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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

Both chambers of Congress departed for the Presidents' Day recess but will face another round of urgent government funding deadlines when they return. Federal agencies, meanwhile, continued to press forward on an ambitious regulatory agenda this spring. 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

In 2021, 850 workers died in falls, and hundreds of thousands were injured badly enough to require days off work. At home, falls are the #1 cause of accidental death for older adults. March is [National Ladder Safety Month](#).

Ninth Circuit Overturns Moratorium on Federal Coal Leasing



In a victory for the National Mining Association and the states of Wyoming and Montana, the U.S. Court of Appeals for the Ninth Circuit (Ninth Circuit) today [overturned](#) a 2022 judicially imposed moratorium on federal coal leasing. The decision ends the moratorium imposed by an activist district court judge who manufactured an unprecedented novel and indefinite nationwide injunction against federal coal leasing until the Bureau of Land Management (BLM) completed a "sufficient" National Environmental Policy Act (NEPA) analysis of a 2017 revocation of an Obama-era moratorium. Ultimately, the Ninth Circuit held that the district court wrongfully decided the case rather than dismissing it once the 2017 revocation was rescinded by a 2021 Department of Interior Secretarial Order. The NMA, which led the effort, issued a press release

applauding the decision is available [here](#). Media coverage of the ruling and Rich Nolan's comments includes [Politico](#), [The Hill](#) and others.

Congressional Oversight of EPA's PM NAAQS Moves Forward

At the urging of the NMA and other stakeholders, Congress has engaged in robust oversight activities in response to the U.S. Environmental Protection Agency's (EPA) decision to lower the annual health-based National Ambient Air Quality Standard (NAAQS) for fine particulate matter (PM_{2.5}) from 12 micrograms per cubic meter ($\mu\text{g}/\text{m}^3$) to 9 $\mu\text{g}/\text{m}^3$. Last week, the House Energy & Commerce Committee, led by Chair Cathy McMorris Rodgers (R-Wash.), and the Environment, Manufacturing and Critical Materials Subcommittee, Chaired by Buddy Carter (R-Ga.), held a legislative hearing titled, "Safeguarding American Prosperity and People's Livelihoods: Legislation to Modernize Air Quality Standards," which focused on the [discussion draft](#) of "the Air Quality Standards Implementation Act of 2024," legislation that addresses concerns with the EPA's air quality standards reconsideration process. Witnesses from various sectors presented their views on the impact of the EPA's rule and its implications for American industries and public health. The NMA worked with Committee staff ahead of the hearing to educate them on the mining industry's concerns with the EPA's proposal. The hearing was the committee's [second hearing](#) on PM_{2.5}, with the first led by former Subcommittee Chair and Congressional Coal Caucus Co-Chair [Bill Johnson](#) (R-Ohio). At the time, the NMA worked with Chair Johnson to organize 71 other congressional House Members to [urge](#) EPA Administrator Regan to withdraw the EPA's PM_{2.5} reconsideration.

Following the hearing, on February 16, in response to EPA's PM_{2.5} rule, Chair

Carter, alongside Western Caucus Chairman Dan Newhouse (R-Wash.), House Natural Resources Chairman Bruce Westerman (R-Ark.), and 110 other House members, [called for](#) the EPA to rescind the newly finalized NAAQS for PM_{2.5}. The NMA supported the effort along with a coalition of other industry groups. In the Senate, the NMA is working with Senator Tuberville (R-Ala.) to organize Senators [to oppose](#) the EPA's PM_{2.5} NAAQS rule. This follows efforts last fall by Senator Shelley Moore Capito (R-W.Va.), Ranking Member of the Senate Environment and Public Works Committee, in leading 22 senators to [urge the EPA](#) to abandon its proposed reconsideration of the PM_{2.5} NAAQS. Additionally, Senate Minority Leader Mitch McConnell (R-Ky.) in the Senate and Chairwoman McMorris Rodgers and other members in the House plan to introduce Congressional Review Act legislation against EPA's PM_{2.5} rule, which would nullify the rule if passed by both Houses and signed by the President. Such legislation would serve as an additional oversight tool, although not likely to become law. Finally, both the Senate and House are targeting EPA's PM_{2.5} rule through the appropriations process, with Ranking Member Capito actively pursuing the inclusion of a policy rider in the FY'25 base text of the Senate's Interior and Environment Appropriations bill that would prohibit funds from being used to enforce EPA's PM_{2.5} NAAQS rule and Congressman Paul Gosar (R-Ariz.) developing similar appropriations language in the House. Concurrently, Senate Minority Leader Mitch McConnell (R-Ky.) is engaged in negotiations to incorporate a similar provision into the FY24 funding bill.

NMA to Testify on Advanced Manufacturing Production Tax Credits (45X) for Mining; Leading Senate Democrats and Unions Also Support



On February 22, NMA President and CEO Rich Nolan will provide testimony during a U.S. Department of the Treasury hearing regarding its [proposed guidance](#) for the 45X Advanced Manufacturing Production Tax Credit. NMA's remarks will discuss domestic miners' importance to economic and national security and why ensuring domestic miners are eligible for the credit will help ensure the domestic industry can compete. The hearing follows a public comment period, which received over 170 comments from industry and stakeholder groups, including [comments](#) by the NMA. Additional mining industry advocates are expected to testify, including NMA members Piedmont Lithium, Talon Metals and Sibanye Stillwater.

To date, reaction to Treasury's proposed guidance has been swift and overwhelmingly bipartisan. Feedback to Treasury by stakeholders encompasses the NMA's comments and a [letter](#) from 46 mining and auto companies urging for the IRS to update guidance to include direct and indirect material costs and costs related to the domestic extraction of raw materials (mining) because they are value-added activities and should be eligible to claim the 45X credit. Notably, Senators Catherine Cortez Masto (D-Nev.) and John Hickenlooper (D-Colo.) and seven Democratic colleagues, including [Sen.'s Patty Murray](#) (D-Wash.), [Jacky Rosen](#) (D-Nev.), [Joe Manchin](#) (D-W.Va.), [Mark Kelly](#) (D-

Ariz.), Laphonza Butler (D-Calif.), Kyrsten Sinema (I-Ariz.), and [Bob Casey](#) (D-Penn.), sent a similar [request](#) to Treasury. Senator Jon Tester (D-Mont.) sent a separate [letter](#) to Treasury highlighting the importance of Montana’s mining industry and the need for revised guidance to include them in the tax credit. Several labor groups and automakers shared similar sentiment in individual comments including General Motors, the Aerospace Industries Association, the United Steelworkers and others.

NMA Meets with OMB on Silica Rule



The NMA met with the Office of Management and Budget (OMB) today on the Mine Safety and Health Administration’s (MSHA) respirable crystalline silica rule. MSHA recently sent the final rule to OIRA for interagency review. While the NMA did not express opposition to the reduced silica standard, we used the opportunity to highlight major concerns with proposed implementation of the rule including:

- The failure to apply the hierarchy of controls when compared to the Occupational Safety and Health Administration's approach in its 2016 silica rule.
 - The short timeframe for implementation.
 - The refusal to accept personal protective equipment for purposes of complying with the silica permissible exposure limit.
 - The failure to use a risk-based approach to sampling and surveillance.
 - The use of an eight-hours shift length measuring standards, which will yield inaccurate silica exposure data.
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OSMRE Withdraws Rule on Emergency Preparedness for Impounding Structures

According to the Office of Management and Budget's Office of Information and Regulatory Affairs (OIRA) [website](#), the Office of Surface Mining Reclamation and Enforcement (OSMRE) formally withdrew its [proposed rule](#) on Emergency Preparedness for Impounding Structures. Recall, as part of our advocacy strategy last year, the NMA and members met with OIRA and OSMRE to outline our concerns with this proposed rulemaking. Overall, the NMA believes this positive news is a direct result of our advocacy in the meeting with OIRA and OSMRE. An agency may withdraw its rule from OIRA review and choose not to move forward with it or resubmit it after further consideration at any time. The NMA reached out to OSMRE to ask about the status of the rule and if the withdrawal was permanent and is awaiting a response.

BLM Announces Draft Mining Performance Metrics

Last week, the Bureau of Land Management (BLM) [announced](#) draft [Mining Performance Metrics](#) (draft metrics) to measure and track the timely and effective permitting of mineral exploration and development projects on BLM-managed lands. The draft metrics respond to directives in the Bipartisan Infrastructure Law requiring BLM to develop metrics to demonstrate efficient mine project permitting and were informed by the recommendations included in the Interagency Working Group on Mining Laws, Regulations, and Permitting [final report](#). The BLM is also developing performance metrics to assess engagement with and outcomes for Tribes and communities that may be affected by mining projects. Comments on the draft metrics are due Mar. 13, 2024.

NMA Submits Comments on Proposed ESA Listing for Coal Darter

This week, the NMA submitted [comments](#) on the U.S. Fish and Wildlife Service's (Service) proposed Endangered Species Act (ESA) listing for the coal darter, an aquatic species native to Alabama that is impacted by a number of threats, including alleged mining activities that degrade the species' habitat. The Service also is proposing a 4(d) rule to allow certain exceptions to the prohibitions of take of the coal darter, to include habitat improvement activities and silviculture and forestry activities that follow best management practices. The NMA requested that the Service re-evaluate its proposed listing based on its statutorily required "best available science" standard under the ESA to

determine if the coal darter is truly a threatened species and, if so, that the Service consider a 4(d) rule that would also except mining activities from the prohibition of take under the ESA.

EPA Proposes New RCRA Rules Targeting PFAS

The EPA announced two proposed rules aimed at protecting communities and the environment from the health risks posed by certain per- and polyfluoroalkyl substances (PFAS) under the Resource Conservation and Recovery Act (RCRA). The first [proposed rule](#) would amend the definition of hazardous waste applicable to corrective action to address releases from solid waste management units at RCRA-permitted treatment, storage and disposal facilities (**TSDFs**). EPA is also proposing conforming amendments to codify the agency's longstanding interpretation of its authority to require corrective action to address releases not only of substances listed or identified as hazardous waste in RCRA regulations but of any substance that meets the statutory definition of hazardous waste. The NMA joined a broader coalition [letter](#) requesting a 45-day extension of the comment period. Comments are currently due Mar. 11, 2024.

The second [proposed rule](#) would add nine PFAS, their salts and structural isomers to the list of hazardous constituents under 40 CFR Part 261 Appendix VIII. Listing a substance as a hazardous constituent is a preliminary step toward classifying it as a hazardous waste. According to EPA, these PFAS would be added to the list of substances identified for consideration in facility assessments and, where necessary, further investigation and cleanup through the corrective action process at hazardous waste TSDFs. Under this proposal, EPA identified up to 1,740 facilities that could be subject to the additional corrective action cleanup requirements. Comments are due Apr. 8, 2024.

NMA Attends the 2024 Miami Coal Forum

2024 MIAMI COAL FORUM

FEBRUARY 20-22, 2024

MAYFAIR HOTEL
Miami, Florida

*Brought to you by the American Coal Council and
McCloskey by Opus a Dow Jones Company*



This week, the NMA joined in the American Coal Council (ACC) for the 2024 Miami Coal Forum. The NMA's James Young met with industry stakeholders, including NMA members, and participated in discussions at the forum. Key forum topics included the EPA's regulatory onslaught and congressional oversight opportunities to push back on the industry stifling actions. The NMA has engaged with ACC on key regulatory issues and continues to work on strategies to overcome the burdensome and punitive regulations.

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NMA and Third Parties In the News

[CNN](#) quotes the NMA's Tawny Bridgeford on today's Supreme Court hearing on the Good Neighbor rule.

From our third parties, [Boston Herald](#) (Mass.) and [Grand Forks Herald](#) (N.Dak.) published 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 we must move now to secure our economic and national security by building reliable and lasting domestic mineral supply chains under world-leading environmental and labor standards.

[The Bryan Times](#) (Ohio), [Clearwater Progress](#) (Idaho), [Idaho County Free Press](#) (Idaho), [Salem News](#) (Ohio), [East Liverpool Review](#) (Ohio), [Lisbon Morning Journal](#) (Ohio), [Mesabi Tribune](#) (Minn.), [Northwest Signal](#) (Ohio), [Kokomo Tribune](#) (Ind), [Jacksonville Courier Journal](#) (Ill.), [Frankfort State Journal](#) (Ky.) and [Montana Standard](#) (Mont.) all ran an op-ed by Michael Stumo, CEO of the Coalition for a Prosperous America, in which he argues domestic U.S. companies will need reliable, safely produced metals and minerals from America's mines.

Mining and Energy News

[Greenwire](#) reported that Georgia regulators recently advanced a proposal to mine for titanium and zirconium near the Okefenokee Swamp, the nation's largest blackwater swamp.

[Adamas Intelligence](#) reported on their internal data showing that U.S. nickel consumption in EV batteries jumped 50 percent during the first 11 months of 2023.

[Argus](#) reported that coal generation in the PJM Interconnect jumped to a 17-

month high in January, reflecting increased electricity demand as a result of freezing weather across the U.S. in the middle of the month.

[**Climatewire**](#) reported that gas is poised to overtake coal as the top CO₂ emitter in the U.S. power sector this year.

[**Oilprice.com**](#) reported that Chinese REE and battery metals producers have been flooding the markets to drive out competition.

The U.S. [**Naval Post Graduate School's Energy Academic Group**](#) reported on a recent paper exploring whether the U.S. has enough minerals for a possible military conflict with China providing analysis illustrating which materials may have the highest shortfall risk.

[**Argus**](#) reported that coal exports out of Hampton Roads, Virginia, rose to their highest level in more than five years in January despite headwinds in some markets.

[**Climatewire**](#) reported that a coalition of transportation and environmental groups is pushing the auto industry to buy more steel from low-polluting mills, arguing the carmakers could help spur the development of a greener steel industry.

[**Argus**](#) reported on recent Surface Transportation Board (STB) metrics data showing that rail service at the four major U.S. carriers – CSX, Norfolk Southern, BNSF and Union Pacific – has improved since April 2022.

[**CNBC**](#) and [**The Hill**](#) reported that U.S. Energy Secretary Jennifer Granholm said last week that the country is “very concerned” about China’s grip on the global supply chain for critical minerals.

[**Kallanish**](#) reported that the International Energy Agency (IEA) is launching a

critical minerals security program to help countries secure critical minerals supplies.

The [**U.S Department of Energy**](#) announced last week \$17 million in funding for three projects that will support the design and construction of facilities that produce rare earth elements and other critical minerals and materials from coal-based resources.

[**South32**](#) announced last week that it had received board approval of \$2.16 billion in funding to develop the zinc-lead-silver deposit at its Southern Arizona Hermosa project.

[**Coal Age**](#) reported on CONSOL Energy's recent fourth quarter financial and operating results noting that CONSOL has shifted its coal sales mix toward the coal export market with 15.7 million tons of coal moving to export from their CONSOL Marine Terminal.

[**E&E News PM**](#) reported on recent EPA data showing that coal power plant emissions were down 7 percent for sulfur dioxide (SO₂) and 3 percent for nitrogen oxide (NO_x) in 2023 compared to 2022, coinciding with an 18 percent drop in coal generation in the lower 48 states.

[**Utility Dive**](#) reported that the U.S. Senate approved \$2.7 billion in funding for domestic uranium enrichment last week as part of a \$95 billion national security supplemental appropriations bill that also includes funding for military assistance to Ukraine and Israel.

Commodity Prices

Commodity Price - Snapshot		
Metals Prices	Date	Price
Cobalt Spot Price (\$/lb)	2/19/24	\$12.95
Copper Spot Price (\$/lb)	2/20/24	\$3.86
Gold Spot Price (\$/ounce)	2/20/24	\$2,027.12
Lead Spot Price (\$/lb)	2/19/24	\$0.92
Lithium Spot Price (\$/kg)	2/20/24	\$13.55
Molybdenum Spot Price (\$/kg)	2/19/24	\$46.75
Nickel Spot Price (\$/lb)	2/19/24	\$7.30
Silver Spot Price (\$/ounce)	2/20/24	\$23.05
Steel HRC Price (\$/mt)	2/20/24	\$802.27
Steel Rebar Price (\$/mt)	2/20/24	\$523.53
Zinc Spot Price (\$/lb)	2/20/24	\$1.08
Energy Prices	Date	Price
Coal Price - Australian Premium Coking Coal Futures (\$/mt)	2/20/24	\$307.00
Coal Spot Price - Central Appalachian (\$/st)	2/16/24	\$73.25
Coal Spot Price - Newcastle futures (\$/mt)	2/20/24	\$119.09
Coal Spot Price - Rotterdam futures (\$/mt)	2/19/24	\$94.40
Natural Gas Spot Price - Henry Hub (\$/mmbtu)	2/14/23	\$1.51
Uranium Spot Price (\$/lb)	2/12/24	\$103.20

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

CORESafety



In the February edition of CORESafety TV, we cover Module Number 17, Assurance.



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