

[View this email in your browser](#)



MINE Update
MINING INDUSTRY NEWS E-COMM UPDATE

Issue 53 | October 20, 2021

Brought to you by the National Mining Association

This Week in the News

Congress resumed session this week with the clock ticking toward an Oct. 31 leadership goal for hammering out an outline of a \$2 trillion tax and social spending legislative package using partisan budget reconciliation measures. With Senate resistance on many issues becoming clearer, major climate related provisions appeared to be falling out of the proposal as its price tag continued to shrink. 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

National Safety Council has simple steps for an [extra safe Halloween](#).

NMA Meets with New EPA Special Counsel for Power Sector



Rich Nolan met last week with Tim Profeta, the newly appointed Special Counsel for the Power Sector, Office of Air Quality, Planning and Standards, U.S. Environmental Protection Agency (EPA). They discussed the Biden-Harris administration's outlook for additional regulation on the power sector and how coal generation will play a role under any proposal under development. Mr. Profeta welcomed the NMA's engagement going forward as the EPA further develops its regulatory approach for the power sector.

NMA Supports Launch of Wilson Center's New Critical Minerals Report



On Monday, the Wilson Center's [Supply Chain Initiative](#) released a [report](#) outlining the importance of critical minerals for the renewable energy economy and for U.S. geopolitical objectives, which also highlighted the U.S.'s outsized minerals import reliance. The report recommended specific actions for the private sector and the government to onshore the production and processing of critical minerals, they included: streamlining permitting, strengthening human capital in the mining sector, and better educating the public about responsible domestic mining practices already being used. The Wilson Center hosted a [panel](#) to discuss the findings, which featured industry, national security and administration perspectives. In addition to coordinating with the report's authors to amplify the event on the NMA's [social channels](#), over the last year, the NMA and several of its members have engaged with the Supply Chain Initiative to share industry perspectives and support the formation of the report.

Senate Energy and Natural Resources Committee Considers Energy Nominees

Yesterday, the Senate Energy and Natural Resources Committee held a [hearing](#) to consider agency nominees, including Willie Phillips Jr. to be commissioner of the Federal Energy Regulatory Commission (FERC) and Brad Crabtree to be assistant secretary for the office of Fossil Energy and Carbon Management at the Department of Energy (DOE). The nominees drew bipartisan support, with Chairman Joe Manchin (W.Va.) and Ranking Member Barrasso (Wyo.) releasing statements specifically praising Mr. Crabtree's efforts to increase carbon capture technologies, and for Mr. Phillips' commitment to maintaining affordable, sustainable and reliable energy sources while maintaining U.S. energy security and independence. Much of the hearing focused on DOE efforts, such as loan guarantees and research and development funding, and legislative efforts including the 45Q tax incentive to increase the commercial deployment of carbon capture technologies at scale for industrial manufacturing and for energy generation. Senator Lisa Murkowski (R-Alaska) continued to advocate for more efficient permitting processes to ensure commercial viability and scalability of new carbon capture technologies. The NMA developed questions for the hearing to be of assistance to key Senate offices. The senators used several of the questions during the hearing, highlighting Mr. Crabtree's past bipartisan efforts to incentivize carbon capture adoption and his support for increasing funding for programs in the office of Fossil Energy and Carbon Management. In addition, the NMA amplified key messages supportive of maintaining a diverse energy supply on its [social channels](#) throughout the hearing.

Mineral Withdrawal Bills Considered During Senate Hearing

Yesterday, the Energy and Natural Resources Committee held a [legislative hearing](#) to consider 14 bills, including several that create wilderness designations with accompanying

mineral withdrawals. Some of these bills were reintroductions from past Congresses. Before the hearing, the NMA shared a [memo](#) with Minerals Policy Task Force members that solicited comments on the specific bills that included mineral withdrawals language. We continue to encourage members to review these bills and provide feedback to NMA government affairs staff to support our outreach to the Energy and Natural Resources Committee in order to make them aware of any potential impacts these bills could have on current or planned industry operations.

U.S. Senate Releases Appropriations Bills



This week the U.S. Senate Appropriations Committee released the remaining [nine Fiscal Year 2022 Appropriations Bills](#) including the Interior-Environment and Labor-Health and Human Services-Education measures twenty days into the new federal fiscal year. Please find a detailed memo on the bills [here](#).

The bills contain the following examples of key recommendations and riders which include:

- Establishing an Energy Community Revitalization Program within the Department of Interior to provide \$65 million for the remediation and reclamation work of abandoned hard rock mines, orphaned oil and gas wells, and orphaned infrastructure on Interior-managed lands, and support work on non-federal lands through grants to states and tribes;
- Directing the Mine Safety and Health Administration (MSHA) to establish precautions against occupational COVID–19 exposure for mine workers and to

submit to the Committee within 120 days a written report summarizing its proposal to create an emergency temporary standard to protect miners from occupational exposure to COVID- 19;

- Expressing support of the planned MSHA January 2022 Notice of Proposed Rulemaking for miner exposure to respirable crystalline silica in coal and metal/ nonmetal mines;
- Urging the BLM to include regulations governing locatable mineral activities in its review of regulations aimed at identifying gaps to ensure that mineral production meets strong standards;
- Directing no less than \$70,000,000 for sage-grouse conservation activities within Wildlife Habitat Management focused on increasing the success of restoring sagebrush plant communities. Further, the BLM is expected to use multiple existing and relevant strategies for sagebrush restoration to increase the success of projects that restore burned, degraded, or otherwise unhealthy habitat. The Interior bill also excludes language from the last several appropriations bills that blocked an Endangered Species Act listing on the sage grouse;
- Directing EPA to continue the Integrated Risk Information System (IRIS) program within the Office of Research and Development and to develop the hazard identification and dose-response portions of all Agency risk assessments;
- Directing the U.S. Geological Survey to prioritize the Mineral Resources Program, including the Earth Mapping Resources Initiative [Earth MRI] to enhance understanding of the nation's mineral resource potential to better manage the supply of critical minerals and further the study on the domestic supply of critical minerals;
- Highlighting the U.S. reliant upon foreign sources for critical minerals which results in decreased global investment in the U.S. It further directs the Department of the Interior, the EPA, and the Forest Service to work collaboratively to address these issues in a timely manner, stating that "these trends have serious and negative implications for the domestic mineral supply chains for technological innovation, modern infrastructure, and national security;" and
- Directs United States Trade Representative to report to the Committee on its work to address the threat posed by China's control of the global supply of rare earth

minerals, including the plan to produce a more reliable and secure global supply chain of critical minerals.

The Senate bills released this week are largely partisan, which will likely hamper their movement through the Senate chamber. The House has approved most of its own spending measures. The government is currently operating on a continuing spending resolution that runs through Dec. 3, when Congress either passes all these appropriations bills or passes another continuing resolution of some kind. The NMA will keep you informed of the appropriations process and policy riders in these bills.

EPA Staff Recommends Lowering Fine Particulate Matter NAAQS

EPA recently published a [notice](#) announcing the availability of the agency's external review draft of the [Policy Assessment](#) for the reconsideration of the National Ambient Air Quality Standards (NAAQS) for Particulate Matter (PM). This document presents a staff analysis of policy options for the Administrator to consider in deciding whether to reduce the PM NAAQS based on the scientific evidence assessed in the 2019 Integrated Science Assessment (ISA) and a recently completed draft ISA supplement. EPA staff again recommended reducing the primary annual PM_{2.5} NAAQS to as low as 8 µg/m³ and discussed reducing the 24-hour PM_{2.5} NAAQS to 30 µg/m³. On the other hand, EPA is continuing to recommend retaining the primary PM₁₀ NAAQS. Any reduction in the PM_{2.5} standard will result in significant permitting challenges for building new facilities or undertaking major modifications at existing facilities that results in increased emissions of PM in both nonattainment and attainment areas. Next month, the Clean Air Scientific Advisory Committee will peer review the science and policy options and provide recommendations to the Administrator. EPA will then issue a proposed rule on its decision to lower the PM_{2.5} NAAQS by summer 2022. The NMA is working with a broad industry coalition to develop comments on this pre-rule activity. Comments on are due Dec. 14, 2021.

EPA and Army Corps Sends "Step One" WOTUS Rule to OMB for Interagency Review



EPA and the Army Corps of Engineers (Corps) are moving swiftly in their effort to revise the definition of waters of the United States (WOTUS). The agencies recently sent the proposed “step one” rule to the Office of Management and Budget (OMB) for interagency review. Based on the agency’s public statements and court filings, we expect this “step one” rule to repeal the 2020 Navigable Waters Protection Rule (NWPR) and address several Supreme Court decisions. OMB review is likely to move relatively quickly, as we understand the agencies’ want to publish a proposed “step one” rule for public comment by the end of the calendar year.

EPA and Army Corps Solicit Proposals for WOTUS Regional Roundtables

On Oct. 13, the agencies announced some detail on their plan to hold 10 virtual regional roundtables across the country to solicit input on the WOTUS reconsideration. The notice has not yet been published in the *Federal Register*, but the pre-publication version is available [here](#). The structure of these regional roundtables appears to be unprecedented; the agencies shifted the burden of organizing the roundtables to stakeholders. The notice instructs stakeholders to organize their own slate of no more than 15 “interested parties and regional participants.” Each proposed slate must include participants representing perspectives from agriculture; conservation groups; developers; drinking water/wastewater management; environmental organizations; environmental justice communities; industry; and “other key interests in that region.” After reviewing the nominations, EPA and Army will select the winning 10 proposals. The agencies plan to hold these virtual roundtables in December 2021 and potentially January 2022.

For purposes of these roundtables, geographic regions are defined as follows:

- Northeast (Maine, Mass., R.I., Conn., N.H., Vt., N.Y., Pa., N.J., Del., Md.)
- Southeast (W. Va, Va., Ky., Tenn., N.C., S.C., Ga., Ala., Miss., Ark., La., Fla.)
- Midwest (Ohio, Ind., Mich., Ill., Mo., Wis., Minn., Iowa, Kan., Neb., S.D., N.D.)
- West (Wyo., Mont., Idaho, Wash., Ore., Nev., Calif., Alaska, Hawaii)
- Southwest (Texas, Okla., N.M., Ariz., Utah, Colo.)

The NMA is working closely with the Waters Advocacy Coalition to determine the best next steps. We have many concerns and questions about the structure and timing of these roundtables and plan to formally request an extension and ask the agencies for additional clarity about how these roundtables will be organized and conducted. The deadline to submit a proposed roundtable slate is Nov. 3, 2021. If you are interested in participating in one of the roundtables, please email cmchale@nma.org as soon as possible.

NMA Weighs in on CEQ Phase 1 NEPA Proposal

This week, representatives from the NMA testified at the Council of Environmental Quality’s kickoff hearings on its “phase 1” proposed rule to nullifying key Trump administration reforms of the National Environmental Policy Act (NEPA) regulations. After providing a backdrop on the increased demand for minerals as we enter the most mineral and metal intensive era in human history, our testimony highlighted the importance of the 2020 NEPA reforms in addressing permit delays. The NEPA aspect of the process historically has been one of the most time consuming – not due to the rigor of the process but due to duplication, bureaucracy and lack of coordination among the relevant agencies – resulting in a permitting process that can take longer than a decade. Additionally, we stressed that abandoning the whole suite of reforms will jeopardize the administration’s agenda, which from infrastructure to a clean energy future, rests on a foundation provided by the nation’s miners.

NMA and EPA Discuss the Work of the Supply Chain Review Interagency Team



The NMA recently met with Jennifer Macedonia, Deputy Associate Administrator for Policy at EPA and chair of the interagency mining working group established pursuant to the White House 100-day review of critical supply chains, [“Building Resilient Supply](#)

[Chains, Revitalizing American Manufacturing, and Fostering Broad-Based Growth.”](#)

Recall the report was an outcome of President Biden’s “America’s Supply Chains” Executive Order, which required the assessment of vulnerabilities for critical minerals and materials. While the report positively recognized the importance of critical minerals and materials as “the building blocks of products we use every day,” it also called for the establishment of “an interagency team with expertise in mine permitting and environmental law to identify gaps in statutes and regulations that may need to be updated to ensure new production meets strong standards before mining begins, during the mining process, and after mining ends.”

The purpose of the meeting was to discuss the task force’s next steps and how NMA can engage with and be a resource for the group. The meeting began with the NMA providing an overview of existing domestic mineral supply chain vulnerabilities including the protracted permitting delays that have resulted in increasing reliance on foreign sources and reduced investment in U.S. projects. Ms. Macedonia and members of her team reported that while the interagency work group has started meeting, it is at very initial stages of conducting its review. She was receptive to future engagement with the NMA to hear the mining industry’s views on the adequacy of the existing legal and regulatory framework to protect the environment. At the meeting, we also took the opportunity to discuss common interest in Good Samaritan cleanups.

NMA and Third Party Voices

Rich Nolan was a guest on yesterday’s [MetroNews](#) discussing new data from the U.S. Energy Information Administration showing a year-over-year increase in coal-fueled electricity generation in 2021 and predicting 22-percent more electricity in the US will be generated from coal in 2021 than in 2020.

[MSN.com](#) (USA) and [Reno Gazette Journal](#) (Nev.) ran an op-ed by Katie Sweeney, Executive Vice President and General Counsel of the National Mining Association, in which she argues proposed legislation will hurt the mining industry just as demand is

expanding and mining is critically needed.

From our third parties, [Casper Star Tribune](#) (Wyo.), [Elko Daily Free Press](#) (Nev.), [Towanda Daily Review](#) (Pa.), [Johnstown Tribune Democrat](#) (Pa.), [Meadville Tribune](#) (Pa.), [The Trentonian](#) (N.J.), [Northwest Indiana Times](#) (Ind.), [Bakersfield Californian](#) (Calif.), [St. Joseph News Press](#) (Mo.), [Pottstown Mercury](#) (Pa.), [Exton Daily Local](#) (Pa.), [Swarthmore Times Herald](#) (Pa.), [Lansdale Reporter](#) (Pa.), [Delaware County Daily Times](#) (Pa.), [Mainline Times and Suburban](#) (Pa.) and [Bluefield Daily Telegraph](#) (W.Va.) all ran an op-ed by Terry Jarrett, an energy attorney and consultant who has served on the board of the National Association of Regulatory Utility Commissioners and the Missouri Public Service Commission, in which he argues an energy transition must be carefully planned to safeguard electricity reliability and affordability.

Mining and Energy News

[Mining Engineering](#) reported on a recent Ernst & Young consulting annual review highlighting the top ten risks and opportunities for the global mining industry environmental, social and governance (ESG) issues. For the first time, environmental and ESG were ranked as the top issues facing the industry.

[Mining.com reported](#) on a new report from ING Economics in which they predict what the ongoing energy transition might bring for five key metals – copper, aluminum, nickel, cobalt, and lithium. ING Economics believes copper demand will grow steadily due to growing demand for electric vehicles, along with more renewable infrastructure and investment in the grid.

[Wall Street Journal](#) reported that metals prices surged to multiyear highs after smelters, facing soaring energy bills and pressure to cut their carbon emissions, curtailed production.

[Canary Media reported](#) that superheated brine trapped deep under the earth beneath California's Salton Sea offers both lithium and renewable energy — and investors are starting to take notice. The U.S. needs a domestic source of lithium, and three companies

are attracting private and public funding for their potentially game-changing efforts to extract lithium from brine in California.

[E&E reported on research](#) by consultancy Rystad Energy indicating that the auto industry's move to electric cars could encounter hiccups caused by a shortage of nickel — one of the most widely used minerals for EV batteries — as soon as 2026.

[Wyoming News](#) reported that a plan for a potential gold and copper mine near Cheyenne, Wyoming, is steadily progressing, with a company putting forth vast community outreach efforts in recent months for a project that could bring hundreds of jobs and millions of dollars to Wyoming.

[E&E Politico Pro](#) reported that the IEA World Energy Outlook 2021 report indicates that coal and oil use rebounded in 2021 despite rapid growth of renewable energy sources, putting the world on a path toward the second-largest annual increase in carbon emissions in history. And [Argus](#) reported that global coal demand, including thermal and coking coal, is likely to rise in the early 2020s before dropping below the 2020 baseline by 2030. A recent [EIA Today in Energy release](#) reported that despite growth in renewables like wind and solar, certain regions of the country will still mainly use coal resources for electricity generation through 2050.

[E&E reported that](#) China's energy shortage raises questions about China's devotion to coal.

[The World Steel Association's](#) October Short-range [Outlook 2021](#) forecasts that steel demand will increase to 1,855.4 million metric tons, up 4.5 percent compared to 2020. In 2022 steel demand is expected to increase to 1,896.4 million tons, up 2.2 percent compared to 2021.

National Coal Council members including the NMA's Rich Nolan approved a new [“Carbon Forward” report](#) for the U.S. Secretary of Energy assessing opportunities to enlist advanced manufacturing techniques to enhance use of coal in new and expanded carbon products markets.

U.S. Energy Information Administration reported annual coal-fueled electricity generation [will increase this year](#) for the first time since 2014.

EIA also forecasted that natural gas prices are likely to [remain elevated](#) through the winter and that while renewables will account for most global generation increases, [coal use remains high](#).

Bloomberg published: “The coal price rally [isn’t ending any time soon](#)” and “Biggest U.S. coal miner [surges 17 percent](#) as global energy crisis boosts demand.”

The Economist published: “The first [big energy shock](#) of the green era.”

Forbes published: “Winter is coming: Can [energy catastrophe](#) be averted?”



Copyright © 2021 National Mining Association, All rights reserved.

Want to change how you receive these emails?

You can [update your preferences](#) or [unsubscribe from this list](#).