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# MINE Update

MINING INDUSTRY NEWS E-COMM UPDATE

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Brought to you by the National Mining Association

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## This Week in The News



The government shutdown that was expected Friday appears to have been averted. Newly minted Speaker Johnson's bill, which passed mostly with [Democratic votes](#) Tuesday, extends government funding through January 19 and February 2. The bill enjoys the support of the Senate bipartisan leadership and the White House. The House has now adjourned for the Thanksgiving district work period. Off of Capitol Hill, the Biden administration's regulatory agenda continues to march forward. 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

Collisions with animals are a serious risk for drivers in many states. State Farm has tips to [avoid animals on the road](#) – one of which is “don't swerve.”

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## NMA's Industry Coalition Files Amended Complaints in WOTUS Litigation



This week, the NMA's industry coalition filed amended complaints in our lawsuits in the [U.S. District Court for the Southern District of Texas](#) and the [U.S. District Court for the District of North Dakota](#) challenging the

U.S. Environmental Protection Agency's (EPA) and U.S. Army Corps of Engineers' (Corps) "waters of the United States" (WOTUS) rule. The NMA's amended complaints identify numerous legal flaws in the agencies' post-*Sackett* WOTUS rule and address the rule's lack of clarity around the "relatively permanent standard" and jurisdiction over certain wetlands. Special thanks to NACCO Natural Resources for filing a declaration in support of our complaint.

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## **NMA Provides Federal Policy Perspective at Alaska Miners Association Annual Convention**



Last week, the NMA's Scott Gemperline joined the Alaska Miners Association (AMA) to discuss ongoing federal policy priorities and opportunities affecting the domestic mining industry. In a policy working group presentation and a separate convention panel, Scott discussed the imperative to attract domestic mining investment through regulatory certainty, along with avenues to achieve mineral supply chain security through permitting reform and a coordinated federal strategy for U.S. mining. The presentation and panel was moderated by

Loralie Simon with Usibelli Coal Mine and Mike Satre with Hecla Mining, both NMA members, and provided additional opportunities to highlight current and upcoming federal incentives available to mining companies.

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## Congress Urges Clarity in WOTUS Implementation



This week, the House Congressional Western Caucus led by Chairman Dan Newhouse (R-Wash.) delivered several oversight questions to the Corps and EPA and urged their explanation on the direct-to-final Waters of the United States (WOTUS) rulemaking. The oversight letter can be viewed [here](#). The NMA, working with the Waters Advocacy Coalition, engaged key congressional allies, which ultimately garnered [support](#) from 71 House members.

The letter highlights the lack of certainty the rule creates for the regulated industry and the high stakes implications that can occur, including criminal penalties and delayed projects, if businesses are unable to navigate the vague and ambiguous new rule. The letter urges guidance from the agencies on how they will direct field staff to interpret several undefined terms of the rule, including “relatively permanent” and “continuous surface connection,” if the agencies will supply implementation guidance to the public, and how the agencies will move forward the approved jurisdictional determination process to reduce project delays.

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## House Holds Coal AML Hearing

Yesterday, the House Natural Resources Subcommittee on Energy and Minerals Resources held a hearing titled, "Examining the Biden Administration's Abandoned Mine Lands (AML) and Active Mining Programs." The committee heard from states about delays in accessing coal mine cleanup funds and approvals, difficulties in engagement, and growing concerns related to the Office of Surface Mining Reclamation and Enforcement's (OSMRE) rulemakings and implementation of existing programs. Please find a link to the hearing video and committee memo [here](#), and the NMA's testimony for the record ([here](#)). Witnesses included Glenda Owens (Deputy Director of OSMRE), Kyle Wendtland (Land Quality Division Administrator at the Wyoming Department of Environmental Quality), Dustin Morin (Director of the Mining and Reclamation Division at the Alabama Department of Labor), Benjamin McCament (Chief of the Division of Mineral Resources Management at the Ohio Department of Natural Resources), and Peter Morgan (Senior Attorney with the Sierra Club). Please find a link to the NMA's hearing memo [here](#). Additionally, the Senate Energy and Natural Resources (ENR) Committee held a similar hearing last week to examine OSMRE's implementation of AML reclamation and Abandoned Coal Mine Land Economic Revitalization programs. Please find a link to the NMA's memo on the hearing [here](#). In advance of both hearings, the NMA worked with committee staff to provide industry perspectives, additional background information, and witness questions.

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## House E&C Holds Second Hearing on EPA's CPP 2.0

The House Energy and Commerce Committee's Subcommittee on Environment, Manufacturing, and Critical Materials held a hearing on Tuesday, November 14, titled "Clean Power Plan 2.0: EPA's Effort to Jeopardize Reliable and Affordable Energy for States." The proposed Environmental Protection Agency (EPA) rule, labeled "Clean Power Plan 2.0," aims to reduce carbon emissions from power plants. It is named after the Obama-era regulation that was struck down by the Supreme Court in the 2022 case *West Virginia v. EPA*. In the lead-up to the hearing, House Energy and Commerce Committee Chair Cathy McMorris Rodgers (R-Wash.), Oversight and Investigations Subcommittee Chair Morgan Griffith (R-Va.), and Environment, Manufacturing, and Critical Materials Subcommittee Chair Bill Johnson (R-Ohio) sent a letter to EPA Administrator Michael Regan [urging him to withdraw](#) the proposed Clean Power Plan 2.0, citing concerns over its reach and feasibility. Tuesday's hearing marks the second time the Subcommittee has examined the Clean Power Plan 2.0. The hearing follows the Federal Energy Regulatory Commission's (FERC) 2023 Annual Reliability Technical Conference, where FERC Commissioners and other experts raised concerns about the proposal's potential impact on grid reliability.

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## **Manchin Won't Seek Another Term in the Senate; Ponders Presidential Run**



After [announcing that he won't seek reelection in the Senate](#), Sen. Joe Manchin (D-W.Va.) this week said that he would "absolutely" consider a presidential run. [In an interview that aired today](#), when asked if he was considering running for president, Manchin replied, "I will do anything I can to help my country, and you're saying, 'Does that mean you would consider it?' Absolutely. Every American should consider it if they're in a position to help save the country," Manchin said. He noted that he's "totally, absolutely scared to death" of another White House term for former President Trump but is also worried President Biden "has been pushed too far to the left."

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## **EPA Finalizes PFAS Reporting Requirements under TSCA**

EPA recently published a [final rule](#) under the Toxic Control Substance Act (TSCA) that requires a one-time reporting obligation for certain companies regarding per- and poly-fluoroalkyl substances (PFAS). Specifically, companies that manufactured or imported PFAS for a commercial purpose at any time since Jan. 1, 2011, are required to report their uses, production volumes, byproducts, disposal, exposures, and existing information on environmental or

health effects. Notable to the mining industry, importers of articles containing any amount of PFAS are required to report. Companies that only processed, distributed, used, or disposed of PFAS are not required to report. This reporting obligation applies to over 1,400 known PFAS substances. Despite extensive industry pushback on the scope of the proposed rule, EPA provided no de minimis thresholds in the final rule, meaning all PFAS must be reported. EPA also did not provide the typical TSCA exemptions for articles, byproducts, impurities, and most research and development uses. Companies will have a six-month reporting window from Nov. 12, 2024, to May 8, 2025, with an additional six-months for small businesses. Assistant Administrator for EPA's Office of Chemical Safety and Pollution Prevention Michal Freedhoff said in an [announcement](#), "[t]he data we'll receive from this rule will be a game-changer in advancing our ability to understand and effectively protect people from PFAS." The NMA strongly encourages companies to review this final rule, including EPA's [instructions for reporting](#) and a [small entity compliance guide](#), to determine their reporting obligations.

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## EPA Releases Draft IRIS Assessment for Inorganic Arsenic

EPA recently published for public comment a [draft](#) integrated risk information system (IRIS) toxicological review of inorganic arsenic. The draft IRIS assessment is an update from the previous draft published in 2009, which was withdrawn after harsh criticism from the National Academy of Sciences, government agencies, and the regulated community. Yet, after nearly 14 years of work, EPA has once again released a draft assessment that proposes overly conservative risk values unsupported by the data. Specifically, EPA proposes a cancer potency estimate for inorganic arsenic from oral exposure that is twice as stringent as the scientifically unsupported cancer risk factor proposed in 2009. In addition, this draft proposes new reference doses for cardiovascular

disease and diabetes that are so low that background, naturally occurring levels of inorganic arsenic in the U.S. would be the main cause of these diseases. For the mining industry, if finalized, the IRIS risk values could necessitate the reopening of Superfund and Resource Conservation and Recovery Act sites previously considered safe under current soil remediation levels. At present, the 60-day public comment period ends Dec. 15, 2023. The NMA filed a 120-day public comment [extension request](#) and is supporting the Arsenic Science Task Force in drafting comments.

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## **Lawsuit Filed Over SMCRA 2020 Biological Opinion – Crayfish Impacts**

Last week, the Center for Biological Diversity (CBD) [sued](#) the Office of Surface Mining Reclamation and Enforcement (OSMRE) and the U.S. Fish and Wildlife Service (FWS) for failing to protect two crayfish and the candy darter in West Virginia, Kentucky, and Virginia. CBD asserts there are 388 coal mining facilities in the three primacy states that are actively polluting habitat for the protected species, in violation of the Endangered Species Act (ESA). CBD claims that OSMRE is in violation of the ESA for failure to oversee compliance of SMCRA primacy states. Further, CBD alleges that because the primacy states under SMCRA have failed to develop adequate Protection and Enhancement Plans (PEPs) for the two crayfish and the candy darter, the FWS has failed to assist in the development of PEPs for the crayfish as required by the 2020 BiOp. CBD's lawsuit states that these failures compel the reinitiation of consultation under section 7 of the ESA to address the potential harm to the species.

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## NMA Speaks on Ramboll Environmental Justice Panel

Last week, NMA member company, Ramboll, hosted a daylong [workshop](#) on “Environmental Justice: Fair and Equal Considerations in Business.” NMA’s Caitlin McHale spoke on an industry panel at the workshop with three other industry representatives from the chemicals, oil and gas, and waste management sectors. The panel covered how trade associations and individual companies are considering environmental justice in their work, discussed community engagement practices, and reiterated the importance of building authentic and meaningful relationships with the communities in which our industries operate.

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## Utah Celebrates 108 Years of Mining Association



At the 108<sup>th</sup> annual meeting of the Utah Mining Association in Salt Lake City, Jerry Mullins of the NMA was able to provide a federal update on legislative and regulatory current events. The update focused on the Interagency Working Group's recommendations on the Mining Law, the Federal Permitting Improvement Steering Council's recent proposed rule to opportunities for pursuing Rosemont legislation and minerals permitting reforms, among other issues. Of particular interest was the discussion on the Federal Energy Regulatory Commission's technical conference and the very real threats the nation's grid is currently facing.

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## **Support NMA's Annual Book Drive Benefitting Youth in STEM**

The NMA is locked in close competition with 14 D.C.-area trade associations for the 3<sup>rd</sup> annual Association Book Drive Challenge, hosted by [Everybody Wins DC](#). 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 book drive goes until December 15. 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 below and select the book(s) you wish to purchase, check out, and the book will automatically ship to NMA's office. **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 during this holiday season. Please email [Scott Gemperline](mailto:Scott.Gemperline@nma.org) 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

[Real Clear Energy](#) (D.C.), [Orlando Sentinel](#) (Fla.), and [Fairfield Sun Times](#) (Mont.) all ran an op-ed by Rich Nolan in which he argues it's past time the nation's reliability regulators address the cumulative impact of EPA's rulemakings and make the Biden administration answer to the danger posed by its regulatory onslaught.

[Northwest Indiana Times](#) (Ind.) carries an op-ed by John Adams, U.S. Army Brigadier General (Retired), president of Guardian Six Consulting and a former Deputy U.S. Military Representative to NATO's Military Committee, in which he argues the centerpiece of our minerals' strategy should be ramping up domestic production and processing, providing support to de-risk projects, and working feverishly to reduce self-imposed bureaucratic barriers standing in the way of new mining investment.

[Nebraska Examiner](#) (Neb.) carries an op-ed by Barry Butterfield, a civil engineer who worked in the public and private sector for over 40 years, in which he argues we must pass permitting reform to compete with China.

## Mining and Energy News

[E&E Daily](#) reported that Senate lawmakers are warning that an administration proposal to narrow the type of mines eligible for fast-tracked federal permitting would only strengthen China's grip on critical mineral supply chains.

The [Lake Carrier's Association](#) reported that shipments of iron ore on the Great Lakes totaled 5.1 million tons in October, an increase of 8.5 percent compared to a year ago. Year-to-date the iron ore trade stands at 41.8 million tons, an increase of 23.3 percent compared to the same point in 2022.

The [Silver Institute](#) reported on new research indicating that silver industrial demand is forecast to increase 46 percent through 2033, while jewelry and silverware demand is projected to rise 34 and 30 percent, respectively, according to Oxford Economics, a leading independent economic advisory and consultancy firm based in London. Combined output of silver industrial, jewelry and silverware fabricators is forecast to increase 42 percent, effectively double the growth rate over the previous decade, 2014-2023.

[Argus](#) reported that U.S. thermal coal exports in September rose from year-earlier levels, reflecting higher demand from Asia and Africa.

[CNBC](#) reports that Exxon Mobil aims to become a leading producer of lithium for electric vehicle batteries through a drilling operation the oil giant is launching in Arkansas.

[Energywire](#) reported that Democratic lawmakers are urging the administration to stop approving additional natural gas export projects, citing new research concluding that liquefied natural gas releases more greenhouse gases than coal.

**NERC and FERC** released their final report on the lessons learned from Winter Storm Elliott's power outages in December 2022.

**Energywire** reported that large parts of the eastern U.S. are at an elevated risk of electricity outages if extreme storms cripple power grids this winter, according to the U.S. grid monitor.

**Wall Street Journal** reported that a new source of rare earth elements may have been discovered in a Wyoming coal mine.

**S&P Global Market Intelligence** reported that capital expenditure of the 30 top miners globally is expected to grow 6.2 percent in 2023 to an estimated \$109.2 billion.

**Mining Engineering** reported that Newmont Corporations acquisition of Newcrest Mining Ltd. was finalized on November 6. "Newmont will now control more than half of the world's Tier 1 gold assets while adding robust copper production to Newmont's portfolio."

**Energywire** reported that large parts of the eastern U.S. are at an elevated risk of electricity outages if extreme storms cripple power grids this winter, according to the U.S. grid monitor - the North American Electric Reliability Corp.

**Power Engineering** reported on the FERC-NERC final report, arguing that natural gas outages represented a significant portion of the generation outages associated with winter storm Elliott in December 2022.

**Kallanish** reported that the general outlook for North America's metallurgical coking coal markets as well as steel have improved in recent weeks following the tentative resolution of the United Auto Workers' (UAW) strike.

**[Argus](#)** reported that coal generation may play an "important role" in reliability this winter as a large portion of the North American bulk power system remains at risk of insufficient electricity supplies during peak winter conditions, according to a new reliability assessment.

**[Greenwire](#)** reported that the Solicitor General is calling on the Supreme Court to ignore a request by Alaska to upend EPA's veto of the Pebble gold and copper mine in the Bristol Bay watershed.

**[Visual Capitalist](#)** graphically describes the critical role copper network wiring plays in the North American data center market.

**[Kallanish](#)** reported that "issues with access to capital, long lead times for equipment and a lack of workers to staff mines are challenging U.S. met coal mines," according to panelists at last week's Metcoke World Summit 2023.

**[Mining.com](#)** reported that Exxon Mobil plans to start producing lithium from subsurface wells by 2027 to provide supplies of the key metal used in electric-car batteries and advanced electronics.

**[Nickel.com](#)** reported that "Sizeable output cuts will help shore up nickel prices, which are likely to have reached a bottom after a year-long slide, but tighter supplies are not expected to eliminate surpluses."

**[E&E News PM](#)** reported that the White House is moving toward hammering out a critical minerals deal with nickel-rich Indonesia, while at the same time vowing to address bipartisan concerns about the country's social and environmental standards.

# Commodity Prices

<b>Commodity Price - Snapshot</b>		
<b>Metals Prices</b>	<b>Date</b>	<b>Price</b>
Cobalt Spot Price (\$/lb)	11/15/23	\$15.15
Copper Spot Price (\$/lb)	11/15/23	\$3.72
Gold Spot Price (\$/ounce)	11/15/23	\$1,960.47
Lead Spot Price (\$/lb)	11/15/23	\$1.00
Lithium Spot Price (\$/kg)	11/15/23	\$20.50
Molybdenum Spot Price (\$/kg)	11/15/23	\$55.63
Nickel Spot Price (\$/lb)	11/15/23	\$7.82
Silver Spot Price (\$/ounce)	11/15/23	\$23.41
Steel HRC Price (\$/mt)	11/15/23	\$1,022.70
Steel Rebar Price (\$/mt)	11/15/23	\$541.32
Zinc Spot Price (\$/lb)	11/15/23	\$1.20
<b>Energy Prices</b>	<b>Date</b>	<b>Price</b>
Coal Price - Australian Premium Coking Coal Futures (\$/mt)	11/14/23	\$306.50
Coal Spot Price - Central Appalachian (\$/st)	11/10/23	\$71.25
Coal Spot Price - Newcastle futures (\$/mt)	11/14/23	\$122.22
Coal Spot Price - Rotterdam futures (\$/mt)	11/13/23	\$124.70
Natural Gas Spot Price - Henry Hub (\$/mmbtu)	11/8/23	\$2.21
Uranium Spot Price (\$/lb)	11/6/23	\$73.65

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