

# CEO Mine Recap

By Rich Nolan • Mar 01, 2024

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**February in the nation’s capital had many thinking about Groundhog Day, but in this case it wasn’t the holiday, it was the movie where Bill Murray is doomed to repeat his mistakes day after day.** We saw yet another shutdown scramble end in yet another short-term stopgap spending bill to avert a partial government shutdown with just 36 hours on the clock.

At the same time, the administration continued to charge blindly down its aggressive and ill-informed regulatory path, doubling down on bad policy decision after bad policy decision.

Despite congressional gridlock and a relentless administration agenda, the NMA team is pressing forward with our policy priorities everywhere from the Supreme Court to Capitol Hill and in news outlets across the country.

## Supreme Court Hears Arguments for Ozone Transport Rule Stay



The U.S. Supreme Court in February heard oral arguments on the EPA’s Ozone Transport rule.

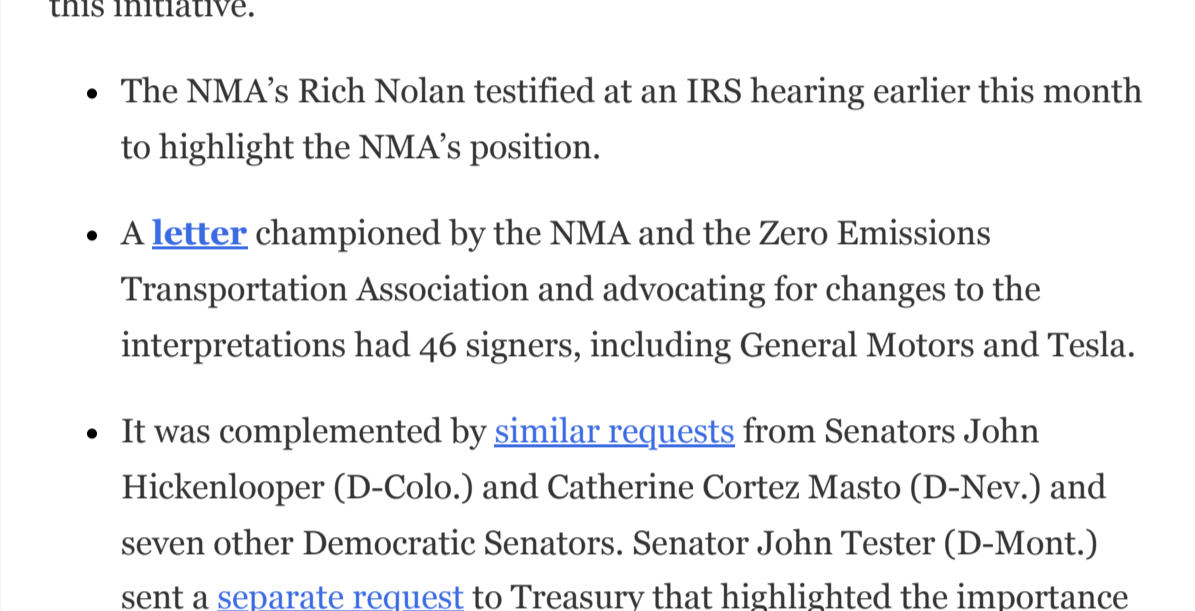
**What’s the NMA’s role?** Last October, the NMA filed an [emergency application](#) for immediate stay of EPA’s final rule, following a divided panel on the D.C. Circuit denying our stay requests.

**Who else is involved?** In addition to the NMA, nine industry parties, including trade association allies and electric cooperatives, agree with the NMA’s position that the Ozone Transport rule is “irreparably flawed.” Our stay application emphasized that “EPA’s willful decision to move forward has simultaneously abrogated the rights of states to regulate air pollution within their borders and improperly forced industries regulated by the Federal Plan into the immediate expenditure of hundreds of millions of dollars pending the lower court’s review, all while jeopardizing the reliability of the grid.” Ohio, Indiana and West Virginia also filed a [separate application](#), arguing that “EPA’s rulemaking ignored obvious problems with its attempt to twist the Clean Air Act into a system of top-down regulation instead of the system of cooperative federalism that Congress intended.”

**What happened?** You can listen to oral argument [here](#). A transcript is also available [here](#). Counsel was asked to address “whether the emissions controls imposed by the [federal plan] are reasonable regardless of the number of states subject to the rule,” and most of the discussion in court dealt with variations on this question. Liberal justices also focused on whether the Supreme Court should be intervening at this stage.

**What’s next?** A ruling is expected in the next month. Merits briefing kicks off in the D.C. Circuit in April and ends in August.

## NMA Advocates for 45x Tax Credit Application Back to the Mine



The NMA and others are working to convince the Treasury to make domestic miners eligible for the 45X Advanced Manufacturing Production Tax Credit that was created to incentivize domestic mineral supply chains.

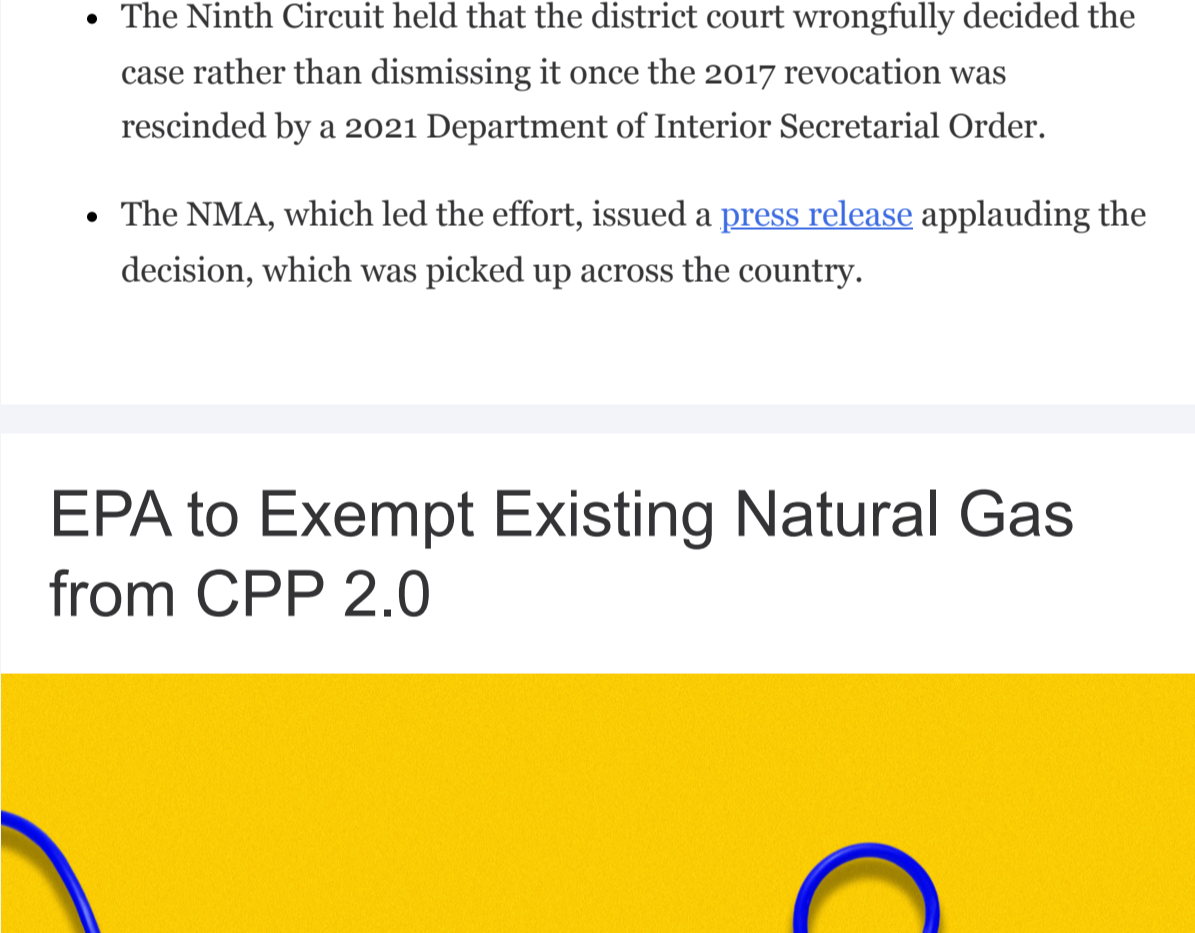
**Who’s involved?** A broad range of interests have come together around this initiative.

- The NMA’s Rich Nolan testified at an IRS hearing earlier this month to highlight the NMA’s position.
- A [letter](#) championed by the NMA and the Zero Emissions Transportation Association and advocating for changes to the interpretations had 46 signers, including General Motors and Tesla.
- It was complemented by [similar requests](#) from Senators John Hickenlooper (D-Colo.) and Catherine Cortez Masto (D-Nev.) and seven other Democratic Senators. Senator John Tester (D-Mont.) sent a [separate request](#) to Treasury that highlighted the importance of Montana’s domestic mining industry.

- Access the NMA’s Comments [here](#).

There is no set timeframe for Treasury to respond but we will keep you posted.

## Coal Leasing Moratorium Lifted



In a victory for the NMA, the states of Wyoming and Montana, and the entire industry that participates in the federal coal leasing program, the U.S. Court of Appeals for the Ninth Circuit overturned an improper moratorium on federal coal leasing.

**What happened?** The decision ends the moratorium imposed by an activist district court judge who revived a defunct Obama-era moratorium.

- 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, which was picked up across the country.

## EPA to Exempt Existing Natural Gas from CPP 2.0



**News leaked last night that the EPA would be exempting existing natural gas units from its forthcoming Clean Power Plan 2.0, but press forward with measures for coal plants.** The same day the news broke, we received polling from the field that showed that the American people support an all of the above energy strategy that includes coal, and want a pause on the closure of existing plants until new capacity is operational.

The team quickly [issued a release](#) combining that polling with a statement from me, followed today [with a more detailed release on the polling](#) and a special edition of [Count on Coal](#) tackling the issue of fuel security.

We know CPP 2.0 will be a fight and we’re prepared to strike back aggressively in the courts, with congressional allies and in the media.

## New PM NAAQS Standard Will Impede Permitting and Harm the Economy



In February, the U.S. Environmental Protection Agency (EPA) signed a final rule that significantly lowers the annual health-based national ambient air quality standard (NAAQS) for fine particulate matter (PM<sub>2.5</sub>).

**What it does.**

- The new standard puts jobs at risk, making it harder to obtain permits for new factories, facilities and infrastructure to power economic growth.
- The NMA and a coalition of more than 70 other trade groups and corporations [urged](#) the Biden administration to maintain the existing standard.
- Supporters in Congress followed NMA’s lead with letters from the [House](#) and [Senate](#).

**What’s next.** Given the widespread coalition that has objected to the new standard and the permitting gridlock it will inflict on a range of industries, litigation is imminent. The NMA has already begun coalition meetings to discuss next steps.

**Go deeper.** Access the EPA’s resources on EPA’s final rule [here](#) and our public statement [here](#).

## Register for the NMA Board Meeting: April 7-9



The NMA Spring Board of Directors Meeting is April 7-9, 2024, at the Conrad Washington, D.C. We are looking forward to welcoming everyone back to D.C.

- Speakers include the Honorable John Barrasso, U.S. Senator (R-Wyo.); The Honorable Joe Manchin, U.S. Senator ([D-W.Va.](#)); Tom Bevan, Co-Founder & President, RealClearPolitics; Lucas Pipes, Analyst, Managing Director, B. Riley Financial, Inc.; Alex Becker, Policy Analyst, Benchmark Minerals; and Ernest Scheyder, Author, *The War Below*.
- Congressional reception on Capitol Hill followed by an evening tour of the U.S. Capitol and the U.S. House of Representatives Chamber.
- Hotel rooms in the NMA block are on a first come, first served basis. The group rate (\$469/night) is available until March 16, or until the block is full. [Click here to reserve a room.](#)

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