House-approved legislation includes NMA-supported ‘refinery’ definition

Legislation that expands the definition of “refinery” to include facilities that use coal as a feedstock and expedites the refinery permitting process was approved by the U.S. House of Representatives last week and sent to the Senate. NMA aggressively made the case for the change by demonstrating that technology, including the coal liquefaction process, was available to refine coal into synthetic gas and liquid fuels—lowering U.S. dependence on imported energy.

President Bush welcomed the measure’s approval and praised the House for “passing legislation that would increase our refining capacity and help address the cost of gasoline, diesel fuels and jet fuels.”

On the Senate side, legislation (S. 1772) designed to facilitate refinery construction and rehabilitation, introduced by Sen. James Inhofe (R-Okla.), includes provisions to encourage the Fischer-Tropsch (FT) indirect coal liquefaction process. The “refinery” definition that is part of H.R. 3893 must still be added.

No schedule for a legislative hearing or markup of S. 1772 has been announced.

New web site launched to provide information on gold mining

NMA and the world’s premier gold producers this week launched a new web site, www.responsiblegold.org, to provide information on gold mining practices in the U.S. and abroad. The dedicated site includes information on the role of gold in modern society; where and how gold is produced; laws, regulations and voluntary initiatives governing gold mining; the economic benefits of gold mining; profiles of award winning mine land reclamation projects; and corporate social responsibility and sustainable development efforts.

“Our intent is to provide objective, straightforward information to gold consumers and others interested in modern gold mining practices,” NMA’s senior vice president for communications, Carol Raulston, explained. “Recently, inaccurate characterizations of gold mining operations have been used in a campaign against our customers in the electronics and jewelry businesses. It is important to get the facts out in the open.”

The anti-gold campaign intensified over the last two weeks to coincide with the introduction of H.R. 3968, “Federal Mineral Development and Land Protection Equity Act of 2005,” a so-called mining law reform initiative introduced by Rep. Nick J. Rahall (D-W.Va.) and seven co-sponsors. A preliminary analysis of the measure indicates it contains many of the provisions seen in previous Rahall mining law bills, including a permanent patent moratorium; an 8 percent net smelter return royalty; further limits on lands open to mining; establishing an Abandoned Mine Land Fund (AML) with money collected from royalties; a land suitability test before a mine proposal is considered; and additional discretion to deny mine permits.

The association believes constructive and balanced reform should preserve and...
Good Samaritan bill would facilitate mined land reclamation

“Good Samaritan” legislation aimed at facilitating reclamation of abandoned and inactive hard rock mines was introduced in the Senate last week. The measure (S. 1848), introduced by Sens. Ken Salazar (D-Colo.) and Wayne Allard (R-Colo.), calls for an Environmental Protection Agency (EPA) issued permit for remediation and, in return, provides legal protection from open-ended liability for mining companies, communities, non-profit organizations or individuals involved in clean up of abandoned sites. Remining of areas necessary for site cleanup is also allowed under the legislation. The absence of liability protection and incentives provided by remining have been a significant impediment to cleanup of more complicated abandoned mine sites.

The bill offers protection from liability under such laws as the Toxic Substances Control Act (TSCA), Federal Water Pollution Control Act (CWA), Safe Drinking Water Act (SDWA), National Environmental Policy Act (NEPA), Solid Waste Disposal Act (RCRA), Clean Air Act (CAA), Uranium Mill Tailings Radiation Control Act (UMTRCA) and the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), if the terms of the EPA permit are met. It also applies to applicable state and local environmental laws.

The Allard/Salazar bill allows the mining industry and other “Good Samaritans” to obtain a permit after submitting an action strategy outlining problems to be fixed and a plan for completion. The host state also would have to approve the permit application and the work plan. The bill was referred to the Senate Environment and Public Works Committee, upon which both senators serve.

McMorris extends NEPA work

Rep. Cathy McMorris (R-Wash.), chair of the Task Force on Improving the National Environmental Policy Act (NEPA), this week offered a new task force charter to extend work past the original Oct. 5 end date.

The bipartisan task force’s extended itinerary includes holding additional hearings and issuing a report of hard recommendations by Nov. 30.

“The task force let us see first-hand how local groups and the federal government are trying to balance the NEPA procedures while protecting their community and the environment,” McMorris said. “Under the new charter I filed, we will continue gathering public input on ways Congress could improve the NEPA process so we can devote more time and resources to protecting the environment.”

The task force held five hearings across the U.S. this year to review and make recommendations on improving the 35-year-old law. NMA and its members were actively involved in the process. Aside from mining industry representatives, witnesses at the hearings included local and state government officials, members of the environmental community, national Forest Service employees, ranchers, attorneys and others.

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enhance the nation’s ability to produce minerals with certainty and flexibility, while protecting the environment, and objects to some of the provisions of H.R. 3968 on those grounds.

BLM’s final cost recovery rules do little to address NMA concerns

While the Bureau of Land Management (BLM) made a few adjustments in its final cost recovery rule to respond to industry comments, NMA’s “serious concerns” about the agency’s approach were generally ignored, the association said this week.

The rule would increase existing fees and establish new fees for the processing of various documents, applications and the conduct of studies or analyses associated with coal leases, solid mineral leases, Mining Law administration and mineral material sales.

Among other things, NMA said the proposal “fails to adequately explain the relationship between existing federal fees, assessments and levies and the proposed charges,” and urged the agency to use “available funds for covering the costs of mineral document processing,” both rejected by BLM.

The association also said, given the benefits to the public from leasable minerals, BLM should forgo the proposed cost recovery and consider the processing costs as part of the overhead for administering the mineral leasing program. While agreeing the mining industry is vital to the U.S. economy and provides immense public benefit, BLM said the Federal Land Management and Policy Act (FLMPA) factor of “service to the public” concerns whether the “applicant’s project itself provides some significant direct service or benefit to the general public, not the fact that members of the public are the ultimate consumers of mineral resources extracted from the public lands.”

NMA also noted the claims maintenance fees are supposed to partially fund the Mining Law Administration Program (MLAP) and cover fees associated with mineral patent adjudications and validity exams, but the proposed rule would recover costs for both. BLM said the fact that general MLAP funds were used to...
cover processing costs in the past “does not mean that these costs should be funded from those collections, or that BLM cannot now exercise its statutory authority to charge a specific processing fee to cover certain document processing costs.”

NMA stressed the importance of efficiency in mineral document processing, noting if the agency could not process them efficiently, “no fees should be assessed.” BLM said it was reviewing its procedures for processing applications “to ensure their efficiency on an on-going basis,” adding, “this is not a basis for delaying the implementation of this rule.”

The imposition of case-by-case fees was also opposed by NMA “because of the expense and time, for both BLM and applicants, associated with determining individual case-by-case costs,” and urged the agency to use its estimates of average processing costs, rather than make case-by-case determinations. BLM said its process “provides that cost estimates be given to applicants before processing begins. In advance of an application being submitted to BLM, an operator may also discuss the project with BLM and ask for cost projections. We expect that with time and experience, case-by-case fees will become more predictable.”

NMA noted the proposed rule “wrongly contradicts BLM policy on claim validity exams,” suggesting the agency should perform them prior to approving a plan of operations. The agency said the cost recovery provisions “are not intended to modify BLM policy as to when mineral examinations are performed.”

Finally, NMA objected to BLM’s approach in its Regulatory Flexibility Act Threshold Analysis to determine the impact on small entities, saying the agency concludes “there will be no significant impact on these small entities by wrongly relying on annual receipts (or production value) as opposed to profit margin.” The association suggested BLM use available Internal Revenue Service (IRS) data of various mineral sectors to look at profitability.

The agency said it reviewed the most recent IRS tax return information for mining corporations, and while the data “could not be exactly correlated” with the Small Business Administration (SBA) definition of small entities, it could “be analyzed on the basis of reported assets.” BLM said it evaluated that data and compared the fee increases to reported net income by groupings based on dollar value of assets. “The more recent review, based on similar IRS data, corroborates our conclusion that fees will not have a significant impact on a substantial number of small entities.”

Newsbits

The Environmental Protection Agency (EPA) said Dr. George M. Gray, who was nominated by President Bush to be the agency’s assistant administrator for the office of research and development, was confirmed by the U.S. Senate on Oct. 7. In addition, Lyons Gray, who was nominated to be chief financial officer, was also confirmed the same day . . . . The Sohn International Symposium will take place Aug. 27-31, 2006, at the Catamaran Resort in San Diego, Calif. The meeting, sponsored by TMS, will focus on advancing processing of metals and materials. More information can be found at www.tms.org/Sohn2006.html . . . El Capitan Precious Metals Inc. says it has entered into an agreement with Tectronic Mining Associates to procure the rights to unpatented mining claims filed on more than 400 acres of property in San Bernardino County, Calif., that is believed to have uranium values. The property was previously drilled and is reported to have tested positive for uranium. The previous claims expired and Tectronic recently filed new claims on the property. . . . Rebecca Watson, assistant secretary for land and minerals development at the U.S. Department of the Interior will leave the agency on October 28.