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MINE Update
MINING INDUSTRY NEWS E-COMM UPDATE

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This Week in the News

As the White House turned attention to voting rights and the Senate became embroiled in related filibuster brinkmanship, the House returned to session with numerous members opting for proxy voting during the Omicron COVID surge. In this unsettled political environment, 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

Recent tragedies in Philadelphia and New York City are a good reminder of a fire safety basic: [Smoke alarm](#) installation and maintenance.

NMA Participates in Joint House Natural Resources Committee/Congressional Western Caucus Forum on Domestic Mining



This Thursday, Ryan Jackson, Senior VP for Government and Political Affairs at the NMA, will participate in a joint forum titled, "Minnesota Mining and American Potential: An Opportunity for a Brighter and More Secure Future." Julie Padilla, Chief Regulatory Officer for Twin Metals Minnesota, and Mark Compton, Executive Director for the American Exploration & Mining Association, will also participate. The forum, hosted by House Natural Resources Committee Republicans and the Congressional Western Caucus, will discuss mineral development in Northern Minnesota, the Obama-era mineral withdrawal process [reinitiated](#) by the Biden administration last October, and the need for greater domestic production of metals and minerals necessary for key industries. The forum will begin at 10:00 a.m. on Thursday, January 13, and be live streamed on the committee's YouTube channel, which can be found [here](#).

NMA Testifies at EPA's WOTUS Hearing

Today, the Caitlin McHale, Associate General Counsel at NMA, participated in the EPA and Army Corp's first virtual public hearing on the proposed rule redefining "waters of the United States" (WOTUS). More than 200 stakeholders, including representatives from agriculture, industry, state and local governments, and environmental groups participated in the hearing and approximately 40 provided verbal testimony. At the outset, the NMA reiterated the importance of the mining sector to achieving this administration's priorities and the central role of the mining industry in supporting the nation's manufacturing, infrastructure, medical, defense and technology supply chains. The NMA also explained the confusion that promulgating four WOTUS definitions in less than 10 years has caused for mining operators on the ground.

We then turned to three main points regarding the proposed rule. First, we urged the agencies to provide additional clarity on the longstanding waste treatment system exclusion. While we appreciate the inclusion of the waste treatment system exclusion in the proposed rule, we encouraged the agencies to clarify the exclusion to ensure that systems constructed prior to 1972 qualify for the exclusion, and ensure that the exclusion applies to both active and passive systems. Second, we explained how the proposed rule is not merely a return to the pre-2015 regulatory framework as the agencies assert. Rather, the proposed rule is an expansion of the agencies' pre-2015 practice and does not provide clarity on fundamental concepts and definitions needed for clear and consistent implementation. Finally, we urged the agencies to extend the comment period and engage in more robust public engagement. Like the agencies, the NMA and other stakeholders want a durable definition of WOTUS, but rushing this process without any justification for the urgency will only create more confusion and uncertainty.

Biden-Harris Administration Defends 2019 Environmental Analyses Evaluating Coal Leasing Impacts in PRB



Last week, the administration filed a [brief](#) in the U.S. District Court for the District of Montana in defense of a supplemental environmental impact statement (EIS) prepared by the previous administration for certain coal leasing areas in the Powder River Basin (PRB) of Montana and Wyoming. The supplemental EIS was prepared in response to a 2018 Montana District Court decision that the Resource Management Plans and EIS prepared by the Bureau of Land Management's (BLM) Field Offices in Miles City, Montana, and Buffalo, Wyoming, failed to satisfy certain requirements of the National Environmental Policy Act (NEPA). Specifically, the court ordered BLM to consider certain alternatives to and impacts of development in the Powder River Basin. The 2019 supplemental EIS BLM developed in response was subsequently challenged as further violating NEPA by failing to consider a reasonable range of alternatives or analyze the downstream effects of non-greenhouse-gas emissions. The government's brief defends the BLM's range of alternatives and analyses of potential emissions.

Congress Begins New Ports and Waterways Infrastructure Bill



Today, the U.S. House Committee on Transportation and Infrastructure began the legislative process to develop a Water Resources Development Act for 2022 (WRDA). The [hearing](#) titled, “Proposals for a Water Resources Development Act of 2022: Administration Priorities,” included testimony from the Assistant Secretary of the Army for Civil Works and the Chief of Engineers for the U.S. Army Corps of Engineers and provided committee members the venue to highlight their districts’ priority projects and to request specific issues to be addressed in the 2022 legislation. Key issues raised during the hearing included: the importance of the Environmental Protection Agency and the Army Corps to create a durable definition for WOTUS; closing potential loopholes that circumvent Buy America provisions; and granting Other Transaction Authority for Army Corps civil works projects, increasing the use of the cross-credit system, and streamlining land transfer processes to efficiently implement Army Corps projects.

Significant funding for waterways and harbors was accomplished in 2021 through the Infrastructure Investment and Jobs Act finally enacted in November. The new law included \$17 billion for waterways, harbor maintenance, port, and environmental work, with \$2.5 billion specifically for the Inland Waterways Trust Fund. Additionally, this year Congress provided just over \$100 million for the fund, with ongoing funding in the Continuing Resolution that expires on February 18. The Harbor Maintenance Trust Fund received \$1.5 billion in the infrastructure bill, and through WRDA 2020, received \$25 billion more over the next 10 years. The U.S. Senate will hold a similar [hearing](#) this afternoon to begin its work on WRDA 2022. The NMA will engage with Congress and a coalition of six trade

associations to influence the WRDA 2022 legislative process to ensure funding for the trust funds, maintain priority preference for energy transfer ports, and support the implementation of funding outlined in the infrastructure bill.

EPA Extends Comment Period on Guidance for Implementing Aluminum Water Quality Criteria

This week, the Environmental Protection Agency (EPA) granted the NMA's [request](#) to extend the deadline for public comment on its second [draft technical support document](#) (TSD) for implementing the 2018 recommended aquatic life water quality criteria for aluminum. The previous comment deadline was Feb. 7, 2022. Comments are now due March 9, 2022 and must be emailed to wqs-implementation@epa.gov.

Recall that the draft TSD is intended to help states and tribes wishing to adopt and implement EPA's recommended criteria and addresses the following topics: (1) adopting the criteria into state or tribal water quality standards; (2) technical questions on the criteria calculator, sampling, and laboratory analysis; (3) characterizing spatial and temporal variability of input parameters to develop protective criteria values; (4) handling missing or insufficient data when using the criteria calculator; (5) implementing the criteria in National Pollutant Discharge Elimination System permitting; and (6) implementing the criteria in assessments, listings, and Total Maximum Daily Loads. The NMA commented on the first draft TSD when it was released in 2019 and plans to file comments on this version as well.

White House Releases Scientific Integrity Task Force Report

The White House Office of Science & Technology Policy (OSTP) released a [report](#) by its Scientific Integrity Task Force, identifying directions for strengthening federal policies and practices in the U.S. Government. The report is a call to ensure accurate, evidence-based

policymaking and to restore public trust in government. In the coming months, the OSTP will develop a plan for the regular assessment and iterative improvement of scientific integrity policies and practices.

EPA Proposes to Amend Air Standards for Primary Copper Smelters



Yesterday, the EPA [proposed](#) to amend the 2002 National Emission Standards for Hazardous Air Pollutants (NESHAP) for primary copper smelting major sources and the 2007 NESHAP for primary copper smelting area sources. Following a residual risk and technology review conducted under the Clean Air Act, EPA is proposing the following amendments the agency claims “would enhance the effectiveness of the major source standards by adding new standards for previously unregulated sources, and improving compliance and implementation.” Specifically, EPA is proposing to: (1) add new standards for particulate matter (as surrogate for hazardous air pollutants metals) that would apply to anode refining furnace point source emissions and roofline emissions from anode refining furnaces, smelting furnaces, and converters; (2) add new mercury standards for a combination of point source emissions from the converters, smelting furnaces, and anode

refining; (3) add new work practice standards for fugitive dust control; (4) revise requirements for periods of startup, shutdown and malfunction to be consistent with recent court decisions; and (5) require electronic reporting. The comment period ends on Feb. 25, 2022, with comments on the information collection provisions due Feb. 10, 2022.

Mining and Energy News

The U.S. Geological Survey's third quarter mineral commodities [production report](#) estimates that there was an overall increase in production for base metals, precious metals and construction materials in the third quarter of 2021 as the U.S. economy improved. In the first nine months of 2021, copper production was up slightly, zinc production was up 5 percent, while gold production dropped 6 percent and molybdenum production dropped 16 percent.

The Bureau of Labor Statistics' (BLS) recent [employment report](#) with preliminary December data shows improved mining industry employment levels towards the latter half of 2021.

[S&P Global](#) reported that U.S. uranium company Energy Fuels Inc. is adapting its existing infrastructure to process monazite and produce rare earth carbonate at its White Mesa mill in Utah.

[The New York Times](#) reported that mining of lithium, which is key to battery technology, faces new scrutiny by politicians in Chile.

[The Wall Street Journal](#) carries an op-ed arguing that instead of using its own reserves, the U.S. is betting on its rivals' rare earths.

[E&E News reported](#) that U.S. coal plant retirements fell to their lowest levels in seven years during 2021 as the industry enjoyed a revival amid rising natural gas prices and a slight bump in electricity demand.

[Argus](#) reported that U.S. coal production rose by about 10 percent last quarter from a year earlier amid higher domestic and international demand.

[Bloomberg \(subscription\)](#) reported that “the energy crisis roiling markets in Europe is a preview of what the U.S. will face over the next 10 years as it shifts to cleaner power sources,” according to Ed Morse, Citigroup's global head of commodities research.

[E&E News](#) reported that France is considering a plan to allow electricity producers to burn more coal after the nation’s grid operator warned of possible power shortages.

[E&E News](#) reported on why Germany is moving away from coal and why the U.S. might not follow. [E&E News](#) also reported that the German government said that it considers nuclear energy dangerous and objects to European Union proposals that would let the technology remain part of the bloc's plans for a climate-friendly future.

Forbes published: “How Europe’s energy crisis could force the EU to [adopt more sensible policies](#).”

[Argus Media \(subscription\)](#) reported that coal-fueled power decreased 28 percent in December in the PJM Interconnection power region due to milder weather and low coal stocks at some power plants.

[Argus Media \(subscription\)](#) reported on U.S. Department of Commerce data showing that U.S. coal exports fell from year earlier levels for the first time in 10 months in November due to a drop in metallurgical coal shipments. Exports dipped to just under 7 million short tons in November, slightly lower than November 2020.

[E&E Energywire](#) reported that the world’s sole carbon capture project on a large coal power plant caught 43 percent fewer metric tons of carbon dioxide in 2021 compared with the year before, according to new data from the Canadian utility company operating the project.

Wall Street Journal published: “Today’s soaring energy prices are [only the beginning](#).”

Texas Tribune reported: “Natural gas production dropped during recent cold front, [reviving concerns](#) about electric grid.”

POWER published: “Power sector risks [loom large](#) over the energy transition.”



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