

Chemical policy reform is heating up at the federal level. Senator Lautenberg has introduced a [comprehensive reform bill](#) in the Senate, and Congressmen Rush and Waxman are circulating a [discussion draft bill](#) in the House. In their current form, both the Lautenberg bill and the Rush/Waxman discussion draft rely upon risk-based safety standards to protect against toxic chemicals. Although this approach has clear advantages over the existing process under the Toxic Substances Control Act, it has two significant disadvantages.

First, despite consistent efforts at improvement, the risk assessment/standard -setting processes tend to be subjective. At its best, reasonable minds could differ over what constitutes an adequately protective standard. At its worst, the malleability of the process could be used to undermine the goals of the statute.

Second, the safety standard provision misses an opportunity to incorporate a preventative, green chemistry perspective into standard setting. For example, as drafted, the safety standard would allow manufacturers to use a chemical that just barely meets the safety standard even if substantially safer, feasible alternatives are available. Building safer alternatives into standard setting is important because voluntary adoption of such alternatives is typically slow to occur. A variety of cultural, institutional, organizational and legal factors often prevent the efficient adoption of feasible safer alternatives by businesses, even where those alternatives are comparable or even superior in terms of performance or cost.

These two disadvantages can be addressed by providing that where a feasible safer alternative to a regulated chemical exists, the safety standard for the regulated chemical must be at least as protective as the level of protection afforded by that alternative.