Synopsis of the 2010 Congressional Mid-Term Elections

*Pollution Engineering, January 2011*

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*Big environmental changes may be ahead as the House of Representatives decidedly turns toward a new political direction.*

The decline in the number of elected Democratic members, especially the loss of the majority in the House of Representatives, will decidedly change EPA operations in 2011 and beyond. Significant differences are in the prospects for the agency's budget, legislative proposals and policy initiatives. In the Senate, the Democrats lost much of their plurality, and some of the newly elected members have indicated a hard-line attitude against any expansion in the role of government and a concern on federal deficit spending; commitments that could also affect EPA.

**EPA appropriations**

In addition to any expected widespread freeze in domestic program spending, EPA could be subject to restrictions in its operating programs. If the cap-and-trade approach to climate change via an act of Congress is not available, many will want to have EPA continue its efforts to control carbon emissions via existing authority. This could inspire an effort by those opposed to such a plan to use the appropriations restrictions to limit any EPA program. The key difference for the next two years is that EPA opponents will have a friendlier forum to direct or deflect agency behavior.

Budget tightening could soon adversely impact EPA's ability to process pesticide registrations, respond to data submittals, slow down any pending rulemaking, and generally limit the agency's ability to implement even non-controversial components of its operating programs.

**TSCA**

The particulars of possible changes to the Toxic Substances Control Act (TSCA) are largely moot. Although the leadership and majority in the Senate remain largely unchanged, the absence of Chairman Rep. Henry Waxman (D-Calif.) will have implications for TSCA legislation. Sen. Lautenberg (D-N.J.) is expected to continue to support more extensive changes, but in the Senate some of the new members may oppose any legislation that seeks to expand government.

**FIFRA/FQPA**

Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) implementation has generally been quiet over the last two years. The new House Republican majority will likely lead to some level of oversight of all EPA programs, pesticides included. For the pesticide program, immediate candidates for an increased level of scrutiny include the use of good science in decision-making, the use of FIFRA/Food Quality Protection Act (FQPA) authority in removing pesticide uses from the market without going through the FIFRA cancellation process, specific product
decisions, and transparency in developing new program initiatives. Some of the most difficult issues facing the pesticides program, such as implementation of the Endangered Species Act and the Clean Water Act, are likely to remain intractable.

**Administration reaction**

If the House attempts to undermine budget or legislative priorities of the White House, the Obama Administration retains ways to attempt to control the agenda in the environmental arena. Large areas of discretion remain in existing authority under both FIFRA and TSCA.

Presidents can unilaterally sign Executive Orders or determine priorities under current law. One example of this authority was President Clinton's 1995 decision, partly in response to the 1994 election losses, to accelerate the expansion of the Toxic Release Inventory. One additional consideration is that the 2012 presidential election cycle officially started on Nov. 3, 2010. This will influence any activity by either party or the administration over the next two years. Environmental issues are often used to make clear distinctions between the two parties, and this could lead to initiatives by either party intentionally driven to illustrate or exacerbate those differences.

While much remains fluid, one thing is certain. The next two years will be interesting. PE

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