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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 House in recess until January 9, the Senate remains in session despite the fact that many senators have already left town, working on confirmations, FAA authorization, and a hoped-for deal on Ukraine, Israel, and border funding that is unlikely to come to fruition anytime soon. Meanwhile, regulatory action continues to move forward with a second round of comments on power plant rules due this week. 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

Falls are a threat to the health of older adults and can reduce their ability to remain independent. Centers for Disease Control and Prevention offers a [wealth of information](#) on how you can reduce your chance of falling or help a loved one prevent falls.

Manchin Sounds the Alarm on Treasury's Guidance on Vehicle Tax Credits and Domestic Minerals Content



Yesterday, Sen. Manchin (D-W.Va.) wrote in a [letter](#) to the Government Accountability Office (GAO) that the Treasury [guidance](#), issued this month as a proposed rule, makes it easier for Foreign Entities of Concern (FEOC) to take advantage of the 30D tax credit while hurting American taxpayers and increasing America's reliance on foreign nations, including China, for battery minerals. He told the GAO that the proposed regulations do not carry out the

will of Congress, but rather Biden administration policy not enacted by law. It departs from the requirements spelled out in the IRA law regarding critical mineral and battery components.

The letter formally asks the GAO for a legal opinion on whether the Department of the Treasury's guidance on implementing the Clean Vehicle Tax Credit, is subject to review under the Congressional Review Act.

Oversight Chairman Comer Calls for Transparency on EPA's Clean Power Plan 2.0, Senators Capito and Barrasso Urge Rule Withdrawal



Last week, the Chairman of the House Committee on Oversight and Accountability James Comer (R-Ky.) [sent a pointed oversight letter to Environmental Protection Agency](#) (EPA) Administrator Michael Regan, raising serious concerns about the Clean Power Plan 2.0 (CPP 2.0) and recently revealed internal administration comments on the draft that cast doubts on its

viability and legality. In his letter, Chairman Comer calls for the disclosure of the identities of those who authored comments about the rule. These comments, found in documents provided to the Committee by the EPA, question whether the technologies outlined in the EPA's proposed standards have truly met the Clean Air Act's criteria for the 'best system of emission reduction' (BSER). Given that the authors' names were redacted in the documents given to the Committee, Chairman Comer is seeking transparency on who provided input and was ignored by the EPA in its rulemaking.

In movement this week, U.S. Sens. Shelley Moore Capito (R-W.Va.), the Ranking Member of the Environment and Public Works Committee, and John Barrasso (R-Wyo.), the Ranking Member of the Energy and Natural Resources Committee, sent a strongly worded oversight [letter to EPA Administrator Michael Regan](#), expressing their concerns about the Clean Power Plan 2.0.

Sens. Capito and Barrasso urged the EPA to pull the plug on the Clean Power Plan 2.0 and stressed the importance of keeping electricity affordable, the grid reliable, and adhering to the Clean Air Act in future proposals. The senators argue that the proposed emissions control technologies lack real-world proof and that the plan doesn't adequately address the grid's reliability concerns already raised by experts at FERC, the RTOs and ISOs.

NMA Hosts National Defense University Discussion on Mineral Supply Chains

Last week, the NMA hosted students from the National Defense University's (NDU) [Eisenhower School for National Security and Resource Strategy](#) for a discussion on mineral supply chains, strategic vulnerabilities impacting the Department of Defense (DOD), and the need to ensure responsible

resource development policies are in place to help the mining industry ensure we have the strategic and critical materials necessary support U.S. economic and national security priorities. The NMA's Justin Prosser addressed the students – who included DOD active-duty and civilian personnel – on implications of the Interagency Working Group on Mining Laws, Regulations and Permitting's recommendations, the need for mine permitting reforms and access to mineralized lands, as well as policy solutions to ensure a robust domestic mineral supply chain. Within the Eisenhower School, the curriculum includes a study of strategic perspectives on the U.S. and global industrial base and its role in supporting the resource requirements of national security. The NMA has addressed NDU students in the past on similar topics and looks forward to continued engagement with the national defense community.

NMA Joins Coalition to Advance Energy Port Infrastructure Investment

Last week, the NMA joined the Maritime Coalition – which represents the majority of industries and port operators who rely on waterways to transport commodities – to urge Congress to support infrastructure resilience in the Water Resources Development Act (WRDA) for 2024. The [priorities](#), which were submitted for the record during a December 13th House Committee on Transportation and Infrastructure [hearing](#) on WRDA 2024 stakeholder priorities identified key recommendations to support the mining industry. Specifically, the coalition requested Congress to fully fund the Harbor Maintenance Trust Fund (HMTF) to ensure energy transfer ports and channels are maintained at their full depth and width to accommodate waterway traffic and to prioritize meeting funding requirements in WRDA FY2023 for energy transfer ports capital improvement projects to meet energy demand abroad.

EPA Declines NMA's Comment Extension Request on *Maui* Groundwater Guidance

Last Friday, the EPA declined the requests of the [NMA](#) and numerous trade associations to extend the 30-day comment deadline on its draft guidance implementing the U.S. Supreme Court's decision in *County of Maui v. Hawaii Wildlife Fund* in the Clean Water Act section 402 National Pollutant Discharge Elimination System permit program. The NMA urged the agency to extend the comment deadline by 45 days to ensure that members had the opportunity to weigh in on the new and complex questions the guidance raises. The NMA is developing comments to address numerous issues with EPA's draft guidance, including its overall lack of clarity, implementation challenges it could create, and its wholesale dismissal of state groundwater protection programs. Comments are due Dec. 27, 2023.

Chairman Stauber Reintroduces the ESA Flexibility Act



On Friday, House Energy and Mineral Resources Subcommittee Chairman Pete Stauber (R-Minn.) reintroduced his *ESA Flexibility Act* ([H.R. 6784](#)), which would amend Section 4(d) of the Endangered Species Act (ESA) by allowing the Department of the Interior (DOI) to utilize flexibilities of the 4(d) rule for endangered species, similar to the way threatened species are treated. Please find a link to Chairman Stauber’s press release on the legislation [here](#).

The legislation was cosponsored by Western Caucus Chairman Dan Newhouse (R-Wash.), Coal Caucus Co-Chair Harriet Hageman (R-Wyo.), and other committee and caucus members. The bipartisan ESA Working Group, comprised of the House Natural Resources Committee and the Western Caucus, continues to develop a package of bills aimed at realistic reforms of the ESA, and hopes to introduce the legislative package sometime in the first quarter of 2024. The package is expected to include H.R. 6784.

NMA Files Comments on EPA’s TSCA Risk Evaluation Rule

Last week, the NMA filed [comments](#) with the North American Metals Council on the EPA's [proposed rulemaking](#) seeking to amend the Toxic Substances Control Act (TSCA) procedural framework for conducting risk evaluations. EPA uses this framework to determine whether a chemical substance presents an unreasonable risk of injury to health or the environment under their conditions of use. The NMA has monitored EPA's TSCA implementation given that the choices EPA makes will set precedent for how metals and metal compounds are evaluated in the future. Years ago, the NMA successfully advocated for Congress to require EPA to use the [2007 Framework for Metals Risk Assessment](#) when prioritizing and evaluating the risk of metal and metal compounds. EPA continues to recognize this requirement in its proposed risk evaluation rule. However, the NMA raised concerns that EPA's other policy decisions would result in overly stringent risk evaluations and management actions. Notably, the NMA opposed EPA's disregard for workers' use of personal protective equipment, urging EPA to thoroughly consider preexisting federal safety programs, such as the Mine Safety and Health Administration's, when conducting risk evaluations. The NMA also opposed reducing public comment opportunities, the lack of discernible standards for certain parts of EPA's proposed risk evaluation framework, and the elimination of the definitions for "best available science" and "weight of scientific evidence" that will allow EPA to lower the scientific rigor of its risk evaluations.

NMA Joins Coalition Comments on EPA's IRIS Toxicological Review of Inorganic Arsenic

The NMA joined a coalition led by the Arsenic Science Task Force (ASTF) in submitting [comments](#) on the EPA's [draft](#) Integrated Risk Information System (IRIS) toxicological review of inorganic arsenic. EPA's IRIS assessment

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 and approximately 30 times greater than previously accepted cancer values calculated by EPA's Office of Water. For the mining industry, this could mean necessitating the reopening of Superfund and Resource Conservation and Recovery Act sites for further cleanup. The coalition's comments highlighted the flawed process and science underlying this risk assessment.

Specifically, the coalition pointed to a lack of transparency and lack of meaningful public engagement, arguing that 60 days was insufficient to digest, decipher and comment over 600 pages of highly technical scientific information. The coalition also argued that EPA failed to integrate all lines of scientific evidence and prematurely cut off its review and analysis of published literature. On the science underlying the assessment, the coalition identified the following concerns: a lack of consideration for mode of action in dose-response analyses; rejection of a threshold in the arsenic dose-response relationship; improper use of epidemiological studies, and dependence on unvalidated modeling and inappropriate statistical methods. The next step in the IRIS process is an external peer review by the Science Advisory Board's inorganic arsenic panel.

The NMA continues to work with the ASTF on efforts to strengthen existing IRIS report language included in the FY2024 Interior and Environment Appropriations [report](#) that would mandate additional peer review of the arsenic assessment.

Association Book Drive Concludes with Outsized NMA Support

EVERYBODY WINS

The 3rd annual Association Book Drive Challenge, hosted by [Everybody Wins DC](#) concluded last week with a sprint to the finish amongst the participating 16 D.C.-area trade associations. The NMA contributed over 616 of the 3,972 total books donated for the challenge. This outsized show of support placed the NMA as the leader for the number of books donated per-person. Thanks to the support of the NMA's staff and members, along with donations by the NMA's friends and family, the challenge will put even more new science, technology, engineering and math (STEM) books directly into kids' hands.

NMA and Third Parties In the News

Rich Nolan is quoted by [Reuters](#), [Axios](#), [Bloomberg](#) and [E&E Greenwire](#) on disappointing guidance from the Biden administration for companies looking to tap hundreds of billions of dollars in tax perks for clean energy equipment manufacturing.

[Utility Dive](#) quotes Rich Nolan on NERC's 10-year reliability assessment, which warns environmental regulations and energy policies "that are overly rigid" can jeopardize "the orderly transition of the resource mix."

Rich Nolan [has a new president's blog](#) on the essential role that coal plays in winter electricity reliability.

[Argus](#) mentions the NMA in a story noting the Environmental Protection Agency (EPA) has moved to simplify the suite of challenges to its "good

neighbor" NOx plan, asking a federal court to dismiss petitions the agency says rest on conjecture.

From our third parties, [Martins Ferry Times Leader](#) (Ohio), [Yahoo News](#) (USA) and [Casper Star Tribune](#) (Wyo.) carries 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.

[Real Clear Energy](#) (D.C.) carries an op-ed by Jim Constantopoulos, a Professor of Geology and the Director of Miles Mineral Museum at Eastern New Mexico University, in which he argues in support of investing in mining engineering programs as mineral demand soars.

Mining and Energy News

[The New York Times](#) and others report that U.S. Steel agreed this week to sell to Japan's Nippon Steel for \$14.1 billion.

[Kallanish](#) reported that researcher ING is forecasting nickel prices to remain under pressure in the short term as a surplus in the global market builds and a slowing global economy mutes stainless steel demand.

[Reuters](#) reported that the U.S. House of Representatives passed a ban on imports of Russian uranium last Monday as lawmakers seek to add pressure on Moscow for its war on Ukraine, though the measure has waivers in case of supply concerns for domestic reactors.

[**Politico Pro**](#) reported on EIA outlook data showing that U.S. wind and solar power generators are projected to produce more electricity than coal next year for the first time.

[**Argus**](#) reported that electricity demand in North America is rising faster than ever, adding to future resource adequacy concerns as a transition to renewable generation accelerates coal- and gas-fired power plant retirements, according to the North American Electric Reliability Corporation (NERC).

[**Utility Dive**](#) reported on NERC's 10-year reliability assessment's warning that rising peak demand and the 83 GW of planned fossil fuel and nuclear retirements as well as overly rigid energy policies are creating electric power risks for most of the U.S.

[**Argus**](#) reported that coal production in the U.S. so far this quarter has continued to lag year-earlier levels following weaker-than-expected domestic demand.

[**Mining.com**](#) reported that miner and battery metals producer, U.S. Strategic Metals (USSM), has reached nearly \$500 million in funding and commitments for the development of its cobalt-nickel mine and the construction of its hydrometallurgical battery metals recycling facility based in Fredericktown, Missouri.

[**Mining Journal**](#) reported, "It's two weeks early for New Year predictions but the evidence is mounting that a strong recovery in the mining sector has started as falling interest rates trigger a rush for precious metals."

[**Argus**](#) reported that IEA expects global supply and demand to peak this year and projects and then a fall in midterm coal demand over 2024-26.

[**International Lead-Zinc Study Group \(ILZSG\)**](#) reported on October data

showing that in the first 10 months of the year world zinc mine production fell by 1.7 percent, mainly due to reductions in Australia, Bolivia, Canada, the U.S. and Ireland, due to the suspension of activities at Boliden’s Tara operation in June. World lead production increased 1.5 percent over the same period.

[Mining.com](https://www.mining.com) reported that “Rhodium has lost two thirds of its market value and palladium a third during 2023, pushing the six-element PGM basket price to \$1,250 per oz., two thirds lower than its peak in April 2021,” the World Platinum Investment Council said in a report released last Thursday.

Commodity Prices

Commodity Price - Snapshot		
Metals Prices	Date	Price
Cobalt Spot Price (\$/lb)	12/18/23	\$13.21
Copper Spot Price (\$/lb)	12/19/23	\$3.90
Gold Spot Price (\$/ounce)	12/19/23	\$2,039.02
Lead Spot Price (\$/lb)	12/18/23	\$0.91
Lithium Spot Price (\$/kg)	12/19/23	\$13.66
Molybdenum Spot Price (\$/kg)	12/18/23	\$43.00
Nickel Spot Price (\$/lb)	12/18/23	\$7.30
Silver Spot Price (\$/ounce)	12/19/23	\$24.05
Steel HRC Price (\$/mt)	12/19/23	\$1,122.80
Steel Rebar Price (\$/mt)	12/19/23	\$542.61
Zinc Spot Price (\$/lb)	12/19/23	\$1.16
Energy Prices	Date	Price
Coal Price - Australian Premium Coking Coal Futures (\$/mt)	12/18/23	\$314.50
Coal Spot Price - Central Appalachian (\$/st)	12/15/23	\$76.30
Coal Spot Price - Newcastle futures (\$/mt)	12/18/23	\$145.08
Coal Spot Price - Rotterdam futures (\$/mt)	12/18/23	\$117.20
Natural Gas Spot Price - Henry Hub (\$/mmbtu)	12/13/23	\$2.33
Uranium Spot Price (\$/lb)	12/11/23	\$82.30

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

CORESafety



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



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