

# Capitol Weekly

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## *Environmental preview: green chemistry*

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After a landmark victory on greenhouse-gas emissions last year, environmental groups and lawmakers are gearing up for a new round of major legislative battles.

A number of wild cards that will have to be accounted for as next year's fights shape up, most notable being the fate of the bonds, and whether Gov. Arnold Schwarzenegger will embrace environmental legislation the way he has this year. Nevertheless, there is widespread agreement among people on all sides of the debate over what some of the dominant issues are likely to be next year.

The main event: green chemicals

In terms of paradigm-shifting legislation, the early money is on a package of bills being prepared by Senator Joe Simitian, D-Palo Alto, that would change how the chemical industry is regulated. Simitian chairs the Senate Environmental Quality Committee.

Simitian said that he and his staff still are working out many of the particulars of their "green chemistry" legislation. However, he did say that it would likely rely on the "precautionary principle." This standard, widely cited in the global-warming debate, states that if an action has a significant potential to cause widespread harm, the burden is on producers to show that it is safe, rather than on critics to prove that it is harmful.

"It's a big hill to climb," Simitian said. "The struggle will be to bring the industrial concerns into the conversation."

Not surprisingly, this is an idea that has the chemical industry nervous. Robert Lucas, a lobbyist for the California Council for Environmental and Economic Balance, said that this legislation has the potential to open a Pandora's box of overreaching regulation and litigation. He also worried that legislation may hurt the industry by banning entire classes of chemicals without good reason.

"The costs need to be commensurate with the risks," Lucas said. "They need to be real risks as opposed to assumed risks."

"From our perspective, we're still trying to get a handle on what they might be suggesting," said Tim Shestek, California lobbyist for the American Chemistry Council. "Clearly it's going to be at the forefront of policy discussions next year."

Shestek said the federal government is working on the issue. He pointed to HR 1215, the Green Chemistry Research and Development Act of 2005. This bill, which has passed the House but not the Senate, would allot \$102 million over four years for research into greener alternatives to hazardous chemicals.

He also identified AB 289 as what he saw as a positive approach to the issue. This bill, by Assemblywoman Wilma Chan, D-Oakland, was signed by the governor this past session. It authorizes the California Environmental Protection Agency to start a review of chemicals in use in California and comes up with testing standards.

These approaches are not enough, countered Michael Wilson, a research scientist at the UC Berkeley Center for Occupational and Environmental Health. The United States is falling behind Europe and Asia in chemical regulation, he said, in ways that will hurt not only the health of Americans, but also the competitiveness of American business--and federal inaction is a big part of the reason why.

A report authored by Wilson, "Green Chemistry in California," on behalf of Simitian's committee, is a big part of what got this ball rolling. Wilson has testified on the issue numerous times, including last summer in both the Capitol and in the U.S. Senate.

Wilson said that the United States could become a "dumping ground" for chemicals that are barred in other countries. The Chinese, he said, are shipping wood products to the United States with formaldehyde concentrations that they would not permit for domestic use. Meanwhile, the United States has had little in the way of reform since the 1979 Toxic Substances Control Act. The last major U.S. effort in this area, to ban asbestos, was unsuccessful.

Ultimately, he said, this weakens U.S. business by leaving our manufacturers dependent on older, more toxic, petrochemical-based formulations that are becoming obsolete elsewhere. The European Union, meanwhile, has spent the last five years working on the Registration, Evaluation and Authorization of Chemicals, a framework for regulation of chemicals in the European Union. This program could lead to the EU banning up to 2,000 known harmful chemicals, Wilson said, and spur European producers toward finding commercially viable safer alternatives.

A California program, he said, could piggyback on this effort by calling on American chemical producers to hand over the same data they would have to prepare in order to sell their products in Europe.

"The burden has been on the government to prove a public risk," Wilson said. "But the producers aren't under any obligation to provide the information the government needs to build its case."

While the specifics of Simitian's package remain to be seen, there does seem to be widespread agreement that it could be costly. Environmentalists see much of this cost being borne by industry.

"It's really difficult to see how they couldn't be," said Rachel Gibson, health advocate at Environment California, one of the main environmental groups working with Simitian on the issue. "Right now, they're getting a free ride being able to sell their chemicals with little attention to health or safety."

### ***The undercard: water***

Toilets or dams? That may sound like a strange choice, but Democrats and Republicans are advocating two very different ideas about how to address their state's worsening water situation.

Rather than a single package of legislation, issues over water use probably will break down into many separate battles. But what they appear to have in common is that Republicans will push to increase supply while Democrats will urge conservation.

This could result in a series of seemingly mundane fights. For instance, Assemblyman John Laird, D-Santa Cruz, has said that he will reintroduce a version of his low-flow toilets' legislation.

This past session, Laird sponsored AB 2496 to move the state from a standard of 1.6 gallon toilets to 1.3 gallons; it was flushed by the governor. But Laird is coming back because the change could save the state eight billion gallons of water a year, according to his staff analyst. This is approximately equal to the amount of bottled water Americans consume each year.

Laird plans to bring back the bill, with some changes designed to appease plumbers and toilet manufacturers. While AB 2496 called for new toilets to be phased in between 2009 and 2011, the new bill could include a more forgiving time frame.

Meanwhile, GOP legislators have a list of several dams and reservoirs they would like built, possibly as part of an overhaul of the state's water system, if voters approve the water bonds. They're also seeking to head off ongoing efforts to drain the immense Hetch Hetchy reservoir. Numerous Central Valley Republican legislative candidates have made new storage an issue in their campaigns. Rep. John Doolittle, R-Roseville, has been pushing hard for the Auburn Dam project.

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