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# MINE Update

MINING INDUSTRY NEWS E-COMM UPDATE

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## This Week in The News

Congress remained in session with plenty of election year oversight hearings on tap. Litigation continued to advance in response to the current administration's outpouring of new rulemakings. 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

Fireworks are another summer staple. National Safety Council advises leaving fireworks to professionals, but also [offers safety tips](#) if you choose to use legal fireworks.

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## Senate Subcommittee Hearing on the Mining Workforce

U.S. SENATE COMMITTEE ON

Health, Education  
Labor & Pensions

SUBCOMMITTEE ON EMPLOYMENT AND WORKPLACE SAFETY

### **Digging Deeper: Building Our Critical Minerals Workforce**

Today, the Senate Health, Education, Labor and Pensions Committee (HELP) Subcommittee on Employment and Workplace Safety held a [hearing](#) titled, “Digging Deeper: Building Our Critical Minerals Workforce.” Hearing witnesses included NMA member Jon Evans, President and CEO of Lithium Americas; Bill Zisch, Mining Engineering Department Head at Colorado School of Mines; Barbara Arnold, professor of practice in mining engineering at The Pennsylvania State University; and Gracelin Baskaran, Director of the Project on Critical Minerals Security at the Center for Strategic and International Studies. The hearing focused on promoting mining as a career and addressing the workforce shortages within the mining industry. The NMA engaged with subcommittee members ahead of the hearing to provide relevant data and information on the mining workforce, the benefits of pursuing a career in mining, as well as policy recommendations to address workforce challenges

within the industry.

Specifically, the NMA worked with Senate HELP Ranking Member Senator Bill Cassidy (R-La.) and Senator Mike Lee (R-Utah) to [inquire into](#) the work of the Department of Energy (DOE) 21<sup>st</sup> Century Energy Workforce Advisory Board, mandated under the Infrastructure Investment and Jobs Act. In their oversight letter, the senators explained the importance of considering the needs of the domestic mining industry when considering the needs of the broader energy workforce and requested that DOE provide information specifying how the workforce needs of the domestic mining industry are being considered in the Board's ongoing work. The senators also requested that DOE commit to addressing the workforce needs of the domestic mining industry going forward.

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## House Committee to Hear NMA Member Testimony on Domestic Mineral Competitiveness

The House Energy and Commerce Committee's Subcommittee on Environment, Manufacturing and Critical Materials will hold a [hearing](#) tomorrow on "Securing America's Critical Materials Supply Chains and Economic Leadership." The hearing will highlight the opportunities and challenges of growing domestic mineral supply chains, from exploration and extraction, as well as our processing capabilities. Witnesses will include Montana Mining Association Executive Director Matt Vincent (a NMA member), along with university and legal perspectives on ways to improve permitting efficiency for extraction and processing. The minority witness will be a representative of a recycling and processing company. Full witness and hearing details can be found [here](#). The NMA worked closely with the committee staff to advise and provide support during the hearing development process. NMA is also engaged with its member

witnesses to support testimony preparation. The NMA will provide a memo after the hearing providing a topline summary and next steps.

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## Port of Baltimore Channel Fully Reopened



On Monday, the U.S. Army Corps of Engineers (USACE) [announced](#) the full reopening of Baltimore's Fort McHenry Federal Channel. The channel is now at its full 700-foot width and 50-foot depth. "We've cleared the Fort McHenry Federal Channel for safe transit. USACE will maintain this critical waterway as we have for the last 107 years," said Col. Estee Pinchasin, Baltimore District commander. "I cannot overstate how proud I am of our team. It was incredible seeing so many people from different parts of our government, from around our country and all over the world, come together in the Unified Command and accomplish so much in this amount of time."

The unified command, which consists of the USACE, U.S. Coast Guard, U.S. Army Corps of Engineers, Maryland Department of the Environment, Maryland Transportation Authority, Witt O'Brien's representing Synergy Marine and

Maryland State Police, has been working since the M/V Dali crashed into Francis Scott Key Bridge on March 26 to fully reopen the waterway allowing for the safe transit of loaded bulk coal carriers. Baltimore Harbor is responsible for 28 percent of domestic coal exports. The full reopening of the channel was critical to resuming port operations.

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## House Natural Resources Committee Advances Three Industry-Backed Bills



HOUSE COMMITTEE ON  
**NATURAL RESOURCES**  
CHAIRMAN BRUCE WESTERMAN

Today, the House Natural Resources Committee held a markup (linked [here](#)) on several pieces of legislation, including three NMA-backed bills to improve the transparency, functionality and nimbleness of the U.S. Geological Service's critical minerals list. The NMA-backed bills include Rep. Juan Ciscomani's (R-Ariz.) Critical Mineral Consistency Act (H.R. 8446), Rep. Kat Cammack's (R-Fla.) Phosphate and Potash Protection Act (H.R. 8450), and Rep. John Curtis' Recognizing the Importance of Critical Minerals in Healthcare Act (H.R. 6395). The Subcommittee on Energy and Mineral Resources held a legislative hearing on these bills last week (a link to the hearing, witness testimony, and the subcommittee's hearing memo can be found [here](#)). Importantly, both H.R. 8450 and H.R. 6395 passed committee by voice vote and H.R. 8446 was favorably voted out of committee on a bipartisan basis. In addition to supportive outreach to committee offices on these bills and providing feedback

and talking points to committee staff, the NMA will continue to support efforts to advance these bills while also advocating for improving the permitting process for all minerals.

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## FERC Nominees Clear Senate



Today, the Senate voted to confirm three commissioners to the Federal Energy Regulatory Commission (FERC) who cleared the Senate Energy and Natural Resources Committee last week. David Rosner, Lindsay See and Judy Chang will join Chairman Willie Phillips and Commission Mark Christie giving the commission a full complement of five commissioners. After last week's committee vote, outgoing commissioner Allison Clements announced that she would step down from the commission this month.

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## Senate Subcommittee Holds Legislative Hearing on Legislation Impacting Multiple Use Activities

This afternoon, the Senate Subcommittee on Public Lands, Forests and Mining held a legislative hearing on 20 different pieces of legislation having to do with a variety of multiple use activities on federal lands. Please find a link to the hearing, including testimony, [here](#). The committee received testimony from Karen Kelleher (Deputy Director for State Operations at the Bureau of Land Management), Troy Heithecker (Associate Deputy Chief of the U.S. Forest Service) and Tess Davis (Assistant Attorney General for the State of Utah). The NMA continues to work with committee staff to provide background and additional feedback on these and other bills before the committee in anticipation of a lands package that could be developed later in the year.

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## Senate Hears Testimony from BLM Director Tracy Stone Manning



Tomorrow, the Senate Energy and Natural Resources Committee (SENHR) will hold a hearing to conduct oversight of the Bureau of Land Management (BLM). BLM Director Tracy Stone Manning will testify on behalf of the bureau's priorities and ongoing activities. The hearing, which can be viewed [here](#), is expected to be contentious with many on the Republican side of the dias expressing opposition to ongoing or recently finalized BLM rulemakings or BLM-related actions from the Biden Administration. These include the Conservation and Landscape Health Rule and the recent decision to stop new coal leases in Wyoming and Montana. Based on BLM's actions, rulemakings and Director Stone-Manning's testimony before the House Natural Resources Committee (HNR) last month, the NMA developed questions and additional background materials for committee staff and member offices to use in their oversight efforts. The NMA will continue to work with SENHR and HNR to support their oversight activities of BLM and the Department of the Interior.

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## NMA and Partners File Opening Brief in Particulate Matter NAAQS Litigation

The NMA joined seven industry association partners in filing an [opening brief](#) in our lawsuit against the U.S. Environmental Protection Agency's (EPA) [reconsideration](#) of the particulate matter (PM) National Ambient Air Quality Standards (NAAQS). Earlier this year, EPA significantly lowered the annual health-based NAAQS for fine particulate matter (PM<sub>2.5</sub>) by 25 percent, from a level of 12 micrograms per cubic meter ( $\mu\text{g}/\text{m}^3$ ) to 9  $\mu\text{g}/\text{m}^3$ . On March 6, 2024, the NMA partnered with the U.S. Chamber of Commerce, American Chemistry Council, American Forest & Paper Association, American Petroleum Institute, American Wood Council, National Association of Manufacturers and Portland Cement Association in filing this lawsuit in the U.S. Court of Appeals for the District of Columbia Circuit (D.C. Circuit).

We argue that EPA conducted an unlawful reconsideration in two ways. First, we assert that EPA does not have authority to undertake a free-standing NAAQS "reconsideration." In support, we explain that Congress provided in Clean Air Act (CAA) section 109(d) a specific process for deciding whether and how to revise a NAAQS, and that requires a "thorough review" of the air quality criteria that EPA admitted it did not complete. Second, we argue that even if EPA had free-standing "reconsideration" authority, EPA acted improperly by failing to consider costs in revisiting its 2020 decision.

We also argue that the court cannot uphold the final rule, in the alternative, as a thorough review and revision that comports with the requirements of CAA section 109(d). By its own admissions, EPA is precluded from now treating the final rule as a review and revision under section 109(d), rather than an unlawful reconsideration. Furthermore, the final rule was not a proper revision under section 109(d). We explain that the first sentence of that provision requires EPA to follow a two-step NAAQS process in which, at step one, the agency must consider cost and other relevant factors, such as attainability, in deciding whether a NAAQS should be revised. EPA did not do so.

Finally, we argue that the court should vacate the rule as arbitrary and

capricious because EPA failed to reasonably explain its decision. Specifically, EPA acknowledged that the record contains many of the same methodological limitations and uncertainties in the evidence that it identified when retaining the 12.0 µg/m<sup>3</sup> standard in 2020. Yet, EPA fails to adequately explain why those limitations and uncertainties do not continue to warrant retaining the standard again.

The Commonwealth of Kentucky and state of West Virginia are co-leading the state challenge, joined by 22 other states and consolidated with a separate lawsuit filed by the State of Texas. The states argue in their [opening brief](#) that the CAA does not allow EPA to use a voluntary NAAQS reconsideration to enact its climate agenda. The states also argue that EPA shirked its basic duty to engage in reasoned decision making by providing insufficient reasoning to justify its actions. The states assert that EPA's decision to reconsider and revise a NAAQS outside the standard, periodic review process was unprecedented. Additionally, the states call out EPA for not identifying a scientific basis for a revision, while also refusing to consider the context and consequences of its actions. The states also raise the nondelegation doctrine regarding EPA's interpretation of its authority.

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## States File Lawsuit over OSMRE's Ten-Day Notice Rule

Last week, the State of Indiana and the Indiana Department of Natural Resources led a 19 state and state agency coalition in filing a [lawsuit](#) in the U.S. District Court for the District of Columbia over the Office of Surface Mining Reclamation and Enforcement's (OSMRE) recently finalized rule regarding [Ten-Day Notice](#) (TDN) under the Surface Mining Control and Reclamation Act

(SMCRA). Recall, the final TDN rule significantly eroded state primacy under SMCRA and made it easier for citizens to file complaints to OSMRE about coal mining. The most recent lawsuit calls the OSMRE's final TDN rule arbitrary and capricious because it unilaterally removes the state's exclusive jurisdiction over surface coal mining and reclamation and will allow for increased TDNs issued to the states for permit defects.

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## NMA Outlines Issues to be Raised in Clean Power Plan 2.0 Litigation



The NMA and America's Power jointly filed a non-binding [statement of issues](#) in our legal challenge to EPA's Clean Power Plan 2.0 in the D.C. Circuit. We outlined ten legal issues for the court's awareness, including whether: (1) the CAA authorizes EPA to establish a "best system of emissions reduction" (BSER) based on 90 percent capture of carbon dioxide from existing coal plants where it has never been achieved for more than a few days at any plant anywhere in the world; (2) the CAA authorizes EPA to establish a BSER based on shifting generation resources at existing coal plants to a least 40 percent natural gas, where the U.S. Supreme Court held in *West Virginia v. EPA* that the Section 111 of the CAA does not authorize EPA to force "generation shifting;" (3) the CAA authorizes EPA to "subcategorize" or adopt an "exemption" by requiring facilities to accept enforceable retirement dates; (4) the CAA authorizes EPA to establish BSERs that are either unachievable or require enforceable deadlines for early retirement where the inevitable result would force "generation shifting" contrary to *West Virginia*; (5) EPA acted

arbitrarily and capriciously in concluding that 90 percent capture of carbon dioxide can be achieved by the end of 2031 and 40 percent co-firing with natural gas can be achieved by the end of 2029; and (6) EPA acted arbitrarily and capriciously in concluding that its final rule can be implemented without adverse consequences for grid reliability.

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## NMA Files Comments on EPA's Proposed Mercury Criterion for Idaho

Yesterday, the NMA filed [comments](#) on EPA's [proposed mercury criterion](#) to protect aquatic life in Idaho. The water quality standards promulgated under this rule would be the applicable standards used in Clean Water Act (CWA) regulatory programs, including CWA section 402 National Pollutant Discharge Elimination System permits that NMA members regularly obtain. The NMA's comments supported those raised by Idaho-based member companies and urged EPA to reopen the comment period to allow more time for our members and other interested stakeholders to review the proposal, thoroughly vet the novel concepts proposed, and provide substantive and meaningful technical feedback. Given the complex technical nature of the proposed criterion, stakeholders need more time to analyze the proposal and the hundreds of pages of supporting materials. Additionally, EPA's truncated review period violates both EPA policy and White House direction on public engagement, as well as EPA Administrator Regan's direction on cooperative federalism. Finally, the proposed rule is a significant departure from existing practice and introduces novel methodologies and technical deficiencies that require further review and vetting. If EPA is not willing to re-open the comment period, the NMA requested that the agency withdraw the proposed criterion until these technical issues are thoroughly addressed.

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## NMA Addresses Wyoming Mining Association Annual Convention



Last week, the Wyoming Mining Association (WMA) held its 68th Annual Convention in Cody, Wyoming. The event brought together industry leaders, policymakers, and stakeholders to discuss the latest developments and challenges in the mining sector.

The keynote address by Rich Nolan, NMA President and CEO, was a highlight of the convention. WMA President Christian Palich, Vice President of Government and External Affairs at Eagle Forge Services Company, introduced Nolan. Nolan delivered an impactful speech during the WMA President's Lunch, emphasizing the critical role of the mining industry in underpinning U.S. economic competitiveness and national security as both mineral and electricity demand soar to unprecedented levels.

In addition to Rich Nolan's keynote address, the convention featured expert presentations from Mike Nasi, Partner at Jackson Walker, who discussed the

impact of recent EPA regulations on the grid; Brian Osborne, Executive Vice President of The Strategy Group Co., who spoke on effective coal communication strategies; and Matt Mackowiak, Manager of Government Affairs at CONSOL Energy, who presented the “Not So Fast” campaign for coal. The event also included an opening address by the Honorable Dave Freudenthal, Former Governor of Wyoming, and a congressional update from Congresswoman Harriet Hageman (R-Wyo.).

Jerry Mullins and James Young from the NMA also attended, contributing to the robust discussions and networking opportunities throughout the convention. The event underscored the unified efforts of the mining community to address current challenges and advocate for the industry's future.

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## NMA Addresses Benchmark GIGA+ USA Conference



Richard Russell, NMA’s SVP for Government and Political Affairs, spoke on permitting reform before the Benchmark GIGA+ USA Conference. Richard was

on a panel titled Permitting: A Barrier to Competitiveness in the Giga Economy. The panel was moderated by Peter Stahley, a former committee staff for Energy and Natural Resources Committee Chairman Manchin, and included Frank Macchiarola, Chief Policy Officer for the American Clean Power Association, and Josh Lanning with CIBC Capital Markets. Richard discussed the importance of domestic mining to the U.S. economy and our nation's supply chain, and the need for permitting reform to speed the development of domestic mining projects. There was broad agreement on the panel that Congress and the administration need to do more to facilitate domestic mineral production.

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## NMA Hosts Utah Congresswoman Celeste Maloy



Last week, the NMA, Brian Somers of Utah Mining Association, Caterpillar and Rusty Ashcraft with North Star Strategies hosted a roundtable event with Congresswoman Celeste Maloy (R-Utah). Congresswoman Maloy is a strong advocate of the domestic mining industry. She is the sponsor of the Good

Samaritan legislation in the House, [H.R. 7779](#), as well as a member of the Congressional Coal Caucus. During the event, members were able to engage with the Congresswoman on her upcoming primary election, permitting legislation and additional priorities of the mining industry such as the Bureau of Land Management Conservation and Landscape Health Rule.

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## NMA Annual Uranium Recovery Workshop

The NMA hosted a successful Uranium Recovery Workshop this week in Denver with nearly 90 attendees. The workshop provided an excellent opportunity for industry and federal and state regulators to communicate directly about regulatory trends, technical challenges and other issues affecting the industry. The diverse program included presentations from the Nuclear Regulatory Commission, the Department of Energy, the States of Wyoming and Texas, and industry. The mood among industry representatives was optimistic due to increased government support for domestic uranium mining and rising prices. Several presentations focused on the restarting of operations that had been on standby.

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## NMA and Third Parties In the News

[Inside EPA](#) mentions the NMA in a report that the Department of the Interior (DOI) and Signal Peak are both opposing environmentalists' motion to

intervene on DOI's behalf in the first lawsuit seeking to enforce a newly enacted deadline to complete a National Environmental Policy Act (NEPA) review, with both sides arguing the suit is procedural and that the four groups seeking intervention lack standing.

[Argus](#), [Law 360](#), [E&E News PM](#) and [Tampa Free Press](#) mentions the NMA in a report on challenges to the Biden administration's new mining regulations.

[NWI Times](#) (Ind.) carries an op-ed by the NMA's Conor Bernstein in which he argues for the importance of met coal for steel, which is critical for infrastructure projects.

From our third parties, [Frankfort State Journal](#) (Ky.), [Pottstown Mercury](#) (Pa.), [Las Vegas Sun](#) (Nev.), [Johnstown Tribune Democrat](#) (Pa.), [Bakersfield Californian](#) (Calif.), [Colorado Springs Gazette](#) (Colo.), [Bryan Times](#) (Ohio), [Ogden Standard Examiner](#) (Utah) [Montana Standard](#) (Mont.), [Billings Gazette](#) (Mont.), [The Missoulian](#) (Mont.), [The Ravalli Republic](#) (Mont.), [Helena Independent Record](#) (Mont.), [Arizona Daily Star](#) (Ariz.), [Dallas Express](#) (Texas), [Deseret News](#) (Utah), [Martins Ferry Times Leader](#) (Ohio) all ran 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 for reshoring our minerals supply chains.

## Mining and Energy News

[Argus](#) reported that the Port of Baltimore, Maryland, has fully reopened, more than two months after a vessel crashed into a support of the Francis Scott Key Bridge and caused the bridge to collapse.

**[Energywire](#)** reported that the PJM Interconnection power market may need to double its electricity output by 2040 to handle surges from data centers, factories and electric vehicles, according to a recent study by Americans for a Clean Energy Grid.

**[E&E Daily](#)** reported that last week a senior U.S. Geological Survey official voiced support for legislation that would expand the federal government's list of critical minerals to include materials like copper.

**[Argus](#)** reported that coal generation in the Midcontinent Independent System Operator (MISO) rose modestly from a year earlier in May, as above-average temperatures in the region supported increased cooling demand.

**[Greenwire](#)** reported on a recent U.S. Geological Survey study finding that roughly 40 percent of groundwater contains lithium.

**[Argus](#)** reported that U.S. utility Dominion Energy is considering purchasing coal for July delivery to its three coal plants in South Carolina.

**[Greenwire](#)** reported that Utah state officials suspended a key water permit for a direct lithium extraction project near the Green River, agreeing with conservation advocates who asked for further review.

**[Inside EPA](#)** reported that former President Donald Trump is promising to target "environmental agencies" if he is re-elected president in November, raising doubts about the durability of a host of rules that the Biden EPA recently issued ahead of a critical "lookback" threat that Trump and a GOP-controlled Congress could have used in 2025 to repeal them.

**[Argus](#)** reported on U.S. Commerce Department April data showing coal that U.S. exports dropped to their lowest levels in nine months under pressure from

limited demand and shipping constraints associated with the Port of Baltimore closure.

The [World Steel Association](#) released its annual *World Steel in Figures* report showing that China continued as the leading steel producing and consuming country in 2023 with 54 and 51 percent shares respectively. World crude steel production last year was roughly even with 2022.

[Argus](#) reported that investment in global coal production is expected to rise 2 percent to slightly over \$160 billion in 2024, having increased 6 percent last year, according to the International Energy Agency (IEA).

[Washington Examiner](#) reported that a few major economies, including the U.S., are working to have the Organization for Economic Co-operation and Development (OECD) commit members to halting private financing for coal, according to Reuters.

The Energy Information Administration's recent [In-Brief Analysis](#) NERC's 2024 Summer Reliability Assessment is showing that they expect adequate power under normal summer demand conditions, but higher than normal conditions could result in an elevated risk of power shortfalls in areas that include parts of California, the Southwest, the Midwest, Texas, and New England.

[Mining.com](#) reported that minerals and energy companies are facing budget overruns of 15 percent to 20 percent, according to research from Bain & Company.

[Mining.com](#) reported that Energy Fuels recently announced that it has achieved rare earths commercial production of separated neodymium-praseodymium at its White Mesa uranium mill in Utah.

**E&E News PM** reported that an alliance of coal-reliant states is challenging the new Department of Interior mining regulations designed to make it easier for citizens to bring complaints to federal attention.

## Commodity Prices

<b>Commodity Price - Snapshot</b>		
<b>Metals Prices</b>	<b>Date</b>	<b>Price</b>
Cobalt Spot Price (\$/lb)	6/11/24	\$12.31
Copper Spot Price (\$/lb)	6/11/24	\$4.51
Gold Spot Price (\$/ounce)	6/11/24	\$2,302.50
Lead Spot Price (\$/lb)	6/11/24	\$0.98
Lithium Spot Price (\$/kg)	6/11/24	\$13.85
Molybdenum Spot Price (\$/kg)	6/11/24	\$68.92
Nickel Spot Price (\$/lb)	6/11/24	\$8.19
Silver Spot Price (\$/ounce)	6/11/24	\$29.24
Steel HRC Price (\$/mt)	6/11/24	\$727.27
Steel Rebar Price (\$/mt)	6/11/24	\$469.10
Zinc Spot Price (\$/lb)	6/11/24	\$1.26
<b>Energy Prices</b>	<b>Date</b>	<b>Price</b>
Coal Price - Australian Premium Coking Coal Futures (\$/mt)	6/11/24	\$259.00
Coal Spot Price - Central Appalachian (\$/st)	6/7/24	\$79.40
Coal Spot Price - Newcastle futures (\$/mt)	6/11/24	\$133.49
Coal Spot Price - Rotterdam futures (\$/mt)	6/11/24	\$108.65
Natural Gas Spot Price - Henry Hub (\$/mmbtu)	6/5/24	\$2.22
Uranium Spot Price (\$/lb)	6/11/24	\$82.75

Sources: publically available data from [eia.gov](http://eia.gov), [dailymetalprice.com](http://dailymetalprice.com), [tradingeconomics.com](http://tradingeconomics.com), [sgxgroup.com](http://sgxgroup.com), [investing.com](http://investing.com)

## CORESafety



In the June edition of CORESafety TV, we review Module Number 19, Engineering and Construction.



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