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ML Strategies Energy and Environment Update: Week of 11/10/2014

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ENERGY AND CLIMATE DEBATE

Republicans gained control of the Senate last Tuesday, and, with Republicans picking up several House seats as well, Congress rests in their hands. The question now becomes: can D.C. govern?

Republican gains in the midterm elections bode well for increased oversight of the Environmental Protection Agency, due in large part to Senator James Inhofe's (R-OK) imminent ascension to chairman of the Senate Environment and Public Works Committee. Senator Barbara Boxer (D-CA) will move to the Ranking Member slot. Senator Inhofe, self-proclaimed climate skeptic, has indicated that he will use the committee to investigate the agency's regulations and authority. Senator Mitch McConnell (R-KY) will replace Senator Harry Reid (D-NV) as majority leader, and, he is likely to lead the party's efforts to roll back Environmental Protection Agency rules, including CO2 standards for power plants, ozone air quality standards, and expanded Clean Water Act jurisdiction over U.S. waterways. Senator Mary Landrieu (D-LA) faces a runoff December 6, and she is likely to lose, meaning that Senator Maria Cantwell (D-CA) will join Senator Lisa Murkowski (R-AK) as ranking member and chair of the Senate Energy and Natural Resources Committee, respectively. With a 54-member majority, it is likely that Senate Republicans will be able to find the 60 votes necessary to move legislation to approve the Keystone XL pipeline. The White House is declining to say whether President Obama would veto legislation approving the Keystone pipeline. To reach the 67 votes needed to overcome a presidential veto, Senate Republicans will still have to work closely with their Democratic counterparts, and they will need to employ creative approaches, such as using authorization bills, appropriations riders, oversight hearings, and the Congressional Review Act, to advance their energy agenda. Other agenda items may include altering the Renewable Fuel Standard; expediting liquefied natural gas exports; streamlining transmission project decisions; expanding oil and gas drilling; and funding the Yucca Mountain nuclear waste repository.

In addition to potential agreements over nuclear policy and the Keystone pipeline, President Obama and the Republican Congress may find common ground on other energy issues such as wind energy and energy efficiency. Now that they've assumed control, Republicans will be under increased pressure to legislate, particularly as both parties look to the 2016 elections.

House Republicans are likely to use the first 100 days of the 114th Congress to reapprove many of the same measures they passed this Congress.

Before we turn to the 114th Congress, however, the 113th Congress returns November 12 for the lame duck session, during which the tax extenders debate will take center stage. Senate Majority Leader Harry Reid (D-NV) promised in September to hold a vote before the end of the year on the $84 billion tax extenders package (**EXPIRE Act**), that would retroactively extend more than 50 expired tax credits. Supporters and opponents of the package's pieces are already jockeying for position during the lame duck session. For example, supporters of the production tax credit, and those hoping to tweak it, are primed for an extensive debate this month as Congress considers a more sweeping tax overhaul in the coming session. House Republicans are reluctantly considering a one-year renewal of the extenders package, though some are encouraging the lower chamber to postpone any action on the measures until next year, when Republicans take complete control of Congress. Senate Democrats prefer a two-year renewal that includes a retroactive renewal for calendar year 2014 and a renewal through 2015 as well. House Republicans would like to make permanent several of the provisions, including the research and development tax credit, at a cost running in the hundreds of billions of dollars. Senate Democrats favor the Senate Finance Committee approved package instead. Both chambers would attach the costs to the deficit.

House Majority Leader Kevin McCarthy (R-CA) indicated November 6 that the House would take up three Environmental Protection Agency-related bills this month, voting on them the week of November 17. The first is the Secret Science Reform Act (**H.R. 4012**), which would require the agency to make public data used in writing regulations. The second, the EPA Science Advisory Board Reform Act (**H.R. 1422**), would alter the selection process for the panel and increase public participation in its activities. The third, the Promoting New Manufacturing Act (**H.R. 4795**), is aimed at reducing delays and increasing transparency in the agency's process for Clean Air Act preconstruction permits for new or modified stationary sources.

The Senate will not take up the measures this year.

Senate Democrats, Senate Republicans, and House Republicans will hold leadership elections November 13, while House Democrats will wait until November 18. Negotiating on the expired tax breaks and funding the government past December 11 are likely to wait until after the Thanksgiving recess.

CONGRESS

Super Pollutants Legislation
Senator Chris Murphy (D-CT) said November 3 that he will reintroduce next year a bill that would hasten global hydrofluorocarbons reductions as well as cut other highly potent greenhouse gas emissions such as methane and black carbon. He hopes the Senate Environment and Public Works Committee will hold a hearing on the Super Pollutants Act (**S. 2911**) before the end of the year.

EPA Appropriations
Senator John Hoeven (R-ND) said November 5 that the GOP-led Senate is very likely to use the appropriations process to target the Environmental Protection Agency's Clean Power Plan and agency Clean Water Act guidance giving them a better chance of surviving a Democratic filibuster.

Strong Climate Pledge Urged
Senators Bob Menendez (D-NJ), Ron Wyden (D-OR), Barbara Boxer (D-CA), and Patty Murray (D-WA) sent a **letter** November 7 encouraging President Obama to make a strong pledge early next year in preparation for the 2015 international climate negotiations in order to demonstrate that the United States is ready to work with other nations to address climate change.

The weekly *Energy & Environment Update* from ML Strategies provides an overview of what's happening on and off Capitol Hill and around the world that may impact energy and environmental policies and industry players. **Read the update here**.

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