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# MINE Update

MINING INDUSTRY NEWS E-COMM UPDATE

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## This Week in The News



The U.S. House of Representatives remained at an effective standstill as it continued its struggle to elect a new speaker with Jim Jordan (R-Ohio) twice failing to receive the necessary 217 votes. As Jordan and his supporters continue to work to find more votes, additional discussions about naming Speaker Pro Tempore Patrick McHenry (R-N.C.) as interim speaker are growing louder. The Senate returned to session in a landscape significantly altered by the House turmoil and with a laser focus on the sudden war in Israel. With the political environment shifting daily, 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 energy and markets are faring.

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## Safety Share

The National Safety Council has tips to enjoy a [safe and healthy fall season](#).

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## NMA Joins Industry Allies and States in Seeking a Supreme Court Stay of EPA's Ozone Transport Rule

The NMA filed an [emergency application](#) for immediate stay of the U.S. Environmental Protection Agency's (EPA) Ozone Transport Rule pending the disposition of the challenges filed in the U.S. Court of Appeals for the District of Columbia Circuit (D.C. Circuit). The NMA joined nine industry parties, including trade association allies and electric cooperatives, in arguing that the Ozone Transport Rule is "irreparably flawed." Over the last several months, seven regional circuits have stayed EPA's disapproval of 12 state implementation plans (SIPs), which act as the predicate for the implementation of the federal

plan. Yet, EPA is charging forward in implementing the Ozone Transport Rule in 11 states. Our stay application emphasizes that “EPA’s willful decision to move forward has simultaneously abrogated the rights of States to regulate air pollution within their borders and improperly forced industries regulated by the Federal Plan into the immediate expenditure of hundreds of millions of dollars pending the lower court’s review, all while jeopardizing the reliability of the grid.” Ohio, Indiana and West Virginia also filed a [separate application](#), arguing that “EPA’s rulemaking ignored obvious problems with its attempt to twist the Clean Air Act into a system of top-down regulation instead of the system of cooperative federalism that Congress intended.” A divided panel on the D.C. Circuit recently denied our and the states’ stay requests by a 2-1 margin. Our requests to the Supreme Court are the last available legal channel to halt the Ozone Transport Rule nationwide pending the D.C. Circuit’s consideration of the merits of our challenges. Currently, nearly 90 percent of the emissions limitations in the Ozone Transport Rule are blocked because of the regional circuit stays.

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## **NMA Members Testify Before Rail Energy Transportation Advisory Committee**



Today, NMA members Paul Lang, CEO of Arch Resources, Inc., and Adam Anderson, CEO of Western Fuels, spoke on behalf of coal producers and shippers at the Surface Transportation Board’s Rail Energy Transportation Advisory Committee (RETAC) regarding rail reliability. Lang and Anderson noted that, despite service improvements, there is more work for the railroads to do. Pointing out the inherent volatility in the energy markets, they stressed the importance of facilitating U.S. energy exports in the face of unprecedented geopolitical turmoil. Further, they urged the railroads to continue to pursue stability in their workforces to avoid an erosion of overall performance. The NMA echoed these themes in a [letter](#) to the RETAC.

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## **Senate Oversight Hearing on the Implications of *Sackett v. EPA* on WOTUS**



Today, the full Senate Environment and Public Works Committee held a [hearing](#) on the implications of the final Waters of the United States (WOTUS) rule [published](#) in the Federal Register last month that amends the definition of WOTUS under the Clean Water Act to conform to the U.S. Supreme Court’s decision in *Sackett v. EPA*. A NMA memo on the amended rule can be found [here](#). The hearing witnesses included an environmental law professor from Clemson University, environmental group Bayou City Waterkeeper, and the minority witness was water resources lawyer and industry partner Susan Bodine. Bodine highlighted the need for transparency from the Army Corps of Engineers and the EPA on implementation guidance and next steps and the issues created for the regulated industry from the rules ambiguity on what constitutes “relatively permanent” water flow, among other guidance. The NMA, in coordination with the Waters Advocacy Coalition, worked with EPW committee staff and Senator Dan Sullivan (R-Alaska) to highlight in the hearing the new rule’s impact on the mining industry, including greater permitting uncertainty and a lack of national or district-level guidance.

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## **Senate Oversight Hearing on the DOE Grant Process**



Tomorrow, the Senate Energy and Natural Resources Committee will hold a full committee hearing, linked [here](#), to examine the Department of Energy's (DOE) decision-making process for awarding competitive loans and grant funding through the Inflation Reduction Act and the Bipartisan Infrastructure Law. Both pieces of legislation include funding opportunities and incentives to support domestic capacity for minerals and clean energy technologies. Notably, Jigar Shah, Director of DOE's Loan Program's Office (LPO) will testify about the LPO's loan guarantee opportunities. Recall that Director Shah spoke at the NMA's May 2022 Board of Directors meeting and was a keynote speaker at the [NMA and CQ Roll Call's minerals event](#) in November 2022. Other hearing witnesses include David Crane, DOE Under Secretary for Infrastructure, and Teri Donaldson, DOE's Inspector General. In addition to submitting written [testimony](#) for the hearing record, the NMA has worked with congressional and committee staff to provide additional background and share industry perspectives on the DOE's funding efforts.

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## **NMA Pushing to Restore Immediate Expensing and Full Deductibility for New Equipment**

The NMA, along with coalition partners, is advocating for the reinstatement of tax reforms to immediately deduct research and development expense, and fully deduct capital equipment purchases. See the coalition letter [here](#).

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## **NMA Files Comments Opposing EPA's Preliminary Denial of Alabama's Coal Ash Permit Program**

The NMA last week filed [comments](#) opposing EPA's [preliminary decision to deny](#) the Alabama Department of Environmental Management's (ADEM) application for a state coal combustion residuals (CCR) permit program under the Resource Conservation and Recovery Act (RCRA). EPA's preliminary denial is the first denial of a state CCR permitting program application in the Biden administration. EPA alleges that ADEM's permits do not adequately control groundwater saturation in closed units, violating federal closure standards. The NMA disagreed, supporting the Utility Solid Waste Activities Group in arguing that EPA unlawfully amended the RCRA closure requirements to deny ADEM's CCR permit program, contrary to the plain language of the federal CCR regulations and without providing proper notice and comment opportunity. As EPA found and the NMA reemphasized, the state's CCR permit program is "at least as protective as" the federal CCR requirements. The NMA expressed concern regarding EPA's disregard for the technical expertise of the ADEM staff

in implementing the state's CCR permit program. Finally, the NMA urged EPA to process state CCR permit applications in a timelier manner.

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## NMA and Third Parties In the News

The NMA is mentioned by [Inside EPA](#) in a report noting that the U.S. Court of Appeals for the District of Columbia Circuit is requiring state and industry groups challenging EPA's Good Neighbor interstate ozone rule to quickly provide proposed briefing formats and address other procedural matters while again rejecting an industry request to stay the rule.

[Politico Pro](#) lists the NMA among the red states, companies and industry groups that have asked the Supreme Court to stay EPA's good neighbor plan aimed at tackling cross-border pollution.

## Mining and Energy News

[Energywire](#) reports the U.S. and its allies unveiled some key details last week around more than a dozen projects they're pursuing to secure metals for electric vehicle batteries with the aim of easing dependence on China.

[Argus](#) reported on EIA's recent global energy outlook projecting that worldwide coal production and consumption are likely to grow marginally through 2050 even as countries shift to other power generating sources.

[Climatewire](#) reported that Brussels and Washington plan to team up to create a joint tariff zone that will impose duties on steel and aluminum imports from nonmarket economies such as China, a European Commission proposal for an

EU-US deal.

**[Inside EPA](#)** reported that environmentalists and industry are taking opposing positions concerning EPA's proposal to tighten air toxics limits for coke ovens, with environmental groups criticizing the rule's lack of ambition even as they support its fence-line air monitoring mandate, while industry is charging the monitoring requirement is impractical and unnecessary.

**[Benchmark Minerals](#)** reported that the U.S. has been focusing on building its rare earths permanent magnets (REMPS) manufacturing capacity as the country continues to take steps to reduce its reliance on China for the vital defense application components.

**[Mining.com](#)** reported that a flurry of copper mining deals are being lined up for the next six to 12 months, industry sources said, as producers seek to spread the soaring cost of new projects for the metal key to the energy transition.

**[Mining.com](#)** reported that a recently developed cobalt-modified nanomaterial makes proton-exchange membrane fuel cells (PEMFCs) more robust, readily sourced and environmentally friendly.

**[CoalZoom](#)** reported from Argus that firm demand and limited supply are likely to continue lifting fob Australia premium low-volatile (PLV) hard coking coal prices into November, with a bullish price outlook even into next year.

**[Reuters](#)** reported that the International Lead Zinc Study Group (ILZSG) expects the global refined zinc market to see a surplus of 248,000 metric tons in 2023 compared with a previously forecast deficit of 45,000 tons due to slower than expected demand growth.

# Commodity Prices

<b>Commodity Price - Snapshot</b>		
<b>Metals Prices</b>	<b>Date</b>	<b>Price</b>
Cobalt Spot Price (\$/lb)	10/18/23	\$15.15
Copper Spot Price (\$/lb)	10/18/23	\$3.58
Gold Spot Price (\$/ounce)	10/18/23	\$1,954.38
Lead Spot Price (\$/lb)	10/18/23	\$0.95
Lithium Spot Price (\$/kg)	10/18/23	\$23.85
Molybdenum Spot Price (\$/kg)	10/18/23	\$55.63
Nickel Spot Price (\$/lb)	10/18/23	\$8.31
Silver Spot Price (\$/ounce)	10/18/23	\$22.93
Steel HRC Price (\$/mt)	10/18/23	\$775.00
Steel Rebar Price (\$/mt)	10/18/23	\$497.92
Zinc Spot Price (\$/lb)	10/18/23	\$1.10
<b>Energy Prices</b>	<b>Date</b>	<b>Price</b>
Coal Price - Australian Premium Coking Coal Futures (\$/mt)	10/17/23	\$362.00
Coal Spot Price - Central Appalachian (\$/st)	10/13/23	\$76.65
Coal Spot Price - Newcastle futures (\$/mt)	10/18/23	\$139.39
Coal Spot Price - Rotterdam futures (\$/mt)	10/18/23	\$138.50
Natural Gas Spot Price - Henry Hub (\$/mmbtu)	10/11/23	\$3.18
Uranium Spot Price (\$/lb)	10/16/23	\$69.00

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

**CORESafety**



In the October edition of CORESafety TV, we explore module number 16 on safety and health management assurance.



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