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# MINE Update

MINING INDUSTRY NEWS E-COMM UPDATE

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## This Week in The News

The House and Senate returned to session this week, kicking off a December sprint until Christmas and the New Year's holiday. With government funding issues punted until mid-January, the focus will be on Israel, Ukraine, border security, the annual defense authorization bill, the Foreign Intelligence Surveillance Act and other issues. Meanwhile, Biden administration regulatory policies continue to roll forward with the updated regularity agenda due out soon. 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

The U.S. Mine Safety and Health Administration issued an alert on [cold weather safety](#). The National Weather Service also has a variety of resources related to [preparing for the cold](#).

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### **NMA, Bipartisan Congressional Allies Submit Comments Opposing Proposed Limits on Access to Mine Permitting Efficiency**

Last week, the NMA submitted [comments](#) on the Federal Permitting Improvement Steering Council's (FPISC) [proposal](#) to amend its 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 (FAST-41). The comments primarily focused on the proposed exclusion of mining projects that do not include the extraction of "critical minerals" from FAST-41 consideration. The comments criticized the Council's efforts to exclude mining projects that do not involve the extraction of critical minerals as arbitrary and urged FPISC to abandon the proposal.

In addition to the NMA's comments, Sen. Kyrsten Sinema (I-Ariz.) also recently objected to the proposal and [urged the Council](#) to continue to utilize a broad definition of a "covered project" to ensure the U.S. can achieve climate emissions and national security objectives. The letter follows another [appeal](#) to the Council's proposal, led by Sens. Dan Sullivan (R-Alaska), Catherine Cortez Masto (D-Nev.) and Joe Manchin (D-W.Va.), that said they are "sending

the wrong message to investors, industry stakeholders and our nation’s allies” and point out that the administration never suggested this change in the Interagency Working Group report on mining regulations. The sentiment was echoed in the House of Representatives, when an [amendment](#) to the Financial Services and General Government Appropriations Act, led by Rep. Blake Moore (R-Utah) to prohibit funds for finalizing and implementing the proposal was adopted by voice vote. In addition to working with the amendment sponsors, the NMA worked with downstream stakeholders and automakers to develop a coalition to urge Congress’ support for these actions and ensure the unanimous passage of the amendment.

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## **Bipartisan Senators Call for Increased Focus on Mining Workforce**



Last week, Sens. Jacky Rosen (D-Nev.) and Cynthia Lummis (R-Wyo.) requested that the National Science Foundation provide a congressional briefing to discuss progress toward fulfilling mining research and workforce development provisions included in the CHIPS and Science Act of 2022. In the

[request](#), the senators highlight their actions to include the provision within the bill, citing the rapid decline in the mining workforce, and the urgency to better utilize our domestic resources and provide new funding opportunities to support training and education for the development, preparation and retention of mining professionals.

In the senators' announcement of the letter, the NMA's President and CEO Rich Nolan commended the senators' "commitment to implementing these critical activities to support training, education, and research opportunities to develop a competitive workforce that modern domestic mining relies upon." The NMA is working with members of the Science, Space and Technology Committee to support a similar oversight request and to highlight this and other activities that support workforce and domestic mining development in a committee [hearing](#) tomorrow on securing mineral supply chains.

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## EPA Seeks Comment on Draft *Maui* Groundwater CWA Guidance

Yesterday, the U.S. Environmental Protection Agency (EPA) [released](#) new [draft guidance](#) for implementing the U.S. Supreme Court's 2020 decision in *County of Maui v. Hawaii Wildlife Fund* under the Clean Water Act (CWA) Section 402 National Pollutant Discharge Elimination System (NPDES) permit program. Comments are due Dec. 27, 2023. In the draft guidance, EPA describes the agency's approach to the Court's "functional equivalent" standard, considerations for determining when discharges through groundwater may require coverage under an NPDES permit, and the types of information that may be useful to NPDES permitting authorities in developing permit conditions. While the document is guidance, not a rule, and therefore not legally enforceable, the NMA is concerned that the guidance could be used to

make it more time-consuming or expensive for many mining operations to determine when to obtain an NPDES permit. The NMA plans to request an extension of the comment period.

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## **White House Announces New Council to Address Mineral Supply Chain Security**



### **FACT SHEET: President Biden Announces New Actions to Strengthen America's Supply Chains, Lower Costs for Families, and Secure Key Sectors**

On Monday, the White House [announced](#) the establishment of a new White House Council on Supply Chain Resilience. The Council will be co-chaired by the National Security Advisor and National Economic Advisor, with representation from agencies and other senior administration officials. The announcement listed several in-progress and upcoming actions to advance mineral supply chain security, including a new Department of Defense-led National Defense Industrial Strategy, a Council-led quadrennial supply chain review, a new Department of Energy assessment of mineral supply chains disruptions, grants for mineral mapping, and a new website – [criticalminerals.gov](https://criticalminerals.gov) – to highlight cross-governmental supply chain efforts. A NMA memo on the announcement is available [here](#). The NMA is engaged with the administration on the new activities and will continue to provide updates.

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## Congressional Coal Caucus End of Year Reception - Honors Co-Chair Bill Johnson



Yesterday, the Congressional Coal Caucus celebrated a year of policy milestones with an end-of-year reception where they honored Co-Chair Rep. Bill Johnson (R-Ohio), who has been a distinguished representative of Ohio's 6th Congressional District since 2010. Johnson, noted for his varied experience as a businessman and Air Force veteran, has played a crucial role in the House. He serves on the Energy and Commerce Committee, and chairs the Energy and Commerce Subcommittee on Environment, Manufacturing, and Critical Materials, while also being a part of two other subcommittees.

The reception emphasized Rep. Johnson's firm support for the coal industry, particularly his stance against duplicative and overly burdensome regulatory overreach from the federal government on industry and mining. His unwavering commitment to the coal sector has been a cornerstone of his work. This event served to recognize his profound impact on the caucus and the ongoing discourse on coal and energy policy.

In his speech, Rep. Johnson expressed gratitude for the support from NMA President & CEO Rich Nolan and Rep. Mike Carey (R-Ohio), especially highlighting their collaborative work in repealing the "Stream Protection Rule" in 2017. Johnson's words also served as a call to action for the Coal Caucus members, urging them to continue these efforts even after his departure from Congress.

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## **NMA Briefs Congressional Western Caucus on Impacts of IWG Mining Report**

On November 16, the NMA's Justin Prosser and Scott Gemperline briefed congressional staff of House Congressional Western Caucus on the Interagency Working Group (IWG) on Mining Regulations, Laws and Permitting's report and the impact the report's recommendations will have on the mining industry. The NMA also emphasized the missed opportunities from the IWG report including the existing statutory requirements from the bipartisan permitting provisions included in the Infrastructure Investment and Jobs Act that the Department of the Interior and the Department of Agriculture have repeatedly failed to implement.

The NMA team was joined by the American Exploration & Mining Association's Mark Compton and Matthew Dermody with the Essential Minerals Association to discuss the state of the mining industry and other issues impacting a secure domestic mineral supply chain. The briefing provided congressional staff with the opportunity to hear directly from a broad swath of mining industry representatives on issues that have a real impact on mining operations. Notably, Justin and Scott provided a similar briefing in October to congressional staff from the Senate Western Caucus. These briefings are proof that there

remains strong interest from Members of Congress in the health of the mining industry as a whole, as well as the impact of the IWG report's recommendations.

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## **U.S. Chilean Tax Treaty Effective January**

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On November 15, the Chilean Senate approved targeted U.S. changes to the U.S. Chilean Income Tax Treaty (Tax Convention or treaty) between the U.S. and Chile that the U.S. ratified in June following an overwhelming bipartisan vote of 95-2 in the Senate. Following the Chilean Senate's approval, both countries will exchange notices of their respective ratification of the treaty. The treaty is expected to enter into force on January 1, 2024. The treaty is designed to avoid double taxation of U.S. companies operating in Chile and ensure competitive corporate tax rates for U.S. companies operating in Chile, providing U.S. mining companies and mining service companies the legal certainty required for new business investments. Following the treaty's entry into force, the provisions within the treaty will take effect at different times.

The provisions regarding withholding taxes will take effect for amounts paid on or after December 1, 2023. For other taxes, the treaty will take effect for any taxable period beginning on or after January 1, 2024. Please find a copy of the treaty [here](#) and further recent additions since 2010 [here](#).

The NMA and member companies consistently worked with a broad coalition of business organizations and companies supporting ratification of the treaty. A very special thanks is due to NMA member, Freeport-McMoRan's Bill Rising for his work in organizing this broad coalition of business interests supporting the treaty and hosting weekly planning calls over the past two years with the coalition members to hit the milestones and make the steady progress necessary to reach the treaty's entry into force.

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## **NMA Comments on Nearly 6-Million-Acre Conservation Area**

This week, the NMA provided [comments](#) to the U.S. Fish and Wildlife Service (FWS) on its proposed establishment of the Upper Missouri Headwaters Conservation Area in southwest Montana. As proposed, the unprecedented boundary of the conservation area is 5.7-million-acres and would be managed as a unit of the National Wildlife Refuge System, which generally would preclude any future mineral exploration activities. The NMA's comments express concern about the FWS's approach to "restrict development" and the potential to restrict mining activities. The NMA's comments also point out the already difficult process of determining valid existing rights, and that this new conservation area may exacerbate that process in a highly mineral prospective area of Montana. The FWS expects a draft land protection plan and associated National Environmental Policy Act documents will be made available for public review in Spring 2024.

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## EPA Draft IRIS Toxicological Review of Inorganic Arsenic

EPA recently released a [notice](#) of public comment period on the [draft](#) Integrated Risk Information System (IRIS) toxicological review of inorganic arsenic. This draft comes nearly 14 years after EPA's last effort to update the inorganic arsenic IRIS assessment, which EPA ultimately withdrew. Notably, the draft proposes overly conservative risk values such as a cancer risk factor from oral exposure that is twice as stringent as the scientifically unsupported cancer risk factor proposed in 2009, 17 times more stringent than previously accepted cancer risk values, and approximately 30 times greater than previously accepted cancer values calculated by EPA's Office of Water. The draft relies on disputed science, ignores peer-reviewed evidence, and sets risk values below naturally occurring background levels of arsenic in soil and water. If finalized, these values could lead to impractical and unachievable standards, impacting drinking water standards and triggering costly regulatory changes. For the mining industry, this could mean necessitating the reopening of Superfund and Resource Conservation and Recovery Act sites for further cleanup.

The NMA strongly [encouraged](#) EPA to extend the comment period an additional 120 days to ensure the underlying science is thoroughly reviewed and a full range of scientific views are submitted to the record for the agency's consideration. Last week, EPA [denied](#) our request. The NMA is actively involved in supporting the Arsenic Science Task Force (ASTF), which has hired experts to critique EPA methodologies and is developing comments. ASTF has distilled EPA's lengthy and dense draft IRIS risk assessment into a manageable [advocacy document](#) for your use, distribution, and understanding. Additionally, the NMA is conducting outreach to Congressional allies to seek

oversight on this matter. EPA's 60-day public comment period ends Dec. 15, 2023.

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## **NMA Files Coalition Comments on Potential Drum Reconditioning Regulatory Changes**

The NMA last week joined The Fertilizer Institute in submitting [comments](#) on EPA's [advanced notice of proposed rulemaking](#) (ANPRM) on the potential development of non-regulatory and regulatory options under the Resource Conservation and Recovery Act (RCRA) for the management, recycling, reconditioning and disposal of drums and other containers that held hazardous chemicals or hazardous waste. EPA's proposals could potentially impose additional compliance burdens and barriers to member companies that reuse drums and containers. See the NMA's [summary](#) of the ANPRM for more information. Our comments emphasized that preexisting regulations on drum or container users are sufficient and there is no need to impose any additional obligations on entities that send containers to reconditioners. We strongly opposed any changes to the RCRA "empty" container provision, which exempts from regulation hazardous waste residues that remain in a drum or other container under specified conditions. Specifically, we opposed reducing the one-inch threshold for a residue in an empty container to be exempt from EPA's hazardous waste regulations, as well as additional regulatory requirements to rinse containers before they are considered empty. We also opposed the inclusion of a regulatory requirement for container generators to have standard operating procedures for the removal of container residues. Instead, we supported efforts on non-regulatory options to educate used container generators of the existing regulatory requirements, coupled with enhanced targeted enforcement of those entities who are violating the existing empty container requirements.

## NMA and Third Parties In the News

[Investment Reports](#) carries an interview with Rich Nolan, which is quoted in [Newsweek](#) .

The [Elko Daily Free Press](#) quotes Rich Nolan in reporting on U.S. Senators Jacky Rosen, (D-Nev.), and Cynthia Lummis, (R-Wyo.), who sent a [letter](#) on Nov. 22 to U.S. National Science Foundation Director Sethuraman Panchanathan requesting an update on the implementation of the provision they secured in the [CHIPS and Science Act of 2022](#) to support the critical mineral mining industry and bolster the mining workforce.

From our third parties, [MSN.com](#) (USA), [Ogden Standard Examiner](#) (Utah), [East Liverpool Review](#) (Ohio), [Salem News](#) (Ohio), [Lisbon Morning Journal](#) (Ohio), [Frankfort State Journal](#) (Ky.), [Steubenville Herald Star](#) (Ohio), [Mesabi Tribune](#) (Minn.), [Fargo Inforum](#) (N.Dak.), [Bryan Times](#) (Ohio), [Northwest Signal](#) (Ohio), [Johnstown Tribune Democrat](#) (Pa.), the [Arizona Capitol Times](#) (Ariz.), [Cleburne Times Review](#) (Texas), [Kokomo Tribune](#) (Ind.), [New Castle News](#) (Pa.), [Jacksonville Courier Journal](#) (Ill.), [Huntington Herald Dispatch](#) (W.Va.), [Wheeling Intelligencer](#) (W.Va.), [Reno Gazette Journal](#) (Nev.), and [Grand Junction Daily Sentinel](#) (Colo.) carry an op-ed by Terry Jarrett, an energy attorney and consultant who has served on both the board of the National Association of Regulatory Utility Commissioners and the Missouri Public Service Commission, in which he argues the EPA's regulatory onslaught is dangerous because coal is still providing an essential grid reliability backstop during peak winter months.

[Fortune](#) (NAT) carries an op-ed by William F. Shughart II, the J. Fish Smith Professor in Public Choice at Utah State University's Huntsman School of Business, in which he argues fossil fuels will be essential for the foreseeable

future despite the administration's unrealistic plans.

[Cleveland Plain Dealer](#) (Ohio) carries an op-ed by Robert Chase, a professor and former head of the Petroleum Engineering and Geology Department at Marietta College from 1978 to 2015, in which he argues for permitting changes to mining to help incentivize domestic mining.

[DC Journal](#) (D.C.) carries an op-ed by Jaak Daemen, a professor emeritus of mining engineering at the University of Nevada, Reno, in which he argues Congress should reject the proposal for a royalty tax on domestic mining.

[Real Clear Energy](#) (D.C.) carries an op-ed by Danny Ervin, a Professor of Finance in the Perdue School of Business at Salisbury University, in which he argues the U.S. should view critical minerals as a challenge that can be largely solved by making improvements to the mine permitting process, ensuring that companies don't face interminable delays when opening new mines.

## Mining and Energy News

[Reuters](#) reported on Indonesian nickel production and trade.

[Kallanish](#) Commodities reported that according to Cargill, steel supply and demand will be in balance towards the end of the year, with global electric arc furnace or EAF-based production having been curtailed as Chinese exports increased this year.

[Energywire](#) reported that PJM Interconnection said that Maryland's power grid could become unreliable if the Brandon Shores power plant closes before new transmission projects come online. Talen Energy intends to close the state's last remaining coal plant by June 2025.

**[Politico Pro](#)** reported that EPA is considering revising its sweeping power plant carbon rule to address concerns it will diminish grid reliability.

**[Mining Technology](#)** reported that global coal production is expected to increase to 8,917.3 million metric tons (mt) in 2023, a growth of 1.9 percent over 2022, with China and India contributing to the growth. China, India, Indonesia, the U.S. and Australia are the top five coal-producing countries, together accounting for more than 80 percent of global coal production.

**[Argus](#)** reported that coal exports out of Hampton Roads, Virginia, rose for a third consecutive month in October as operations at one of the port's terminals (DTA) recovered.

The **[World Coal Association](#)** announced that after 38 years it has re-branded and renamed itself "FutureCoal-The Global Alliance for Sustainable Coal."

**[Yahoo Finance](#)** reported that to meet international government mandates for electric vehicles (EV), a total of 388 new mines must be built to produce the metals required for EV production, finds a new study released recently by the Fraser Institute, an independent Canadian public policy think-tank.

**[Mining.com](#)** reported that the uranium sector is scrambling to fill the global supply gap.

The **[International Copper Study Group](#)** reported that world copper mine production increased by approximately 1.1 percent in the first nine months of 2023, with concentrate production increasing by about 1.3 percent and solvent extraction-electrowinning (SX-EW) by 0.2 percent.

The **[World Platinum Investment Council](#)** is forecasting a platinum supply deficit of 353 thousand ounces in 2024 amid ongoing automotive and industrial

demand strength and constrained supply.

[Visual Capitalist](#) illustrated the volumes of various minerals mined in 2022.

## Commodity Prices

<b>Commodity Price - Snapshot</b>		
<b>Metals Prices</b>	<b>Date</b>	<b>Price</b>
Cobalt Spot Price (\$/lb)	11/28/23	\$15.15
Copper Spot Price (\$/lb)	11/28/23	\$3.80
Gold Spot Price (\$/ounce)	11/28/23	\$2,014.00
Lead Spot Price (\$/lb)	11/28/23	\$0.97
Lithium Spot Price (\$/kg)	11/28/23	\$17.68
Molybdenum Spot Price (\$/kg)	11/28/23	\$55.63
Nickel Spot Price (\$/lb)	11/28/23	\$7.18
Silver Spot Price (\$/ounce)	11/28/23	\$24.65
Steel HRC Price (\$/mt)	11/29/23	\$1,113.60
Steel Rebar Price (\$/mt)	11/28/23	\$547.71
Zinc Spot Price (\$/lb)	11/28/23	\$1.15
<b>Energy Prices</b>	<b>Date</b>	<b>Price</b>
Coal Price - Australian Premium Coking Coal Futures (\$/mt)	11/28/23	\$327.00
Coal Spot Price - Central Appalachian (\$/st)	11/24/23	\$73.45
Coal Spot Price - Newcastle futures (\$/mt)	11/29/23	\$129.29
Coal Spot Price - Rotterdam futures (\$/mt)	11/29/23	\$115.00
Natural Gas Spot Price - Henry Hub (\$/mmbtu)	11/15/23	\$2.87
Uranium Spot Price (\$/lb)	11/20/23	\$80.25

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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