



Toxic Substances Control Act (TSCA) vs. Lautenberg Act (FRL)

Flow charts depicting basic processes for:

- Existing chemicals under FRL
- Existing chemicals under old TSCA
- New chemicals under the old and new laws

How the Lautenberg Act works

Existing Chemicals



85,000 chemicals on TSCA Inventory



Inventory "reset": EPA identifies active, inactive chemicals



Prioritization

High Priority
May present an unreasonable risk due to potential hazard and exposure path
EPA to designate at least 20 by 3.5 years

Low Priority
Is not high-priority; can be judicially challenged
EPA to designate at least 20 by 3.5 years

Not enough information
Request/require testing (can extend deadline by 90 days)
If information still insufficient, becomes high-priority

First 10 Work Plan chemicals
• Designate w/in 6 mos
• Not preemptive until final EPA action

Company-requested
• Specific criteria
• ≤ 50% of number EPA initiates
• Company pays full cost (50% if drawn from Work Plan)
• Not preemptive until final EPA action



Risk Evaluation
EPA must establish scope within 6 months



Determination

Does present unreasonable risk

Does not present unreasonable risk

Not enough information If information is insufficient or more is needed, can require testing and issue an order to get additional data

1

2

1

2

Risk Management

EPA must impose prohibitions or restrictions by rule necessary to eliminate the risk; cost used to select among options

EPA imposes full ban of one or more uses; must also consider availability of viable, safer alternatives

2

Preemption Triggered

During EPA review (3.5 years maximum)
New state restrictions on high-priority chemicals are prohibited except via waiver
Existing state actions remain in effect
Only applies to uses, risks within scope of EPA's review. States can readily get waiver if basic criteria are met or if action was proposed before review began.

After final EPA action (either no unreasonable risk or regulation if risk found)
State restrictions on production, distribution, processing or use taken after 4/22/16 are generally preempted if they apply to the same use/risk EPA addressed. Other state actions (e.g., reporting or disclosure) remain in effect or can be taken. States can seek waiver.

- Safety standard:** "No unreasonable risk to human health or the environment."
- Based solely on risks to health/environment
 - EPA cannot consider costs
 - Eliminates "least burdensome" requirement

Key

- = main process steps
- = final agency action
- = interim info-collecting step

Enforceable Deadlines (can be extended up to 2 more years)



How the original Toxic Substances Control Act worked

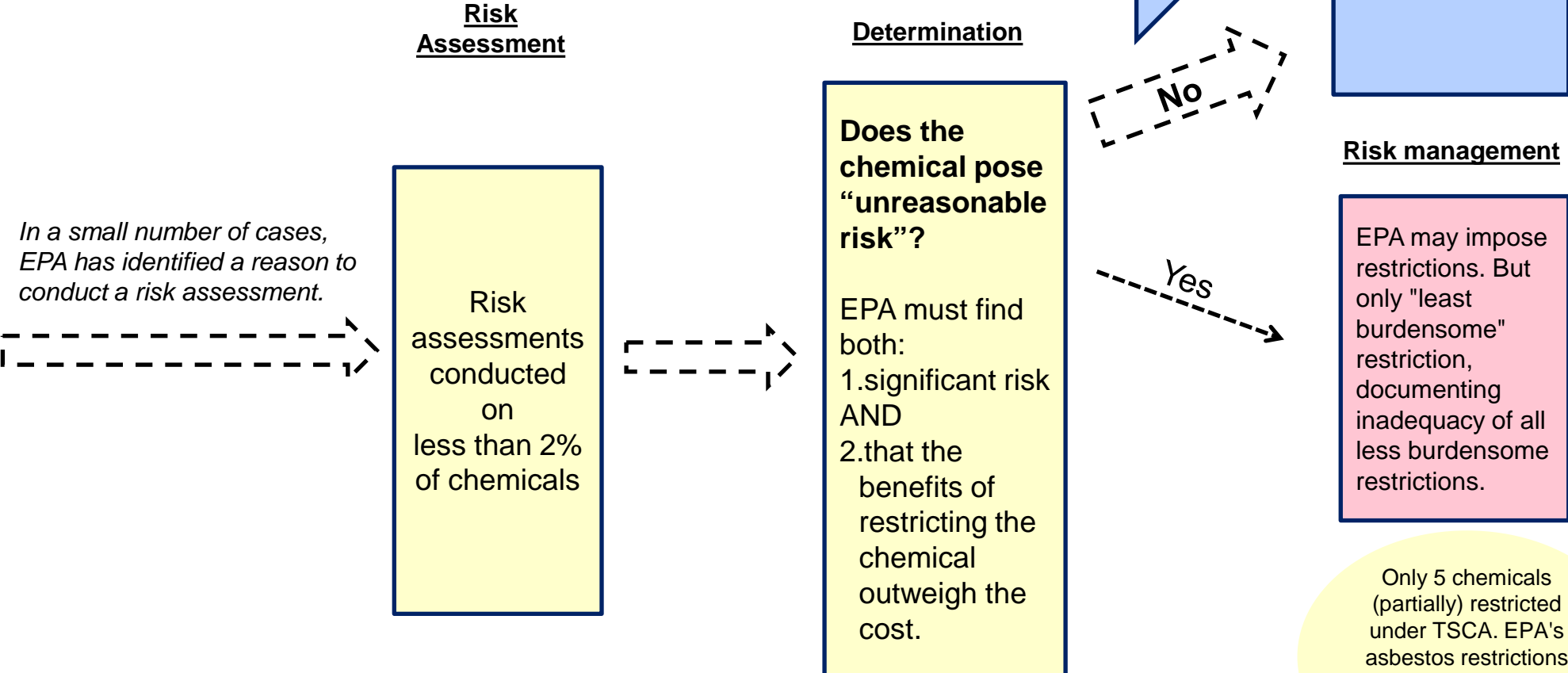
Existing Chemicals



62,000 chemicals in commerce when TSCA passed in 1976

All 62,000 chemicals presumed safe and "grandfathered in" EPA lacks mandate to assess safety

Chemical may remain on market without restrictions



Only 5 chemicals (partially) restricted under TSCA. EPA's asbestos restrictions could not stand up to court challenge.

