators, as DOE does. Instead, agencies could give greater weight to certain indicators, allowing them to tailor their definition to fit their work area. For example, DOL may give greater weight to fossil fuel dependence and socioeconomic indicators such as commute time, job access, low-income population, population without a vehicle, unemployed population, and uninsured population.<sup>4</sup>

## **2. Jobs in the Oil & Gas Industry are not Good Jobs.**

DOL’s vision for the future is “Good Jobs for Everyone,” which means “ensuring that workplaces are safe and healthy; helping workers who are in low-wage jobs or out of the labor market find a path into middle-class jobs; and helping middle-class families remain in the middle class.”<sup>5</sup> Jobs in the oil and gas industry do not fall into this category.

### *a. Health Concerns*

One characteristic of Good Jobs is that they are safe and healthy. That is not the case for many jobs in the oil and gas industry. When oil and gas wells are active, particulate matter, nitrous oxide, volatile organic compounds, and ozone levels in the air spike. Exposure to these can lead to asthma, cancer, cardiovascular diseases, preterm birth, and other long-term health defects.<sup>6</sup> Additionally, as a condition of the geology of Pennsylvania, oil and gas activity produces waste that contains radium 226 and 228, which signifies a certain level of radioactivity, and industry workers are exposed to this threat all the time.<sup>7</sup> The workers wouldn’t know it, though. During one of our member’s first day of training on the job as a gas operator, they were told they would be exposed to more radiation from their cell phone than from their job.

### *b. Reliance on Contract Workers*

Good Jobs also increase workers’ incomes, narrow wage and income inequality, and provide workplace flexibility for family and personal caregiving; facilitate return to work for workers experiencing workplace injuries or illnesses

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<sup>4</sup> *Environmental Justice Screening and Mapping Tool*, ENVIRONMENTAL PROTECTION AGENCY (<https://ejscreen.epa.gov/mapper/>).

<sup>5</sup> *2012 Environmental Justice Strategy* at 4-5.

<sup>6</sup> Huanjia Zhang, *Californians living within miles of oil and gas wells have toxic air*, ENVIRONMENTAL HEALTH NEWS (October 21, 2021) <https://www.ehn.org/oil-and-natural-gas-industry-air-pollution-2655333610.html>.

<sup>7</sup> Justin Noble, *America’s Radioactive Secret*, ROLLING STONE (January 21, 2020) <https://www.rollingstone.com/politics/politics-features/oil-gas-fracking-radioactive-investigation-937389/>; *Radioactive Waste Material From Oil and Gas Drilling*, UNITED STATES ENVIRONMENTAL PROTECTION AGENCY <https://www.epa.gov/radtown/radioactive-waste-material-oil-and-gas-drilling>.

for those who are able to work, and provide sufficient income for those who are unable to work; provide income security when work is impossible or unavailable; and, provide health benefits and retirement security.<sup>8</sup> Contract jobs in the oil and gas industry do not fit these characteristics.

Contracted workers are a standard for the oil and gas industry - they outnumber employees 2 to 1.<sup>9</sup> Industry uses contracted workers because they “provide operators with the expertise needed to leverage the increasingly varied and multifaceted approaches to drilling for oil and extracting natural gas while accommodating the industry’s cyclical nature.”<sup>10</sup> However, the industry’s production trends and profits are not cyclical in Southwestern Pennsylvania - extraction is happening all the time. Pennsylvania has consistently increased unconventional natural gas production year after year since 2013.<sup>11</sup> Constant extraction should mean stable jobs for residents of our communities, but this often is not the case. Instead, out-of-state contractors come to drill one well before moving on to their next job, only briefly stimulating the local economy. Also, workers from our service area have been sent out of state instead of placed in jobs near their homes.

Contracted workers can work 160 hours to make enough money to be a part of the middle class. They can work 160 hours in a 10-days before a 5-day break. However, these workers may not be entitled to overtime because of their employment status. Additionally, contracted workers do not receive benefits such as health insurance or paid time off, so they are not paid if they need to take off for any reason, including holidays.

To many, the instability and health risks associated with the oil and gas industry are not worth a job in it, so they are leaving.<sup>12</sup>

### **3. Access to Transportation**

The lack of public transportation and walkable communities limits access to jobs in Southwestern Pennsylvania. Here, people without cars can only accept employment opportunities close to home or rely on friends and family to drive them to and from work. For many of our rural members, it can be hard to get to urban and suburban areas where work is concentrated. Expanding public transportation is vital to ensure our communities have access to Good Jobs.

### **4. Wages and Benefits**

Many jobs in our communities do not pay livable wages or provide needed benefits to employees. A minimum wage hike is necessary; the current minimum wage of \$7.25 an hour is not sustainable. Even if the government raises the minimum wage to \$15 an hour, those employees working full-time would still fall short of the middle class.<sup>13</sup> These employees are living paycheck to paycheck - they pay bills late to afford necessities, they drive to neighboring states to buy gas, and they can’t afford to take any time off of work.<sup>14</sup> Plus, many do not have access

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<sup>8</sup> 2012 *Environmental Justice Strategy* at 4-5.

<sup>9</sup> Lauren Weber, *The End of Employees*, THE WALL STREET JOURNAL (last updated Feb. 2, 2017) <https://www.wsj.com/articles/the-end-of-employees-1486050443?ns=prod/accounts-wsj>.

<sup>10</sup> Annette A. Idalski, Peter N. Hall and Kyle D. Winnick, *Ruling Preserves Industry’s Ability to Employ Independent Contractors*, THE AMERICAN OIL & GAS REPORTER (November 2019) <https://www.aogr.com/web-exclusives/exclusive-story/ruling-on-industrys-model-is-notable>.

<sup>11</sup> 2020 *Oil And Gas Annual Report*, PENNSYLVANIA DEPARTMENT OF ENVIRONMENTAL PROTECTION <https://storymaps.arcgis.com/stories/af368dfb17bd4f219ea0ee22bd4c514a>.

<sup>12</sup> Liz Hampton, Stephanie Kelly, and Nia Williams, *North American oil companies scramble to find workers despite boom*, REUTERS (April 29, 2022) <https://www.reuters.com/business/energy/n-american-oil-companies-scramble-find-workers-despite-boom-2022-04-29/>.

<sup>13</sup> Richard Fry and Rakesh Kochhar, *Are you in the American Middle Class?*, PEW RESEARCH CENTER (July 23, 2020) <https://www.pewresearch.org/fact-tank/2020/07/23/are-you-in-the-american-middle-class/>.

<sup>14</sup> Emily Stewart, *Life on the Minimum Wage*, VOX (April 7, 2021) <https://www.vox.com/policy-and-politics/22364633/federal-minimum-wage-workers>.

to benefits like health insurance or paid time off, which can significantly increase costs for minimum-wage workers. Minimum-wage jobs do not provide a path into the middle class, provide sufficient income for those unable to work, and do not provide income security, health benefits, or retirement security. These jobs are not Good Jobs.<sup>15</sup>

Thank you for your consideration. If you have any questions, please contact me anytime.

Respectfully,

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Community Advocate

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<sup>15</sup> 2012 *Environmental Justice Strategy* at 4-5.