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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 with a packed schedule of hearings, including the start of the 2025 appropriations cycle. Meanwhile, the Biden administration's aggressive regulatory agenda, as well as congressional and litigation reactions to it, continued to churn. 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

Outdoor grilling season is entering full swing. Here are [nine tips for safe summer barbecues](#).

NMA Joins Coalition in Challenging EPA's MATS Standards

This week, the NMA joined the National Rural Electric Cooperative Association, Lignite Energy Council and several utilities in [challenging](#) the U.S. Environmental Protection Agency's (EPA) Mercury Air Toxics Standards (MATS). We join a 23-state coalition led by North Dakota and West Virginia who first filed a challenge on this rule on May 8. EPA's final rule increases the stringency of the National Emissions Standards for hazardous pollutants for coal plants. As part of its final rule, EPA reaffirms its 2020 residual risk review, in which it concluded that residual risk from utility emissions is several orders of magnitude below the level EPA has long deemed acceptable with an ample margin of safety, and even well below the level Congress indicated EPA should stop regulating a source category. However, despite those remarkable results, EPA decided that emission control equipment has become cheaper than EPA originally predicted and therefore more is needed, resulting in more stringent standards. 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 (CEMS), which approximately two-thirds of the existing coal-fired generating fleet are not currently utilizing.

House Holds Subcommittee Hearing on Critical Minerals Criteria Bills

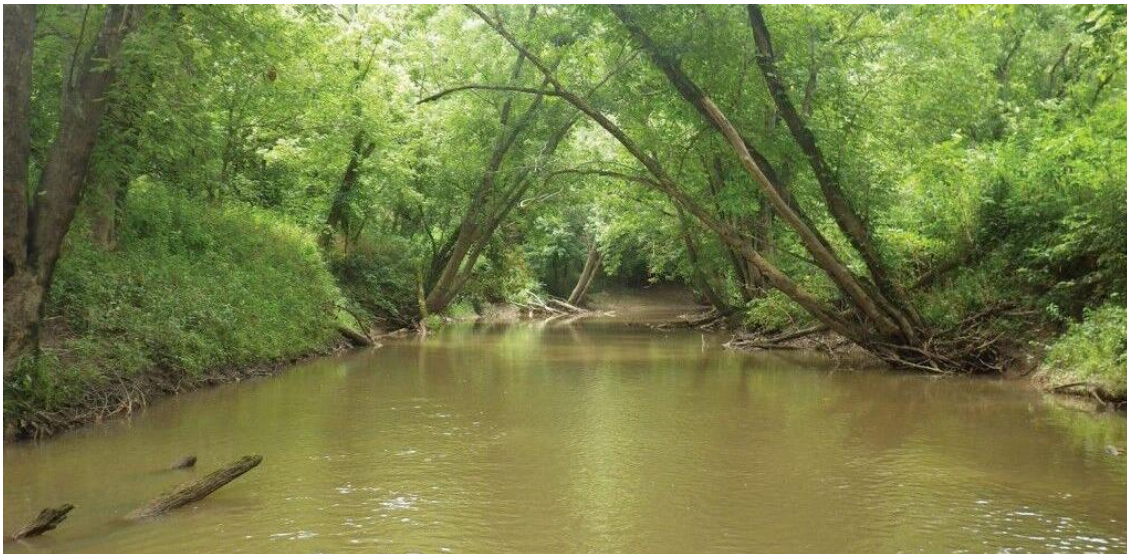


HOUSE COMMITTEE ON
NATURAL RESOURCES
CHAIRMAN BRUCE WESTERMAN

Yesterday, the House Natural Resources Subcommittee on Energy and Mineral Resources held a legislative hearing on three mineral-related bills important to NMA-member companies that support the expansion of the U.S. Geological Survey's (USGS) list of critical minerals. Please find a link to the hearing and witness testimony [here](#) and the subcommittee's hearing memo [here](#), which details additional background on each of the three bills. The subcommittee received strong testimony from [Misael Cabrera](#) (Director of the University of Arizona's School of Mining and Mineral Resources) in support of the Critical Mineral Consistency Act (H.R. 8446) and the need to improve our nation's domestic mineral supply chain. Additionally, the subcommittee heard from Corey Rosenbusch (President and CEO of the Fertilizer Institute) in support of the Phosphate and Potash Protection Act (H.R. 8450) and Sally Macaluso (Vice President of Global Head of Strategic Sourcing at GE HealthCare) in support of the Recognizing the Importance of Critical Minerals in Healthcare Act (H.R. 6395). The minority witness, Dr. Roopali Phadke (Professor of Environmental Studies at Macalester College), used her testimony to advocate for "the recovery and recycling of metals that are already above ground." In testimony contradictory to the committee minority's talking points, Dr. Colin Williams (Coordinator of the USGS Mineral Resources Program) expressed the administration's support for both H.R. 6395 and H.R. 8446, and also

recognized “potash and phosphate are essential to the U.S. economy, particularly the agricultural sector,” and that these minerals will be evaluated by USGS as they develop the 2025 list. The NMA will continue to advocate for these bills and for improving the permitting process for all minerals to ensure U.S. economic, agricultural and national security.

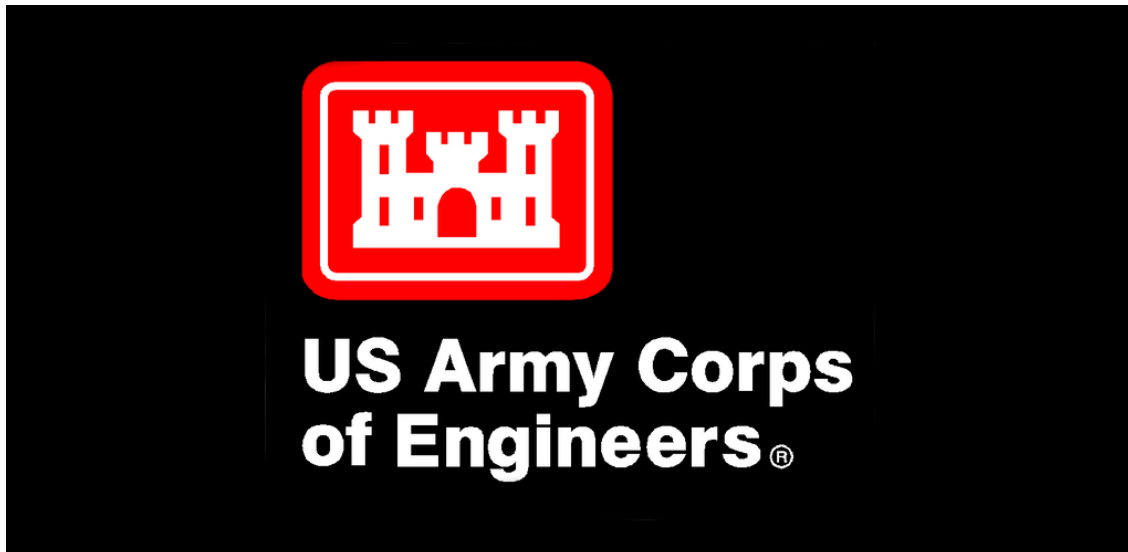
NMA Files Comments Opposing Consent Decree that would Require EPA to Set TMDLs for WV Streams



The NMA recently filed [comments](#) urging the EPA to rescind its [proposed consent decree](#) that would resolve litigation in *Sierra Club v. EPA*. In this case, environmental groups sued EPA for failing to develop Total Maximum Daily Loads (TMDLs) for streams in the Lower Guyandotte River Watershed. The consent decree, entered into just 11 days after environmental groups filed their lawsuit, would require EPA to develop TMDLs for ionic toxicity pollution for 11 streams by Jan. 15, 2025. The EPA or the Department of Justice may withdraw or withhold consent to the proposed consent decree if comments

received on the proposed consent decree disclose facts or considerations that indicate that such consent is “inappropriate, improper, inadequate, or inconsistent with the requirements of the CWA.” The NMA’s comments explained why the proposed consent decree is inappropriate, improper, inadequate and inconsistent with the CWA. First, the agency’s unusually swift proposal of the consent decree, just 11 days after the complaint was filed, raises questions about the adequacy of the agency’s consideration in the case. Other CWA-related consent decrees the agency has recently entered have taken more than a year from the time the complaint is filed until when the consent decree is proposed. The expedited timeline on which EPA came to an agreement with the environmental plaintiffs was also inappropriate and inadequate when considering that several stakeholders, including the West Virginia legislature, the West Virginia Department of Environmental Protection and the West Virginia Coal Association, recently intervened in this litigation. Entering the consent decree while these intervention motions are pending in the U.S. District Court for the Southern District of West Virginia would be improper and premature. Second, the proposed consent decree skirts the established federal regulatory process. Third, the proposed consent decree’s schedule to propose and finalize TMDLs is improper and inadequate from a practical perspective. TMDLs typically take years to develop. EPA’s proposal to propose and finalize TMDLs in mere months is improper and will result in TMDLs that have not been properly vetted and analyzed through the regulatory process. Finally, the proposed consent decree is inconsistent with the TMDL process and undermines the CWA’s cooperative federalism framework. EPA failed to engage with the state of West Virginia during this process and EPA’s decisions to supplant its own priorities for those of the state and choose not to engage with the state undermine the CWA. The NMA will keep you informed of important developments.

Army Corps Responds to NMA's WOTUS FOIA Request



The U.S. Army Corps of Engineers (Corps), in coordination with EPA, recently [responded](#) to the NMA's March 2024 Freedom of Information Act (FOIA) [request](#) seeking internal guidance and training materials involving the implementation of the agencies' recent "waters of the United States" (WOTUS) Rule. Recall that some NMA members heard from Corps District Offices that the agencies were relying on internal guidance and training materials not available to the public to make approved jurisdictional decisions and implement the WOTUS Rule. The NMA's industry coalition, the Waters Advocacy Coalition, also filed a FOIA and received the same response. Unfortunately, approximately half of the nearly 1200 pages are fully redacted, including the guidance and training materials we sought. However, it is clear from several email exchanges in the FOIA that this internal implementation guidance has existed since shortly after the rule was finalized and went into effect in Sept. 2023. The NMA and our coalition are working with congressional allies on oversight opportunities to highlight the need for these guidance and training materials to be made public,

especially considering the severe criminal and civil penalties that even negligent violations of the CWA carry.

Eight-State Coalition Sues EPA on Tribal Reserved Rights Rule

A coalition of eight states, led by Idaho, recently [sued](#) EPA in the U.S. District Court for the District of North Dakota on its [final rule](#) requiring the consideration of Tribal reserved rights when setting state water quality standards. The eight states, which in addition to Idaho, include North Dakota, Alaska, Iowa, Nebraska, South Carolina, South Dakota and Wyoming, urged the court to vacate EPA's rule and find that it is unlawful because it is inconsistent with EPA's authority under the CWA, violates the U.S. Constitution, and is arbitrary and capricious. Specifically, the states allege that the final rule strips states of their authority to set designated uses, is impermissibly vague, and disrupts state-Tribal relationships by compelling states to evaluate and protect claimed but undefined rights which the federal government may have reserved for Tribes. The state coalition also raises practical and implementation-related issues, including the economic and political costs this rule will impose on states. Recall that the NMA formed a [coalition](#) to file comments on this rule raising the numerous legal and practical flaws with the proposed rule. While there were some changes from the proposed rule stage to the final rule, the NMA is still concerned that this rule could result in more stringent water quality standards and make it more difficult for mining companies to obtain or comply with permits. The NMA is monitoring this litigation.

House Energy and Commerce Hearing Focuses on Impacts to the Energy Sector from Booming Electricity Demand

Yesterday, the House Energy & Commerce Committee Subcommittee on Energy, Climate, & Grid Security held a [hearing](#) titled, "Powering AI: Examining America's Energy and Technology Future." Witnesses for the hearing included Philip Dion, Vice President of Customer Solutions at Edison Electric Institute; Tony Clark, Senior Advisor at Wilkinson Barker Knauer, LLP; Tom Hassenboehler, Chair of the Advisory Committee for the Electricity Consumer Alliance, and Melissa Lott, Professor at the Climate School at Columbia University.

During the hearing, committee members and witnesses repeatedly warned that electricity demand is projected to grow dramatically in the following decades. Subcommittee Chair Jeff Duncan (R-S.C.) noted that by some estimates, demand will grow five percent per year nationwide through the end of the decade, and as much as twenty percent in some parts of the country. At the same time, hearing participants highlighted warnings from electricity reliability experts, such as the North American Electric Reliability Corporation and PJM Interconnection, expressing concern that the rapid increase in electricity demand coupled with decreases in dispatchable electricity resources, such as coal, will lead to electricity capacity shortfalls. Full Committee Chairwoman Cathy McMoris Rodgers (R-Wash.) referenced the Environmental Protection Agency's (EPA) Clean Power Plan 2.0 as an action that will only accelerate the retirement of the baseload generation essential for reliable power, economic growth, and our technology dominance. Similarly, Subcommittee Chair Duncan stated that much of the reliability crisis is brought about by the premature retirement of "our most reliable resources like coal, natural gas, and nuclear power." Notably, Philip Dion expressed the need for greater coordination

between federal agencies when it comes to regulations impacting the energy industry, and Tony Clark stated that reliability is increasingly challenged due to public policies and subsidies present within the energy space. The NMA will continue to advocate for the need to reign in EPA's regulations impacting the energy industry and about the harmful impacts that those regulations will have on the broader economy.

NMA Submits Supplemental Comments to USTR on Supply Chain Resilience



The NMA yesterday filed supplemental [comments](#) to the U.S. Trade Representative (USTR) on [supply chain resilience](#). The comments address issues raised during the NMA's testimony at the USTR May 4 hearing. Supplementing our original April 24 [submission](#), the new comments focus on the use of voluntary sustainability standards and investor protections in trade agreements to promote secure supply chains. While highlighting the importance of voluntary standards, the NMA cautioned against the federal government mandating the use of any single standard such as the Initiative for Responsible Mining Assurance. In the discussion of the need for strong investor protections, the NMA provided real world examples of how the lack of such protections is harming NMA member companies and other industries in Mexico.

Manchin Leaves the Democratic Party



On Friday, Senator Joe Manchin of West Virginia changed his party affiliation from Democrat to Independent. Senator Manchin (I-W.Va.) is retiring from the U.S. Senate at the end of the year. There has been speculation that he might choose to run for Governor of West Virginia. In order to enter the race at this late date, he would have to register and run as an independent.

In an [interview](#) with CNN on Monday, Manchin pushed back against the notion that he switched party affiliations to run for office. He stated, "I never leave any, you never leave any political opportunity and walk away from that, so you always have options, because life is full of surprises. But I have no intention of running for political office."

Manchin was governor of West Virginia from 2005 to 2010. The governorship will be on the ballot in November. Republican Patrick Morrisey, West Virginia's Attorney General, is strongly favored over Democrat Steve Williams, the Mayor of Huntington, W.Va.

Congressional Review Act to Overturn Clean Power Plan 2.0 Introduced



Today, Senator Shelley Moore Capito (R-W.Va.), Ranking Member of the Environment and Public Works Committee, and Congressman Troy Balderson (R-Ohio) introduced [Congressional Review Act \(CRA\)](#) resolutions in both the Senate and the House to overturn the Environmental Protection Agency's (EPA) Clean Power Plan 2.0. These resolutions have seen an increase in support among Republicans, with 44 original cosponsors in the Senate and 140 in the House. In the Senate, the resolution continues to draw bipartisan interest, including endorsements from senators such as Barrasso (R-Wyo.), Blackburn (R-Tenn.), Boozman (R-Ark.) and Senator Joe Manchin (I-W.Va.), enhancing its likelihood of passing the Senate.

The CRA, enacted in 1996, allows 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.

A notable addition to the co-sponsor list is Congressman Vince Fong (R-Calif.), who chose this CRA resolution against the Clean Power Plan 2.0 as his first co-sponsored legislation following his initial vote in the House. His decision came after meetings with the NMA, highlighting the significant industry and political mobilization surrounding this legislative effort. The extensive list of co-sponsors, now including many influential lawmakers, underscores the strong opposition within Congress to the EPA's regulatory approach.

Senate Energy and Natural Resources Committee Advances FERC Nominees



Yesterday, the Senate Energy and Natural Resources Committee held a [business meeting](#) to consider three of President Biden's nominees to the Federal Energy Regulatory Commission (FERC). All three nominees were favorably reported out of the Committee by roll call votes and will now move to the floor for full Senate consideration. Specifically, Republican nominee Lindsay See, Solicitor General of West Virginia and strong advocate for grid reliability, received a vote of 16-3. Democratic nominee David Rosner, energy industry

analyst for FERC currently on detail to the Senate ENR Committee Democratic staff, also received a vote of 16-3. Judy W. Chang, former Undersecretary of Energy and Climate Solutions for Massachusetts, received a vote of 15-4.

Currently, two out of five seats on the Commission are vacant, with a third seat belonging to Commissioner Allison Clements expiring at the end of the month. Recognizing the importance of maintaining a quorum on the Commission, Committee Chairman Joe Manchin (I-W.Va.) and Ranking Member John Barrasso (R-Wyo.) supported each candidate. During his opening statement, Senator Barrasso emphasized that FERC is an “independent agency and non-partisan regulator” and therefore must adhere to its statutory mandate rather than a President’s political objectives. Barrasso noted that nominee Lindsay See is a strong advocate for affordable and reliable energy for American families. The Senator also expressed skepticism with Judy Chang’s nomination, but stated that he met privately with the nominee, who committed to uphold FERC’s statutory mandate and work to ensure the country does not experience high energy costs and reliability threats.

Senate Confirms Nuclear Regulatory Commission Chair to Serve Additional Term



Yesterday, the Senate confirmed Nuclear Regulatory Commission (NRC) Chair Christopher Hanson to remain on the Commission for an additional term by a vote of 81-17. Hanson was originally appointed by former President Trump in 2020 and was renominated by President Biden this March. In May, the Senate Environment and Public Works Committee voted to advance Hanson's nomination to the full Senate by a vote of 18-1.

The NRC currently has four out of five seats on the Commission filled, with two Republican-appointed Commissioners and two Democratic-appointed Commissioners.

House Natural Resources Committee Launches Investigation into BLM Mine Permitting Metrics

In response to the Bureau of Land Management's (BLM) draft [mining metrics](#), which were woefully insufficient, the House Natural Resources Committee last week [expressed concern](#) and requested detailed information on the BLM's development of the measures. Referencing the BLM's efforts, Committee

Chairman Bruce Westerman (R-Ark.), Oversight Subcommittee Chairman Paul Gosar (R-Ariz.) and Energy and Mineral Resources Subcommittee Chairman Pete Stauber (R-Minn.) stated that “this proposal will lengthen permitting timelines and blunt the effectiveness and expedience of essential domestic mineral production.” Please find a link to the committee’s press release [here](#). The NMA built upon the concerns raised in the NMA [comments](#) on the metrics in working with committee staff in the development of this letter and will continue to pursue additional oversight opportunities related this and other BLM activities.

Governors Voice Frustration with Biden Administration

This week 20 Republican governors signed a letter to President Biden criticizing current energy policies and calling for a wholesale change of direction. The joint letter was announced Monday at a governors’ event in Louisiana attended by the NMA.

“The inefficient and often unworkable mandates your administration continues to push are hitting Americans where it hurts the most – their pocketbooks. According to recent reports, your most recent rules and regulations in the energy space are part of a larger unchecked rulemaking effort that is projected to cost American taxpayers \$1.37 trillion,” the letter said.

The full text of the letter can be found [here](#).

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.**

[RESERVE NOW!](#)

NMA and Third Parties In the News

[DC Journal](#) (D.C.), [Wheeling Intelligencer](#) (W.Va.), [Citrus County Chronicle](#) (Fla.) and [Detroit News](#) (Mich.) all ran an op-ed by the NMA's Conor Bernsten in which he argues for the importance of met coal for steel, which is critical for infrastructure projects.

[Inside EPA](#) mentions the NMA in a story on efforts by environmentalists and industry groups to press EPA to rework its guidance tightening screening levels for lead-contaminated soil under its Superfund and corrective action programs, with each side generally opposing the agency's move to set two distinct levels while clashing over whether a single target should be stricter or more lenient.

The NMA is mentioned in an [E&E Greenwire](#) story on mining's lobbying efforts in DC as the industry navigates permitting fights, works to access lucrative tax incentives and find ways to compete with China.

[Forbes](#) quotes NMA statistics in a story on the recent explosion of interest and increase in the value of gold.

Mining and Energy News

[CNBC](#) covers the rise in demand for copper, copper mining in the U.S. and Rio Tinto's Kennecott operations.

[Greenwire](#) reported that Montana Republican Sen. Steve Daines introduced legislation last week to advance a coal project in his home state that's at the

center of an ongoing regulatory and legal battle pitting the mine's operator against the administration.

[Reuters](#) reported that Asarco, the mining company controlled by industrial conglomerate Grupo Mexico, is planning to restart its copper smelter in the U.S. as prices hit record highs.

[Argus](#) reported on Energy Information Administration (EIA) data showing that U.S. coal plant stockpiles at the end of March reached 133.6 million short tons, the highest level since November 2020.

[Greenwire](#) reported that mining companies are turning to Washington insiders to navigate permitting fights, access lucrative tax incentives and find ways to compete with China.

[Argus](#) reported that the full reopening of the 700-foot-wide shipping channel at the Port of Baltimore has been moved to June, slightly later than previously expected.

[Energywire](#) reported that the White House wants to "reestablish U.S. leadership" in the nuclear power industry and jump-start a new generation of reactors that can be built more quickly and on budget.

[E&E News PM](#) reported that House Natural Resources Republicans are probing whether the Interior Department flouted federal law and sidestepped public scrutiny when proposing new metrics for assessing mine approvals.

[Argus](#) reported that higher export demand has helped boost southern and central Appalachian coal loadings by CSX and Norfolk Southern this year, based on Surface Transportation Board (STB) data.

[Mining Media International](#) reported that after submitting three offers, BHP

has given up on buying Anglo American.

[**E&E News PM**](#) reported that EPA says a state-approved air permit for Arch Resources' West Elk coal mine, Colorado's largest, doesn't fully comply with the Clean Air Act and regulators there must fix deficiencies tied to curbing air pollutants.

[**Mining.com**](#) reported from Reuters that US Steel Corp and Japan's Nippon Steel have received all regulatory approvals outside of the U.S. for their [**proposed \\$14.9 billion merger**](#).

EIA's [**Domestic Uranium Production Report 2023**](#) shows U.S. uranium concentrate mine production of 50,000 pounds in 2023, down from 194,000 pounds in 2022. EIA noted that at the end of 2023 several mills and projects were on standby, including the White Mesa Mill in Utah. However, employment in the uranium production industry increased 73 percent to 340 full-time employees, up from 196 in 2022 and the highest total since 2018.

[**Financial Times**](#) reported that the staggering electricity demand needed to power next-generation technology is forcing the U.S. to rely on coal.

[**Forbes**](#) reported that the recent explosion of interest and increase in the value of gold might seem like a one-time event—a frenzy caused by a combination of global factors—though that would be an incorrect assumption. Forbes concluded, "It isn't just a precious metal—it's a timeless treasure with a variety of unique use cases that continues to shine through the ages."

[**Energywire**](#) reported on a recent Electric Power Research Institute (EPRI) analysis estimating that power consumption from data centers could account for as much as 9 percent of U.S. electricity by 2030, up from 4 percent last year.

[Argus](#) reported that coal generation in the PJM Interconnection was higher in May of this year as warmer weather supported increased cooling demand.

[Associated Press](#) reported that actions by the administration that could hasten closures of some coal power plants and mines that supply them are reviving Republican rhetoric about a so-called “war on coal” ahead of the November election.

[Climatewire](#) reported that sudden predictions about surging energy demand are making coal plant owners think twice about closing their facilities.

Commodity Prices

Commodity Price - Snapshot		
Metals Prices	Date	Price
Cobalt Spot Price (\$/lb)	6/3/24	\$12.31
Copper Spot Price (\$/lb)	6/4/24	\$4.54
Gold Spot Price (\$/ounce)	6/4/24	\$2,328.73
Lead Spot Price (\$/lb)	6/4/24	\$1.01
Lithium Spot Price (\$/kg)	6/3/24	\$14.29
Molybdenum Spot Price (\$/kg)	6/4/24	\$69.07
Nickel Spot Price (\$/lb)	6/4/24	\$8.60
Silver Spot Price (\$/ounce)	6/4/24	\$29.55
Steel HRC Price (\$/mt)	6/4/24	\$741.41
Steel Rebar Price (\$/mt)	6/4/24	\$480.35
Zinc Spot Price (\$/lb)	6/4/24	\$1.32
Energy Prices	Date	Price
Coal Price - Australian Premium Coking Coal Futures (\$/mt)	6/4/24	\$263.00
Coal Spot Price - Central Appalachian (\$/st)	5/30/24	\$79.40
Coal Spot Price - Newcastle futures (\$/mt)	6/4/24	\$139.70
Coal Spot Price - Rotterdam futures (\$/mt)	6/4/24	\$116.90
Natural Gas Spot Price - Henry Hub (\$/mmbtu)	5/29/24	\$2.21
Uranium Spot Price (\$/lb)	6/3/24	\$89.85

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

CORESafety



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



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