National Election Impacts on the Recycled Materials Industry

Business & Labor Impacts

September 4, 2024

Recycled Materials Association

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Drivers of U.S. Labor Regulation in 2025

- Federal “whole of government” push for unionization and expansion of worker rights at the federal level
- Legal backlash against overly aggressive federal executive action
- Artificial intelligence
- State-driven action on a wide variety of issues

Employee-side Federal "Whole of Government" Efforts

- Executive branch using all the usual agencies to enact its agenda: DOL, NLRB, EEOC
- But also using nontraditional employment actors: FTC, DOJ, DOC
- Key areas for the current and a (potential future) Democratic White House:
  - *Pro-union initiatives*
    - PRO Act
    - NLRB continuing to overturn precedent at a rapid clip
    - IRA tax credits & expansion of Davis-Bacon Related Acts
    - Loan & grant conditions
  - *Noncompete regulation*
    - FTC noncompete rule
    - Antitrust scrutiny
  - *Employer consolidation*
    - PRO Act + NLRB & DOL action on joint-employment and independent contractors
  - *Wage increases*
    - Paid leave legislation
    - Overtime threshold increases
    - Minimum wage hike

Key Federal Items to Watch

- **Noncompete regulation by the FTC and DOJ antitrust**
  - FTC's rule is dead for now, and likely not to be resurrected by the Fifth Circuit or Supreme Court
  - But agencies could bring targeted enforcement actions, creating a *de facto* rule
  - If a Democratic sweep, we could see legislation
- **PRO Act**
  - Failed repeatedly in Congress, but possible with a Democratic sweep
  - Expands union rights; implements an "ABC" test like California for independent contractors
- **Employer-paid leave**
  - Could see bipartisan movement on paid leave regardless of election outcome
- **OSHA's heat rule**
  - Proposed rule published August 30, 2024. No final rule will be finished this term.
  - A Republican administration would likely delay finalizing the rule, if it finalizes it at all.

Artificial Intelligence

- Areas of regulation and further study:
  - Disclosure of use of generative artificial intelligence in evaluation job applications, interviews, and videos
  - Evaluation of algorithms for discrimination in hiring, compensation, and termination
  - Use of artificial intelligence in monitoring employee productivity
- States leading the way so far
  - Antidiscrimination protections in hiring: Illinois and New York
  - Legislation being actively considered in almost 20 states
- Federal government moving slowly
  - Executive Order on AI
  - EEOC guidance on AI
- Action at federal and state level likely to increase, regardless of party
- Labor force effects: disproportionately white-collar, highly educated workers adversely affected

State Level Activity

- Patchwork of noncompete bans & regulation; does not break down on “red state” / “blue state” lines
- Continuing to see the blue-wave model of state employment policy
  - CA / IL / NY → other blue states → purple states → red states
  - Some examples:
    - Paid leave
    - CROWN Act
    - Pay transparency / pay ranges in job postings

Permitting Policy Reform and Outlook - Administration

Harris Administration

- Prioritize climate and environmental justice concerns
- Favor renewable energy related projects
- Big Questions – First term vs. Biden 2nd, IRA and Chips investments, Support for Congressional compromise

Trump Administration

- Administration wide effort to streamline environmental reviews – CEQ, EPA, Fish and Wildlife
- Action on day 1
- Focus on project development, not climate and EJ

Loper's Potential Impact

- Either Administration could be frustrated by the end of Chevron
- Harris to face challenges on 2023 debt limit language and pushing limits of agency authority
- Trump will be accused of undercutting NEPA and other environmental law provisions

Permitting Policy Reform and Outlook - Congress

- Most politicians in Congress agree, the U.S. needs major permitting reform to approve new infrastructure and energy projects in a timelier fashion (current average time for a NEPA review is 4.5 years, but can take much longer)
  - Republicans would like to see environmental reviews loosened to reduce the regulatory burden (and page count)
  - Democrats largely want to see the process simplified when it comes to renewable energy projects and power lines
- Fiscal Responsibility Act of 2023 (FRA; PL 118-5) was signed in to law on June 3, 2023 and included the most substantive amendments to the National Environmental Policy Act (NEPA) since its enactment.
- While there are dozens of proposals floating around Congress, main conversation revolves around:
  - S. 4753, the Energy Permitting Reform Act: Sens. Manchin & Barrasso - accelerating judicial claims, electric transmission, LNG exports
  - On the House side, Chairman Westerman and Rep. Peters permitting proposal
    - Unveiled in September? Likely larger, House NRC jurisdiction
- Despite being a bi-partisan issue, the elections will shape how this issue moves forward, assuming not enacted as a parting gift to Sen. Manchin.

Drivers of U.S. Tax Reform in 2025

- Expired and Expiring Provisions of Tax Cuts and Jobs Act (TCJA)
- Campaign Politics and Promises
- Repeal or Reform of Inflation Reduction Act (IRA) provisions
- International Developments at the OECD

Tax Cuts and Jobs Act

- Many of the tax provisions of the law known as the Tax Cuts and Jobs Act ("TCJA") have already expired (e.g. bonus depreciation) and more will expire at the end of 2025, necessitating some action by Congress to avoid a significant increase in tax increases.
- TCJA provisions set to expire at the end of 2025 include:
  - Reduced individual tax rates
  - Increased standard deduction
  - Doubling of the child tax credit
  - Passthrough business deduction expires (Section 199A)
- These are expensive provisions to extend, therefore, there will likely be an interest in tax provisions that raise revenue, this could include, per Biden's Green Book:
  - Raising the corporate tax rate
  - Creating exceptions and limitations on the step-up of basis rule at death for bequeathed assets

Campaign Politics and Promises

- Details on each candidates tax policy priorities are limited.
- Generally expect a Harris Administration to focus on additional tax cuts and benefits for the middle and lower class and paying for such provisions through increases in taxes on businesses.
- By contrast a Trump Administration would likely be focused on extending the TCJA, a law he takes personal credit for.
- The fiscal implications of the divergent campaign policies and promises are also notable, with the Trump campaign proposal adding $5.8 trillion to the deficit from 2025-2034.
- They both agree, however, NO TAX ON TIPS!

Tax Policy Outlook

- A Trump or Harris Administration will view a tax bill as a tool to avoid economic problems that could arise from not extending or modifying TCJA credits, IRA credits, or for enacting campaign proposals and promises important to both businesses and individuals.
- With an electoral sweep and single party control of the White House, Senate, and House, a budget reconciliation is the likely vehicle of tax reform.
    - ➢ *Avoids the filibuster*
    - ➢ *Cannot increase deficits outside a 10-year budget window*
    - ➢ *Requires House and Senate to agree on budget resolution with reconciliation instructions*
- Should Congress be split, e.g., with the Senate held by Republicans (as predicted) and the U.S. House of Representatives being held by Democrats (as predicted), the ability to pass a tax reconciliation bill is significantly diminished.
- It is unclear what tax policy, if any Congressional Republicans and Democrats would agree to on a bipartisan basis.
- Therefore a "no action scenario" on tax policy is an outside possibility for the next Congress, but unlikely.

Over last three years, ESG has grown to be a global issue.

- **SEC Climate Proposed Rule**
  - Focus on public companies and investors with detailed requirements to report on climate only
- **California Climate Rules – SB 253 and SB 261**
  - Focus on all companies doing business in CA with detailed requirements to report GHG emissions and climate risks, including fines and penalties
- **IFRS Sustainability Disclosure Standards – ISSB S1 and S2**
  - Focus on investors
  - General principles, including proposed requirement to report across all significant sustainability-related risks and opportunities (not just climate)
  - Climate standard (first topic-specific s a1wq21tandard)
- **China Self-discipline Regulatory Guidelines (SDRG) No. 14– Sustainable Development Report**
  - Multi stakeholder focus including investors but only for top companies on Chinese exchanges
  - Includes unique areas such as data security, customer privacy and rural revitalization
- **European Sustainability Reporting Standards–CSRD**
  - Multi-stakeholder focus, including investors
  - To date, granular requirements published for sustainability impacts, risks and opportunities

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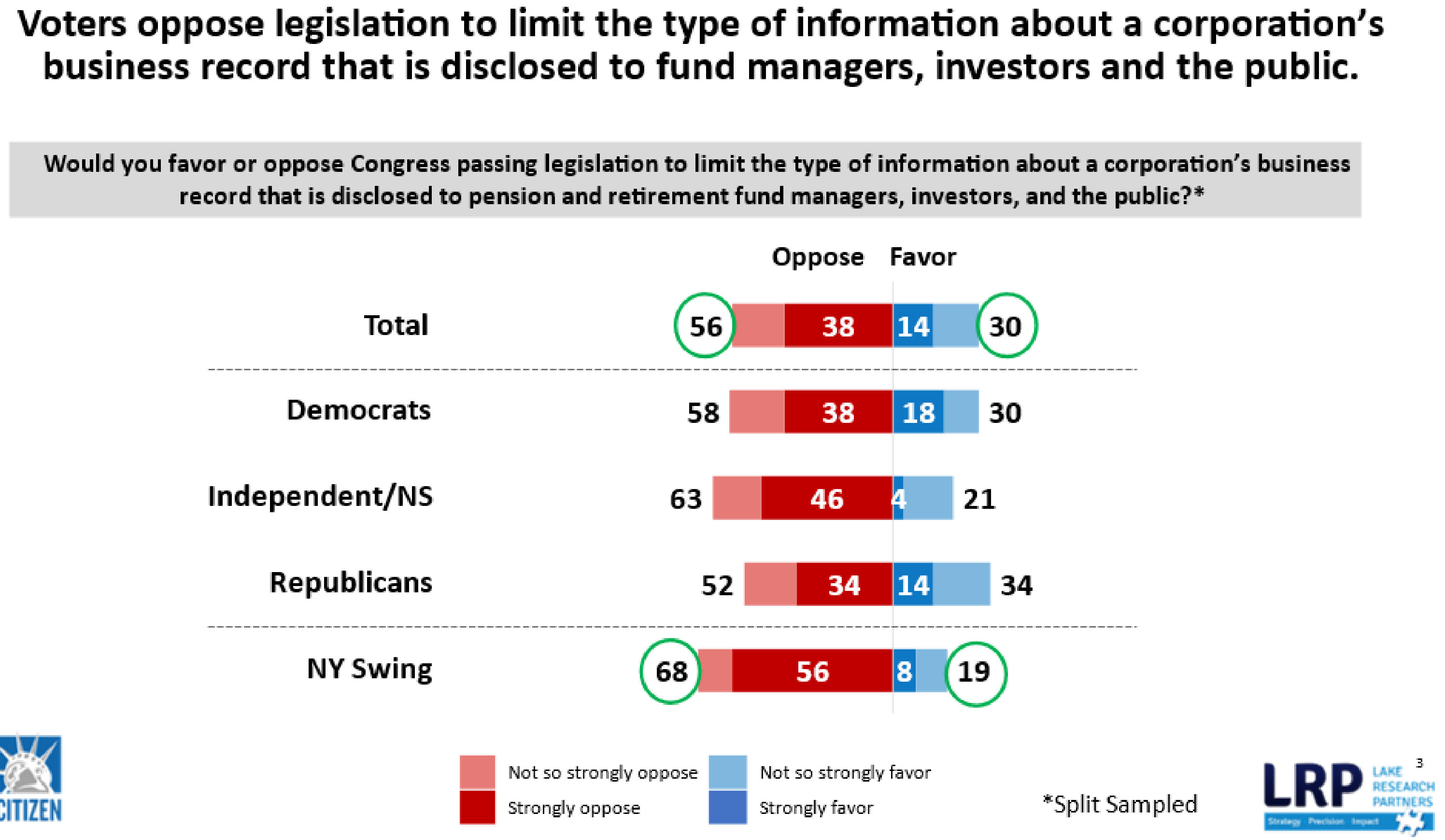
Recently, ESG backlash has gained momentum in US, EU, on Wall Street, and in the states.

- **SEC Climate Rule facing mounting legal challenges.**
  - Appeals filed against SEC climate disclosure rule consolidated into the Eighth Circuit
  - In March, Fifth Circuit issued a stay on the rule.
  - In April, SEC delayed implementation of its climate disclosure rule until the courts can rule on appeals.
  - Republicans believe *Loper Bright v. Raimondo* decision limiting federal agencies' rule-making power is a route to challenging ESG regulations in court.
- **EU softening climate reporting regulations.**
  - EU appears to be softening some of its upcoming climate reporting regulations, including an updated draft of its new European Sustainability Reporting Standards (ESRS), aligning European requirements with International Financial Reporting Standards (IFRS).
- **Wall Street leaning away from ESG.**
  - BlackRock, State Street, JPMorgan, and Pimco withdrew from Climate Action 100+ after the group called on members to pressure companies to reduce emissions.
  - Support for ESG-related policies in proxy voting has dropped significantly.
- **States filing and passing anti-ESG legislation.**
  - In 2023, over 150 anti-ESG bills and resolutions were introduced in 37 states, with at least 40 anti-ESG laws having been enacted in 18 states

ESG is an opaque and unpopular issue with voters.



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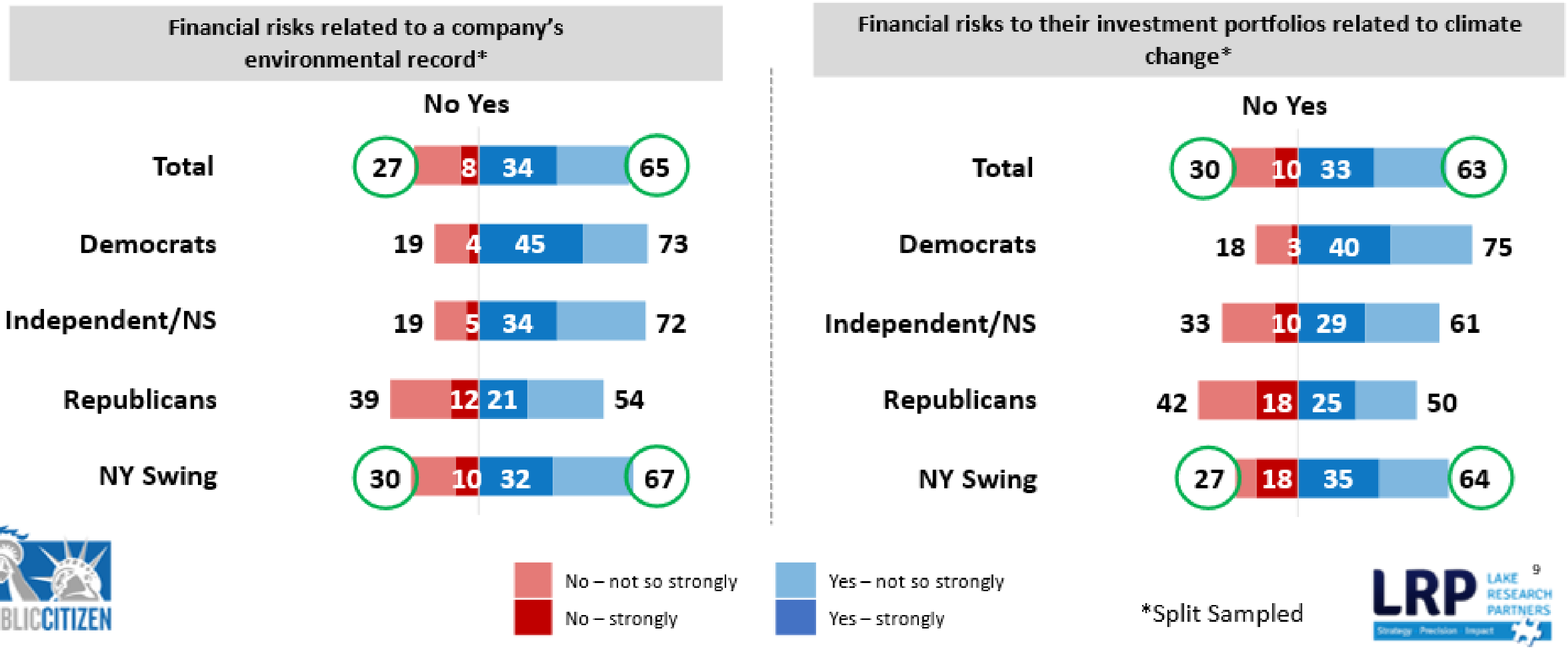
ESG is an opaque and unpopular issue with voters.

Voters think that financial risks related to a company's environmental record and financial risks to their investment portfolios related to climate change should be taken into account when making decisions about potential investments. A third are in strong agreement.

Here is a question about retirement and pension fund managers– people that make decisions about what stocks and bonds to include in funds that people invest in for their retirement. When making decisions about potential investments, do you think retirement and pension fund managers should take the following information into account when making decisions?



*Split Sampled

PUBLIC CITIZEN

LRP LAKE RESEARCH PARTNERS 9

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Legislative progress has been intermittent on anti-ESG bills.

- **Since Biden vetoed anti-ESG legislation in March 2023, no other bills have made it through the House.**
  - Eight bills are awaiting floor votes in the House after advancing out of committee.
  - CRA deadline has passed.
- **House Financial Services Oversight Chair Bill Huizenga (R-MI) is leading legislative pushback on ESG, though progress stalled this summer.**
  - Developed report on how ESG considerations hurt investors and financial markets.
  - Planned hearing on ESG was cancelled after early adjournment.
  - With floor time scarce, votes and legislative progress unlikely this Congress.
- **Oversight power has become the key tactic for Republicans.**
  - House Judiciary Chair Jim Jordan (R-OH) subpoenaed investor activist groups, alleging "collusion" for pushing companies to adopt certain ESG principles.
  - House Hearings held in June, July expanding this initiative.
  - This is likely to continue in any chambers controlled by Republicans after 2024 election.

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White House control will have the most significant impact on ESG initiatives.

Harris Administration

- Increased focus on fenceline and underserved communities, renewed momentum for ESG.
- Regulatory initiatives will expand significantly.
- SEC Climate Rule; EJ requirements for federal procurement, agencies; CAFE standards to encourage EV deployment; Clean Air Act/Clean Power Plan 2.0, etc
- *Loper* will have meaningful impact on legal prospects and durability for these initiatives.

Trump Administration

- With the SEC rule currently stayed and legal challenges pending, a Trump Administration will be well positioned to repeal ESG initiatives, Justice40, etc.
- Polarization of state treatment of ESG; continued initiatives from certain states like California, New York, while deep red states in Rust Belt and Rocky Mountains will reject initiatives.

Ripple effects on business community will continue, regardless of 2024 election impacts, though momentum is fitful.

- Pressure on public companies to disclose information and plan around climate will continue in state and global arena.
- Slowed momentum and increasing oversight will reduce pressure on companies to make investment decisions based on ESG initiatives.

Upcoming Webinars

International Trade Impacts

Wednesday September 18th, 2024 1:00pm-2:00pm EST

Environmental Impacts

Wednesday October 9th, 2024 1:00pm-2:00pm EST

International Trade Impacts

Wednesday November 20th, 2024 1:00pm-2:00pm EST

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