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MINE Update

MINING INDUSTRY NEWS E-COMM UPDATE

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This Week in The News

Bipartisan infrastructure talks continued despite growing unease by progressives anxious to move forward on party lines. A new opinion by the Senate parliamentarian put a damper on options to use budget reconciliation to speed Senate procedures for multiple bills and an op-ed authored by Senator Joe Manchin (D-W.Va.) plainly stating he would not vote to end the filibuster provided tailwinds to keep the infrastructure discussions going, with the President throwing a wider net to more centrists in the Senate. The National Mining Association (NMA) remains focused on actively engaging to advance mining's interests at both ends of Pennsylvania Avenue. Plus we have updates on how the mining and energy markets are faring.

Safety Share

Radon is a naturally occurring radioactive gas that can build up in your home. The U.S. Environmental Protection Agency [has resources](#) for obtaining a radon test kit or finding a radon mitigation professional.

Biden Administration 100-Day Report on Critical Supply Chains

**BUILDING RESILIENT
SUPPLY CHAINS,
REVITALIZING AMERICAN
MANUFACTURING, AND
FOSTERING BROAD-BASED
GROWTH**

100-Day Reviews under
Executive Order 14017



The White House this week released the [findings](#) of its 100-day review of critical supply chains as directed by Executive Order (E.O.) 14017, “America’s Supply Chains.” The E.O. required the assessment of vulnerabilities for four critical products: semiconductor manufacturing; large capacity batteries; critical minerals and materials; and pharmaceuticals. In large part, the 250-page report, “Building Resilient Supply Chains, Revitalizing American Manufacturing, and Fostering Broad-Based Growth,” positively recognizes the importance of critical minerals and materials as “the building blocks of products we use every day” and the need to “invest in sustainable production, refining and

recycling capacity domestically.”

Please find the NMA’s full memo [here](#), which explores some of the inconsistencies in the report. The White House fact sheet on the findings is available [here](#), and the National Mining Association’s press release is available [here](#). NMA’s Rich Nolan was quoted in coverage of the report by the [Washington Examiner](#) and [E&E Greenwire](#).

States Urge Supreme Court to Hear Coal Export Challenge

Montana and Wyoming this week filed a supplemental [brief](#) to the U.S. Supreme Court in support of their challenge to Washington state’s denial of a Clean Water Act section 401 water quality certification for a coal export facility. The denial was improperly based on state officials’ political objection to the use of coal rather than legitimate water quality concerns. Recall that last month the Biden administration filed an [amicus brief](#) urging the Court to dismiss the case contending that Montana and Wyoming’s appeal is no longer a live controversy due to the recent bankruptcy filing by Millennium Bulk Terminal and its abandonment of the relevant permits.

In this week’s filing, Montana and Wyoming rebut the administration’s position arguing that the states’ “interests are broader than the fate of one developer” and that the Court must hear the case to address “Washington’s long-standing discrimination against two landlocked states’ sovereign interests in getting one of their most important commodities to market.”

The NMA previously filed a [brief](#) in support of Montana and Wyoming to ensure the Court considered the broader constitutional implications of coastal states imposing *de facto* trade and foreign policy edicts that under the constitution are left to the federal government.

Senate Passes Legislation with Minerals Provisions



After more than two full weeks on the Senate floor, the U.S. Senate passed the "U.S. Innovation and Competition Act" (USICA) by a bipartisan vote of 68-32. The \$250 billion legislation is focused on strengthening U.S. economic and national security competitiveness related to technology, research and development, and the revitalization of domestic manufacturing sectors to counter China.

The bill includes the NMA-supported bipartisan section 2214 by Senators Cynthia Lummis (R-Wyo.) and Jackie Rosen (D-Nev.) added during markup of the bill in the Senate Commerce, Science and Transportation Committee. [Section 2214](#) directs the U.S. Department of Commerce to award financial assistance for pilot programs for critical mineral production and directs the National Science Foundation to financially support mining research and development of further mapping and mining technologies and techniques for critical mineral extraction, production, separation, alloying or processing. It also directs the Critical Minerals Subcommittee of the National Science and Technology Council to assist in coordinating federal science and technology efforts to ensure secure and reliable supplies of domestic critical minerals. The definition of critical minerals is also

broader than the list of 35 initially proposed by the U.S. Department of the Interior, referring to definitions in NMA-supported bipartisan provisions included in last year's Consolidated Appropriations Act by Senators Lisa Murkowski (R-Alaska) and Manchin.

NMA worked with allies in the Senate to get other domestic mining and processing amendments introduced to the bill. One includes the [bipartisan amendment](#) concerning minerals permitting reform offered by Senator Lisa Murkowski, Energy and Natural Resources Chairman Manchin, and Senators Sinema (D-Ariz.), Kelly (D-Ariz.) and Cortez Masto (D-Nev.). The text of the amendment is language from the bipartisan Murkowski-Manchin American Mineral Security Act from last Congress, which was reintroduced this Congress as [S. 1352](#).

The NMA also worked with a variety of Senate offices to develop a bipartisan amendment that combined [Senate Amendment 2083](#), [Senate Amendment 1776](#) and [Senate Amendment 1535](#) to propose:

- Shifting funding under Section 2214 in the bill to the U.S. Department of Energy (DOE) for domestic critical mineral production and processing;
- Building on DOE's Loan Programs Office Dec. 2020 [guidance](#) and expand loan guarantee eligibility under DOE Title 17 for critical minerals production, processing and recycling; and
- Providing additional funding through the DOE for mining education and training programs.

Altogether this combination amendment garnered the support of a bipartisan group including Senators Cortez Masto, Manchin, Hassan (D-N.H.), Murkowski, Lankford (R-Okla.), King (I-Maine), Lummis, and Barrasso (R-Wyo.).

While Senators filed more than 600 amendments to the USICA, only five were accepted during the two and a half weeks of floor consideration excluding our bipartisan amendments.

One nearly 900-page amendment included is a [trade package from Senators Crapo \(R-Idaho\) and Wyden \(D-Ore.\)](#), ranking member and chairman of the Senate Finance Committee. Please find an overall section-by-section of the amendment [here](#). The amendment contained Section 71025 requiring the U.S. Trade Representative to report to Congress within the next 120 days concerning the national security threat posed by China controlling two-thirds of the global supply of rare earth minerals.

The NMA will take the bipartisan mining amendments negotiated in this process to allies in the House to further amend the USICA when that legislation is considered there.

NMA Files Comments on Scope of Migratory Bird Treaty Act



The NMA this week submitted [comments](#) on the U.S. Fish and Wildlife Service's [proposed rule](#) to revoke the January 7, 2021, rule defining the scope of the Migratory Bird Treaty Act (MBTA) as it applies to incidental conduct resulting in the injury or death of migratory birds. The effect of the revocation would be to return to implementing the MBTA as prohibiting incidental take and allowing the Service considerable latitude in applying enforcement discretion. The NMA's comments stressed the importance of

regulatory certainty for industry, and the importance of the Service working collaboratively with industry partners to manage violations and prevent selective prosecution.

NMA and Third-Party Voices

[S&P Global](#) published an interview with Rich Nolan in which he discusses the industry's interactions with the administration, along with opportunities for hardrock mining that lie ahead.

[Inside Sources](#) (D.C.) carries a piece from James Clad, a former U.S. deputy assistant secretary of defense for Asia, in which he argues China's control of key material supply chains – and U.S. neglect of mining – has it far better positioned for the energy transition.

[Arizona Capitol Times](#) (Ariz.) carries an op-ed by Matthew Kandrach, president of Consumer Action for a Strong Economy, a free-market advocacy organization, in which he argues we need a grid we can rely on, supported by baseload capacity such as coal, nuclear and natural gas, in order to support an electric vehicle revolution.

The [Nevada Appeal](#) mentions MINExpo INTERNATIONAL in a report that Las Vegas is hosting its first big trade show since the start of the pandemic this week.

Mining and Energy News

[Northern Miner reported](#) on a recent Fitch Solutions report predicting that global miners can continue to expect an “exceptional year of earnings” through 2022 as a broad commodity price rally underpins strong financial results for most actors.”

[Mining.com reported](#): “Gold retreated from its highest level in almost five months on Thursday (6/3/21) as strong U.S. employment and service sector data propelled the dollar

higher and boosted investors' expectations that the Federal Reserve may reignite tapering talks."

[Reuters](#) reported that Tesla plans to buy more than \$1 billion of Australian battery raw materials per year "given the country's reliable mining industry and responsible production practices."

[Argus Media reported](#) that coal-based generation in the Midcontinent Independent System Operator climbed in May from a year earlier when activity was still restrained because of the COVID-19 pandemic.

Argus Media reported that both the [PJM](#) (PJM Interconnection) and [SPP](#) (Southwest Power Pool) power generating regions saw higher coal demand in May.

[Bloomberg](#) reported that "coal is seeing a dramatic spike in demand just as several major miners are hit with production problems, sparking a surge in prices from China to Europe and the U.S."

S&P Global published: "[Coal rally continues](#) amid concerns on supply availability to meet demand."

Bloomberg published: "It's not over for coal as [global prices surge](#) on hot demand."

[The World Steel Association has released](#) its *World Steel in Figures 2021* publication, noting that "Despite the influence of the pandemic, through its different regional impacts, the global steel industry was fortunate to end 2020 with only a minor contraction in steel demand. Steel use in China expanded while it contracted in the rest of the world." Steel industry market normalization is expected this year.

[A federal judge ruled the Biden administration may not continue to seek delays](#) in a lawsuit over coal leasing on federal lands.

The Wall Street Journal noted the Biden administration has [continued to support](#) some oil and mining projects backed by President Trump.

International Energy Agency's latest energy investment report revealed coal is "[down but not out.](#)"

Global Energy Monitor reported more than 2.2 billion tons in annual coal mining capacity is [currently under development](#) worldwide.



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