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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

Congress departed for summer recess (and the campaign trail) leaving a number of contentious issues for the fall as the presidential investigations heat up. Meanwhile, the administration's regulatory agenda begins to face growing opposition in Congress. 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

Summer vacation will be winding down soon. The National Safety Council has a [back to school safety checklist](#) for the kids.

NMA Oversight Strategy Targets Spending Bills

As Congress begins the August recess, the NMA is already working to implement a coordinated strategy to ensure that mining-supported provisions included in the House and Senate Appropriations Committees' spending bills remain in any final negotiated bill Congress advances this fall. So far, significant priority provisions and report language have been included in several of the House and Senate Appropriations Committee spending proposals, including in the Interior-Environment, Energy and Water, and the Financial Services and General Government bills. A summary of all relevant provisions can be found [here](#).

This fiscal year ends Sept. 30, and a stop gap continuing resolution to keep the government funded will be necessary while these bills are negotiated in the Senate and House. The NMA will work with appropriators and staff, along with leadership of both chambers to convey the importance of their oversight authority and each provision's impact on energy security, reliability and overall economic competitiveness.

NMA Files Legal Challenge on EPA's Ozone Transport Rule and Requests Stay

Earlier this week, the NMA filed a [petition for review](#) in the U.S. Court of Appeals for the District of Columbia Circuit (D.C. Circuit) challenging the U.S. Environmental Protection Agency's (EPA) final Ozone Transport Rule that goes into effect on Aug. 4. The final rule applies to coal plants in 22 covered states and is designed to eliminate nitrogen oxide emissions determined by EPA to significantly contribute to downwind nonattainment and maintenance concerns under the 2015 ozone National Ambient Air Quality Standards. This morning, the NMA also joined other utility and industry stakeholders in filing a [motion](#) requesting the D.C. Circuit to stay the final rule. We assert that "[a]bsent a stay, the plan will impose devastating, unrecoverable costs on sources throughout the country, for premature plant closure, and exacerbate electric reliability issues." Currently, twelve states have challenged the EPA's disapprovals of their State Implementation Plans (SIPs) and five regional courts of appeals have already stayed those disapprovals for ten states. While those stays are in effect, EPA's Ozone Transport Rule is unenforceable in those states. Notably, 84 percent of the power plant emissions reductions (and their associated trading program allowances) and 57 percent of the emission reductions from all other sources are now excluded from the final rule. Accordingly, we argue that a stay is required given that the final rule was predicated on emissions trading and reductions that is no longer possible.

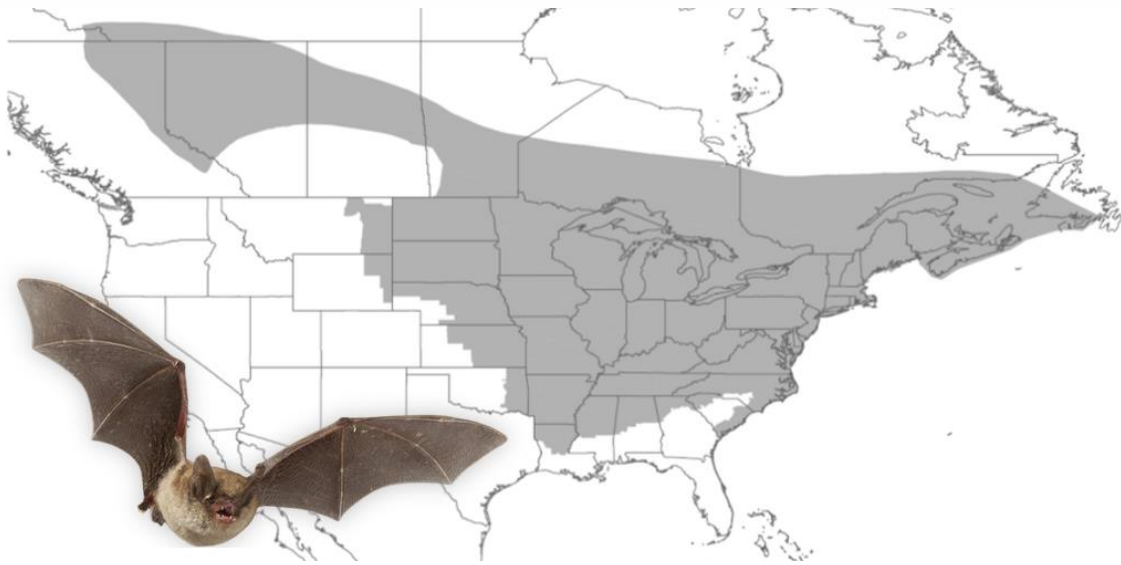
Senators call on EPA to Withdraw "Clean Power Plan 2.0" Rule



A group of 39 Republican senators led by Senator Shelley Moore Capito (R-W.Va.), Ranking Member of the Environment & Public Works Committee, and Senate Republican Leader Mitch McConnell (R-Ky.) [**demanded the Environmental Protection Agency \(EPA\) Administrator Michael Regan withdraw the EPA’s “unlawful” power plant carbon proposal**](#), otherwise known as the “Clean Power Plan 2.0”. The senators argued that the proposed rule is unlawful because it exceeds EPA's authority under the Clean Air Act, requires adopting cost-prohibitive emissions control technologies, and forces generation shifting. They also questioned whether enough carbon pipelines and injection sites could be permitted and built to meet the draft rule's deadlines. The rule would set new emissions standards for power plants, but the senators argued that it is too burdensome and would negatively affect electricity reliability and infeasible given compliance timeframes. The letter also criticized the EPA for failing to provide adequate public participation opportunities and releasing updated modeling after the proposed rule was released without providing additional time to comment. The senators urged EPA to withdraw the rule and to work with Congress to develop a more effective and feasible approach to reducing greenhouse gas emissions from power plants. The letter follows several Senate hearings on powerplant reliability and NMA’s ongoing

strategy to educate and conduct oversight regarding the impacts of EPA's rulemaking and the impacts on the states and the economy.

Congress Pushes Back on ESA Listings



Last week, the House passed two joint resolutions under the Congressional Review Act (CRA) already passed by the Senate, disapproving separate species listings under the Endangered Species Act (ESA). Specifically, **S. J. Res. 24** would nullify the endangered status of the Northern Long-Eared Bat (NLEB), and **S. J. Res. 9** would nullify the threatened status for the Northern Distinct Population Segment and endangered status for the Southern Distinct Population Segment of the Lesser Prairie-Chicken. While congressional action on the CRAs affecting these species is beneficial to show overall congressional support, the House Interior and Environment (I-E) appropriations bill for fiscal year 2024 (**H.R. 4821**) also includes language prohibiting the administration from pursuing or finalizing listing decision for these two species. Additionally, the Senate's Interior and Environment appropriations bill, which passed out of committee last week also included report language related to the NLEB,

encouraging greater coordination between the U.S. Fish and Wildlife Service and private landowners to support species conservation outcomes. The Senate has already approved both joint resolutions, and the White House has issued a veto threat for both. The NMA will continue to engage with the House Congressional Western Caucus and the Natural Resources Committee's newly created ESA Working Group on additional opportunities to address listing designations impacting the mining industry.

Energy Department Adds Copper, Titanium to List of Critical Materials Eligible for Tax Credits

This week, the Department of Energy [announced](#) the addition of copper and titanium to the list of materials prioritized for investment opportunities across DOE's various programs, including the Inflation Reduction Act [48C tax credit](#) and the Critical Minerals Research, Development, Demonstration and Commercialization [Program](#) activities. You can view the full 2023 list of DOE Critical Materials [here](#). In June, the NMA engaged with DOE and [submitted comments](#) to inform DOE's proposed critical material list and argued for the inclusion of additional minerals, including silver, phosphate, gold, boron and uranium. The NMA is continuing to work with its members to engage DOE and advocate for the addition of these minerals and to ensure existing funding opportunities are inclusive of the newly added minerals.

NMA Meets with OMB on Final WOTUS Rule



This week, the NMA and member companies met with the Office of Management and Budget (OMB) on the EPA and Army Corps' final "waters of the United States" (WOTUS rule). Recall that the agencies plan to issue a new final WOTUS rule by Sept. 1, 2023. In the meeting with OMB, the NMA highlighted several procedural and substantive concerns. Specifically, we questioned the agencies' decision to move directly to a final rule without allowing stakeholder engagement; explained how the changes the agencies need to make in the final are not "ministerial" as the agencies have suggested, but are instead more complex and require significant analysis; raised potential federalism concerns; and urged the agencies to resume issuing approved jurisdictional determinations so that important mining projects can move forward.

CEQ Proposes NEPA Phase 2 Rulemaking

This week, the Council on Environmental Quality (CEQ) published a [Notice of Proposed Rulemaking](#) to substantially revise its regulations for implementing the National Environmental Policy Act (NEPA), as the second phase of the

Biden-Harris administration's multi-phased rulemaking under NEPA. CEQ colloquially refers to the proposal as the "Bipartisan Permitting Reform Implementation Rule," but importantly, this proposal is not in keeping with the spirit or the bounds of the NEPA reforms negotiated in the Fiscal Responsibility Act (FRA) debt ceiling negotiations and statute changes under the new law. Rather, the proposed rule asserts broader changes to NEPA are needed to provide an effective environmental review process that: promotes better decision making; ensures full and fair public involvement; provides an efficient process and regulatory certainty; and is grounded in science, including the consideration of relevant environmental, climate change, and environmental justice (EJ) effects. The NMA's summary of the proposed rule is available [here](#). Comments are due Sept. 29, 2023.

EPA Finalizes New Asbestos TSCA Reporting Requirements for Mining

Last week, the EPA published a [final rule](#) requiring a new reporting and recordkeeping obligation for asbestos under the Toxic Control Substance Act (TSCA). EPA is requiring certain companies to obtain information that is "known to or reasonably ascertainable by" domestic manufactures (which includes mining and milling), importers (including importers of mixtures containing asbestos, articles containing asbestos, and impurities (in articles, bulk materials, or mixtures)), and processors at any time during 2019 to 2022. Notably, this applies to *bulk materials containing asbestos*, which are defined as bulk materials in which asbestos is being mined or milled as an impurity. If your business is involved in at least one of these three listed activities and has an annual sales threshold of \$500,000, you must report asbestos in your operation. For example, asbestos domestic manufacturers must provide the quantity manufactured of each asbestos type, activity for each asbestos type

(i.e., mining and/or milling), and employee exposure information associated with each activity. This is a one-time reporting obligation on asbestos that the EPA and other federal agencies will consider in potential future actions, including EPA's TSCA risk evaluation on asbestos. This reporting rule becomes effective on August 24, 2023. Companies will have up to nine months from this date (May 24, 2024) to collect and submit all required information to EPA. There will be a three-month reporting window, which will begin six months following the effective date (or February 24, 2024).

Senate Fails to Pass Extension of CFATS Before Reauthorization Deadline

Last week, the Senate failed to reauthorize the Chemical Facility Anti-Terrorism Stands (CFATS) program, which expired July 27, before leaving for the August recess. The clean, two-year reauthorization legislation – the Protecting and Securing Chemical Facilities from Terrorist Attacks Act of 2023 (**H.R. 4470**), which passed the House of Representatives by a vote of 409-1 the week prior, was blocked by Sen. Rand Paul (R-Ky.) who cited a rushed congressional review, duplicative federal regulations, and the country's financials that fund the CFATS **program**. Although the program has expired, industry groups have announced their intention to continue implementation of the program on a voluntary basis. As a member of a larger CFATS stakeholder coalition that has advocated in favor of a clean reauthorization of the program, the NMA continues to support immediate congressional action to reinstate the program to protect against increased risk of terrorist attacks at facilities across the U.S.

Responses Requested for NMA's Quarterly Rail Survey



The NMA continues to hear from several members regarding ongoing freight rail service issues and recovery efforts involving Class I rail carriers, particularly in the eastern US. To further assess these rail issues and impacts, the NMA would appreciate your feedback on an anonymous survey. The data from this survey will be used for further engagement with Congress, the Surface Transportation Board, and others to illustrate the rail service concerns of NMA members, and to stress that more relief is needed. Click [here](#) to fill out the seven-minute survey. We ask that all NMA members please submit responses to the survey by **Friday, Aug. 4, 2023.**

NMA Hosts the World Coal Association



This week the NMA is hosting the leadership of the World Coal Association with a series of meetings in Washington, D.C. WCA CEO Michelle Manook, WCA Strategy and Sustainability Director Paul Baruya, WCA International Policy Analyst Shyam Palav, and WCA Business Development and Membership Director Daleen Lopez-Ruiz are meeting with a bipartisan group of congressional offices including Senate Energy and Natural Resource Chairman Joe Manchin (D-W.Va.) and Ranking Member John Barrasso (R-Wyo.), Senate Public Lands, Forestry and Mining Subcommittee Ranking Member Mike Lee (R-Utah), Congressional Coal Caucus co-chairs Harriet Hageman (R-Wyo.), Carol Miller (R-W.Va.), and Morgan Griffith (R-Va.), House Natural Resources Committee, House Transportation and Infrastructure Committee, other key Senate and House offices, and with officials from the U.S. Department of Energy's Fossil Energy and Carbon Management Office. This provided a unique opportunity for both the NMA and WCA to provide an international perspective to interested congressional offices and get an update on key U.S. investments in carbon sequestration and carbon utilization research and development from the DOE.

NMA and Third Parties In the News

Rich Nolan has a [new blog](#) on the need for permitting reform and the potential damage that could be caused by adverse recommendations in the yet-to-be-released Interagency Working Group.

[The New York Sun](#) quotes Rich Nolan in a story noting that mining companies and environmental groups are battling over mines on American soil as the demand for critical minerals such as lithium increases.

[AgDaily](#) mentions the NMA in a report on the Waters Advocacy Coalition's letter to the EPA urging them to reconsider their interpretation of the definition of Waters of the United States, as the EPA has failed to hold a public hearing on the matter.

The NMA is mentioned in an [E&E Energywire](#) story on the World Coal Association's visit to Washington this week.

[Energy Portal](#) and [Desmog](#) mention the NMA in reports on industry reactions to EPA proposals.

The [Akron News](#) quotes the NMA in a report on black lung disease.

[Pit & Quarry](#) mentions the NMA and NMA rebrand in an interview with Clark Mica of the Institute of Makers of Explosives.

From our third parties, the [Lincoln Journal](#) (W.Va.) carries an op-ed by Tom Madison, an infrastructure consultant and the former administrator of the U.S. Federal Highway Administration, in which he argues America is stuck in a perpetual permitting crisis.

[**The Messenger**](#) (Fla.) carries an op-ed by Bernard Weinstein, an emeritus professor of applied economics at the University of North Texas, retired associate director of the Maguire Energy Institute at Southern Methodist University, and a fellow of Goodenough College, London, in which he argues retiring coal plants is a danger to grid reliability.

Mining and Energy News

[**Mining.com**](#) reported that a fall in global copper prices is forcing small and medium size mine operators to cut back on production.

[**E&E Daily**](#) reports that as prospects remain murky for bipartisan permitting reform in Congress, top Senate Democrats are turning to new strategies.

[**World Steel Association's**](#) latest monthly estimated data for June shows world crude steel production for the major producers was 158.8 million metric tons (Mt) in June, a 0.1 percent decrease compared to June 2022.

[**Argus**](#) reported that Western Canadian coal exports were only partially disrupted by the union member strike July 1-13 at the port of Vancouver. The union workers (ILWU) have since returned to work.

[**The Washington Post**](#) reports the Texas power grid is in danger again because of the inability of renewables to meet energy demand in the state during the hot summer months.

[**Argus**](#) reported that U.S. coal generation and coal consumption fell year-over-year in May for a fifth straight month as milder weather curbed overall electric power demand.

[**Argus**](#) and [**EnergyWire**](#) reported that the Energy Information Administration (EIA) has decided not to publish its *Annual Energy Outlook* for 2024 so it has time to make “substantial updates” to the modeling used to prepare the influential report. The report that would normally have been published in March 2024 will not be available until some point in 2025.

[**Bloomberg**](#) reported on International Energy Agency (IEA) projections indicating that the world’s coal demand is expected to remain at all-time highs this year as increased industrial use offsets a fall in power generation.

[**Climatewire**](#) reported that the U.S. is waging a global charm offensive to obtain the minerals it needs to replace fossil fuels with cleaner energy. Its latest target is a resource-rich country wedged between China and Russia, two U.S. adversaries.

[**Bloomberg**](#) reported that PJM Interconnection LLC declared a level one emergency for the 13-state eastern U.S. grid and called on all power plants to operate at full capacity last Thursday during a heat wave.

[**Greenwire**](#), [**Politico Pro**](#) and others reported that the state of Alaska is taking the Pebble mine fight to the Supreme Court.

[**Argus**](#) reported that global coal demand reached a new record high in 2022 of more than 8.3 billion metric tons, driven by demand in China and India, according to IEA.

[**Visual Capitalist**](#) graphically describes the major countries that are the most reliant on coal. In 2022, global consumption of coal surpassed 8 billion metric tons in a single year for the first time, with China and India being the two biggest consumers in absolute terms.

[Argus](#) reports eastern U.S. railroad Norfolk Southern (NS) expects coal volume to rise in the back half of 2023 as strength in export markets offsets weaker utility demand.

[Energywire](#) reported that the head of the globe’s top coal industry group, the World Coal Association, is on a quest to prove that 100 percent renewable energy “doesn’t work.” This week, she’s bringing that message to Washington.

Commodity Prices

Commodity Price - Snapshot		
Metals Prices	Date	Price
Cobalt Spot Price (\$/lb)	8/1/23	\$15.15
Copper Spot Price (\$/lb)	8/2/23	\$3.82
Gold Spot Price (\$/ounce)	8/2/23	\$1,936.74
Lead Spot Price (\$/lb)	8/1/23	\$0.97
Lithium Spot Price (\$/kg)	8/2/23	\$36.85
Molybdenum Spot Price (\$/kg)	8/1/23	\$52.63
Nickel Spot Price (\$/lb)	8/1/23	\$10.04
Silver Spot Price (\$/ounce)	8/2/23	\$23.73
Steel HRC Price (\$/mt)	8/2/23	\$775.18
Steel Rebar Price (\$/mt)	8/2/23	\$523.36
Zinc Spot Price (\$/lb)	8/2/23	\$1.12
Energy Prices	Date	Price
Coal Price - Australian Premium Coking Coal Futures (\$/mt)	8/1/23	\$244.25
Coal Spot Price - Central Appalachian (\$/st)	7/28/23	\$62.25
Coal Spot Price - Newcastle futures (\$/mt)	8/2/23	\$133.61
Coal Spot Price - Rotterdam futures (\$/mt)	8/2/23	\$104.00
Natural Gas Spot Price - Henry Hub (\$/mmbtu)	7/26/23	\$2.61
Uranium Spot Price (\$/lb)	7/31/23	\$56.25

Sources: publically available data from eia.gov, dailymetalprice.com, tradingeconomics.com, sgxgroup.com, investing.com

CORESafety



In the August edition of CORESafety TV we review Module number 15, Behavior Optimization.



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