

Meeting the Demand

National Mining Association

Board of Directors Meeting | April 2023



NMA

National
Mining
Association



Welcome New Members





Meeting Sponsors – Thank You



Safety Share
Out-of-Hospital Cardiac Arrest

Sudden Cardiac Arrest
is a national public
health crisis.



affects

1,000 people
a day

strikes all ages



**Red Cross
Mobile Apps**





Agenda

01.

Safety Share

02.

Executive Committee Report

03.

Association Report: Meeting the Demand

04.

Upcoming Meetings

Executive Committee Report



Association Report: Meeting the Demand





Meeting the Demand



**Cost
Inflation**



**Supply Chain
Bottlenecks**

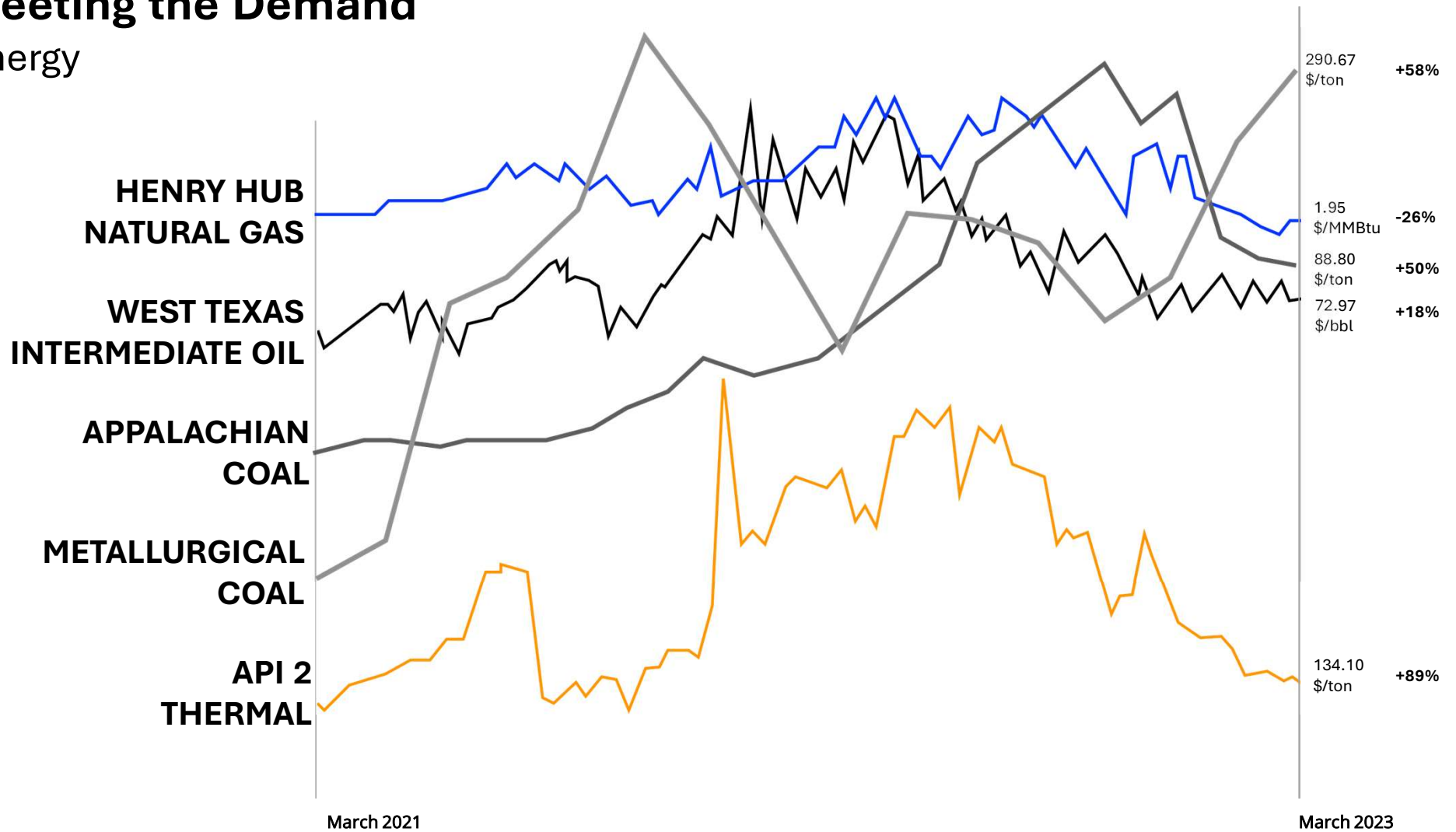


**Moderating
Prices**



Meeting the Demand

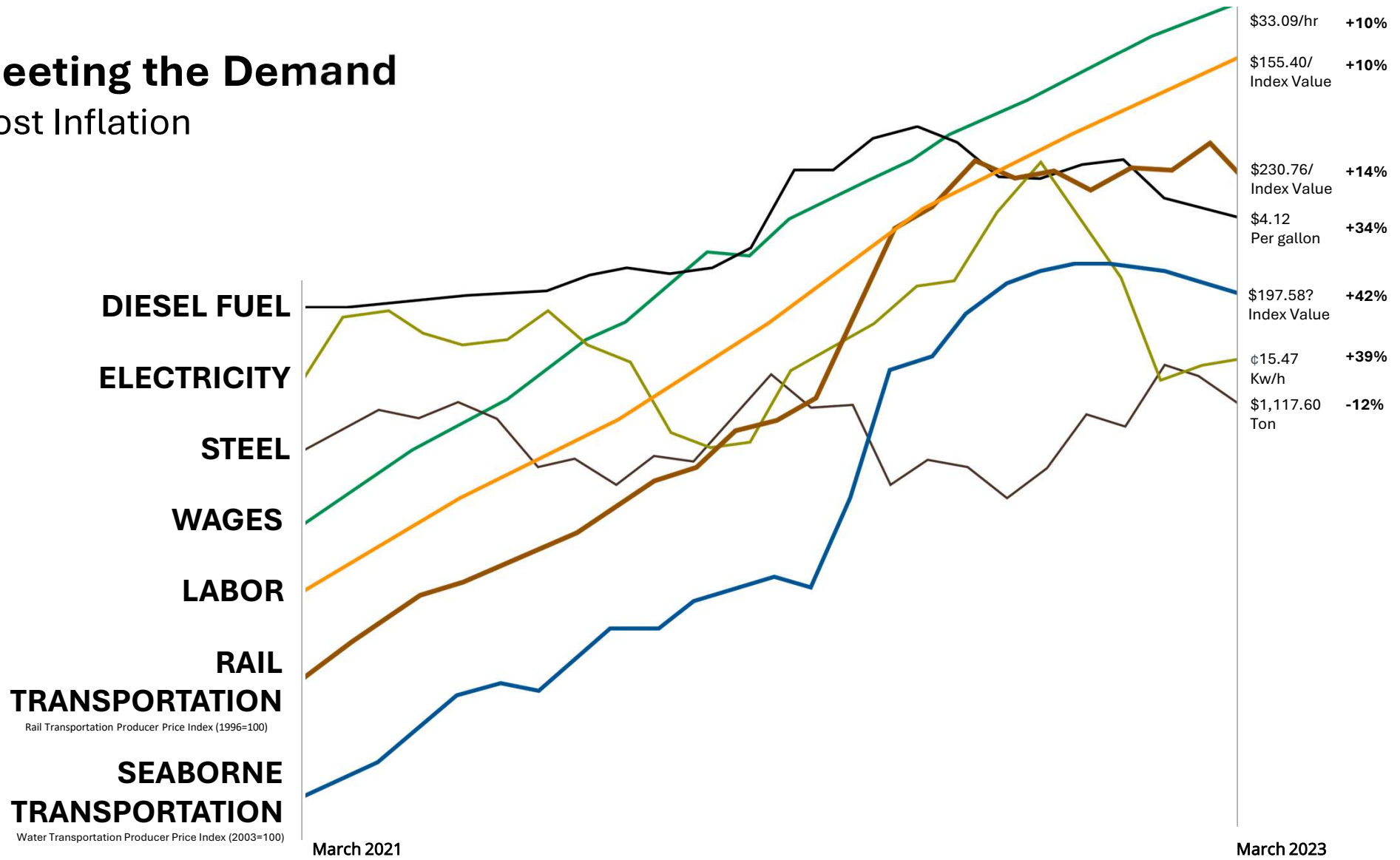
Energy



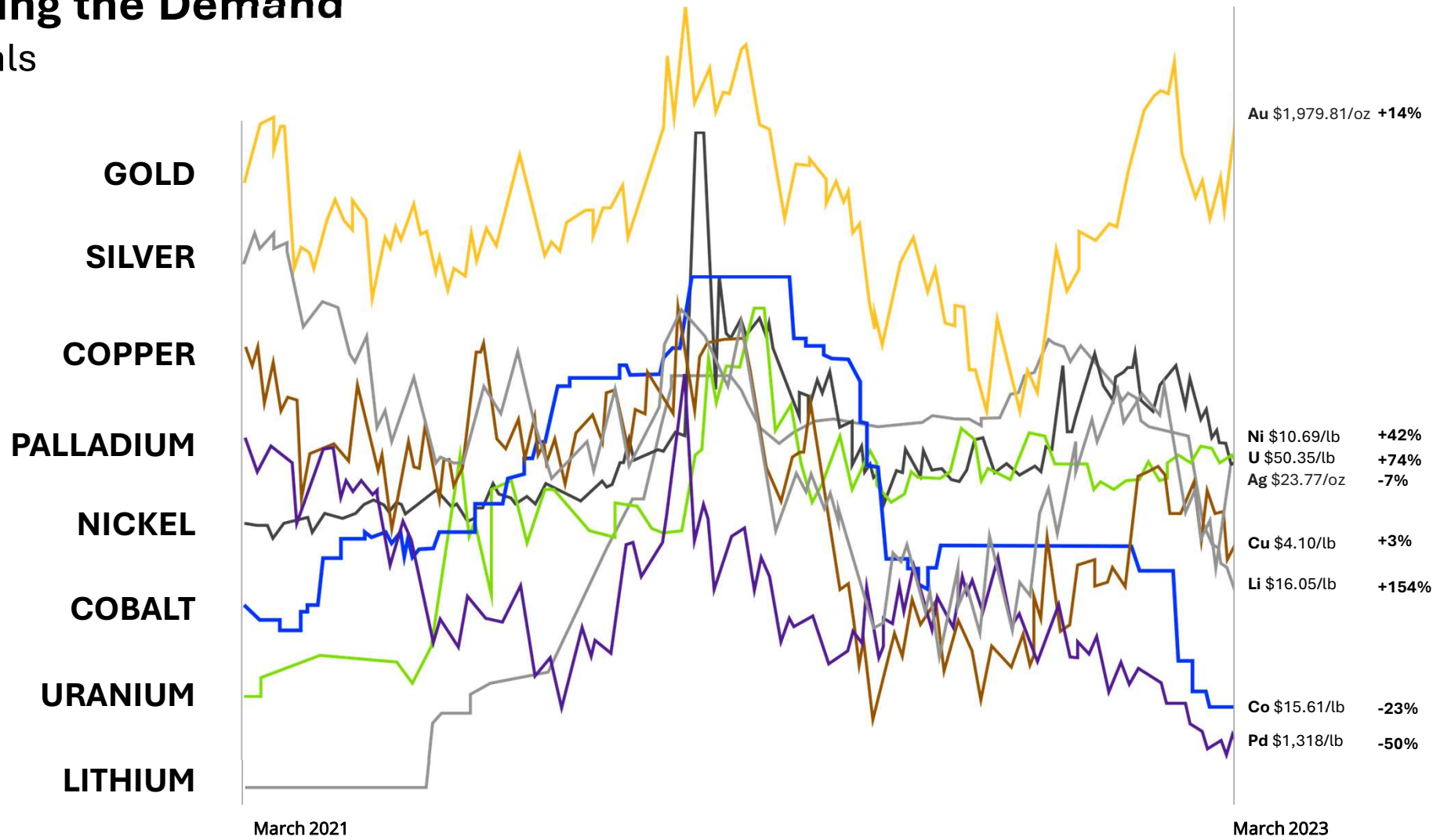


Meeting the Demand

Cost Inflation



Meeting the Demand
Minerals



Political Demand



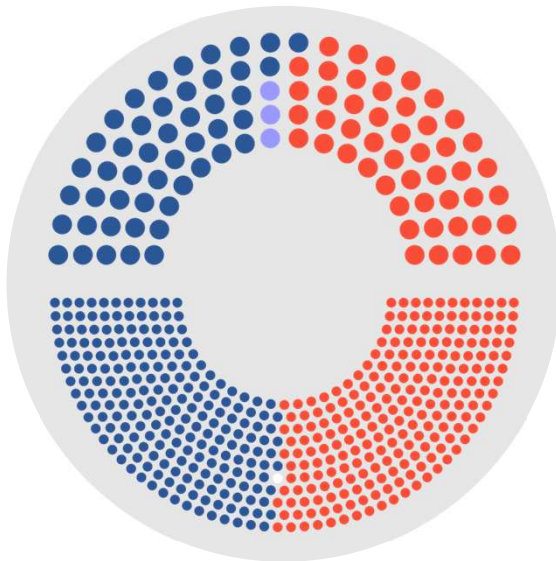
Political Demand Representing the Industry





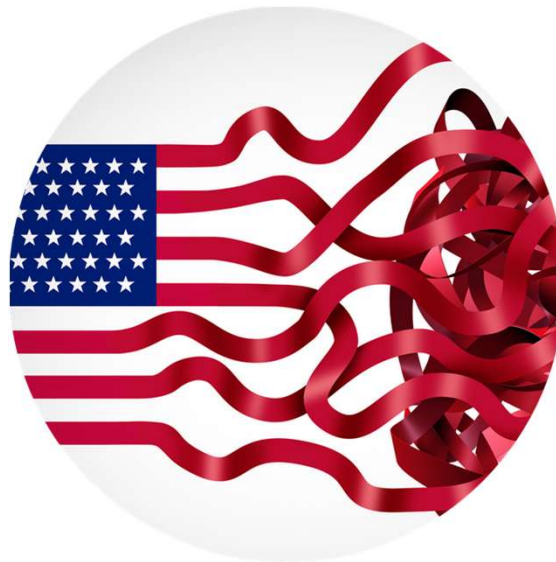
Political Demand

Demand in Washington



**Post-Midterms
Thin Margins**

SENATE HOUSE
D51 | R49 D212 | R222



**Federal Agency
Overreach**



**Congressional Oversight
Ramps Up**



Political Demand

Senate Election 2024: 11 Republicans | 24 Democrats

- Initial Republican Targets: Manchin, Tester, Brown, Sinema
- No Democratic Pick-Up Opportunities in Republican Races



Sen. Tester (D-Mont.)



Sen. Brown (D-Ohio)



Sen. Heinrich (D-N.M.)



Sen. Kaine (D-Va.)



Sen. Manchin (D-W.Va.)



Sen. Romney (R-Utah)



Sen. Rosen (D-Nev.)

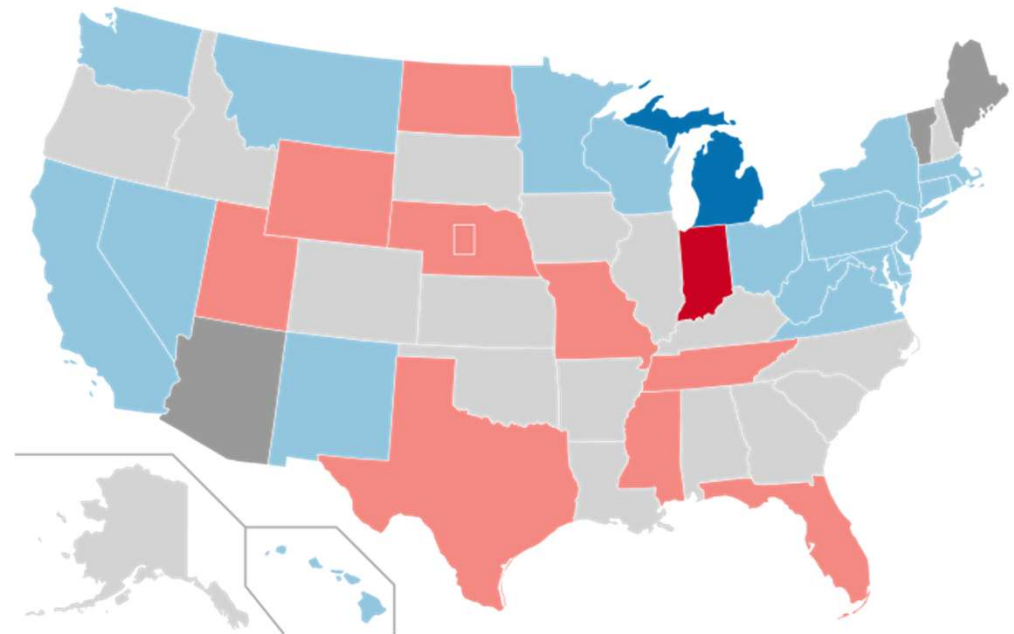


Sen. Sinema (D-Ariz.)



Sen. Braun (R-Ind.)

Map of the incumbents:





Political Demand

House Election 2024: “The 18”

- White House to Target 18 House Republicans from Districts Biden Won



Rep. Schweikert (R-Ariz.)



Rep. Ciscomani (R-Ariz.)



Rep. Duarte (R-Calif.)



Rep. Valadao (R-Calif.)



Rep. Garcia (R-Calif.)



Rep. Kim (R-Calif.)



Rep. Steel (R-Calif.)



Rep. Bacon (R-Neb.)



Rep. Kean (R-N.J.)



Rep. LaLota (R-N.Y.)



Rep. Santos (R-N.Y.)



Rep. D’Esposito (R-N.Y.)



Rep. Lawler (R-N.Y.)



Rep. Molinaro (R-N.Y.)



Rep. Williams (R-N.Y.)



Rep. Williams (R-N.Y.)



Rep. Fitzpatrick (R-Pa.)



Rep. Kiggans (R-Va.)

117th Congress: 222 Democrats | 215 Republicans

118th Congress: 222 Republicans | 212 Democrats

Political Outlook

The 2024 Presidential Race Has Begun



- First Republican Debate: August 2023, Milwaukee, Wis.
- January 2024 - Iowa Republican Presidential Caucuses

Polling Source: RealClearPolitics Presidential Nomination | March 30, 2023



NMA Political Action Committees



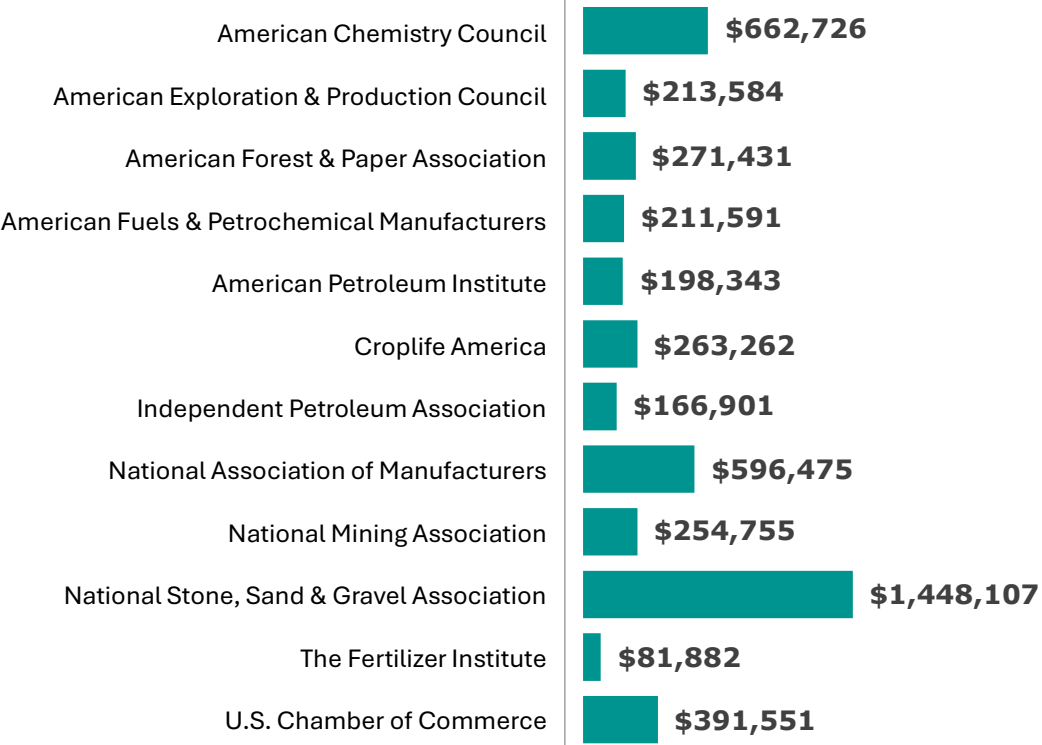
MINEPAC and COALPAC Raised
\$254,755

Contributed to
70%
Republican
Allies

Contributed to
30%
Democrat
Allies

NMA PACs + NMA Member
Companies Contributed
\$442,299.00 to
72

Bipartisan Congressional
Mining Allies



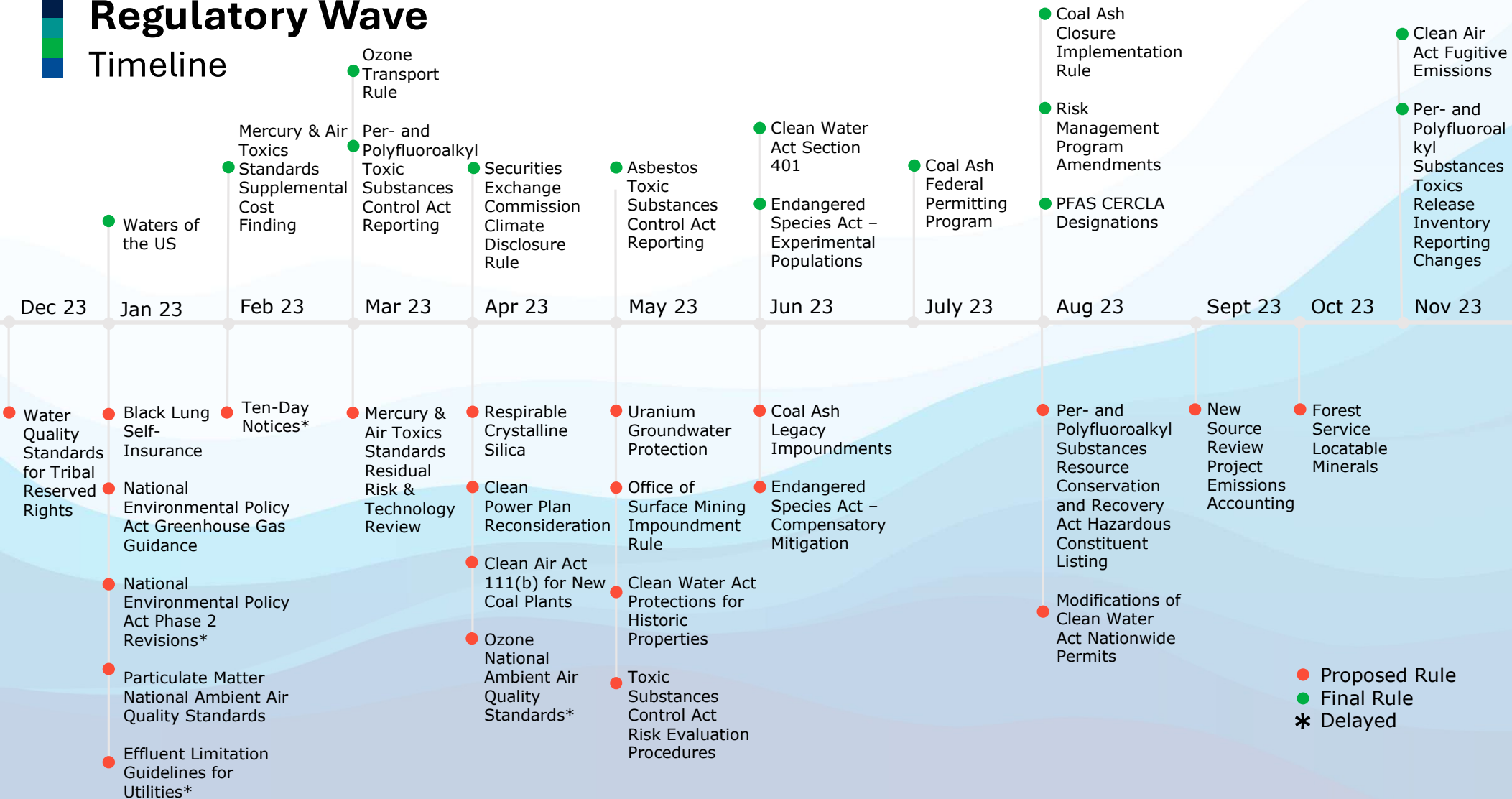
Regulatory Wave: Meeting the Demand





Regulatory Wave

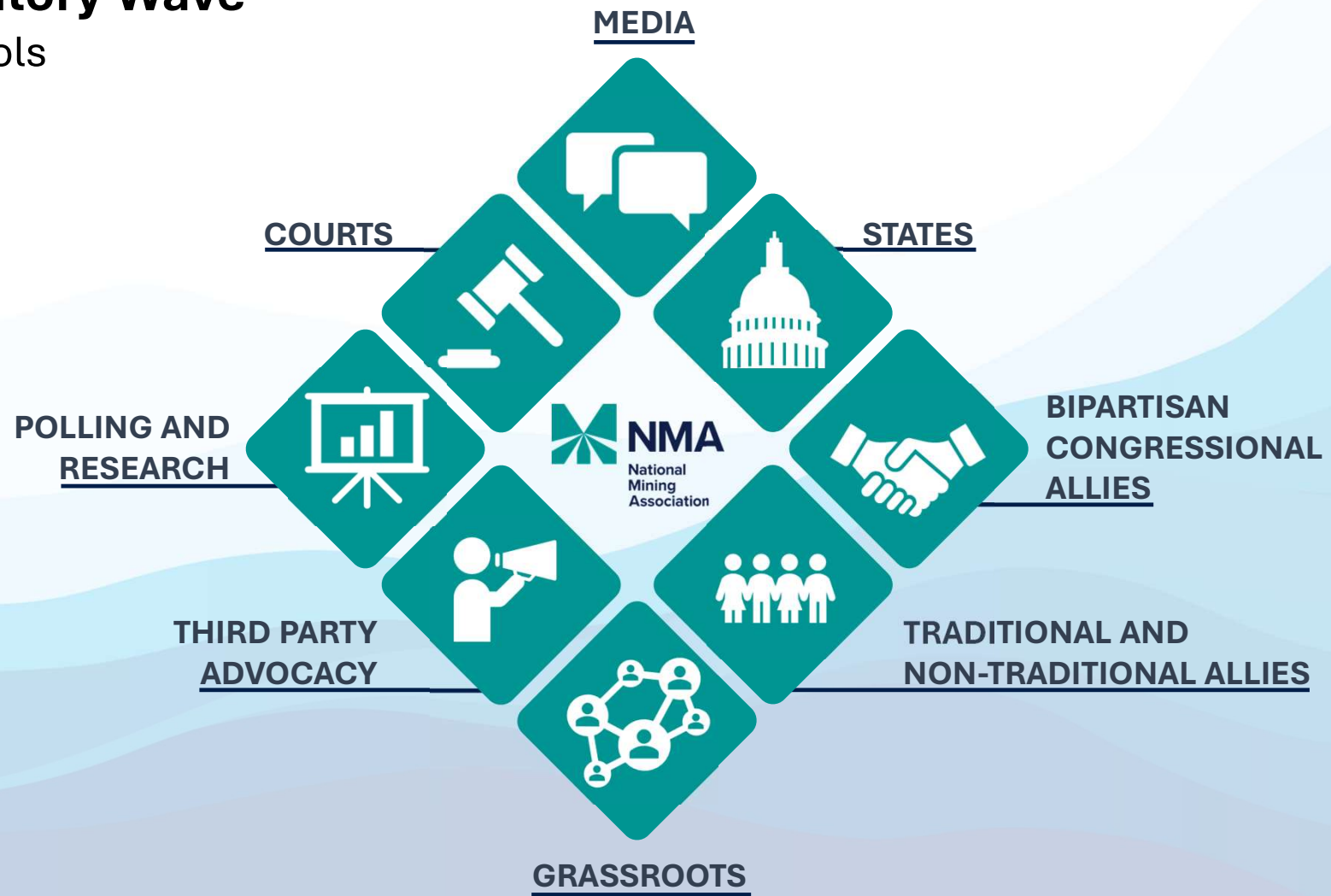
Timeline





Regulatory Wave

NMA Tools



Key Performance Indicators



TELLING OUR STORY YTD 2023

77 Op-Eds **3.3M** Audience Reached **100** Press Inquiries **338** Tweets + Posts **17** Blogs
 President & CEO Op-Eds **29** Media Audience Reached **1,006** Video Views **250K** Followers **605K**



INFLUENCING STAKEHOLDERS 2023

70 Administration Contacts **1,889** Congressional Contacts **115** State Contacts **29** Congressional Letters & Testimony



DELIVERING VALUE 2023

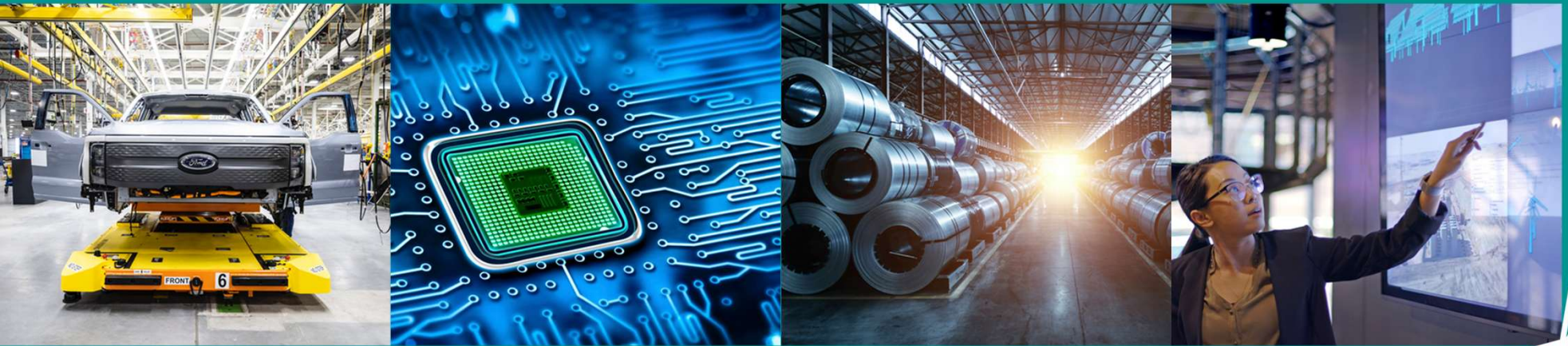
22 Comments **15** Legal Filings **285** Coalition/Ally Meetings **6** Press Releases
 Committee Meetings **40** Memos to Members **161** MINE Update Newsletters **13**



OPERATIONS

ESG	CORESafety®	Membership	MINExpo®
1 Task Force Meeting	4 CORESafety TV Videos	19 New Members	30+ New Prospects
3 Resource sessions	3 Blogs/Newsletter	4 Advisory Group Meetings	83% of the exhibit space sold
	5 Modules Reviewed	\$193K Additional Revenue	

Meeting the Demand: Mining Priorities



Mining Priorities

Waters of the United States (WOTUS)

2023 Rule

- **Step One Finalized**
 - Final rule published in Federal Register Jan. 18, 2023
 - Effective on Mar. 20, 2023
 - Expansion of federal jurisdiction
 - Agencies implementing Step One
- **Step Two Unlikely**
 - “Refinements”/guidance post-*Sackett*?

Legal Challenges to the 2023 Rule

- **Southern District of Texas**
 - Texas and Idaho Attorneys General
 - NMA’s industry coalition
- **District of North Dakota**
 - Coalition of 24 states (led by West Virginia Attorney General Morrissey)
 - NMA’s industry coalition
- **Eastern District of Kentucky**
 - Kentucky Chamber of Commerce coalition

Awaiting Supreme Court Decision in *Sackett v. EPA*

- Oct. 3, 2022: Supreme Court oral arguments
- Opinion expected soon
- Scope of opinion could influence next steps, if any, from agencies

NMA Next Steps

- Prepare for regulatory uncertainty post-*Sackett*
- Engage in litigation challenging 2023 rule
- Engage in agencies’ next steps/implementation
- Coordinate with state and congressional allies
- Congressional oversight

Mining Priorities

Waters of the United States: Congressional Oversight



Rep. Bruce Westerman
@RepWesterman

At today's full committee markup, @TransportGOP members approved a joint resolution that will overturn the Biden Administration's flawed #WOTUS Rule and protect American small businesses and farmers from this egregious federal overreach.

House Republicans Leading the Charge to Reverse Flawed Biden WOTUS Rule

Resolution to Overturn Administration's Overreach

- ✓ Protects small businesses, farmers, manufacturers, builders, home owners, and more from enormous impacts of this federal overreach.
- ✓ Prevents sweeping changes to the federal government's authority to regulate what is considered a "navigable water."
- ✓ Stops the Biden Administration's rush to regulate before the Supreme Court's upcoming ruling on WOTUS.



Press Releases

Chairmen Graves & Rouzer Introduce Legislation to Reverse Biden WOTUS Rule

Committee on Transportation and Infrastructure Chairman Sam Graves (R-MO) and Water Resources and Environment Subcommittee Chairman David Rouzer (R-NC) led 147 Members of Congress today in introducing a joint resolution of disapproval under the Congressional Review Act (CRA) on the Biden Administration's flawed and burdensome "Waters of the United States" (WOTUS) rule. This rule will lead to sweeping changes to the federal government's authority to regulate what is considered a navigable water, with enormous impacts on small businesses, manufacturers, farmers, home and infrastructure builders, local communities, water districts, and private property owners.

"As American families and businesses continue suffering under the economic crises caused by the disaster policies of the last two years, this Administration has inexplicably decided to move the country in a costly and burdensome WOTUS regulations of the past," said Graves. "In an unnecessary and wasteful use of resources, the Administration clumsily put forward its rule before the Supreme Court has ruled on the Sackett case, which will affect and alter what the Administration has put forward. Congress has the responsibility to review onerous rules like this one handed down from the Executive branch. My colleagues on both sides of the aisle will join in this effort to preserve regulatory clarity and prevent unnecessary, and broadly defined federal power."

"The Biden Administration's WOTUS rule is both poor policy and badly timed," said Rouzer. "The rule imposes overly burdensome regulations on farm families, small businesses, infrastructure projects, and the economy – further harming our already struggling economy. Rushing to issue a new rule despite the Supreme Court's forthcoming decision is not wise. It will only create additional confusion and uncertainty. This new rule needs to be rescinded so that Americans across the country are protected from subjective regulatory overreach. The Congressional Review Act is the best and most appropriate way for the House to make its collective voice heard and push back. I'm proud to lead my colleagues in Congress as we work to terminate onerous rules like this one."

[Click here to view the legislation.](#) [Click here to view the list of all 147 cosponsors.](#)
The House Joint Resolution...



FEBRUARY 02, 2023

CAPITO LEADS ALL REPUBLICAN SENATORS IN FORMALLY CHALLENGING BIDEN WOTUS RULE THROUGH CONGRESSIONAL REVIEW ACT

EPW Ranking Member's resolution of disapproval "will give every member of Congress the chance to stand with farmers, ranchers, landowners, and builders, and protect future transportation, infrastructure, and energy projects of all kinds in their states."

Senator Shelley Moore Capito (R-W.Va.), Ranking Member and Public Works (EPW) Committee, today led her colleagues in introducing a formal challenge to the Biden Administration's WOTUS rule through a joint resolution of disapproval.

The Environmental Protection Agency (EPA) and the U.S. Army Corps of Engineers (USACE) issued a new rule in December 2022 repealing the 2001 rule (NWPB), and changing the definition of Waters of the United States to expand federal regulatory authority.

The Biden administration's new rule imposes unnecessary burdens directly on millions of small businesses, farmers, ranchers, and builders, and protect future transportation, infrastructure, and energy projects of all kinds in their states. I am proud to lead my colleagues in the Senate and House, and to perform an important check on this misguided rule."



Capito introduced a joint resolution in the Senate to formally challenge the Biden Administration's WOTUS rule through the Congressional Review Act (CRA) in introducing an identical resolution in the House.

Other Republican Senators to include U.S. Senators Mitch McConnell (R-Ky.), Joni Ernst (R-Iowa), John Boozman (R-Ark.), Mike Crapo (R-Idaho), Bill Cassidy (R-La.), Susan Collins (R-Maine), Kevin Cramer (R-N.D.), Deb Fischer (R-Neb.), Lindsey O'Rourke (R-La.), and Bill Hagerty (R-Tenn.). Josh Hawley (R-Mo.) also introduced a similar resolution in the Senate.



The WOTUS Rollercoaster Continues

The Waters Advocacy Coalition (WAC) includes nearly 50 organizations representing agriculture, energy, infrastructure, construction and real estate, manufacturing, mining, recreation, specialty pesticides, state departments of agriculture, and many other job creators that represent virtually every corner of the American economy. WAC members need a clear, commonsense WOTUS definition to create jobs and support their communities while protecting clean water resources. The new WOTUS rule makes these efforts more difficult, puts much needed infrastructure projects at risk, and threatens to make food, housing, and energy more expensive for American families.

WOTUS in the Clean Water Act and WOTUS

The Clean Water Act (CWA) defines "navigable waters" as "the waters of the United States" (WOTUS). The EPA and Corps as WOTUS are under exclusive state and local jurisdiction.

WOTUS has been defined by the EPA and Corps through regulation, the courts, and litigation for decades. Multiple Supreme Court decisions have clarified the scope of WOTUS, but neither the Supreme Court nor the Agencies have provided a clear, consistent definition. Congressional intent, and how to determine jurisdiction persist in the courts. The new WOTUS rule makes these efforts more difficult, puts much needed infrastructure projects at risk, and threatens to make food, housing, and energy more expensive for American families.

WOTUS in the National Economy and Jobs

Small businesses and farmers, to manufacturers and homebuilders – all rely on the WOTUS rule so they can protect the environment, operate with regulatory certainty, and avoid the costs of WOTUS. The new WOTUS rule will make economic life more expensive to invest in U.S. operations and businesses.

WOTUS Rule: Myth vs. Fact

Decision in Sackett v. EPA won't affect the new WOTUS rule. The Supreme Court's decision in Sackett v. EPA, in this case, the Court ruled on the "nexus" test – the same jurisdictional test that forms the foundation of the CWA for determining federal CWA jurisdiction over wetlands. Despite pleas to wait until the Supreme Court decided the case, the agencies proceeded to make the new WOTUS rule. The Court's decision in Sackett could render substantial portions of the new WOTUS rule inoperative – and require yet another WOTUS rule and more confusion.

#CleanWaterClearRules



SEC Considers Easing Climate-Disclosure Rules After Investor Pushback



Mining Priorities

National Environmental Policy Act (NEPA)

Council on Environmental Quality's NEPA Reforms

NEPA CEQ GHG Guidance

- Guidance to agencies on incorporation of greenhouse gas emissions (GHG) in NEPA analyses for mining projects
- Comment period extended until Apr. 10

Phase 1

- Final rule published Apr. 20, 2022
- Largely nullified certain components of the 2020 NEPA reforms
- Center for Biological Diversity (CBD) submitted a petition to strengthen Phase 1 rules

Phase 2

- Likely broader changes, including requirements to assess climate change in NEPA documents
- CEQ reached out to NMA to discuss Phase 2; NMA stressed the need for timely reviews and permitting decisions
- Currently at the Office of Management (OMB) and budget for interagency review
- NMA met with OMB on Mar. 20, 2023

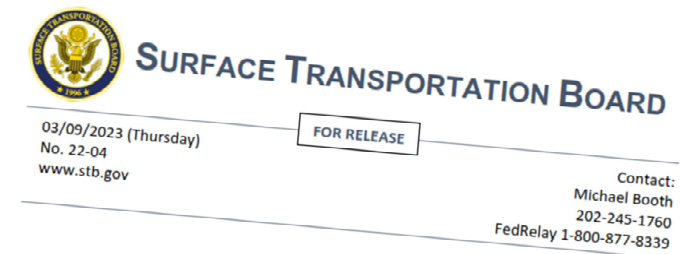




Mining Priorities

Rail

- NMA Quarterly Rail Survey
- Surface Transportation Board Rail Energy Transportation Advisory Committee
 - Three coal producer seats recently appointed
- NMA testimony to STB in Dec. 2022 regarding Union Pacific's excessive use of embargoes
- Congressional and state engagement
- NMA Transportation Committee activity
- NMA engages with



STB APPOINTS NINE MEMBERS TO RAIL ENERGY TRANSPORTATION ADVISORY COMMITTEE

The Surface Transportation Board today announced the appointment of nine new members to the Board's Rail Energy Transportation Advisory Committee (RETAC). The new members are Messrs. Adam Anderson, John Bridson, James Grech, Christopher Hand, John Haysbert, Paul Lang, Vern Lund, Dave Slade, and Ben Sweat. All new members have been appointed to

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March 23, 2023

Hon. Sam Graves
Chairman



Hon. Rick Larsen



Mining Priorities

MSHA Silica Standard for Metal, Non-Metal and Coal

Status of Silica Rulemaking

- Proposal was submitted to the Office of Management and Budget (OMB) January 2023 for interagency review
- Anticipated in March 2023
- Likely to reduce the silica exposure limit to match the Occupational Safety Health Administration (OSHA) limit



Potential Issues With Any New Silica Rule

- Limiting the use of administrative controls
- Not accounting for the differences of respirable MSHA and OSHA regulations
- Limiting the use of Powered Air Purifying Respirators (PAPRs)
- Allowing adequate time for implementation

NMA Actions

- Established a Technical Silica working group
- The NMA met with OMB and raised critical concerns
- Engaged with allied associations including National Sand, Stone and Gravel Association, Portland Cement Association, Lime Association and others
- Congressional engagement to educate members in Congress on the silica impact to mining



Mining Priorities

Tribal Issues

Consultation Processes Undergo Enhanced Scrutiny

Jan. 2021 presidential Memorandum on Tribal Consultation and Strengthening Nation-to-Nation Relationships

- Signaled renewed interest in the importance of tribal engagement

Nov. 2022 Presidential Memorandum on Uniform Standards for Tribal Consultation

- Imposes baseline standards for all federal agencies that conduct tribal consultations
- Encourages agencies to “engage in Tribal consultation even if they determine that a policy will not have Tribal implications”

New Department of the Interior issued new tribal consultation policies and procedures designed to encourage early and transparent consultation and establish a model for seeking consensus

NMA development of tribal engagement resource guide

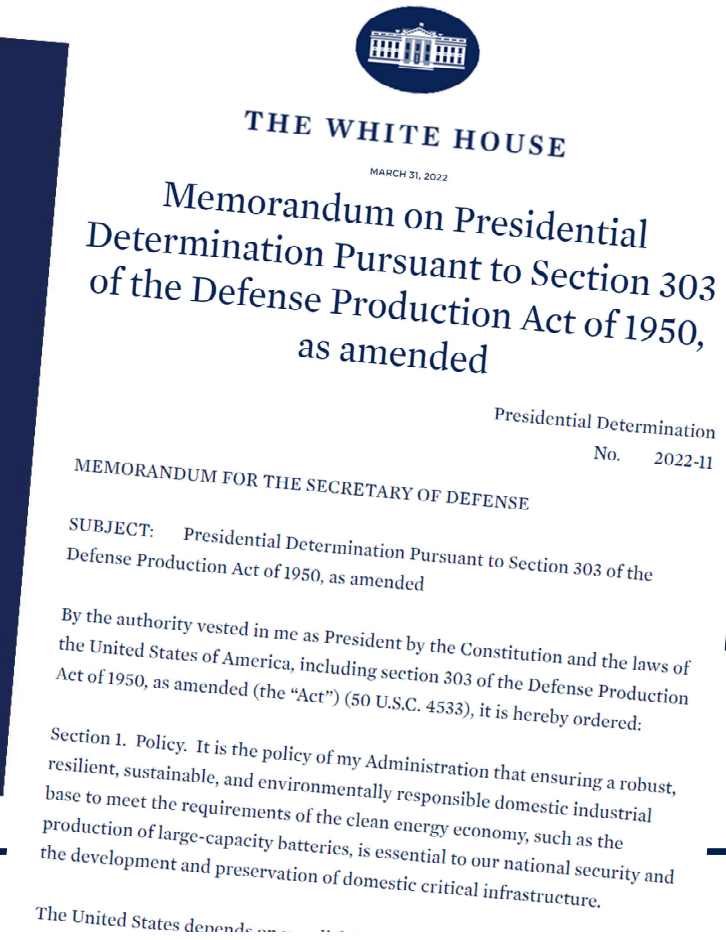
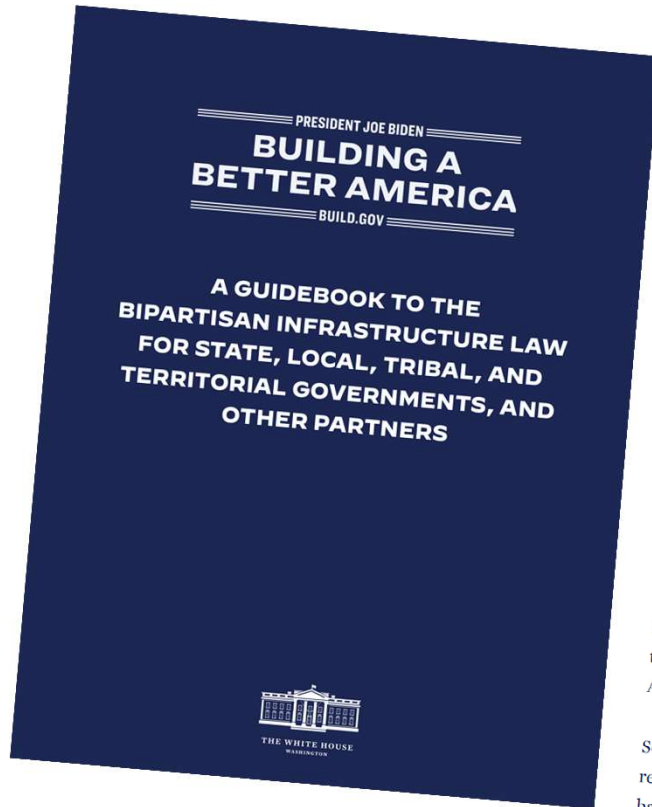
- Objective: Help members navigate consultation process
- Timeframe: completion by year end, kick-off meetings to gather member input held in March





Mining Priorities

Federal Funding



Meeting the Demand: Minerals Policy





Minerals

Demand Forecast

“For copper, which provides the irreplaceable wiring for electrification, annual demand is projected to reach a level by 2050

equal to all the copper consumed in the world

between 1900 and 2021.”

S&P Global

**Ever-increasing
Demand**



**All the Copper
and Lithium**



**Materials
Forecast**

Minerals Messaging

WSJ | OPINION

Biden's Green-Energy Mineral Lockup

The feds block mining that is essential for making EV batteries.

Nebraska Examiner

The need to reduce foreign-sourced mining of essential minerals

GrandRapidsMN.com

Herald Review

Rebuilding America's mineral supply chains begins with permitting them

AP Alaska gold, copper mine blocked over environmental worries

Leila Kimbrell, executive director for the Resource Development Council for Alaska Inc., called the decision "a dangerous abuse of power and federal overreach." The National Mining Association, citing high demand for minerals and fragile global supply chains, said domestic mining has "never been more important." It said EPA's decision is "in stark contrast to national and global realities."

E&E
NEWS

Uncertainty abounds as EV tax credit guidance looms

"Incentives are not giveaways — they are intended to incentivize action, and the regular announcements of new supplier agreements between miners and the manufacturers show that these incentives are working as intended, are creating U.S. jobs and more secure supply chains, and should be implemented as proposed," National Mining Association President Rich Nolan said in a statement on Manchin's legislation.

The EASTERN NEW MEXICO NEWS

Opinion: Mineral, metal supply crisis ahead

LAS VEGAS SUN

OPINION:

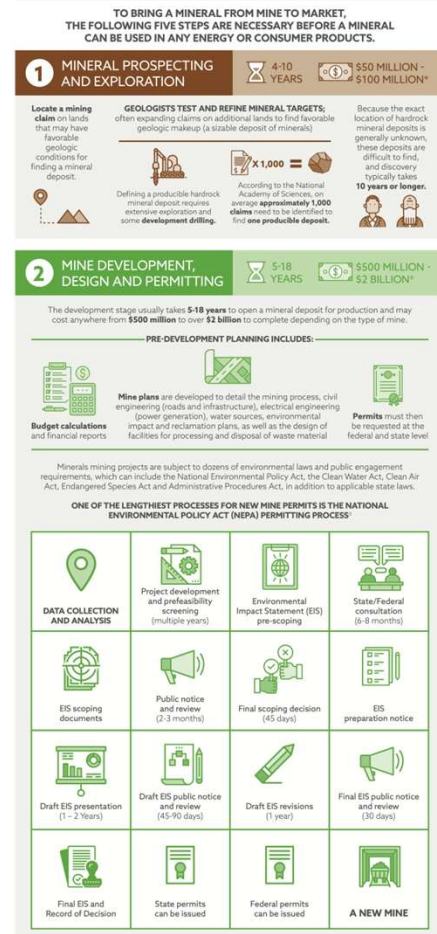
Mining is best way to address threat of foreign mineral cartel

THE TENNESSEAN

How America can stop importing vital metals from China and Russia | Opinion

RealClear Energy

Let's Take the Final Step to Reshore U.S. Mining for Battery Metals





Minerals Policy

Minerals Security

- ▶ The Committee will conduct aggressive oversight of **domestic hardrock mineral resources**, including critical minerals, **especially regarding the nation's current and planned production on federal lands**. The Committee will also review ways to responsibly **increase production** through legislation. As a necessary part of ensuring mineral security, the **Committee will conduct oversight of the Biden administration's actions to withdraw, delay, and otherwise stymie hardrock mineral development on federal lands**. Additionally, the Committee will closely monitor the actions of the Department of the Interior's **Interagency Working Group** on mining reform
- ▶ The Committee supports programs at the USGS for the accurate siting of hardrock minerals and other resources, such as the **Earth MRI program**, as well as **mapping** programs
- ▶ The Committee will conduct **oversight of the Biden administration's 30x30 Initiative**

COMMITTEE ON NATURAL RESOURCES

Authorization and Oversight Plan 118th Congress



Chairman Bruce Westerman

AUTHORIZATION AND OVERSIGHT PLAN OF THE COMMITTEE ON ENERGY AND COMMERCE U.S. HOUSE OF REPRESENTATIVES, 118TH CONGRESS

Rule X, clause 2(d) of the Rules of the House requires each standing Committee to develop an oversight plan for the two-year period of the Congress and to submit the plan to the Committee on Oversight and Reform and to the Committee on House Administration not later than March 1 of the first session of the Congress.

This is the oversight plan of the Committee on Energy and Commerce for the 118th Congress. It includes areas where the Committee expects to conduct oversight during the 118th Congress, subject to staff and resource limitations, but does not preclude oversight or investigation of additional matters. The Committee will continue to consult with other committees that have jurisdiction over the same or related laws, programs, or agencies with the objective of ensuring maximum coordination and cooperation. Specifically, the Committee will continue to work with other committees to facilitate expiring programs, coordinate with the Congressional Budget Office regarding lapsed authorizations and upcoming expirations, and hold member and staff-level meetings with relevant committees and House and Senate conferences.

During the 118th Congress, the Committee on Energy and Commerce will hold hearings and conduct rigorous oversight over matters within its jurisdiction. The Committee will conduct thorough oversight, reach conclusions based on an objective review of the facts, and treat witnesses fairly. The Committee will request information in a responsible manner that is calculated to be helpful to the Committee in its oversight responsibilities. The Committee's oversight functions will focus on 1) cutting government spending through the elimination of waste, fraud, and abuse; and 2) ensuring laws are adequate to protect the public interest or being implemented in a manner that protects the public interest, without stifling economic growth. The Committee will use the information it collects through its oversight to inform the reauthorization of certain lapsed programs within its jurisdiction.



Minerals Policy

Permitting Legislation



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118TH CONGRESS
1ST SESSION

H. R. 1

(Original Signature of Member)

To lower energy costs by increasing American energy production, exports, infrastructure, and critical minerals processing, by promoting transparency, accountability, permitting, and production of American resources, and by improving water quality certification and energy projects, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Mr. SCALISE introduced the following bill; which was referred to the Committee on _____

A BILL

To lower energy costs by increasing American energy production, exports, infrastructure, and critical minerals processing, by promoting transparency, accountability, permitting, and production of American resources, and by improving water quality certification and energy projects, and for other purposes.

1 *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

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March 13, 2023 (6:53 p.m.) (870760)3

Congress of the United States
Washington, DC 20510

February 8, 2023

The Honorable Bruce Westerman
Chair
Committee on Natural Resources
U.S. House of Representatives

The Honorable Cathy McMorris Rodgers
Chair
Committee on Energy and Commerce
U.S. House of Representatives

Dear Chairs Westerman and Rodgers,

As members of the Critical Materials Caucus, we write to request your leadership in advancing bipartisan, commonsense reforms and investments to reduce our economic dependence on foreign sources and build out clean energy technologies to meet our nation's goals. We stand ready to work with your Committees and all Members to advance these critical reforms.

We believe that there are numerous policies that lawmakers of both parties can agree on, such as fully implementing existing expedited permitting authorities like "one federal decision," timely approvals for low-carbon energy projects, investments in domestic development of critical materials, and improvements to grid and transmission infrastructure. In particular, there are several specific proposals that we stand ready to work with you on, including:

- Rare Earth Magnet Manufacturing Production Tax Credit Act:** A bill introduced by Reps. Swalwell and Rothenblatt to create a production tax credit for rare earth magnets that are produced in the United States. Rare earth magnets are used in military weapons, in medical devices, and electronics, but 90 percent of these magnets are currently produced in mainland China.
- Permit Reform In Mining for Energy and Defense (PRIMED) Act:** A bill introduced by Reps. Staben and Walz to add critical mineral projects financed under the Defense Production Act to the Federal Permitting Improvement Steering Council's permitting critical minerals and expedited review process. This would support domestic production of security.
- The Electric Power Infrastructure Improvement Act:** A bill introduced by Rep. Horsford, which would create an investment tax credit to help promote construction of regionally significant transmission projects across the country.
- Elements of the Reclaiming American Rare Earths (RARE) Act:** A bill introduced by Reps. Gonzalez and Gooden to drive domestic production and reduce America's dependence on China for rare earth minerals used to build the technology that keeps our country safe and connected. Although we are grateful that the Inflation Reduction Act included some components of the RARE Act and set the stage for the U.S. and its trade partners to make a more significant contribution to the production of essential minerals, we would like to see the remaining provisions of the RARE Act also move forward in Congress.
- Developing a National Stockpile for Critical Materials:** Although the Defense Logistics Agency manages critical materials related to national security, there is no legislative requirement to ensure that the United States maintains sufficient critical materials for its coming National Defense Authorization Act, to improve Congressional oversight and the public accountability.

We would welcome discussions on how best to incorporate the Critical Materials Caucus's priorities into bipartisan reform legislation originating in your committees. Thank you for your leadership and consideration.

Sincerely,

Eric Swalwell
Eric Swalwell
Member of Congress

John Garamendi
John Garamendi
Member of Congress
Ranking Member
Subcommittee on Readiness

Vicente Gonzalez
Vicente Gonzalez
Member of Congress

Christy Hoelzel
Christy Hoelzel
Member of Congress

Steven Horsford
Steven Horsford
Member of Congress

Henry Chaffar
Henry Chaffar
Member of Congress

Dina Titus
Dina Titus
Member of Congress

Finna Shokin
Finna Shokin
Member of Congress



Minerals Policy

Permitting Legislation



AXIOS

Schumer declares House GOP's first major bill "dead on arrival"

E&E NEWS

Senate hope for permit deal alive after DOA House energy bill

A House Republican energy package that includes permitting reform will be dead on arrival in the Senate, but informal talks on a deal are percolating.



Minerals Policy

Mining Law Litigation

Three Key Cases Shaping Interpretation of the Mining Law

Rosemont

- ▶ (Ancillary use/claim validity/interpretation of Forest Service regulations)

Unfavorable decision from Ariz. district court, affirmed by 9th Circuit

Thacker Pass

- ▶ (Ancillary use/claim validity/interpretation of Bureau of Land Management regulations)

Remanded for failure to determine validity of claims where waste would be stored; appeal to 9th Circuit pending

Earthworks

- ▶ (Millsites/fair market value/interpretation of Bureau of Land Management regulations)

Favorable D.C. district court decision, appealed to D.C. Circuit; briefing 2023



Coal Policy





Coal Policy

Demand Forecast

Electricity Demand



“Electrification will require ‘a doubling of generation capacity in all regions by 2050.’”

Transportation Outlook



Regulatory Wave



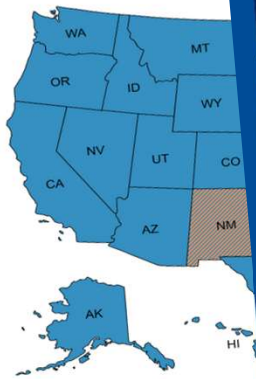


Coal Policy

Regan Power Plant Strategy

STATES IMPACT BY PROPOSED DISAPPROVAL OF REGIONAL HAZE SIPs

+ Corresponding FIP threat



RELIABILITY IMPACTS OF PENDING EPA RULES

Interstate Transport Rule

SPP
8,184 MW by 12/2026
(37% of Coal Fleet)
ADDED TO UNITS SLATED FOR PRE-2030 RETIREMENT:
37% of coal capacity will be lost

MOUNTAIN WEST
8,892 MW by 12/2026
(38% of Coal Fleet)
ADDED TO UNITS SLATED FOR PRE-2030 RETIREMENT:
44% of coal capacity will be lost

ERCOT
7,867 MW by 12/2026
(55% of Coal Fleet)
ADDED TO UNITS SLATED FOR PRE-2030 RETIREMENT:
55% of coal capacity will be lost

NOTE:
These estimates do NOT include SCR-controlled units that are also at risk of retiring due to the Transport Rule FIP's stringent & dynamic budget setting process, caps on banking & the daily max NOx emission rate. Naz does this capture retirements due to new interpretations of the CCR Rules EPA is attempting to impose on the states (i.e. this is the low end of impact).

RELIABILITY IMPACTS OF PENDING EPA RULES

CCR ACTIONS

SPP:
882.3 MW

Mountain/Southwest
3,467.7 MW

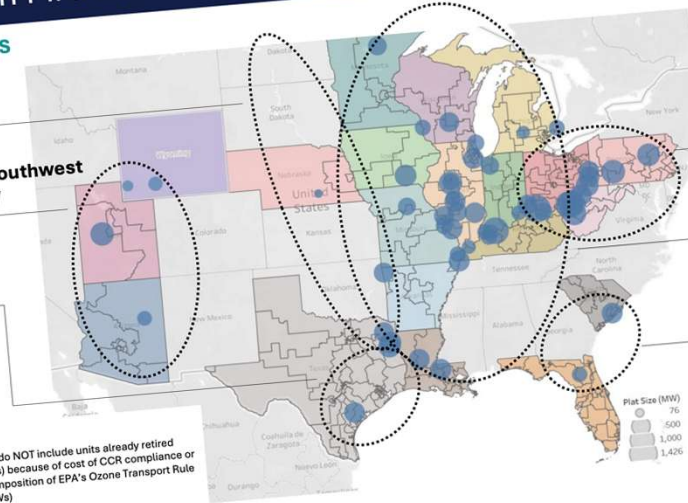
ERCOT:
3,934 MW

PJM:
17,768.2 MW

MISO:
12,576.9 MW

SOUTHEAST:
894.7 MW

NOTE:
These estimates do NOT include units already retired (or in the process) because of cost of CCR compliance or the threatened imposition of EPA's Ozone Transport Rule FIP (> 50,000 MWs)





Coal Policy

Reliability

“I mean, does anyone at the EPA think about reliability when they’re talking about making new rules? We all know the answer to that.”

– **Jim Matheson, former Democratic congressman and current CEO of the National Rural Electric Cooperative Association**

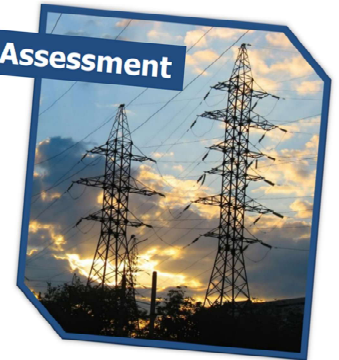
“In many parts of North America, peak electricity demand is increasing, and forecasting demand and its response to extreme temperatures and abnormal weather is increasingly uncertain.”

– **NERC 2022 Long-Term Reliability Assessment**



NERC
NORTH AMERICAN ELECTRIC
RELIABILITY CORPORATION

2022 Long-Term Reliability Assessment
December 2022





Coal Policy

Polling

January Polling – *What raises voter concern?*

EPA regulations
will increase bills

71%
concerned

Speed of
the transition

66%
concerned

EPA regs will
cause blackouts

64%
concerned

EPA regs will
impact reliability

62%
concerned

EPA regs will
dismantle the grid

58%
concerned

Coal Policy Coal Messaging

nwi.com We are creating our own electricity crisis

yahoo! The start of a U.S. power grid crisis?

AP EPA proposes stricter limits on coal plant water pollution

The National Mining Association criticized the plan, saying it would force utilities to make decisions "solely based on EPA's environmental agenda," and called the approach "plainly irresponsible."

E&E NEWS U.S. coal power refuses to die. What that means for climate.

Nolan said the "regulatory wave that's coming" could wipe out "well-functioning coal plants" and hurt grid resilience in certain parts of the country. He rejected the argument that more renewable power from a diverse set of sources could shore up the grid. "Certainly in an ideal world if everything was wired up, and we had engineers and a permitting process that wasn't broken and electricity transmission lines were strung up all over the world, yeah, they may be correct," he said. "However, that's not reality. And that's not where we are today."

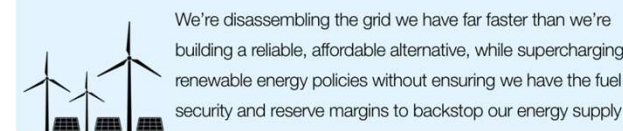
The Washington Post Power plants must cut pollution crossing state lines, new EPA rule says

"Americans and American businesses will continue to pay increasingly more for electricity that is less and less reliable" as a result of the new rule, Conor Bernstein, a spokesman for the National Mining Association, wrote in an email. "Even worse, the EPA is unilaterally making these decisions for the states — more than 18 of which use coal as their most common source of electricity generation."

The Washington Post More coal plants could shut down under EPA's new water pollution rule

Coal industry advocates warned the new regulation would compromise the nation's grid reliability by pushing electric utilities to fill the gap left by coal plant retirements with renewable energy. "EPA is acting on its longstanding threat to make it impossible for utilities to make decisions based on the merits of what keeps the lights on, forcing those utilities to make decisions solely based on the EPA's environmental agenda," said Ashley Burke, a spokeswoman for the National Mining Association.

The EPA is driving the capacity shortfall crisis



The priorities are upside down.





Coal Policy

Congressional Oversight and Legislative Plans

National Energy Policy

The Committee will examine issues relating to national energy policy, including U.S. policies that relate to the exploration, production and distribution of **coal**

The Committee will undertake a review of the nation's electricity system. It will also continue to examine the activities of the Department of Energy (DOE) and Federal Energy Regulatory Commission (FERC) with respect to Environmental Protection Agency (EPA) regulations affecting **reliability of the electricity grid**

Coal Mining Regulations and Leasing

The Biden administration and the Department of the Interior continue to wage a **war on coal**. The Committee will conduct extensive oversight of the Biden administration's actions regarding the **federal coal program**, such as the **reinstatement of the leasing moratorium** and **protracted delays in permit issuance**, that have stifled coal mining, production and use

AUTHORIZATION AND OVERSIGHT PLAN
OF THE COMMITTEE ON ENERGY AND COMMERCE
U.S. HOUSE OF REPRESENTATIVES, 118TH CONGRESS

Rule X, clause 2(d) of the Rules of the House requires each standing Committee to develop an oversight plan for the two-year period of the Congress and to submit the plan to the Committee on Oversight and Reform and to the Committee on House Administration not later than March 1 of the first session of the Congress.

This is the oversight plan of the Committee on Energy and Commerce for the 118th Congress. It includes areas where the Committee expects to conduct oversight during the 118th Congress, subject to staff and resource limitations, but does not preclude oversight or investigation of additional matters. The Committee will continue or related law coordination with other congressional expirations, and House ar

During the hearings and Committee will objective review request information Committee it will focus on fraud, and abuses are being investigated economic growth oversight to jurisdiction.

COMMITTEE ON NATURAL RESOURCES

Authorization and Oversight Plan

118th Congress



Chairman Bruce Westerman

Coal Policy Oversight Plans



SHELLEY MOORE
CAPITO

MARCH 15, 2023

RANKING MEMBER CAPITO STATEMENT ON EPA'S FINAL 'GOOD NEIGHBOR PLAN' BURDENING STATES, TARGETING AMERICAN ENERGY, INFRASTRUCTURE
Capito says plan "has two things in common with the Inflation Reduction Act: a misleading name and disastrous impacts for American energy producers"

WASHINGTON, D.C. – Today, U.S. Senator Shelley Moore Capito, Member of the Senate Environment and Public Works Committee, released the below statement on the Environmental Protection Agency's "Good Neighbor Plan" that targets American power plants with misguided air regulations.

"The EPA's 'Good Neighbor Plan' announced today under the Inflation Reduction Act: a misleading name at best and a burden on energy producers," Ranking Member Capito said. "The plan targets 28 states with overreaching emissions reductions that also target specific industries vital to our economy, including coal, oil, and natural gas. With this plan, the Biden administration is attempting to accomplish its ultimate goal of making America less energy independent."

BACKGROUND:

In June 2022, Ranking Member Capito sent a letter to EPA Administrator Michael Regan outlining serious concerns with the proposed rule.

Ranking Member Capito has criticized the EPA's plan during EPW hearings in March 2023, July 2022, and January 2023.

###

Washington, D.C. — House Energy and Commerce Committee Chair Cathy McMorris-Rodgers (R-WA) issued the following statement after the Environmental Protection Agency (EPA) announcing its "Good Neighbor" final rule, which compromises our grid reliability and threatens American energy security.

"The EPA's so-called 'Good Neighbor' plan is nothing more than the next phase in its effort to force power plants to shutter, leaving Americans without a viable energy supply to replace it. People across the country are being forced to give up basic necessities, like food and medicine, in order to afford skyrocketing energy bills. The last thing they need is a federal agency taking steps that drive reliable, affordable energy suppliers out of business. This will further increase costs and heighten the risk of blackouts. It is time for the EPA to reverse its expensive, dangerous effort to force an energy transition on Americans, jeopardize the reliability of our power grid, and shut down American energy."

Note: To lower costs and ensure reliable energy, the House Energy and Commerce Committee is working to pass legislation that would...



FOR IMMEDIATE RELEASE

March 15, 2023

CONTACT: Press Office

(202) 226-4972

Chair Rodgers Demands EPA Reverse Its Effort to Shut Down American Power Plants

JOE MANCHIN III
U.S. SENATOR
WEST VIRGINIA
1000 PENNSYLVANIA AVENUE N.W.
WASHINGTON, DC 20004
(202) 224-3884

United States Senate
COMMITTEE ON
ENERGY AND NATURAL RESOURCES
WASHINGTON, DC 20510-6150
WWW.ENERGY.SENATE.GOV

November 28, 2022

The Honorable Jennifer Granholm
Secretary
U.S. Department of Energy
1000 Independence Ave., SW
Washington, D.C. 20585

Re: Implementation of Energy Infrastructure Reinvestment Financing Program

Dear Secretary Granholm:

With the enactment of the *Inflation Reduction Act* in August, the U.S. Department of Energy is now tasked with the substantial process of implementing the provisions Congress has placed under your charge. One program that is of particular interest to me is the Energy Infrastructure Reinvestment Financing Program (EIR), which the *Inflation Reduction Act* added as Section 1706 of the *Energy Policy Act of 2005*.

By authorizing up to \$250 billion in loan guarantees from the Department to eligible entities, the EIR program was designed to help both operating and shuttered energy facilities in different ways. Specifically, it can be used for environmental upgrades to energy facilities in operation, or to assist in the retrofit, repowering, or replacement of energy facilities that have already ceased operation to ensure these sites can continue to provide new opportunities for the surrounding communities.

Nothing in the language in Section 1706 authorizes the Department to use these funds to shut down facilities to shut down or switch to a different fuel. In fact, I ensured key provisions of this provision to ensure it would not encourage the pre-mature retirement of plants or promote fuel switching. Unfortunately, I have heard concerns that the EIR program is being interpreted to be a tool to encourage or accelerate utilities' fuel switching, as with the rest of the *Inflation Reduction Act*, as enacted, was intended to support the above energy policy and deploy innovation, rather than elimination, to support security and climate goals with communities at front of mind.

As the Department implements the EIR program, I request regular updates and clear guidance on how the Department determines to be eligible for this funding to ensure that the program is correctly and according to Congressional intent. Thank you for your continued leadership on energy security, and environmental protection.

Sincerely,

Joe Manchin III
Chairman

JOE MANCHIN III
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WEST VIRGINIA
1000 PENNSYLVANIA AVENUE N.W.
WASHINGTON, DC 20004
(202) 224-3884

United States Senate
WASHINGTON, DC 20510-4804

March 8, 2023

The Honorable Michael Regan
Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue N.W.
Washington, DC 20004

RE: Docket No. EPA-HQ-OAR-2021-0668

Dear Administrator Regan:

I am writing to express my strong concerns regarding the upcoming final regulation for the "Federal Implementation Plan Addressing Regional Ozone Transport for the 2015 Ozone National Ambient Air Quality Standard." I urge EPA to postpone finalizing this rule until the agency has addressed the warnings from our nation's electric reliability experts and the significant concerns expressed by state environmental agencies.

This rule, also known as the "Interstate Transport Rule" or "Good Neighbor Rule," applies primarily to power plants and certain other industrial facilities to reduce nitrogen oxides (NOx) that may contribute to ozone in other states. Regional electricity grid operators have warned that the proposed rule threatens electricity affordability and reliability. By EPA's own analysis, this proposal will drive up West Virginians' electricity prices. Of even greater concern, PJM Interconnection (PJM), the grid operator serving 64 million customers in West Virginia and 13 other states, commented last summer that the Good Neighbor Rule has the potential to cause "distinct reliability challenges that must be addressed," including challenges related to insufficient power generation and loss of essential grid attributes and services. PJM offered a series of changes to the rule including adjustments to allow the "emissions allowance bank" to function on a regional basis, creation of a "reliability safety valve," and more predictable ozone budgeting that the electricity sector can rely on for long-term planning.

Similarly, in a joint public comment, PJM along with three of the largest grid operators responsible for ensuring bulk power system reliability for more than 150 million customers, argued that the proposed rule threatens grid reliability because it lacks a reliability safety valve and raised concerns that the high costs of installing Selective Catalytic Reduction necessary to comply with the rule could lead to premature power plant retirements or reduced plant runtimes. EPA should seize the opportunity to mitigate these reliability concerns, especially since EPA has previously adopted similar suggestions in previous Clean Air Act rules. These recommendations proposed by grid operators are a perfect example of commonsense implementation flexibility that, in EPA's own words, "reflect the paramount importance of ensuring electric system reliability," and should be adopted here.

The threat is not limited to electricity utilities. Other industrial sources targeted in the rule include iron, steel, cement and concrete manufacturers—all critical to infrastructure creation and likely to face technical challenges and costs that will be passed along to consumers to implement the requirements EPA has proposed. Over 20 states have weighed-in raising serious concerns about this rulemaking. However, EPA has not indicated whether it plans to address these concerns in its final rule.

EPA must not rush into such a substantial new regulation. The rule is already procedurally troubling as it appears to supersede the state ozone pollution implementation plans developed by 26 state environmental agencies from around the country. Instead of ignoring the state plans, the EPA's critical infrastructure, I urge EPA to postpone promulgation of a final rule until these concerns can be addressed. EPA must clearly demonstrate how it is working with states, grid operators, and utilities to ensure electricity reliability and address the dire warnings from elected officials, our nation's electricity experts, and key manufacturing industries.

I look forward to your prompt response to my continued concerns about the impact of this rule on West Virginia and the nation.

Sincerely,

JOE MANCHIN III
U.S. Senator



Coal Policy Allies

Governors



Gov. Doug Burgum
N.D.



Gov. Mark Gordon
Wyo.



Gov. Brad Little
Idaho

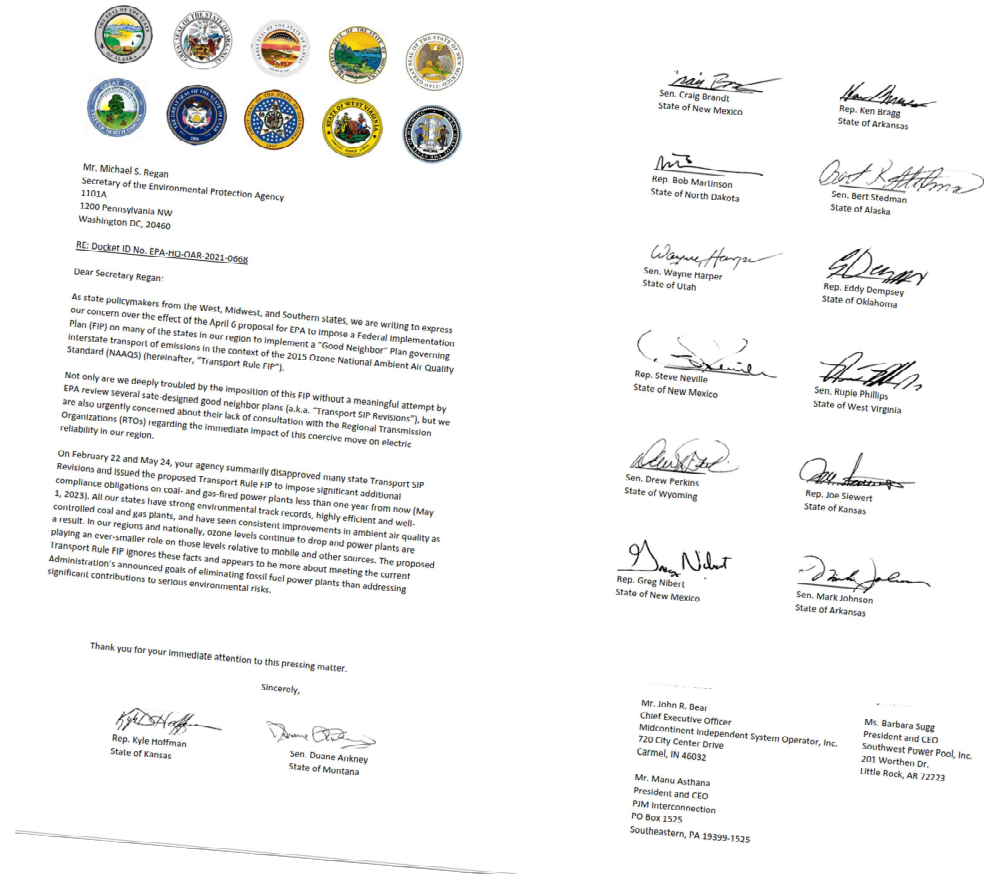
Attorneys General



AG Patrick Morrisey
W.Va.



AG Sean Reyes
Utah



Meeting The Demand





Meeting Demand

Strategic Alliances

Expanding our Network of Allies to Support our Strategic Objectives

- Unions are key stakeholders and influential voices on policy matters
- Strengthening existing relationships with key state leaders such as attorneys general and governors
- Actively seeking connections with end users, including the automobile industry, manufacturers and producers

Bloomberg

Unions Balk at Biden Plan for Mineral Trade Deals With EU, Japan

AFL-CIO
AMERICA'S UNIONS





Meeting Demand

Environmental, Social & Governance (ESG) Task Force

- Continue to advance the industry's ESG efforts begun in 2020
- Expand membership-wide resource sessions to further broaden our ESG information-sharing and learning opportunities
- Showcase members' ESG work through posting member company sustainability reports to NMA's external website
- Continue to build out a new ESG tracker tool to assist members in navigating the crowded voluntary sustainability standards space

- The tracker, a searchable database, enables quick review and comparison of the characteristics and requirements of over twenty selected voluntary sustainability standards
- The tracker also shows who is implementing the standards as well as any associated public consultation periods
- In 2023, efforts will be made to provide additional functionality to the tracker, including helping to streamline data collection and management

Meeting Demand

CORESafety® Update

- Production of CORESafety videos for use in training or daily safety meetings
 - Review and potential revision of all 20 CORESafety modules
 - Potential addition of new modules
-
- An action plan to grow CORESafety participation
 - Third party recognition of CORESafety



- Leadership Development
- Responsibility & Accountability
- Management System Coordination
- Fatality Prevention/Risk Mgmt.
- Training & Competence
- Emergency Planning & Response
- Culture Enhancement
- Collaboration & Communication
- Reinforcement & Recognition
- Resources & Planning
- Change Management
- Work Procedures & Permits
- Occupational Health
- Incident Reporting & Investigation
- Behavior Optimization
- Safety & Health Management Assurance
- Assurance
- Documentation & Information Management
- Engineering & Construction
- Contractor Management & Purchasing



Meeting Demand

Membership

Renewed focus on membership growth to amplify our voice and bench of supporters in Washington and around the country

- 2023 Membership Goals
- Conduct outreach to an average of five new prospects per week
- Evaluate new membership categories that may attract new members without diluting our core objectives
 - Royalty companies, investors, end users, refiners, recyclers

Meeting Member Demand MINExpo INTERNATIONAL® 2024

- ▶ **Securing the venue:** NMA has finalized contracts with the Las Vegas Convention Center for the 2024 and 2028 shows
- ▶ **Refreshing the Logo:** NMA engaged an outside marketing agency to create a new and fresh look for the show that provides more advanced vision of the mining industry and provides flexibility to update as needed for different purposes and audiences
- ▶ **Evaluating Existing Service Providers:** NMA is evaluating all existing providers and other aspects of the show to help increase attendee engagement, attract new exhibitors, create new partnerships, and continue to make MINExpo® one of the best B2B trade shows



MINEXPO
INTERNATIONAL®



Exhibitor Registration is Open!

Follow the QR code for more information:






Meeting Demand

Diversity, Equity and Inclusion (DEI)

Creating and Maintaining a Supportive and Engaging Culture at the NMA Where Everyone Feels Valued, Respected and Included

- NMA's Championing Working Group engages in a wide range of activities to highlight the NMA's commitment to DEI, including training, community engagement, regular educational emails and the development of the NMA's first DEI statement
- Activities for 2023:

- 
- Training to build additional awareness
 - Periodic emails with educational materials and relevant news articles to educate staff about different cultures and issues
 - Prioritization of community engagement in 2023 with at least quarterly activities that benefit the community
 - Creation of a "Caregivers" Employee Resource Group composed of employees caring for children, parents or other dependents, who may benefit from the support of a surrounding community

Next Meeting

**2023 FALL BOARD OF DIRECTORS
AND ANNUAL MEMBERS MEETING**
SEPTEMBER 21 – 22, 2023

THE CONRAD HOTEL BY HILTON | WASHINGTON, D.C.

