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**MINE** Update  
MINING INDUSTRY NEWS E-COMM UPDATE

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## **This Week in the News**

In a last-minute maneuver prior to commencement of U.N. COP26 climate talks in Scotland, the White House last week issued a pared-down \$1.75 trillion reconciliation framework the same day as House leadership released new legislative language for the partisan budget reconciliation package. The move was designed to prompt a House vote on the bipartisan infrastructure bill and the budget reconciliation legislation. However, neither vote happened and both chambers of Congress are planning to be in session only one additional week this month. With the COP26 meetings now winding down, Tuesday election results being analyzed, and the clock ticking toward a December 3 deadline to once again deal with continued government funding and debt limit issues, the situation can only be described as dynamic. 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.

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## Safety Share

Society for Mining, Metallurgy and Exploration maintains an extensive collection of [member-submitted safety shares](#).

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## NMA Fights Anti-Mining Provisions in New House Reconciliation Bill



Last Thursday, House leadership released new reconciliation legislation text with additional pay-fors than what the White House released earlier the same day in its Build Back Better Framework, including hardrock royalties and federal coal production fees; the nearly 1,700 page bill text can be found [here](#), and a section-by-section of the new bill [here](#). Specific items of concern include:

- A 4 percent gross royalty on new hardrock mining claims and a 2 percent on claims subject to a plan of operations with any new land added subject to a 4 percent gross royalty
- Hardrock reclamation funding but with policy riders
- A 18.75 percent royalty on new coal leases
- Repealing deferred bonus payments for coal leases
- Cutting the terms of coal leases in half
- A new severance fee of \$2 per ton on coal production on federal land
- Repeal of the DOI Secretary discretion to award any individual royalty relief

However, a 7 cent per ton dirt tax, some hardrock policy changes originally contained in the House Natural Resources Committee reconciliation legislation, and a 20 percent royalty and significantly increased per acre rental rates for coal produced on federal lands are not included in the latest bill.

The NMA team was immediately in contact with House Democratic leadership, as well as allies across the Hill to express our concerns and confirmed that many members of the House and Senate were not provided advance notice of the text before it was posted. Within the hour of its introduction, [we issued a press release](#) highlighting the provisions as “a direct assault on the security of our nation’s supply chains, (and) on affordable and reliable energy...” By Friday morning the NMA launched an advertising campaign in *Politico* and *The Hill* to spotlight unworkable, punitive fees on hardrock mining, and launched a paid push of a [new video on the global energy crisis](#) to counter the anti-coal provisions.

As the House and Senate continue to spar, and with the importance of our relationship with allies in the Senate at a premium, Ryan Jackson attended a weekend event with Sen. Joe Manchin (W.Va.) and the NMA ran [full-page](#) advertising in outlets across West Virginia thanking Sen. Manchin for his leadership in standing up for affordable, reliable energy for all Americans.

The team continues to work with allied House and Senate members to impact the reconciliation bill process with the goal of removing as many of these provisions as

possible.

NOTE: new text was just released that removes both hardrock and coal royalties, but continues to contain concerning language on federal coal, land withdrawals and permitting. Please see the NMA's memos which have been sent to the [Coal Policy Task Force](#) and [Minerals Policy Task Force](#).

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## NMA Environmental, Social and Governance Website Now Live

The NMA's [Environmental, Social and Governance \(ESG\) webpage is now live](#). It can be found through the [www.nma.org](http://www.nma.org) main page navigation under "About NMA," "Missions & Objectives." The webpage highlights the association's ESG journey, including the creation of our CEO-led ESG Task Force, and our work in advancing progress on ESG issues. Specifically, we discuss the process of building out the association's ESG platform to provide our members with resources, peer-to-peer exchange, and other opportunities to discuss priority ESG matters for the mining industry and our customers. We plan to continue to highlight member companies' stories on the site to illustrate the industry's good work in ESG; a special thanks to Coeur Mining and CONSOL Energy for volunteering to provide our first two video clips, and we welcome additional videos from other members. Please contact [Veronika Shime](#) if you are interested in providing a video or other content for our website.

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## 2021 Election Day Update



Yesterday, Mike Carey won election to Congress to represent Ohio's 15<sup>th</sup> Congressional District. Earlier this year, former Congressman Steve Stivers (R) resigned, setting up a special election the year. Mike is a former NMA company Washington representative for two NMA member companies. He won the Republican nomination in August with a huge vote margin and won last night's special general election with 58.3 percent of the vote. Congratulations, Congressman Carey!

Also, yesterday two gubernatorial elections were held. One was in the mining state of Virginia in a very competitive gubernatorial race where Republican nominee Glenn Youngkin defeated former Virginia Governor and Democratic nominee Terry McAuliffe by a 50.7 percent to 48.6 percent vote margin. This is the first time a Republican has won the governor's race in Virginia in eight years. The majority in the Virginia House of Delegates may also change hands. Before last night's elections, the Democratic majority held a 55-45 seat margin. Although some elections are yet to be called, it appears Republicans have won at least six contests which changes the majority in the House of Delegates. The Virginia State Senate will remain under Democratic control with a 21-19 seat margin with all seats up for election in 2023. Races for Virginia lieutenant governor and attorney general have yet to be called.

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## EPA Takes First Action on New Source Review Regulations

The U.S. Environmental Protection Agency (EPA) recently published a [notice](#) in the *Federal Register* denying a petition for reconsideration and administrative stay of a [final rule](#) promulgated during the Trump administration that clarified the process for evaluating whether a New Source Review (NSR) preconstruction permit is needed when an existing major-emitting facility plans to undertake a physical or operational change. The so-called Project Emissions Accounting Rule clarified that both emission increases and decreases resulting from a project are to be considered during Step 1 of the two-step NSR applicability test. The NMA filed [comments](#) supporting this rule and providing recommendations for the rule's implementation. EPA [denied](#) the petition on procedural grounds and decided not to withdraw the underlying 2018 guidance memorandum. However, the agency expressed sympathy for the three issues petitioners raised, agreeing that there are "potential concerns that warrant further consideration by the EPA." While the agency plans on initiating a rulemaking to consider additional revisions to the NSR regulations to address these concerns, it did not commit to a specific timeframe for doing so. The agency is also still considering whether to withdraw or revise the 2018 guidance memorandum.

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## EPA Extends Deadline for WOTUS Regional Roundtable Proposals After Industry Coalition Requests Extension and Transparency

The EPA just announced its plan to extend the deadline for interested parties to submit proposals to participate in a series of virtual regional roundtables to solicit input on its "waters of the United States" (WOTUS) rulemaking. Citing "robust interest in these regional

roundtables,” the agencies extended the deadline to submit proposals to **Dec. 1, 2021**. A notice providing this extension is forthcoming.

Recall that last week, the Waters Advocacy Coalition sent a [letter](#) to the agencies urging them to extend the proposal deadline. The letter also addressed several questions and concerns that NMA members raised about the transparency of the process. For more background information on the unorthodox process that requires stakeholders to propose their own roundtables for the agencies’ consideration, please review the NMA’s Oct. 15 [memo](#) and Oct. 27 [memo](#).

Please email Caitlin at [cmchale@nma.org](mailto:cmchale@nma.org) as soon as possible if you are interested in participating in one of these roundtables and would like to discuss or coordinate with NMA.

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## **Business Coalition Appeals Arizona Order Vacating NWPR**

On Oct. 25, the Arizona business coalition (which includes the NMA) that intervened to defend the Navigable Waters Protection Rule (NWPR) filed a motion asking the court to [stay](#) its Aug. 30 vacatur order pending an appeal to the U.S. Court of Appeals for the Ninth Circuit. The coalition’s brief explained that the court’s vacatur order was erroneous and requested that the court stay part of the order pending appeal for two reasons. First, the Court did not weigh the seriousness of the NWPR’s errors because it has not ruled on Plaintiffs’ challenges to the NWPR, which is a prerequisite for vacatur under the Administrative Procedure Act. Second, vacatur of the NWPR and return to the pre-2015 regime pending issuance of yet another new rule would be unduly disruptive to the regulated community, and those harms far exceed any speculative injury asserted by Plaintiffs. The NMA will keep you informed of any developments in this process. For more background information on this case, please review NMA’s Aug. 30 [memo](#).

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## NMA and Third Party Voices

Rich Nolan is quoted in a [North of 60 Mining News](#) report on a recent agreement between Vital Metals Ltd. and Ucore Rare Metals Inc., which marks a major milestone in establishing a complete North American rare earths supply chain with links in Northwest Territories, Saskatchewan, and Alaska.

The NMA is mentioned in a [Courthouse News Service](#) story on the Biden administration's move to dissolve two rule changes from the Trump era that it alleges lightened protections for endangered species.

From our third parties, [Omaha World-Herald](#) (Nebr.) carries an op-ed by Barry Butterfield, a retired engineer and emeritus member of the American Nuclear Society, in which he argues in Nebraska and across the Midwest, nuclear power and coal are playing a key role in electricity generation, something we can't afford to overlook.

[Forbes](#) (N.Y.) carries an op-ed by Jude Clemente, a Principal at JTC Energy Research Associates, LLC, in which he argues coal is ingrained in the world's gigantic energy complex and the energy crunch is likely to make coal even more important in the eyes of major users.

## Mining and Energy News

[The EIA Electric Monthly Update](#) for October shows that total U.S. coal stockpiles had a month-over-month decrease of 13.2 percent, reaching 84 million tons in August 2021. This is the lowest monthly level of U.S. coal stockpiles since these statistics began collection in 2001. The drop is attributed to a decrease in output from China.

[Argus Media \(subscription\)](#) reported on EIA's recent Electric Power Monthly data showing that U.S. coal-fueled generation rose in August to its highest monthly level in

three years amid higher natural gas prices and warmer than normal weather. But coal power may be limited by tight supply and shrinking coal inventories.

[S&P Global](#) reported that coal-based power has begun ceding market share to natural gas in the Midwest Independent System Operator (MISO) recently, reversing a months-long fuel-switching trend precipitated by high gas prices.

MISO warned that it could face capacity shortfalls this winter, while also raising concerns that generators across the Eastern U.S. could have a [hard time getting coal](#).

*Bloomberg* reported that utility coal stockpiles are at the [lowest levels](#) since at least 1997 and that: “U.S. coal miners are [‘sold out’ for 2022](#).”

*New York Times* reported on the dramatic ramp up of [Chinese coal production](#).

*Reuters* published: “COP26 aims to banish coal. Asia is building [hundreds of power plants](#) to burn it.”

[In a recent Today in Energy report](#), EIA noted that Exelon, the owner-operator of Illinois’s six nuclear power plants, recently [announced](#) that the Byron and Dresden nuclear plants will continue operating rather than retire this fall as previously planned.

[Politico Pro](#) reported that the construction of small modular nuclear reactors at former coal-fueled power stations could replace or add jobs in communities grappling with the gradual transition away from coal use, according to a new report.

*Bloomberg* published: “EVs [have lithium booming](#) — and this time, there is no bust in sight.”

[Grist](#) reported that there is growing tribal opposition to a Nevada lithium mine.

[S&P Global reported](#) on recent internal survey data showing that the global exploration budget for metals jumped 35 percent year-on-year to \$11.2 billion.

[Kitco reported](#) that China's [gold](#) consumption in the first nine months of 2021 rose a massive 48.4 percent to 813.6 metric tons, according to the China Gold Association.

[Forbes reported](#) on researchers who have uncovered two metal-rich near-Earth asteroids (NEAs) that could one day be mined for iron, nickel and cobalt that could be used on Earth or in space.

[Mining.com](#) reported on the need for minerals in the energy transition, but urgency for the issue is missing from events like COP26.

[The Silver Institute's](#) October newsletter includes a story on the growth prospects for silver use. The Institute's forecast is based in a recent report by CRU indicating that "the use of silver in electronics and electrical applications (excluding photovoltaics) is forecast to rise from 224 million ounces (Moz) in 2020 to 246 Moz in 2025, reflecting a 10 percent increase, and underscoring silver's role in emerging technologies."

[The World Gold Council's recent trends data](#) for the 3<sup>rd</sup> quarter shows demand for gold fell 7 percent for the year and 13 percent for the 3<sup>rd</sup> quarter to 831 tons, primarily due to outflows from gold-backed exchange-traded-funds (ETFs).



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