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MINE Update
MINING INDUSTRY NEWS E-COMM UPDATE

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Brought to you by the National Mining Association

This Week in The News

As the U.S. withdrawal from Afghanistan continues to dominate headlines, the Biden-Harris administration and members of Congress are preparing for a high stakes debate over social infrastructure in the form of a \$3.5 trillion partisan reconciliation proposal with potential heavy implications for the mining industry. 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

September is National Preparedness Month. [Ready.gov has lots of materials](#) to support your activities. Week One's activities show you how to [make a plan](#).

Sen. Schumer Dear Colleague on Budget Reconciliation Climate Goals



Senate Majority Leader Schumer (D-N.Y.) last week sent a [dear colleague letter](#) writing that the bipartisan infrastructure deal and the Build Back Better budget reconciliation measure would cumulatively curb greenhouse gas emissions by 45 percent by 2030. See the [chart](#) in the letter on the breakdown of greenhouse gas emissions.

To meet the goals, Leader Schumer named the Clean Electricity Payment Program (CEPP) in combination with the Senate Finance Committee's clean energy and vehicle tax package as representing almost two thirds of the total emissions reductions. A CEPP could use incentive payments from the government and penalties such as alternative compliance payments utilities make to the government to encourage utilities to increase the share of electricity they sell from carbon-free sources each year with a goal of 80 percent clean electricity by 2030.

The House Energy and Commerce Committee will markup their contribution to the budget reconciliation bill on Monday, Sept. 13, at 11:00 a.m. Bill text is expected to be released on Sept. 9, however, the NMA will work to get a copy beforehand and share it with you when available. The NMA will also work with committee staff and bipartisan congressional allies on the committee to address NMA priority issues included in the reconciliation bill.

House Natural Resources Committee Starts Budget Reconciliation Bill Process

Tomorrow morning the House Natural Resources Committee will mark up its [budget reconciliation bill](#). The \$31 billion-plus measure sets new policy and spending in a number of areas affecting the mining industry. Please find a [summary of the bill here](#).

The bill provides \$2.5 billion for hardrock mine reclamation. In conversations with Democratic Committee staff, although Chairman Raul Grijalva (D-Ariz.) would like to extend reclamation work as far as possible, reconciliation rules requiring funding to flow through the Bureau of Land Management will limit its application solely to federal land. Democratic Committee staff also confirmed that, unlike previous proposals, the 7 cent per ton fee in the reconciliation bill is only applicable to activity on federal land. Finally, the bill proposes an 8 percent gross royalty on new mining and 4 percent gross royalty on existing mining on federal land. The NMA has developed an external fact sheet on the new fees, which can be accessed [here](#), Rich Nolan has been interviewed by [Politico](#), [the Washington Examiner](#) and [Real Clear Energy](#), and the NMA has been flooding our social media channels with [content on the perils of new punitive fees](#).

The bill also raises the minimum onshore royalty rates to 20 percent for all new coal leases, repeals the requirement that the BLM offers at least 50 percent of total acreage for coal leasing in any one year under a deferred bonus payment system, reestablishes requirements to post financial assurance to guarantee payment of deferred bonus bid installments in coal leasing, changes coal rental rates and imposes a new \$2 fee on coal produced on federal lands, reduces new coal lease terms and renewals, and eliminates the

discretion of the U.S. Department of the Interior to consider royalty relief.

NMA President and CEO Rich Nolan provided committee members with [coal](#) and [hardrock](#) specific letters highlighting these damaging provisions, and NMA is working with mining-allied members of the Natural Resources Committee on amendments during the mark up tomorrow.

However, this is only the start of this process. The Natural Resources bill is not a joint work product with the Senate Energy and Natural Resources Committee leadership or membership. All House bills marked up throughout September are subject to House leadership and House Rules Committee review. NMA will continue to highlight the damaging provisions in this bill with allied House members while we continue to work with allied Senate members to change and remove provisions from this bill.

Upcoming Ways and Means Reconciliation Bill Mark Up

This week, various House Committees have been directed to report their budget reconciliation recommendations by Sept. 15. To meet that timeline, we understand that the House Ways and Means Committee will mark up legislation within its jurisdiction (including taxes) over four days: Sept. 9, 10, 13 and 14.

We do not yet have details on what will be before the Committee but expect the Committee to release its proposals in the days immediately before the scheduled markups. Unfortunately, the White House and several members of Congress have advanced numerous tax ideas that raise concern for mining companies and their employees including increasing the corporate tax rate, instituting a corporate minimum tax and the elimination of the percentage depletion deduction.

Court Strikes Down Navigable Waters Protection Rule



In a disappointing development, this week the U.S. District Court for the District of Arizona remanded and [vacated](#) the 2020 Navigable Waters Protection Rule (NWPR), which replaced the overly expansive 2015 definition of the Waters of the U.S. (WOTUS). The district court sided with the Pascua Yaqui Tribe and five other tribes that challenged the NWPR. The NMA intervened in the case along with a coalition of other business interests.

There is significant uncertainty as to the scope of the order and next steps since it is unclear whether the vacatur applies nationwide, just to the plaintiff tribes, or just to where the plaintiff tribes are located. There are open questions about the ability of a single district court judge to vacate a rule nationwide that remain unresolved by the Supreme Court. Generally, however, the federal government is hesitant to apply a single district judge's decision nationwide. Absent an explicit reference vacating a rule nationwide, a fair reading of the order is that it only applies to either the plaintiffs or the states where they are located. If applied to the states in which the plaintiffs are located, this ruling could potentially implicate Arizona, Washington, Minnesota and Wisconsin. Wherever the scope of the vacatur applies, however, it will be effective immediately, nullifying the NWPR and

returning to the pre-2015 regulatory regime that was in place prior to the NWPR. The NMA continues to review this order and will work with our coalition and other allies to determine next steps. Additional information about this decision, please see the [NMA's Sept. 1 memorandum](#).

NMA and Coalition Members Express Support for Domestic Rare Earth Infrastructure

On Monday, the NMA and 16 rare earth companies and organizations sent a letter to bipartisan House and Ways and Means Committee leaders urging the inclusion of production tax credit legislation, recently introduced by Critical Materials Caucus Co-chairs Eric Swalwell (D-Calif.) and Guy Reschenthaler (R-Pa.), in the Senate infrastructure package being considered in the House by Sept. 27. The bill would address the growing demand for REMs in everything from electronics to motors for wind turbines and electric vehicles, and would also support their domestic production. Citing the need to address market imbalances and help prevent non-market action from disrupting a resurgent domestic rare earth industry, the letter states that “this legislation would empower our industry to obtain necessary investments from the private sector and accelerate production.” The NMA will continue working with congressional allies, coalition partners and others to support robust domestic supply chains for all metals and minerals essential to U.S. economic and national security. Please find a copy of the letter [HERE](#).

**Register Now for NMA's Fall Board Meeting and
MINExpo International®**

The NMA Fall Board of Directors and Annual Members Meeting is less than two weeks away and will be held in conjunction with MINExpo INTERNATIONAL® 2021, in Las Vegas, Nev.

The meeting will be held at the Wynn Las Vegas on Sunday, Sept. 12, 2021. Keynote speaker Charlie Cook will speak at 1 p.m., immediately followed by the Board of Directors and Annual Members Meeting. As in the past, there will not be CEO breakout sessions or a Manufacturers and Service Board of Governors meeting.

Come for the board meeting and stay for MINExpo INTERNATIONAL® 2021. NMA producer and resource developer members may register at no cost, but please be sure to use your company email address when registering to ensure fees are waived. [Register for the NMA Board Meeting](#) and [register for MINExpo INTERNATIONAL® 2021](#) online now.



NMA and Third-Party Voices

Rich Nolan is featured in [Politico Pro](#), [Washington Examiner](#) and [Real Clear Energy](#) stories on the House Natural Resources Committee's attempt to use the

Democrats' reconciliation package as a venue to advance long-sought reforms to hardrock mining policy.

Rich Nolan is quoted in an op-ed in [The Hill](#) which argues if the United States fails to significantly increase its mining and processing capacity, it risks losing its place on the global industrial stage.

[CIM Magazine](#) reports that MINExpo International® is on, in-person Sept., 13-15, and the industry is ready for it.

The NMA is quoted in a [S&P Global](#) report on U.S. coal production's rebound in the first half of 2021 from early pandemic lows set in the first half of 2020.

[The Washington Times](#) (D.C.) carries an op-ed by retired Gen. John Adams in which he argues that, while Afghanistan has considerable mineral resources, the U.S. holds more, and it is past time to support domestic production.

Mining and Energy News

The Silver Institute's recent [monthly newsletter](#) reported on research showing that silver may be able to replace indium, which is less abundant and harder to mine, in touchscreens and other consumer electronics.

[E&E](#) reported on the "huge hole" that would be created in Illinois communities in terms of economic impact as nuclear plants in rural areas close.

EIA's August [Electricity Monthly Update](#) report noted that preliminary data for June 2021 compared to June 2020, showed "reduced hydro generation, as well as increases in total demand, have been offset by expanded generation from coal (up 5,207 GWh or 10.4 percent), wind (up 4,218 GWh or 25.9 percent), and solar (1,455 GWh or 16.3 percent)." [Axios](#) also reported that renewable energy sources have increased their global electricity generation, but coal has also experienced a rebound.

[S&P Global](#) reported that U.S. coal production bounced back in the first half of 2021 from early pandemic lows set in the first half of 2020, but average quarterly employment in the sector has not similarly recovered.

EIA's recent [Today in Energy](#) analysis shows that, "in 2011, the U.S. had 317.6 gigawatts (GW) of coal-based electric generation capacity. About 88.7 GW of that capacity was retired in the decade that followed. Units fired by bituminous coal accounted for the largest share of retired capacity, at 68 percent."

[Argus](#) reported that coal exports from Hampton Roads, Virginia, rose by 8 percent in July amid high global demand for coal.

Cape Charles Mirror reported on [coal traffic increasing](#) at Hampton Roads.

[S&P Global](#) reported U.S. coal shipments to China leaped more than 30-fold in the second quarter, as miners took further advantage of the Asian powerhouse's prolonged trade dispute with Australia.

News Nation outlined how China's boycott of Australia has [redirected global flows of coal](#).



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