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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 Senate out until after the Independence Day holiday, the House returned to Washington to address more fiscal 2025 appropriations bills. But all eyes were on the Supreme Court as it wraps up its 2024 term. Plus, the 2024 elections were poised to accelerate with the presidential debate scheduled for Thursday. 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

Fur baby safety is important, too. With the heat of summer upon us, here's how to [protect your dog's paws](#) from hot pavement.

NMA Victory in DC Circuit on Use of Millsites



In a major victory for the mining industry, the U.S. Court of Appeals for the District of Columbia Circuit (DC Circuit) this week issued a [decision](#) in *Earthworks vs. Department of the Interior (DOI)* that reaffirms important rights of miners to explore for and operate on federal lands pursuant to the Mining Law. Specifically, the DC Circuit upheld a 2020 lower court decision, finding that the DOI properly interpreted the Mining Law's millsite provision as imposing no numerical limit on the number of millsites a claimant can acquire. The NMA had intervened in the litigation in defense of the DOI to preserve rights to use as many millsites as reasonably necessary. NMA's press release

welcoming the decision is available [here](#).

In the case, Earthworks and like-minded mining opponents challenged DOI regulations issued in 2003 relating to use of millsites for ancillary facilities that comprise the complex infrastructure necessary to operate a mine. Specifically, Earthworks argued that the Mining Law limited claimants to only one five-acre millsite claim per mining claim. The challenge was part of a strategic assault on the Mining Law in an attempt to make it wholly unworkable, knowing that the economic viability of a mine depends upon the ability to use surrounding lands for activities incidental to mining. In 2020, the U.S. District Court for the District of Columbia upheld the DOI millsite regulations as consistent with past practice and reasonable interpretations of the Mining Law.

In a 2-1 decision, the DC Circuit affirmed the lower court decision and rejected Earthworks' assertion that the millsite provision unambiguously limits a claimant to one five-acre millsite per mining claim. The majority had "no difficulty concluding" that the interpretation embodied in DOI regulations represented the better reading of the statute. The court found, "[t]he operative words of Section 42 plainly contain no limit on the number of mill sites a claim owner may locate: Where nonmineral land not contiguous to the vein or lode is used or occupied . . . for mining or milling purposes, such nonadjacent surface ground may be embraced and included in an application for a patent for such vein or lode . . . ; but no location . . . of such nonadjacent land shall exceed five acres."

Earthworks has not yet announced whether it will appeal the decision, either to the Supreme Court or by asking for a rehearing by the entire DC Circuit. We believe it unlikely either path would be successful.

House Takes Up First Three Appropriations Bills

The House of Representatives began to consider Fiscal Year 2025 (FY25) appropriations bills on the House floor this week. It plans to vote on [**H.R. 8752 – Department of Homeland Security Appropriations Act, 2025**](#), [**H.R. 8771 – Department of State, Foreign Operations and Related Programs Appropriations Act, 2025**](#), and [**H.R. 8774 – Department of Defense Appropriations Act, 2025**](#). H.R. 8752 and H.R. 8771 were favorably reported by the Appropriations Committee by 33-26 votes. H.R. 8774 was favorably reported by the Appropriations Committee by a 34-25 vote.

The FY25 Homeland Security bill summary can be found [here](#). You can find the House report to accompany H.R. 8752 [here](#). The summary of the FY25 State and Foreign Ops bill can be found [here](#). The House report to accompany H.R. 8771 can be found [here](#). The FY25 Defense Bill summary is [here](#) and the House report to accompany the bill is [here](#).

Next up, the House Appropriations Committee intends to markup the FY25 Energy and Water Development and Related Agencies as well as the FY25 Interior, Environment and Related Agencies bills. They are targeting Thursday to release the bills and Friday for markup.

NMA Addresses U.S. Chamber Critical Minerals Summit



Today, Richard Russell, the NMA's Senior Vice President for Government and Political Affairs, participated in the U.S. Chamber of Commerce's Critical Minerals Summit. Richard joined a panel moderated by the Baker Institute's Michelle Foss and which included Congressman John James (R-Mich.), Alex Fitzsimons from Sila Nanotechnology and Wayne Palmer with Essential Minerals Association. The panel discussed federal efforts to secure the mineral supply chain. All members agreed that the federal government needs to improve its permitting process to help improve U.S. supply chains.

Water Resources Development Act Charts Favorable Pathway Forward



The House Committee on
**Transportation
& Infrastructure**

Today, the House Committee on Transportation and Infrastructure (T&I) favorably passed from the committee by a 61-2 vote, [H.R. 8812](#) – the Water Resources Development Act (WRDA) of 2024. The House advancement of WRDA this week follows on the heels of the Senate Environment and Public Works Committee which in May unanimously advanced its legislative proposal, [S. 4367](#), from the committee.

There were several provisions favorable to the mining industry in both proposals, including Inland Waterway Trust Fund federal cost share provisions that support private sector competitiveness, and provisions to ensure effective use of the Harbor Maintenance Trust Fund on donor and energy transfer ports for hardrock minerals and coal exports. A NMA memo outlining all relevant provisions and activities in either chamber can be found [here](#). As Congress developed the legislative proposals, the NMA worked in coordination with a coalition of maritime organizations to advocate for favorable provisions for the mining industry with committee staff and allies. This included highlighting key priorities in a coalition [letter](#) and raising these issues during priority-setting meetings with committee staff.

It is yet to be determined when each bill will be considered in the respective chamber. The NMA will continue to engage with the committees and leadership to encourage favorable industry provisions are included in the final legislation.

New NMA Tracker Highlights Incentives Benefitting the Mining Industry



Earlier today, the NMA announced a new tool available to NMA members, which identifies current and future federal funding and incentive opportunities that are applicable to the domestic mining industry. The NMA announcement can be found [here](#), and the tracker tool can be found [here](#). The tracker identifies specific incentives, eligibility criteria and deadlines in an easy-to-navigate document. The list of incentives includes all current open opportunities and includes potential timing for future announcements. The tracker will be updated regularly with additional information and distributed to NMA members. Please contact [Scott Gemperline](#) with any funding and incentive-related questions.

NMA Comments on Commerce's Supply Chain Risk Assessment

The NMA last Friday [responded](#) to a Department of Commerce [request for comment](#) on the department's supply chain risk assessment and Indo-Pacific Economic Framework for Prosperity supply chains. Much of NMA's comments focused on Commerce's broader efforts to assess and analyze risk in global supply chains, including the development of a new tool to "boost the U.S. government's ability to understand systemic supply chain risks by building a cross-sectoral risk assessment framework." Commerce further describes the tool as "the first effort by the U.S. government to assess supply chain vulnerability across *all major sectors of the economy*." The department envisions the tool will help the U.S. government determine vulnerabilities that could be addressed through policy action by the U.S. government. While the NMA raised concerns about the development and deployment of the tool, the NMA used the comment opportunity to advocate for policy actions to address mineral supply chain vulnerabilities. Specifically, the NMA urged action to address permitting delays, ensure land access, allow federal incentives for exploration and mining activities, foster regulatory certainty and promote fair trade practices.

NMA Joins Coalition in Requesting a Stay of EPA's MATS Rule

Last week, the NMA joined the National Rural Electric Cooperative Association, Lignite Energy Council and several utilities in filing a [motion](#) to stay the U.S. Environmental Protection Agency's (EPA) Mercury Air Toxics Standards (MATS). We join a 23-state coalition led by North Dakota that also filed a separate [request](#) to stay the rule. EPA's final rule increases the stringency of the National Emissions Standards for Hazardous Pollutants for coal plants. Specifically, EPA has strengthened the MATS standard by reducing by 70 percent the mercury standard for lignite-fired plants, reducing by 67 percent

the filterable particulate matter (fPM) standard and requiring compliance on fPM via continuous emission monitoring systems, which approximately two-thirds of the existing coal-fired generating fleet are not currently utilizing.

Our stay motion argues that EPA ignored the results of its own comprehensive assessment showing no health risk remains from coal plants and therefore revised standards are not “necessary” when considering the costs and benefits. We also argue that EPA violated the Clean Air Act by revising MATS without any “developments in practices, processes and control technologies,” while explaining that the final rule is arbitrary and capricious because its technical foundations are fatally flawed. Finally, we explain how coal plants and the mining industry will suffer immediate and irreparable harm from the enforcement of the final rule. We point out that the 2012 MATS rule was not stayed pending review and by the time the U.S. Supreme Court determined that EPA acted “unreasonably,” the damage was done from the wave of coal unit retirements that occurred. We emphasize that a stay is necessary now so that history does not repeat itself.

NMA Coalition Files Brief in North Dakota WOTUS Litigation



Litigation challenging the Biden administration’s “waters of the United States” (WOTUS) rule is ongoing. Yesterday, the NMA’s industry coalition filed a reply

brief in the litigation challenging the Biden administration's WOTUS rule in the U.S. District Court for the District of North Dakota. Special thanks to the Utah Mining Association for participating in this case as a plaintiff and to Brian Somers for providing a declaration in support of the brief. The NMA's [reply brief](#) encourages the court to grant our motion for summary judgment, deny the agencies' motions and remand the rule for further rulemaking.

Specifically, the NMA's brief affirms that our coalition has standing, and explains how the rule exceeds the agencies' authority under the Clean Water Act (CWA) and is unconstitutional. The NMA's reply brief also argues that the rule is not entitled to deference, the categorical inclusion of interstate waters violates the CWA, the rule's relatively permanent test is inconsistent with the U.S. Supreme Court's decision in *Sackett v. EPA*, the wetlands provision violates *Sackett*, the rule's impoundments provision is too broad, the tributary provision is inconsistent with *Sackett* and the exclusion for ditches is impermissibly vague. In the argument that the rule is unconstitutional, the NMA's brief explains why the rule is an improper exercise of Commerce Clause authority, that it is unconstitutionally vague and that it violates the major questions doctrine.

A 24-state coalition of states also filed a [reply brief](#) encouraging the court to vacate and remand the rule for substantive and procedural flaws. Specifically, the states' brief explains how the agencies' rule continues to misunderstand the *Sackett* decision and retains unlawful regulatory categories, violates the Administrative Procedure Act, and raises constitutional problems related to the Commerce Clause, the Fifth Amendment's due process requirements and the Tenth Amendment's protection of states' rights. The state reply brief also urges the court to reject the agencies' justiciability arguments, as the states never lost standing on their claims and the states' claims are ripe for review. The agency and environmental group replies are due next month.

Clean Power Plan 2.0 & PM2.5 CRA Markup Scheduled

Tomorrow, Thursday, June 27, 2024, the House Energy & Commerce Committee has scheduled a [markup](#) of 11 bills including a number of Congressional Review Act resolutions (CRAs) aimed at the Biden Administration's Environmental Protection Agency (EPA) rules. Most notably to NMA membership, the Committee intends to markup both [H.J.Res. 163](#), Rep. Balderson's (R-Ohio) Clean Power Plan 2.0 CRA and [H.J.Res. 117](#), Rep. Allen's (R-Ga.) PM2.5 CRA.

CRAs allow Congress to review and overturn new federal regulations issued by government agencies. A simple majority in both chambers of Congress, along with the President's signature, is required to enact a resolution of disapproval, which can completely nullify a rule, preventing it from taking effect or continuing if already in effect. Moreover, once a rule is overturned by a CRA resolution, the agency is prohibited from issuing a substantially similar rule in the future unless authorized by new legislation.

MSHA Publishes FAQ, Schedules Stakeholder Meetings on Silica Rule



The Mine Safety and Health Administration (MSHA) this week started publishing a list of frequently asked questions and answers regarding the final respirable crystalline silica rule on [MSHA's website](#). MSHA encourages stakeholders to submit additional questions on the rule to www.msha.gov and will update the website on a regular basis. It is also scheduling a series of [stakeholder meetings](#) to share information about the final silica rule. The first two meetings will be held in Arlington, Va., on July 10, 2024, and Beckley, W. Va., on July 17, 2024, and will be both in-person and online events.

NMA Hosts Government Officials to Discuss Sustainability Standards

This week, the NMA hosted representatives of numerous federal departments and agencies for a discussion of voluntary sustainability standards and to showcase the NMA's Integrated Compliance Assurance Tool (ICAT). The meeting provided the opportunity to further the NMA's advocacy efforts to prevent the U.S. government from mandating a single voluntary sustainability standard, such as the Initiative for Responsible Mining Assurance (IRMA) for the mining industry. Attendees included representatives from the U.S. Department of State, Energy, Interior, Commerce, Labor, the Environmental Protection Agency and the United States Agency for International Development.

The meeting provided an opportunity to walk through the ICAT, a members-only, searchable database of more than 50 voluntary sustainability standards that supports member companies in data management, standards compliance and internal/external audit processes. It allows users to explore, compare and benchmark standards, as well as collect and manage compliance data. The presentation on the ICAT by the NMA's sustainability consultant, TDi

Sustainability, highlighted how no single standard will work for all purposes and that there are a number of standards with equal rigor to IRMA. The NMA will continue to advocate with the federal government for needed flexibility for the mining industry to choose the sustainability standards that best meet their company and stakeholder needs.

GAO Issues Report Critical of OSMRE's AMLER Program

Last week, the U.S. Government Accountability Office (GAO) released a [report](#) critical of the Office of Surface Mining Reclamation and Enforcement's (OSMRE) Abandoned Mine Land Economic Revitalization (AMLER) program for states and Tribes. The AMLER program provides grants to six Appalachian states and three federally recognized Tribes for the reclamation of abandoned mine lands (AML) in conjunction with economic and community development. Contrary to the AML fee-based program where all operators pay an AML fee based on tons of coal produced to directly reclaim lands left abandoned prior to the reclamation requirements of the Surface Mining Control and Reclamation Act, the AMLER program has different requirements and funding mechanisms.

The GAO found several issues related to OSMRE's implementation of the AMLER program. First, GAO took issue with OSMRE's long time frames to review and approve AMLER project proposals, citing one project that was waiting approval for over 1,100 days. GAO also found that OSMRE inconsistently tracks time frames and reviews of projects. Some regional offices track certain data, while other regional offices do not track and often have an incomplete record for the AMLER projects. Finally, the GAO determined that OSMRE's internal policies related to the implementation of AMLER were inadequate and has resulted in the duplication of work and roles of regional and field office staff with OSMRE headquarters staff. In light of these findings, the GAO made four

recommendations to improve the program. OSMRE concurred with all four recommendations and agreed to take steps to improve implementation of the AMLER program.

NMA Attends Wyoming Town Hall on Powder River Basin



Wyoming Governor Mark Gordon hosted a town hall in Campbell County, Wyo., in the heart of the Powder River Basin, featuring a panel of state officials as well as Senator Cynthia Lummis (R-Wyo.), representatives from the Wyoming Petroleum Association and the NMA. Senator Lummis focused on combating federal overreach. Her sentiments were echoed by Wyoming Game and Fish Department Director Brian Nesvik and Wyoming Wildlife and Natural Resource Trust Executive Director Bob Budd on BLM Sage Grouse policies. Wyoming Department of Environmental Quality Director Todd Parfitt addressed EPA power plant regulations, BLM Buffalo field office coal issues and methane rules, while Campbell County Commissioner Jim Ford provided local perspectives.

Coal miners from NTEC, Arch Resources, Peabody and Eagle Specialty Materials attended, advocating for the Powder River Basin's coal industry. Participants from the attendees voiced concerns over the state's litigation strategy, the Governor's veto of county funding for legal battles, the Governor's income sources, and the efficacy of Carbon Capture and Sequestration on power plants and in the Clean Power Plan 2.0. Governor Gordon pledged vigorous legal opposition to federal overreach, reaffirming Wyoming's commitment to defending its interests through litigation against recent Biden administration regulations.

James Young, Director of Government and Political Affairs at the NMA, highlighted the economic impact of these regulations. In 2023, Wyoming's Powder River Basin coal production totaled 237.1 million tons, generating \$654.3 million in critical state revenue from federal royalties and taxes. Young also criticized the Administration's technology mandates, data and modeling, and outcomes in recent EPA and BLM rules. He added that Powder River Basin coal is essential for utilities in 24 states, ensuring affordable, reliable electricity nationwide.

NMA Participates in Ricky Mountain Mining Institute Annual Conference



The NMA's Ashley Burke, Senior Vice President of Communications, was a speaker at the Rocky Mountain Mining Institute's annual conference, held this week in Denver, Colo. The theme of the conference was "ADVOCATE – EDUCATE – COMMUNICATE" and Burke spoke to participants about the association's communications efforts on behalf of the industry, the importance of utilizing fact-based messaging, and recent polling information that is shaping the NMA's messaging for both coal and minerals mining. The conference featured a range industry voices and issue experts including Don Swartz, CEO of American Rare Earths, Mike Nasi, a partner with Jackson Walker, Travis Deti, Executive Director of the Wyoming Mining Association, and Emily Arthun, CEO of the American Coal Council.

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NMA and Third Parties In the News

[Law 360](#) mentions the NMA in a story focusing on challengers of the U.S. Environmental Protection Agency's new greenhouse gas emissions standards

for power plants who reiterated to the D.C. Circuit that the impossibility of rapidly installing carbon capture and sequestration at power plants is reason enough to block the rule's implementation.

[E&E Daily](#) mentions the NMA in a report that Wyoming Republican Rep. Harriet Hageman introduced legislation to block the Bureau of Land Management's plan to end coal leasing in the nation's richest coal basin.

From our third parties, the [Huntington Herald Dispatch](#) (W.Va.) carries 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 Ohio Department of Development granted more than \$6.24 million for 14 projects to support coal mining in the state.

The [International Lead Zinc Study Group's](#) (ILZSG) latest data indicates that world zinc mine production fell by 3.2 percent, influenced by decreases in Canada, South Africa, Türkiye and Peru, where output at the large Antamina mine declined in the first quarter.

[Energywire](#) reported on the Department of Energy (DOE) announcement that it plans to inject \$900 million into developing small nuclear reactors — a shot in the arm for the industry as the Senate prepares to vote on a bill to boost the Nuclear Regulatory Commission's capacity to license the technology.

[Argus](#) reported that U.S. coal fatalities are on track to decrease in the first half

of the year compared to the same period last year.

The [**World Steel Association's**](#) recent data shows that world crude steel production increased 1.5 percent in May compared to May of 2023.

The [**International Copper Study Group's**](#) (ICSG) recent preliminary data indicates that world copper mine production increased by about 4.9 percent in the first four months of 2024, with concentrate production increasing by 2.9 percent and solvent extraction-electrowinning (SX-EW) growing by 13.5 percent.

[**Argus**](#) reported that coal exports out of Hampton Roads, Virginia, rose to the highest level in over 11 years in May as shippers redirected volumes from Baltimore, Maryland.

[**Mining.com**](#) reported that global supply chains for rare earths are realigning to diversify away from top producer China to make permanent magnets used in products from electric vehicles to wind turbines and drones.

[**Politico Pro**](#) reported on the North American Electric Reliability Corp's (NERC) latest analysis showing coal plants have experienced more unplanned outages than other power sources relative to their share of the electricity mix for the past three years, though those plants fared better in 2023 than they had in 2021 and 2022.

[**E&E News PM**](#) reported that a lengthy, poorly tracked and at times confusing review process at the Interior Department is hampering the ability of some states and tribes to clean up abandoned and polluting coal mining sites, according to a new federal watchdog report by the Government Accountability Office (GAO).

[**Law 360**](#) reported the U.S. Environmental Protection Agency (EPA) is urging

an Alaska federal judge to refuse a mining company's bid to amend a lawsuit in order to reverse an Army Corps of Engineers decision denying the Pebble Mine project a permit.

[Argus](#) reported coal generation has taken a greater share of the PJM Interconnection's fuel mix in recent days as temperatures within some of the grid's footprint neared record high levels.

The [World Gold Council](#) reported that respondents to a recent central bank survey have indicated that they expect reserve managers to continue to increase their gold holdings in the next 12 months.

Commodity Prices

Commodity Price - Snapshot

Metals Prices	Date	Price
Cobalt Spot Price (\$/lb)	6/24/24	\$12.31
Copper Spot Price (\$/lb)	6/25/24	\$4.36
Gold Spot Price (\$/ounce)	6/25/24	\$2,332.40
Lead Spot Price (\$/lb)	6/25/24	\$1.00
Lithium Spot Price (\$/kg)	6/25/24	\$12.59
Molybdenum Spot Price (\$/kg)	6/25/24	\$67.81
Nickel Spot Price (\$/lb)	6/25/24	\$7.81
Silver Spot Price (\$/ounce)	6/25/24	\$29.56
Steel HRC Price (\$/mt)	6/25/24	\$676.01
Steel Rebar Price (\$/mt)	6/25/24	\$463.33
Zinc Spot Price (\$/lb)	6/25/24	\$1.30
Energy Prices	Date	Price
Coal Price - Australian Premium Coking Coal Futures (\$/mt)	6/25/24	\$236.00
Coal Spot Price - Central Appalachian (\$/st)	6/21/24	\$81.85
Coal Spot Price - Newcastle futures (\$/mt)	6/25/24	\$133.49
Coal Spot Price - Rotterdam futures (\$/mt)	6/24/24	\$108.40
Natural Gas Spot Price - Henry Hub (\$/mmbtu)	6/12/24	\$2.80
Uranium Spot Price (\$/lb)	6/24/24	\$83.60

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

CORESafety



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



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