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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

With the selection of a new Speaker, the House of Representatives resumed action on a slate of appropriations bills today, but conflicts with the Senate emerged quickly over funding proposals for the wars in Israel and Ukraine and other foreign policy matters. Meanwhile, the Biden administration's regulatory agenda continued to advance. 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

With more activities moving indoors for the winter, now is a good time to brush up on how to prevent [carbon monoxide exposure](#).

NMA Recognizes Mine Rescue Day



October 30 was set aside as [Mine Rescue Day](#) in 2013 as a time to recognize the dedication and sacrifice of volunteers who risk their own lives to save other miners.

Throughout our nation's history, members of the mining community have been called upon to rescue their fellow miners from emergency situations in coal and metal and nonmetal mines, whether trapped by fires, explosions, roof falls, flooding or harmful gases. Over time, these mine rescuers have become better trained and organized, and the equipment they use has become ever more sophisticated.

Today, over 250 mine rescue teams are certified and equipped to perform mine rescue operations in the United States. They train and compete in mine rescue contests organized across the United States, culminating in national

championships for coal and for metal and nonmetal mines, so they are ready to answer the call that they hope never comes. When they are called, these rescuers do not hesitate. They undertake some of the most difficult and risky emergency response work in this country, sometimes traveling miles in dark underground mines filled with debris and poisonous and explosive gases in order to find missing miners or recover those who did not survive.

On Mine Rescue Day, we salute these brave individuals who give their time and risk their lives in the service of others.

NMA Joins Coalition Warning on Consequences from EPA's Particulate Matter NAAQS Standards

The NMA's President and CEO Rich Nolan today [joined](#) leaders of more than 70 other trade groups representing diverse businesses across the economy in urging the Biden administration to maintain the existing National Ambient Air Quality Standards (NAAQS) for fine particulate matter (PM2.5). In a letter to White House Chief of Staff Jeff Zients, the organizations warned that moving forward with the U.S. Environmental Protection Agency's (EPA) proposed lowering of the standards would jeopardize American jobs and risk substantial economic harm. EPA's proposed revisions to the standard "would risk jobs and livelihoods by making it even more difficult to obtain permits for new factories, facilities, and infrastructure to power economic growth," the groups wrote. "Lowering the current standard so dramatically would create a perverse disincentive for American investment," the letter reads, adding further that "EPA's proposal could force investment in new facilities in foreign countries with less stringent air standards, thereby undermining the Administration's economic and environmental goals." The groups "urge [the Administration] to

ensure EPA maintains the existing fine particulate matter standards to ensure both continued environmental protection and economic growth.”

This week, the NMA also joined an industry coalition in meeting with the Office of Management and Budget (OMB) to emphasize that the Clean Air Act’s prohibition against considering costs does not apply to the administration’s discretionary reconsideration of the PM2.5 NAAQS, urging OMB to fully consider the effects of costs and burdens, which are considerable and nationwide. A recent Oxford Economic [analysis](#) commissioned by the National Association of Manufacturers found that the proposed standard would reduce U.S. Gross Domestic Product by nearly \$200 billion and cost as many as one million American jobs through 2031. The coalition also demonstrated the permitting gridlock and incentive for offshoring of manufacturing caused by lowering the standard, providing examples of projects that could be delayed or stopped as a result. Finally, the coalition emphasized that if the standard is lowered, it is imperative that EPA build in implementation flexibilities to harmonize the effective date with modeling and implementation improvements.

Group of Bipartisan Senators Rebuke FPISC Proposed Rule



Today, a group of 22 bipartisan Senators strongly urged the Federal Permitting Improvement Steering Council (FPISC or Council) to abandon their [proposal](#) to amend the existing regulations to impose new limits on inclusion of minerals mining as a covered sector eligible for the expedited permitting process available under section 41 of the Fixing America's Surface Transportation Act. [In the appeal](#), led by Senators Dan Sullivan (R-Alaska), Catherine Cortez Masto (D-Nev.), Joe Manchin (D-W.Va.), and others, it tells the Council it is “sending the wrong message to investors, industry stakeholders, and our nation’s allies” with the proposal and points out that the administration did not suggest this recommendation in its recent Interagency Working Group report on mining regulations.

The NMA worked with the Senators to draw significant support for the letter. In the House of Representatives, the NMA worked with Rep.’s Blake Moore (R-Utah) and Michael Waltz (R-Fla.) to introduce an [amendment](#) to the Financial Services and General Government Appropriations legislation to prohibit funds for finalizing and implementing the proposal. The NMA is also sending comments to the Council in advance of the November 22 deadline for submissions. Please find draft comments for review and feedback [here](#).

Agencies Release WOTUS Coordination Memoranda



The U.S. Department of the Army, U.S. Army Corps of Engineers (Corps), and U.S. Environmental Protection Agency (EPA) recently released two [joint memoranda](#) to the field establishing processes by which the agencies will coordinate on Clean Water Act (CWA) geographic jurisdictional matters. The goal of these memoranda is to ensure accurate and consistent implementation of the pre-2015 “waters of the United States” (WOTUS) regulatory framework and the 2023 WOTUS Rule, depending on which rule is in place in a particular state. Recall that because of ongoing litigation, there are two different WOTUS regulatory frameworks in place across the country. In the 27 states in which the 2023 WOTUS Rule is enjoined, the pre-2015 regulatory regime is in place. In the remaining states, the 2023 Rule, as amended by the Sept. 2023 “conforming rule,” is in place. The NMA is concerned that these new coordination and elevation processes could delay the process of obtaining jurisdictional determinations and further slow the permitting process for your projects. The NMA’s industry coalition, the Waters Advocacy Coalition, developed a [flowchart](#) to assist members in understanding these coordination and elevation processes.

OMB Completes Review of EPA's *Maui* Groundwater Guidance

This week, the OMB completed its review of EPA's guidance implementing *Maui v. Hawaii Wildlife Fund* in the Clean Water Act (CWA) section 402 National Pollutant Discharge Elimination System permit program. Recall that in 2020, the U.S. Supreme Court established a non-exclusive, seven-factor test to determine when a point source discharge that travels through groundwater to federally regulated WOTUS is the "functional equivalent" of a direct discharge to WOTUS, and therefore requires a CWA permit. In meetings with OMB and member companies, the NMA urged OMB to (1) ensure the guidance was released for public comment, (2) consider and evaluate the practical unintended consequences that a broad reading of *Maui* and the functional equivalent test could have on both permittees and state programs, and (3) consider potential federalism issues and the state laws and regulations that already protect groundwater at mining sites. We expect that EPA will release the guidance for public comment.

Forest Service Issues Interim Final Rule on Long-term Financial Assurance

The U.S. Forest Service this week issued an [interim final rule](#) that amends the agency's locatable mineral regulations to provide additional financial assurance options for funding reclamation. The stated purpose of the rule is to supplement the existing financial assurance mechanisms – surety bonds, cash and negotiable securities – with those allowed by policy such as letters of credit

or trust funds, the latter being particularly important in the context of long-term reclamation obligations. While the rule is effective on Nov. 29, the Forest Service is accepting comments until Dec. 29.

The NMA previously supported the expansion of financial assurance mechanisms allowed by the Forest Service to be more consistent with the options allowed by the Bureau of Land Management, which allows letters of credit, certificates of deposit, savings accounts, negotiable securities or bonds, certain investment-grade rated securities, or insurance.

The NMA's support for such changes, in part, hinged upon the need to strengthen the Forest Service's financial assurance regulations to guard against efforts by EPA to impose new and duplicative financial guarantee requirements upon the hardrock mining industry under its Comprehensive Environmental Response, Compensation, and Liability Act authority. Recall, during the now-abandoned EPA 2017 rulemaking, the Forest Service's financial assurance requirements were more vulnerable to criticism as most of the requirements were articulated through policy or guidance as opposed to regulations.

Much of the interim rule is devoted to the use of trusts to fund long-term financial assurance (LTFA) obligations. While the current Forest Service Manual allows for the use of trusts, it limits the investment of trust funds to U.S. Treasury and other negotiable securities of the U.S. Government and certain bank deposits. As explained in the interim rule, these investment options offer such low potential rates of return as to be of little benefit in reducing the upfront cost of funding requirements for LTFA or long-term viability of trust funding, making it more difficult to adequately fund reclamation obligations. To remedy that problem, the interim rule will allow for a broader range of investment options to realize the advantages and benefits of the use of income-earning accounts.

Lawmakers Press FERC on Grid Reliability



Lawmakers from 21 states sent a [letter](#) to the Federal Energy Regulatory Commission (FERC) urging the four commissioners to take prompt and decisive actions to maintain the reliability of the bulk power system. The lawmakers share a concern that the Biden Administration's 2035 Clean Energy Plan doesn't consider the permitting processes, supply chains problems and construction timelines for new generation and transmission infrastructure needed to meet the plan's goals and maintain grid reliability and resource adequacy.

The letter points out, "Recent assessments by your own organization show that dispatchable thermal generation is closing much faster than new generation is being constructed to replace it. This gap will continue to widen as the weather-dependent generation continues to replace dispatchable thermal generation. Each of you testified before Congress that the United States is facing an electric reliability crisis. However, no meaningful policies to address this crisis have been implemented."

The letter is referencing a Senate Energy and Natural Resources Committee hearing on May 4th where each commissioner testified that the U.S. grid faces major reliability challenges.

“There is a “looming reliability crisis in our electricity markets,” FERC Commissioner James Danly said. “The United States is heading for a very catastrophic situation in terms of reliability,” FERC Commissioner Mark Christie said. FERC Acting Chairman Willie Phillips said, “We face unprecedented challenges to the reliability of our nation’s electric system.”

RGGI Fees Ruled Invalid Tax In PA

The Commonwealth Court of Pennsylvania has ruled that the state’s entrance into the Regional Greenhouse Gas Initiative (RGGI) was unconstitutional. Pennsylvania’s entrance into the multi-state compact was part of an executive order issued by former Governor Tom Wolf in 2019 that would require fossil-fuel based power plants to pay a tax on every ton of carbon dioxide emissions should they go over a certain limit.

In an opinion filed Wednesday, Commonwealth Court of Pennsylvania ruled that money raised through RGGI is an invalid tax. A five-judge panel heard the case. Judge Michael Wojcik wrote the opinion striking down RGGI. The court sided with state Republican Senators who claimed the Department of Environmental Protection (DEP) did not have the constitutional authority to collect revenue from the program, and that only the legislature can levy taxes. Recently Gov. Josh Shapiro’s RGGI Working Group refused to endorse the program.

The Pennsylvania Coal Alliance, in conjunction with the United Mine Workers of America, the International Brotherhood of Electrical Workers, the International

Brotherhood of Boilermakers, Iron Ship Builders, Blacksmiths, Forgers and Helpers, jointly filed in Pennsylvania's Commonwealth Court as petitioners against the DEP and the Pennsylvania Environmental Quality Board, challenging the final rulemaking joining Pennsylvania to RGGI.

Senators Introduce Legislation to Enhance Permitting for U.S. Energy, Manufacturing and Infrastructure Projects



Today, Senators Cynthia Lummis (R-Wyo.) and Bill Cassidy (R-La.) introduced the Revising and Enhancing Project Authorizations Impacted by Review (REPAIR) Act, which would streamline the permitting process for U.S. energy, manufacturing and critical infrastructure projects. Specifically, the legislation would reform the federal permitting process by making changes to the judicial review process of an approved permit by ensuring that all laws related to permitting have the same review process, scope of adjudication, and rules for standing and statute of limitations. It would also remove the ability to file suit based on the National Environmental Policy Act (NEPA), instead base lawsuits

on the statute for which the permit was issued and would establish a mediation process between the project developer and permit-issuing agency in the case of a judicial remand or other court action to allow projects to continue to move forward. The legislation would also increase transparency in ongoing judicial challenges to permits to help identify unnecessary delays and frivolous lawsuits. Please find a copy of the Senate Western Caucus' press release on the bill announcement [here](#) and a copy of the bill [here](#).

NMA Joins Annual Book Drive Benefitting Youth in STEM

Today, the National Mining Association is excited to announce the beginning of the 3rd annual Association Book Drive Challenge, hosted by [Everybody Wins DC](#). Launched in 2021, the challenge helps put thousands of new science, technology, engineering, and math (STEM) books directly into kids' hands. Last year, the challenge collected more than 13,000 books. The NMA is joining other D.C.-area trade associations in a friendly competition to raise the most books before December 15th.

Below is a link to NMA's custom book list on Bookshop.org. The list of books provided by EWDC highlights populations underrepresented in STEM fields to give young readers representative role models and show them that STEM is open, exciting and accessible to all. This is especially important as the [NMA and our members advocate](#) for greater awareness and access to fulfilling careers in the mining industry.

To support NMA's efforts, simply use the link and select the book(s) you wish to purchase, check out, and the book will automatically ship to NMA's office. **To maximize our impact, the NMA will match book-for-book each donation made through the custom link.** We encourage you to share the NMA's

donation link with friends and family to maximize our impact. Please email [Scott Gemperline](#) to share the amount of books purchased or if you have any questions.

[Support NMA: EWDC Challenge 2023](#)

NMA and Third Parties In the News

[Frankfort State Journal](#) (Ky.), [Kokomo Tribune](#) (Ind.) and [Mesabi Tribune](#) (Minn.) carry an op-ed by Rich Nolan in which he argues recent recommendations from the IWG on mining are detrimental to domestic mining.

[The Mesabi Tribune](#) reports that hard rock mining recommendations made by a federal committee, have been blasted by the National Mining Association and others.

[Inside EPA](#) reports a federal judge in North Dakota is rejecting a number of industry groups' efforts to intervene in litigation challenging the Biden administration's revised definition of "waters of the United States" (WOTUS), finding that their intervention in similar litigation in a federal court in Texas precludes them from entering into "duplicative litigation." The NMA is mentioned.

Mining and Energy News

[The Hill](#) reported that President Biden will name senior Interior Department official Laura Daniel-Davis as acting Deputy Interior Secretary. Daniel-Davis

was Biden's nominee for assistant secretary of the Interior for land and minerals management in 2021.

[**Greenwire**](#) reported that last week a bipartisan group of senators warned the administration against negotiating a critical minerals trade deal with nickel-rich Indonesia, arguing that it could undermine domestic mining, congressional oversight, and international environment and labor standards.

[**Argus**](#) reported that coal exports out of Hampton Roads, Virginia, were about 1.6 percent higher in September than the previous year.

The [**World Steel Association**](#) reported that world crude steel production was 149.3 million metric ton (Mt) in September 2023, a 1.5 percent decrease compared to September 2022.

[**Argus**](#) reported that U.S. eastern railroad CSX expects exports coal shipments will benefit from strong international demand during the fourth quarter, while domestic demand will likely slow.

[**Energywire**](#) reported that Centrus Energy's new Ohio plant is the only U.S. facility licensed to produce high-assay low-enriched uranium. The fuel, which currently has a supply chain dominated by Russia, is expected to power the next generation of U.S. reactors.

[**Argus**](#) reported on the International Energy Agency's (IEA) recent *World Energy Outlook* report projecting a lower outlook for the global coal market, in part driven by the forecast of slower economic growth in key market China.

[**E&E News**](#) reported that last week President Joe Biden and Australia Prime Minister Anthony Albanese announced partnerships around clean energy, critical minerals and climate change, an effort partly aimed at reducing the countries' reliance on China.

[The Hill](#) reported that the global demand for fossil fuels is expected to peak by 2030, according to the International Energy Agency (IEA).

[Energywire](#) reported that EPA's proposal to slash power sector emissions could put reliable electricity at risk for millions of Americans according to power sector leaders.

[Kallanish](#) reported that Australia announced a \$1.3 billion expansion in critical minerals financing as it aims to strengthen the country's position as a global leader in critical minerals.

[Argus](#) reported that U.S. coal generation and consumption fell from a year-earlier, according to a recent report from the Energy Information Administration (EIA).

[Kallanish](#) reported on a Global Energy report indicating that new plans for coal-based steelmaking capacity are outpacing primary steel production methods with only a third of the world's top 50 producers having announced targets to reach net zero by mid-century.

[Mining.com](#) reported that U.S. Trade Representative Katherine Tai said "significant progress" was made on a US-UK critical minerals agreement in recent talks in Japan.

[The Silver Institute's](#) latest silver news report provides a spotlight on advancements in wearable flexible fabric battery technologies from University of Houston researchers who have developed a fully stretchable, silver fabric-based lithium battery.

[Bloomberg](#) News reported that "Gold surged above \$2,000 an ounce for the first time since May as concerns over conflict in the Middle East outweigh the

impact of the recent jump in bond yields.”

[Reuters](#) reports that China's peak power demand may rise 12.1 percent this winter.

Commodity Prices

Commodity Price - Snapshot		
Metals Prices	Date	Price
Cobalt Spot Price (\$/lb)	10/31/23	\$15.15
Copper Spot Price (\$/lb)	10/31/23	\$3.63
Gold Spot Price (\$/ounce)	10/31/23	\$1,997.60
Lead Spot Price (\$/lb)	10/31/23	\$0.97
Lithium Spot Price (\$/kg)	10/31/23	\$22.34
Molybdenum Spot Price (\$/kg)	10/31/23	\$55.63
Nickel Spot Price (\$/lb)	10/31/23	\$8.28
Silver Spot Price (\$/ounce)	10/31/23	\$23.20
Steel HRC Price (\$/mt)	10/31/23	\$995.46
Steel Rebar Price (\$/mt)	10/31/23	\$509.18
Zinc Spot Price (\$/lb)	10/31/23	\$1.10
Energy Prices	Date	Price
Coal Price - Australian Premium Coking Coal Futures (\$/mt)	10/31/23	\$333.25
Coal Spot Price - Central Appalachian (\$/st)	10/27/23	\$71.25
Coal Spot Price - Newcastle futures (\$/mt)	10/31/23	\$119.19
Coal Spot Price - Rotterdam futures (\$/mt)	10/31/23	\$122.65
Natural Gas Spot Price - Henry Hub (\$/mmbtu)	10/25/23	\$2.86
Uranium Spot Price (\$/lb)	10/23/23	\$73.00

Sources: publically available data from [eia.gov](#), [dailymetalprice.com](#), [tradingeconomics.com](#), [sgxgroup.com](#), [investing.com](#)

CORESafety



In the November edition of CORESafety TV, we talk with members of the MSHA Coal Mine Rescue Hall of Fame.



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