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MINE Update
MINING INDUSTRY NEWS E-COMM UPDATE

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This Week in The News

A stopgap measure to fund the federal government for one week beyond the current December 11 deadline may be enacted soon to give congressional negotiators more time to reach agreement on a trio of major issues before legislators depart Washington for the remainder of the year. Passage of the National Defense Authorization Act (NDAA), a spending deal to avert a government shutdown, and a potential \$908 billion bipartisan plan for COVID-19 aid all remain on the table. In this dynamic environment, the National Mining Association (NMA) remains actively engaged with efforts to advance mining's interests at both ends of Pennsylvania Avenue. Plus we have updates on how energy and mining markets are faring.

Safety Share

Holiday season is a popular time to decorate with candles. Here are tips for [how to do it safely](#).

DOE Financial Assistance for Critical Minerals Projects



Last week, the NMA reported that the Department of Energy (DOE) issued new guidance directing the agency's Loan Program Office (LPO) to "interpret the Title XVII Program and the Advanced Technology Vehicles Manufacturing (ATVM) Program broadly to encourage applications from potential projects involving the production, manufacture, recycling, processing, recovery, or reuse of Critical Minerals and other minerals." On December 3, senior LPO officials joined NMA members on a conference call to provide an overview of the process and discuss what potential applicants will need to consider moving forward. They also invited those interested to reach out and discuss their potential projects to see if the LPO might be able to provide assistance. DOE would like to provide as much

assistance as it can before January 20. If you have any questions or would like us to help in connecting you with the LPO, please [contact Justin Prosser](#).

House Passes FY21 NDAA Conference Report with Minerals Language

Yesterday, the U.S. House of Representatives passed the William M. (Mac) Thornberry [National Defense Authorization Act for Fiscal Year 2021](#), which included several NMA-backed or authored mineral related provisions supporting domestic production and protecting supply chains. Please find NMA's memo detailing these specific items [here](#). Recall that [NMA advocated for these provisions be included in the final conferenced legislation](#). The NMA expects the U.S. Senate to pass the legislation soon. The White House issued a [Statement of Administration Policy](#) threatening to veto the bill for not repealing liability protections ("Section 230") for social media platforms such as Twitter and Facebook and a provision requiring the review of installations named after officers voluntarily serving in the military of the Confederate States of America. Members of Congress are already planning for a veto override attempt should the President veto the legislation.

Water Resources Development Act Moving with Harbor Maintenance Funding

Yesterday, the U.S. House of Representatives passed the [Water Resources Development Act of 2020](#) (WRDA 2020). The NMA advocated for additional financial support for the Harbor Maintenance Trust Fund (HMTF) and full use of resources for HMTF on-system maintenance, a change to the cost share beneficial to users of the Inland Waterway Trust Fund, and advocated against disruptive regulatory changes under the Clean Water Act proposed in an earlier version of WRDA 2020. Please find the NMA's

memo further detailing specific provisions from the legislation [here](#) as well as the NMA-led coalition letter [here](#).

In addition, the bill did not include changes to the National Pollutant Discharge Elimination System (NPDES) program administered by the U.S. Environmental Protection Agency (EPA) and delegated to states under the Clean Water Act. The original language found in the bill would have allowed the EPA to assume authority for NPDES program permitting delegated to states after the term of the permits rather than allow the permits to be administratively continued. The language would have been highly disruptive to all state delegated programs and the regulated community. The NMA [joined a coalition of trade associations](#) opposing the change. We expect WRDA 2020 to be added to year-end appropriations legislation.

Tax Bills Introduced in Support of 45Q and CCUS

Last week, Representatives David McKinley (R-WV) and Marc Veasey (D-TX) introduced the bipartisan [H.R. 8858](#), the *ACCESS 45Q (Accelerating Carbon Capture and Extending Secure Storage Act through 45Q) Act* to provide a direct pay option and 10-year extension for the Section 45Q tax credit. Senators Shelley Moore Capito (R-WV) and Sheldon Whitehouse (D-RI) yesterday introduced similar legislation. [S. 4966](#), the *45Q Carbon Capture Utilization and Storage (CCUS) Tax Credit Amendments Act of 2020*, which extends the 45Q tax credit five years, allows the 45Q credit to offset tax obligations due to the BEAT, and allows for the direct payment of the credit. The NMA issued a [press release](#) welcoming this important legislation to extend and spur investment into these vital technologies.

Final EPA Air Rule Retains Particulate Matter NAAQS

The U.S. Environmental Protection Agency (EPA) released a [pre-publication copy](#) of the agency's final rule that retains the National Ambient Air Quality Standards (NAAQS) for particulate matter (PM). According to EPA's [press release](#), the agency's final decision "comes after careful review and consideration of the most recent available scientific evidence and technical information, consultation with the agency's independent scientific advisors, and consideration of more than 60,000 public comments on the proposal." EPA's fact sheet may be accessed [here](#). The rule will become effective upon publication in the *Federal Register*.

New EPA Guidance Clarifies Groundwater Permitting Requirements

The EPA this week issued draft guidance to assist the regulated community and permit writers with incorporating the Supreme Court's guidance in the Maui wastewater treatment case. The Court's decision held that Clean Water Act permits are required if there is a direct discharge of a pollutant from a point source into a water of the U.S. or the "functional equivalent" or a direct discharge. The Court created a new test to help the regulated community and permit writers figure out what constitutes the "functional equivalent" of a direct discharge.

In commenting on the draft guidance, Rich Nolan said, "EPA's draft guidance is an important step toward providing additional regulatory certainty and clarity around Clean Water Act wastewater permits after many years of conflicting judicial decisions and uncertainty. When finalized, both the regulated community and permit writers will have a better understanding of how to apply the factors the Supreme Court laid out in Maui to help the mining industry and others determine if and when a permit is needed."

EPA Issues Final Clean Air Act Cost-Benefit Rule

Today, EPA Administrator Wheeler signed a final rule to improve the Clean Air Act rulemaking process by establishing an enforceable standardized process to ensure transparent, high-quality analyses of benefits and costs that underpin significant rules. In August, NMA joined a coalition letter supporting this action. NMA President & CEO Rich Nolan released a [statement](#) this morning applauding the Administrator's decision, emphasizing that it "will greatly improve cost-benefit analysis in the rulemaking process" and "provide a far more transparent regulatory process and fair accounting practices for the future." EPA has a long history of skewing the cost-benefit analysis to greatly overestimate a rule's benefits to justify compliance costs. EPA's press release is available [here](#). *E&E's* coverage, which quotes Rich Nolan, can be found [here](#).

President's Blog



The NMA this week launched a new blog from President and CEO Rich Nolan. This month, he focuses on how the products of mining have secured our new remote work reality. The blog can be found [on our website](#) and is being promoted across our social channels.

NMA and Third-Party Voices

The NMA team has been actively working with reporters and third parties to push our messaging on a variety of topics.

Rich Nolan is quoted in a [National Journal](#) piece on Resolution Copper, which highlights that the mine could play a key role in the clean-energy future.

[The New York Times](#) mentions the NMA in its coverage of the Trump administration's decision not to tighten controls on industrial soot emissions.

[Safety and Health Magazine](#) quotes Rich Nolan in its reporting on a recently proposed rule from the Mine Safety and Health Administration that would revise testing, evaluation and approval regulations for mine equipment and accessories powered by electric motors.

The [Elko Daily Free Press](#) reports that Nevada Gold Mines' Cortez Underground Mine was recently recognized as the recipient of the National Mining Association's 2019 Sentinels of Safety Award.

And in third-party news, [RealClearEnergy](#) (DC) carries an op-ed by Thomas Madison, a transportation / infrastructure consultant who has previously served as administrator of the U.S. Federal Highway Administration, in which he argues we need mineral mining projects like Resolution Copper.

The [Billings Gazette](#) (MT) carries an op-ed by Kevin Kearns, president of the U.S. Business and Industry Council, in which he argues President-elect Joe Biden's plans require an increase in U.S. mining.

The [Omaha World Herald](#) (NE) ran a piece Barry Butterfield, a retired engineer and emeritus member of the American Nuclear Society, in which he argues we must enact policies to counter China's mineral dominance.

Energy and Mining News

The Wall Street Journal published: "[Soaring metals prices](#) signal bets on global economic recovery."

[Mining.com reported](#) that battery material prices may not continue to decrease. "Given the [chasm](#) between future demand for battery raw materials used in electric vehicles and new supply entering the market over the next decade, the current low price environment for lithium, cobalt, graphite and less so nickel, is not likely to endure."

[Mining.com reported that](#) "copper production must double in the next 30 years to meet demand driven by global trends towards decarbonization and electrification," according to a senior BHP executive.

[Wyoming is spending millions of dollars](#) promoting coal in hopes that efforts will pay off.

The U.S. Senate [confirmed Lanny Erdos](#) as Director of the Office of Surface Mining Reclamation and Enforcement.

The Senate [confirmed two new members](#) of the U.S. Federal Energy Regulatory Commission, bringing the panel to full strength.

Robert Primus and Michelle Schultz were [confirmed by the U.S. Senate](#) as members of the Surface Transportation Board, bringing the Board to its full five-member complement for the first time.

U.S. Energy Information Administration reported coal mine capacity has [fallen 28 percent](#) since its 2009 peak.

Coal exports from the Port of Vancouver [rose 7 percent](#) in September. Exports from U.S. ports [declined in October](#).

Montana's Legislature planned to consider [raising taxes on wind and solar](#) developments as the coal industry struggles.

Energy Research and Social Science journal published a paper investigating why [new coal-fueled power plants](#) are being financed and built in South and Southeast Asia.

[Mining.com reported](#) on BMO Capital Market's analysis of the November surge in the price of Chinese rare earth metals. The higher price in November "is a reflection of the geopolitical tensions between that country and the developed world."



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