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NMA Mining Week is a weekly publication of the National Mining Association. Mining Week archives are always available online at www.nma.org.

Hearings scheduled on mining safety; NMA to testify

Senators Arlen Specter (R-Pa.) and Robert C. Byrd (D-W.Va.) have scheduled a January 23 hearing on the fatal explosion earlier this month at the Sago coal mine in Upshur County, West Virginia. The hearing, which will be conducted by the Subcommittee on Labor, Health and Human Services, Education and Related Agencies of the Senate Appropriations Committee, also will look at "initiatives that can make mines safer and improve response times to future disasters," according to a statement issued by Senator Byrd.

National Mining Association (NMA) Vice President for Safety and Health Bruce Watzman has been asked to appear on behalf of the industry and will present information on the industry's achievements in dramatically reducing mining accidents and fatalities prior to the tragic events at the Sago mine. He also will describe new mining safety initiatives soon to be launched by NMA. Representatives of the Mine Safety and Health Administration (MSHA), the West Virginia Coal Association, the United Mine Workers of America and the Sago mine also will appear. ✕

Asia-Pacific Partnership to focus on mining, clean coal, power production

Ministers from the six countries that comprise the Asia-Pacific Partnership on Clean Development and Climate concluded their meeting in Sydney, Australia, last week by agreeing to the voluntary pursuit of poverty eradication, economic growth and energy security through greater use of clean energy, including clean coal.

The agreement offers a way to address climate change from a practical, technology, results oriented program relying on close government-private sector collaboration.

Mining and Cleaner Fossil Energy were two of eight specific task forces established by the Ministerial to "drive improvements with regard to best practices and ensure that a range of technologies is developed and repeatedly demonstrated" in each specific area. Each task force will be chaired by a member country and will be organized to include both industry and government representatives from all six countries.

The United States will chair both the mining task force and another dedicated to power production and transmission. The National Mining Association will work with government representatives in coordinating U.S. mining industry participation in this effort.

The U.S. mining industry was represented by Irl Engelhardt, Chairman of Peabody Energy Company. Engelhardt stressed the important role that coal plays in providing low cost, clean energy in all six member countries and the equally important role of mineral products for economic growth and improved standards of living. He said that the U.S. mining industry has world class reclamation practices, noted U.S. leadership in the development of clean coal technologies and talked about the importance of FutureGen.

The U.S. industry delegation also included: Mike Morris, chairman, president and CEO, American Electric Power (representing the electric utility industry); Daniel DeMicco, vice chairman, president and CEO, Nucor Corporation (steel); James Repman, president California Cement (cement); Steven Demetriou, chairman and CEO Aleris International (aluminum) and Preston Chiaro, chief executive of energy, Rio Tinto (mining). Others in the mining delegation included: Mark Yingling and Julie Beebe, Peabody; Michael Flannigan, Rio Tinto and Connie Holmes, National Mining Association. ✕

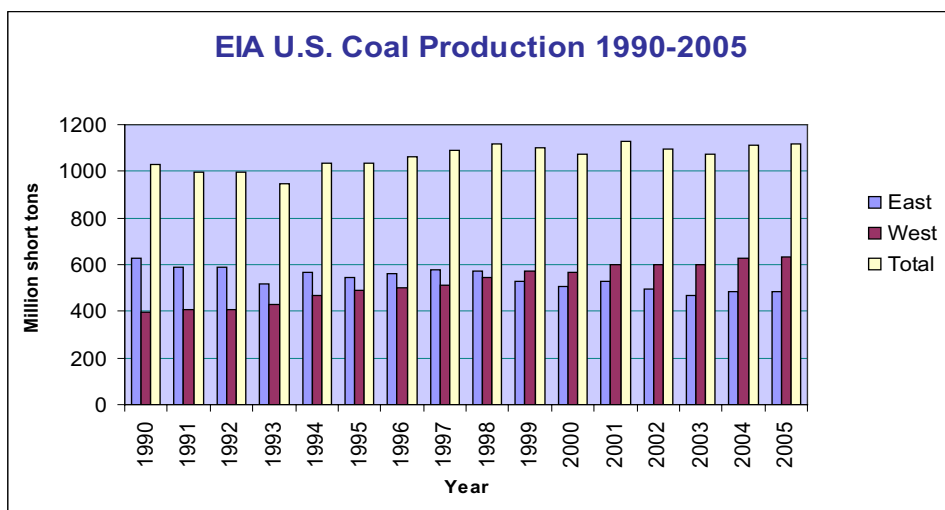
EIA sees coal gaining

Coal is "one of the largest gainers" in the Energy Information Administration's new *Annual Energy Outlook*, said Energy Information Administration (EIA) chief Guy Caruso in an interview this week. Coal's growing share of the energy market by the year 2030 is "a major change in the Outlook from last year," explained Caruso. He attributed the projected 54 percent coal market share to rising natural gas prices during the planning horizon and to coal incentives provided to power plants last year by the comprehensive Energy Act. Natural gas prices are projected to average \$5.50 per thousand cubic feet by 2030, a decline from today's rate of around nine dollars, he said. But the decline is neither as steep, nor will remain so for as long as EIA expected in its previous Outlook. As a result, he said, in about a decade power plants seeking to build new capacity will increasingly invest in integrated gas combined cycle coal plants.

Preliminary estimates of coal production in 2005 indicate that last year's production totaled 1.120 billion short tons, 0.7 percent above the 1.112 billion tons produced in 2004.

Connie Holmes, NMA's senior economist, presented this information and an update on the Asia Pacific Partnership (see related story) at the annual United States Energy Association State of the Energy Industry meeting this week in Washington, D.C.

The National Mining Association included EIA's detailed state and national coal production estimates in the January 6 edition of NMA's *Weekly Statistical Summary* (WSS), available to members and subscribers. The WSS also includes estimates of weekly electricity generation by region, weekly steel output and daily copper and gold prices as reported by the London Metal Exchange. ✕



NMA comments on TRI burden reduction proposals

NMA submitted comments this week to the Environmental Protection Agency (EPA) regarding the agency's October 4, 2005, proposed rule intended to expand the use of Form A, the alternative Toxics Release Inventory (TRI) reporting Form. NMA's comments note that the proposal, while perhaps of some help to small businesses or facilities with little or no TRI "releases," provides virtually no relief for the mining industry.

The comments emphasize that the real TRI burden is caused by the calculations a facility must make to determine whether, and what, it will report. Thus, real burden relief should focus not on which reporting form a facility completes, but on making reasonable determinations on what should be reported. NMA's comments urge the reinstatement of the *de minimis* exemption and range reporting for lead and lead compounds. EPA also has announced that it will

U.S. has improved environmental performance, international panel concludes

The United States has significantly improved its environmental performance in the last eight years even as its economy and population have grown substantially, according to a report from the Environmental Performance Review Program of the Organization for Economic Cooperation and Developments (OECD).

The report documents that from 1996-2005, the United States reduced pollution during a period when there was a 10 percent increase in the size of the U.S. population and a 30 percent increase in the nation's gross domestic product, said the Environmental Protection Agency (EPA).

OECD's Environmental Performance Review Program assists member countries in improving their environmental management performance by assessing progress, promoting a policy dialogue among member countries and stimulating greater accountability from governments towards public opinion. This is the second review of the United States.

"Since the first review in 1996, the health of our shared environment and the strength of our national economy have experienced dramatic improvement," said EPA Administrator Stephen L. Johnson. "By reaffirming our commitment to innovation, accountability and sound science, we have created a solid footing to meet the environmental challenges facing the U.S. in the 21st Century." ✕

consider the possibility of switching to alternate year TRI reporting. NMA comments note that the vagueness of the concept and the antagonism of some parties to any change in reporting frequency make it difficult to determine if there is any real benefit to the concept. NMA urges that EPA give much more serious consideration to an alternative reporting concept that would allow a facility to report "no significant change" from a previous baseline report. ✕

OSM rejects attempt to rule out mining in Tennessee

The U.S. Office of Surface Mining last week sided with NMA in rejecting a petition seeking to designate 443.5 square miles of Tennessee "unsuitable for mining." The petition, filed in November by the National Audubon Society and the National Parks Conservation Association, lacked serious merit and was incomplete, said OSM.

In a Nov. 10 letter urging OSM's Knoxville office to deny the petitioners'

request, NMA described the petition as "frivolous and incomplete" because its allegations of environmental harm to the area from mining lacked serious merit. NMA argued the petition lacked specificity with respect to the areas alleged to be damaged, relied on outdated scientific data and allegations unsupported by evidence, and wrongly assumed mining would not be conducted in compliance with regulations, among other objections.

NMA warned that the petition, if accepted, would have constituted a temporary moratorium on all mining activity over an area of "unprecedented geographical scope."

Petitioners must now decide whether to resubmit the petition. But if they do, they must address OSM's objections regarding their lack of scientific support as well as the large area under consideration – some 283,834 acres. ✕

NMA comments on CAIR reconsideration

NMA responded this week to the Environmental Protection Agency's (EPA) December 2, 2005, proposal to reconsider certain aspects of the final Clean Air Interstate Rule (CAIR). NMA's comments are specific to the use of fuel adjustment factors to set state NO_x budgets and the SO₂ allocation methodology in the model CAIR trading rule. NMA recommended that EPA not make any changes to CAIR as a result of its reconsideration of these issues. EPA plans to take final action on reconsideration by March 15, 2006.

NMA members seeking more information should contact Todd Johnston at tjohnston@nma.org. ✕

Newmont completes permitting for Nevada coal power plant

Newmont Mining Corp. said it has completed the permitting process for its proposed 200-megawatt coal-based power plant in Nevada.

The company said it has received all required permits but is awaiting resolution of an appeal of the state-issued Clean Air Act permit. The Environmental Protection Agency's (EPA) Environmental Appeal Board upheld the permit in a Dec. 21, 2005, ruling. The company said it may now proceed with construction, subject to final approval by its board of directors.

The plant is planned for Newmont's TS Ranch in Eureka County, Nev., and is expected to cost about \$450 million. The company said it will provide reliable, long-term electric power to the majority of its Nevada operations, including the new Phoenix Project. Newmont will initially use about 75 percent of the plant's output, selling the remainder to the local utility, Sierra Pacific Power.

"The plant will incorporate the best available control technology for air quality protection and is designed to exceed EPA's stringent New Source Performance Standards for plant emissions," Newmont said.

Fluor Enterprises will provide the plant's engineering, procurement and serve as construction contractor. It will be operated by DTE Energy Services, a subsidiary of DTE Energy and affiliate of Detroit Edison.

Newmont said it is currently targeting project completion for the first half of 2008. ✕

Environmental group asks full appeals court to rehear NWP 21 case

The Ohio Valley Environmental Coalition (OVEC) has petitioned the United States Court of Appeals for the Fourth Circuit requesting the full court rehear the *Ohio Valley Environmental Coalition v. Bulen* case.

OVEC's rehearing request questions a

Nov. 23, 2005, unanimous decision of the U.S. Court of Appeals for the Fourth Circuit which, on appeal by NMA and several state associations, overturned a federal district court opinion declaring Nationwide Permit 21 (NWP) unlawful. A petition for rehearing *en banc* requests that a case, originally decided by a panel of three judges, be argued again in the presence of the full court. The federal rules specify two grounds for *en banc* consideration. One is that the panel's decision conflicts with another decision of the Circuit or the Supreme Court. Another basis is that the decision raises a matter of exceptional importance.

OVEC does not claim either, but argues the panel overlooked material facts about the U.S. Army Corps of Engineers' (COE) NWP 21 approval process in making its decision. A response by NMA and the state associations is not allowed unless requested by the court.

The November decision is significant for coal mining in that it essentially upholds the ability of the Corps to issue general permits for valley fills (see *Mining Week*, Dec. 2, 2005). The appeals court reversed each of the four reasons used by U.S. District Judge Joseph Goodwin as the basis for finding that NWP 21 did not comply with the Clean Water Act's (CWA) Section 404(e) authority for promulgating a general permit. ✕

EPA proposes excluding mining from PM regulation

Last month the Environmental Protection Agency (EPA) recommended excluding mining from its proposed revisions to the national ambient air quality standards (NAAQS) for coarse particulate matter (PM). The revisions proposed for public comment address both categories of PM: fine particles of 2.5 micrometers (μm) in diameter or less, and coarse particles smaller than 10 μm in diameter but larger than

2.5 μm . EPA has proposed several alternative approaches for each standard that generally reflect its reservations about the benefits of increasingly stringent PM_{2.5} standards and the relatively weak scientific basis for regulating PM_{10-2.5} emissions. NMA opposes regulation of coarse PM citing the absence of compelling scientific justification. ✕

Two NMA employees depart

NMA announced this week the departure of two long-time and valued employees, Ric Fenton, vice president of government affairs, and Tom Johnson, vice president for internal communications. Ric is joining The Klein & Saks Group as a senior advisor effective February 1, and Tom joined TMS Inc. this week as a senior associate. Both will be missed, and NMA extends its congratulations and good wishes. ✕

Newsbits

The **Doe Run Resources Corp.** announced the planned succession of three of its top management positions, including the retirement of **Jeffrey L. Zelms** as president, effective Jan. 1. **Bruce Neil**, president of Doe Run Peru, succeeded Zelms as president. Zelms will retire from his other positions effective April 1, 2006 – at that time Neil will succeed Zelms as CEO. The company also announced the promotion of **Dr. Juan Carlos Huyhua** as general manager of **Doe Run Peru**; and said **Marvin Kaiser**, the company's chief administrative officer, will retire Feb. 1, 2006 **Brent Wahlquist** is serving as acting director of the **Office of Surface Mining (OSM)** until President Bush nominates and the Senate confirms a new OSM director. Wahlquist is a career OSM employee with more than 22 years with the agency at the executive level **Duke D. Vektor** has joined **Cleveland-Cliffs Inc.** as general manager of safety and operations improvement. He previously held a number of operating and management positions during a 26-year career with **Rio Tinto**.

Cleveland-Cliffs also announced that **Marc T. Mallett** has joined the company as general manager – supply chain. He will oversee the materials and procurement functions for all Cliffs-managed mines **Foundation Coal Corp.** has promoted **William F. Groom** as vice president, information technology, and **David J. Taylor Jr.** as senior manager, information systems strategy and initiatives. Groom has served as director, information technology since 2004 and previously held the same position with RAG American Coal Holding Inc. Taylor joined the company in 2005 as manager, IT and process support **Dyno Nobel America** has purchased the Nitrochem Corp.'s nitrogen assets, located in Maitland, Ontario. The assets include three nitric acid plants and two ammonium nitrate plants, and will be managed as a new Canadian company, Dyno Nobel Nitrogen Inc. . . . **CONSOL Energy Inc.** has entered into an agreement to purchase, through a subsidiary, Mon River Towing and J.A.R. Barge Lines, LP. CONSOL Energy's river and dock operations

currently transport approximately 11 million tons of coal annually with five towboats and nearly 300 barges **Illinois Gov. Rod Blagojevich** announced \$5 million in support for the Taylorville Energy Center, a coal gasification project where Illinois coal will be converted cleanly into a synthetic gas that can be sold or burned to generate electric power. "By investing in innovative projects like the Taylorville Energy Center, we are proving that we can capitalize on one of our greatest natural assets in a way that will create hundreds of jobs," Blagojevich said. . . . President Bush has nominated **James Gulliford** to be assistant administrator for the **Office of Prevention, Pesticides and Toxic Substances** at the Environmental Protection Agency (EPA). Gulliford has 25 years experience administering environmental programs in the agriculture and mining fields and served as EPA Region 7 administrator since September 2001.

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