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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

Congress returned to session this week as the executive branch continues to push forward new regulations at an unprecedented pace. 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

Today is [National Heatstroke Prevention Day](#). This year the focus is on preventing injuries and deaths of children left in vehicles.

EPA Finalizes Power Plant Rules



Last week, the U.S. Environmental Protection Agency (EPA) finalized a suite of regulations designed to prematurely close well-operating coal plants necessary for grid-saving baseload power across the country. EPA released details on: (1) new carbon pollution standards for existing coal plants (also known as the Clean Power Plan 2.0); (2) stricter Mercury Air Toxics Standards; (3) strengthened Clean Water Act effluent limitations guidelines and standards; and (4) first-time limits for legacy coal combustion residual surface impoundments. The NMA’s initial review of these four rules is available [here](#).

According to EPA, announcing these four rules at the same time “provide[s] regulatory certainty as the power sector makes long-term investments in the transition to a clean energy economy.” EPA’s [press release](#) contains a number of false assertions that rely on overly aggressive assumptions that ignore America’s electricity reality and the looming power supply crisis. EPA continues

to falsely claim that its regulatory actions “ensur[e] that power companies can make smart investments and continue to deliver reliable electricity for all Americans” without recognizing that its own analysis confirms the new standards will force massive retirements of the critical resources needed to support the grid. As a result, EPA wrongly concludes that “the [power] sector can meet growing demand for electricity and provide reliable, affordable electricity at the same time as it reduces pollution in accordance with these rules to protect health and the planet.”

The NMA fired back in a [press release](#) slamming EPA for “refus[ing] to account for irrefutable evidence that electricity demand is soaring, disregard[ing] validated reliability warnings from grid experts related to coal plant closures, and ignore[ing] the basic fact that there is no adequate replacement ready to replace the sorely needed, dispatchable generating capacity coal provides once it is shuttered.” Three weeks ago, the NMA released a [white paper](#) highlighting that surging demand for electricity is colliding with rapidly eroding grid reliability and projected power supply shortfalls driven by the EPA’s damaging regulatory agenda. As coal plant retirements accelerate due to the cumulative impact of EPA’s agenda, new renewable energy and interstate transmission additions are not materializing to reliably meet existing or expected power demand.

CEQ Finalizes NEPA Phase 2 Rulemaking



PHASE 2

Yesterday, the Council of Environmental Quality (CEQ) **announced** its final National Environmental Policy Act (NEPA) phase 2 rule (final rule), which was **published** today in the Federal Register. CEQ colloquially refers to the final rule as the “Bipartisan Permitting Reform Implementation Rule,” but importantly, this rule is not in keeping with the spirit or the bounds of the Fiscal Responsibility Act (FRA) debt ceiling negotiations from last year. Based on our preliminary review, the CEQ did the bare minimum for FRA compliance when it comes to timelines and determining a lead federal agency. But to counter that progress, the final rule includes numerous new and additional analyses and bureaucratic roadblocks that are now required in NEPA, which will ultimately lead to longer timelines and increased litigation. The final rule goes into effect on July 1, 2024.

CEQ’s press release highlights that the final rule will deploy clean energy, transmission, clean water, and other crucial infrastructure, without regard to other NEPA projects or reviews. The NMA issued a press release last week in anticipation of the final rule, asserting that “the administration has succeeded only in further complicating the permitting process, increasing the financial burden on project sponsors, compounding the potential for litigation delays on projects, ultimately delaying or even halting projects that are valuable to our economic and national security.”

CEQ’s final rule is largely similar to the proposed rule in that it clearly picks winners and losers among types of NEPA projects with policy driven outcomes. CEQ claims permitting efficiencies are embedded in the final rule that comply with the FRA, but the mining industry can expect that this final rule is unlikely to expedite NEPA permitting for projects. Further, the final rule removes favorable provisions from the 2020 rule, calling them legally questionable, including 2020 rule language that limited the scope of judicial review of NEPA decisions.

Notably, the final rule outlines that federal agencies should consider the effects

of climate change in environmental review and encourage reasonable alternatives, including the identification of an environmentally preferable alternative by the federal agency that will mitigate impacts. The final rule requires that Environmental Impact Statements discuss relevant risk reduction, resiliency, or adaptation measures, as well as the disproportionate adverse effects of a project on the environment and public health. This analysis must also include quantification of reasonably foreseeable greenhouse gas emissions to better understand climate impacts of a proposed project.

Senate Passes Bipartisan Russian Uranium Ban Sending it to the President

The U.S. Senate took up and unanimously passed the *Prohibiting Russian Uranium Imports Act* ([H.R. 1042](#)). The bill, which also unanimously passed the House of Representatives in December, will now be sent to the President for his signature. Please find a link to the NMA's press release praising the Senate's action [here](#).

H.R. 1042 (and its Senate companion S.763), which has been a longstanding priority for the NMA, prohibits the importation of any low-enriched uranium (LEU) produced in the Russian Federation. To mitigate impacts to domestic nuclear energy production in the near-term, the legislation does allow the Department of Energy, in consultation with the Departments of State and Commerce, to provide waivers in certain cases through January 1, 2028, but reduces the amount available to be imported each year until that date is reached.

When the President signs H.R. 1042 into law, \$2.7 billion – which was included [Sec. 312](#) of the Consolidated Appropriations Act of 2024 – will now be made

available to carry out activities within the [Nuclear Fuel Security Act of 2023](#) for establishment of the Nuclear Fuel Security Program to increase the quantity of domestically produced low-enriched uranium and high-assay, low-enriched uranium while expanding the American Assured Fuel Supply Program to ensure the availability of domestically produced, converted, and enriched uranium.

DOE Clarifies Mineral Extraction (Mining) Eligible for Funding



U.S. DEPARTMENT OF
ENERGY

Yesterday, the U.S. Department of Energy (DOE) [announced](#) it has clarified that the Loan Programs Office (LPO) can support critical minerals mining and extraction activities as eligible project costs under the Title 17 Clean Energy Financing Program. A NMA statement on the announcement can be found [here](#). The authority was granted within the Infrastructure Investment and Jobs Act through efforts led by [Senator Lisa Murkowski](#) (R-Alaska) and Senate Energy and Natural Resources Committee Chairman Joe Manchin (D-W. Va.) which added “production,” or mining and extraction activities to LPO’s portfolio of projects it can support financially.

The NMA has long advocated for the inclusion of mining as an eligible activity for DOE funding and has worked closely with Congress to support their oversight of the program and with the administration to advance this priority, including working with DOE on this week’s announcement. Please stay tuned

for additional announcements from the NMA on how to engage with DOE and the LPO on this and other potential incentive opportunities.

NMA Comments on BLM's Draft Mining Metrics

This week, the NMA submitted [final comments](#) on the Bureau of Land Management's (BLM) recently [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 (IIJA) requiring BLM to develop metrics to demonstrate efficient mine project permitting. The NMA's comments outline our belief that the BLM's draft metrics fall dramatically short of what the IIJA requires. Specifically, the NMA noted that while the BLM's draft performance metrics have the potential to marginally improve the permitting process for mining projects on federal lands, the metrics simply fail to meet the requirements of the IIJA. The NMA's comments also provide a few suggestions to improve the draft metrics, including the timely review of projects and decisions, implementing the Fiscal Responsibility Act Permitting requirements, and meaningful transparency with permitting data.

Secretary of the Interior to Testify Twice Before Congress



This morning, Department of the Interior (DOI) Secretary Deb Haaland made her first of two appearances this week before Congress regarding the agency's Fiscal Year 2025 budget request. During the House Natural Resources [hearing](#), the Secretary was grilled on the agency's and the administration's various proposals to restrict access to federal lands for mining through proposals such as the Bureau of Land Management rule on Conservation and Landscape Health and recent actions to block access in Alaska's Ambler Mining District and Minnesota's Iron Range. Members also highlighted the lack of action by DOI to support efficient permitting of mining projects, citing that only three mines requiring an Environmental Impact Statement have been approved since Biden took office. Members further pointed out that mining supports the administration's Electric Vehicle adoption goals.

On Thursday, the Secretary will [testify](#) before the Senate Energy and Natural Resources Committee. In addition to working with House committee staff and members to support the hearing development, the NMA has also engaged with Senate allies to support oversight of DOI's actions that are stopping responsible domestic mining, including the BLM's [proposed](#) permitting metrics, the agency's reluctance to process pending coal lease permits, and much more.

The NMA will provide an analysis of key takeaways from both hearings later this week.

House of Representatives Advances Important Mining and Public Lands Bills

This week, the House of Representatives took up and was anticipated to close Wednesday with the passage of numerous resource development and land access bills aimed at overturning the Biden administration's restrictive actions, including several NMA-backed pieces of legislation with significant importance to the hardrock mining industry. Those bills include the bipartisan Mining Regulatory Clarity Act of 2024 ([H.R. 2925](#)), introduced by Reps. Mark Amodei (R-Nev.) and Mary Peltola (D-Alaska), which codifies the federal framework under the Mining Law, returning the framework to the way it existed prior to the 2022 Rosemont Decision without expanding mining activities in protected or withdrawn areas (vote expected Wednesday afternoon); the Superior National Forest Restoration Act ([H.R. 3195](#)), introduced by Rep. Pete Stauber (R-Minn.), which rescinds DOI's 225,000 acre [mineral withdrawal](#) in Northern Minnesota and direct the U.S. Forest Service to reissue cancelled mineral leases for the Twin Metals Minnesota project (passed Tuesday); and the Western Economic Security Today Act of 2024 ([H.R. 3397](#)), introduced by Rep. John Curtis (R-Utah), which nullifies BLM's recently finalized rule titled Conservation and Landscape Health (passed Tuesday). Please find a link to the NMA's memo on the final rule, [here](#).

The NMA has worked closely with the sponsors of these bills, committee staff, and leadership staff to advance the three pieces of legislation from introduction, through the committee process, and to this week's consideration in the full House of Representatives. The NMA also worked with outside

organizations including the Zero Emission Transportation Association and Advanced Energy United to [support](#) H.R. 2925 and 14 other mining organizations to [support](#) H.R. 3397.

House Interior and Environment Appropriations Subcommittee Hears EPA Administrator Regan's Testimony on FY25 Budget Request



EPA Administrator Michael Regan appeared before the House Appropriations Subcommittee on Interior, Environment, and Related Agencies yesterday to support the EPA's budget request for Fiscal Year 2025 (FY25). This was his first appearance in the House following the release of a deluge of new regulations across several industrial sectors. The hearing, chaired by Rep. Mike Simpson (R-Idaho), focused on the EPA's budget allocations, regulatory priorities, and the recent completion of several controversial rules. Discussion points included criticisms from Republican members regarding the EPA's rules impacting the U.S. electrical grid along with regulations such as Waters of the United States and power plant regulations. Rep. Ryan Zinke (R-Mont.) pressed Regan on the

impact of the EPA's Mercury Air Toxics Standards on Montana's Colstrip Power Plant. The NMA briefed the Appropriations Committee and Member office staff ahead of the hearing on the many harmful regulations from the EPA.

EPA Designates PFAS Substances as CERCLA Hazardous Substances

Recently, EPA [announced](#) the [prepublication notice](#) of the final rule designating perfluorooctanoic acid (PFOA) and perfluorooctanesulfonic acid (PFOS), including their salts and structural isomers, as hazardous substances under section 102(a) of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) also known as Superfund. This would mark the first time EPA has ever designated a hazardous substance under section 102(a). This rule will allow the agency to impose CERCLA's strict joint and several liability schemes on potentially responsible parties (PRPs) for releases of these chemicals. The rule also requires entities to report releases of PFOA, PFOS, and their salts and structural isomers, that meet or exceed the default reportable quantity (RQ) of one pound within a 24-hour period. EPA includes "mining (except oil and gas)" among 85 potentially affected industries listed in the rule. This rule will become effective 60 days after the final rule is published in the Federal Register. EPA's [webpage](#) provides additional resources.

In addition, EPA released a companion document, "[PFAS Enforcement Discretion and Settlement Policy Under CERCLA](#)," that will inform EPA's compliance staff about whether or not to pursue PRPs for response actions or cost recovery. EPA states it will hold accountable "parties that have played a significant role in releasing or exacerbating the spread of PFAS into the environment, such as those who have manufactured PFAS or used PFAS in the

manufacturing process, and other industrial sources.” EPA does not intend to pursue other PRPs where equitable factors do not support seeking PFAS response actions or costs under CERCLA for: (1) community water systems or public-owned treatment works, (2) municipal separate storm sewer systems, (3) publicly owned/operated municipal solid waste landfills, (4) publicly owned airports, and (5) local fire departments and farms where biosolids are applied to the land. EPA notes it may extend its enforcement discretion to additional parties even if they do not fall within these categories.

EPA Extends Comment Period on Proposed Consent Decree Impacting West Virginia Streams



Last month, EPA entered into a [proposed consent decree](#) to resolve a recent complaint filed by environmental groups in *Sierra Club v. EPA* in the U.S. District Court for the Southern District of West Virginia. The proposed consent decree would require EPA, for the first time, to propose and finalize Total Maximum Daily Loads (TMDLs) for ionic toxicity in 11 impaired waterbody

segments in West Virginia by Jan. 15, 2025. The consent decree would set EPA on an expedited schedule to propose and finalize TMDLs through the federal rulemaking process, which could create permitting challenges for mining operations in these areas and across the state. While EPA and the plaintiff organizations worked together for a full year to draft the proposed consent decree, the state of West Virginia and other stakeholders directly impacted were not provided that opportunity. Given our longstanding involvement in this issue, the NMA and other stakeholders, including the [West Virginia Coal Association](#) and West Virginia's [congressional delegation](#), asked EPA to extend the [comment deadline](#). Earlier this week, EPA [granted](#) our requests and the comment deadline to May 31, 2024. The NMA will continue to work closely with West Virginia Coal Association and other stakeholders to file comments on the proposed consent decree.

EPA Releases Final CWA Technical Support Materials on Selenium

The EPA recently released its final [Technical Support Materials](#) (TSMs) for implementing the agency's 2016 final aquatic life ambient water quality criterion for selenium – freshwater. The Clean Water Act (CWA) requires EPA to develop pollutant-specific recommended criteria for determining whether surface water is healthy for people, aquatic life, and aquatic-dependent wildlife. States and authorized Tribes may then adopt these national criteria into their water quality standards regulations or use them as guidance in developing their own criteria. EPA's final TSMs include four individual documents intended to provide implementation support for states and authorized Tribes on selenium criterion adoption, fish tissue monitoring, assessing and listing waters under CWA section 303(d), and National Pollutant Discharge Elimination System permitting. Given that these criteria could eventually be incorporated into members CWA permits and the prevalence of selenium at many

operations, the NMA and its members have engaged with EPA for several years on the development of these documents and most recently, in Jan. 2022, filed technical [comments](#) prepared by GEI Consultants. The NMA continues to review the TSMs and will provide additional information in the coming weeks.

Get Your Spot for MINExpo INTERNATIONAL® 2024



MINExpo INTERNATIONAL®, the world's largest (and heaviest) mining event, will bring over 10 million pounds of equipment, products and technology to Las Vegas, Sept. 24-26, and [registration and housing are open](#)! Choose from our new registration options that make it easy to attend, book your hotel room, then join your peers and 1,500+ suppliers from all over the world at the home of mining innovation.

Act fast! ALL ACCESS and EXPO PLUS registration options are limited.

Please note, you MUST use your company email in order to receive discounted pricing. **Once you have registered, you will receive access to the hotel booking site.**

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NMA and Third Parties In the News

The [USA Today](#) (USA), [MSN.com](#) (USA), [Reno Gazette Journal](#) (Nev.), [Huntington Herald Dispatch](#) (W.Va.), [Gillette News Record](#) (Wyo.), [Ogden Standard Examiner](#) (Utah), [Pottstown Mercury](#) (Pa.), [Owensboro Messenger Inquirer](#) (Ky.), [Bakersfield Californian](#) (Calif.), [Orange County Register](#) (Calif.), [Los Angeles Daily News](#) (Calif.), [Jacksonville Journal Courier](#) (Ill.) [Wayne County News](#) (W.Va.), [Provo Daily Herald](#) (Utah), [Johnstown Tribune Democrat](#) (Pa.), [Jeffersonville News and Tribune](#) (Ind.), and [Kokomo Tribune](#) (Ind.) all ran an op-ed by Rich Nolan in which he argues the EPA's suite of regulations targeting the coal fleet is doubling down on the grid reliability crisis.

Rich Nolan appeared live on [Fox Business to discuss the EPA regulations](#) while [E&E](#) quoted Rich Nolan and the NMA's reliability white paper in its curtain raiser on the powerplant rules. The [Associated Press](#) and the [Washington Post](#), [ABC News](#), [Inside EPA](#), [OilPrice.com](#), [E&E Greenwire](#), [Argus](#), [Washington Examiner](#) and others also featured Rich Nolan in their lead pieces on the EPA announcements. The [Wall Street Journal](#) editorial board, which the NMA provided extensive background to, wrote an editorial arguing the EPA's new rules are designed to eliminate fossil fuel plants and energy scarcity will follow.

[E&E Climatewire](#) also quotes the NMA in a follow-up piece highlighting that EPA added several new reliability provisions to its power plant carbon rule that appear to come directly from the Edison Electric Institute — a major utility

trade group that has been broadly critical of the pollution standards.

[E&E Greenwire](#) and [Politico Pro](#) quoted Rich Nolan in a story on the DOE Loan Programs Office clarification that projects geared toward extracting critical minerals like lithium, cobalt and nickel are eligible for a \$72 billion pot of federal loan guarantees.

[Axios Pro](#) mentions the NMA in a story reporting that Trout Unlimited CEO Chris Wood is pushing to get the Good Samaritan mining bill to ride on the NDAA.

[E&E Greenwire](#) quotes the NMA in a story on the BLM's sweeping new public lands rule highlights a little known, and rarely used, authority that allows the agency to temporarily block energy development and other uses on sensitive rangelands, potentially for years at a time.

The [New York Times](#) mentions the NMA in a report on the Biden administration's NEPA announcement.

From our third parties, [Eastern New Mexico News](#) (N.M.) carries and op-ed by Jim Constantopoulos, a geology professor at Eastern New Mexico University, in which he argues that, for so many of the critical minerals we need, the resources are here.

Mining and Energy News

The [World Steel Association](#) reported on recent data showing global crude steel production was 161.2 million metric tons (Mt) in March 2024, a 4.3 percent decrease compared to March 2023. For the same time period, U.S. steel production remained unchanged at 6.9 million tons.

The [**Department of Energy**](#) announced last week that the administration's investment of more than \$17 million to build domestic supply chain for critical minerals and materials.

The [**Association for Iron & Steel Technology**](#) reported that the US Steel Corporation shareholders voted in favor of Nippon Steel Corp's planned acquisition of the company.

EIA's recent [**Today in Energy**](#) analysis indicates that from 2001 to 2023, U.S. metallurgical coal sold at an average premium of 90 percent to the price of thermal coal.

[**Steel Industry News**](#) provided a deep dive into the current state of scrap, iron ore, coking coal and zinc.

[**Law 360**](#) and others reported that last week the U.S. Environmental Protection Agency finalized four new rules that will impose tougher standards on greenhouse gas and mercury emissions from power plants, wastewater discharged from those facilities, and the storage and management of coal ash.

[**Argus**](#) reported that "U.S. bituminous coal production rose by 5.5 percent from a year earlier to 4.89 million short tons in the first quarter, led by a recovery in some Colorado mines' output."

[**Kallanish**](#) reported on BMI analysis indicating that base metals such as copper and nickel have made large price gains due to sanctions on Russian metals and a better global economic outlook.

[**Greenwire**](#) reported that the United Nations is trying to bring together China and the U.S. as part of a multinational initiative to ensure mineral-rich developing countries benefit from the rush for materials needed to build

electric vehicles and renewable technologies tethered to international climate goals.

[**Power Magazine**](#) reported that the Vogtle nuclear plant's Unit 4 in Georgia was declared commercially operational this week. Vogtle is the largest nuclear plant in the U.S. with capacity to generate about 4,664 megawatts of electricity.

[**Mining.com**](#) reported that despite the surge in electric car (EV) sales and several years of significant cashflows driven by high prices and increasing volumes, many producers of EV minerals are now encountering difficulties in financing both existing and new projects solely with their own revenues.

The [**International Nickel Study Group**](#) (INSG) is expecting world primary nickel production to reach 3.554 million metric tons (Mt) in 2024, excluding any adjustment factors for possible production disruptions. INSG is forecasting a nickel usage increase to 3.445 (Mt) in 2024.

[**Argus**](#) reported that the success of the administration's latest regulations to cut CO2 emissions from the power sector could depend on the efficiency of federal permitting processes that frequently delay the construction of energy projects.

Commodity Prices

Commodity Price - Snapshot		
Metals Prices	Date	Price
Cobalt Spot Price (\$/lb)	4/30/24	\$12.62
Copper Spot Price (\$/lb)	5/1/24	\$4.54
Gold Spot Price (\$/ounce)	5/1/24	\$2,298.98
Lead Spot Price (\$/lb)	5/1/24	\$0.98
Lithium Spot Price (\$/kg)	5/1/24	\$15.26
Molybdenum Spot Price (\$/kg)	4/30/24	\$68.36
Nickel Spot Price (\$/lb)	5/1/24	\$8.59
Silver Spot Price (\$/ounce)	5/1/24	\$26.45
Steel HRC Price (\$/mt)	5/1/24	\$808.59
Steel Rebar Price (\$/mt)	4/30/24	\$482.39
Zinc Spot Price (\$/lb)	5/1/24	\$1.29
Energy Prices	Date	Price
Coal Price - Australian Premium Coking Coal Futures (\$/mt)	4/30/24	\$252.50
Coal Spot Price - Central Appalachian (\$/st)	4/26/24	\$72.50
Coal Spot Price - Newcastle futures (\$/mt)	4/30/24	\$142.27
Coal Spot Price - Rotterdam futures (\$/mt)	4/30/24	\$102.90
Natural Gas Spot Price - Henry Hub (\$/mmbtu)	4/24/24	\$1.59
Uranium Spot Price (\$/lb)	4/30/24	\$90.25

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





In the May edition of CORESafety TV, we cover heat exhaustions and tips to work in hot environments.



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