

EPA Administrator Lisa Jackson delivered a one-two combination in chemical policy on Tuesday, announcing principles for legislative reform of TSCA while directing the agency to publicize administrative “[enhancements](#)” to the existing program. At a speech in San Francisco, the Administrator presented the Obama Administration’s “[Essential Principles for Reform of Chemicals Management Legislation](#),” a set of six general tenets intended to guide TSCA reform. Had these principles been created by the Bush Administration, they would have been an astounding breakthrough. Coming from the Obama Administration, however, they are disappointment—albeit not an unexpected one.

On the plus side, the principles do seek to address some of the major structural flaws of TSCA, including lack of adequate testing authority and unstable funding. It is hard to imagine any meaningful reform that would not address those problems. The disheartening aspect of the principles is their prominent embrace of the conventional risk assessment/risk management paradigm, although one that hints at some relevance for the precautionary principle. Principle No. 1—front and center—proclaims that “EPA should have clear authority to establish safety standards that are based on scientific risk assessments. Sound science should be the basis for the assessment of chemical risks, while recognizing the need to assess and manage risk in the face of uncertainty.”

Notions of green chemistry, safer substitutes, and alternatives assessment are relegated once again to voluntary efforts and outreach programs. Principle No. 5 states that “[t]he design of safer and more sustainable chemicals, processes, and products should be encouraged and supported through research, education, recognition, and other means..” It is not even clear whether the agency would be mandated or simply authorized to take substitutes into account in making risk management decisions. Here, in an interesting bit of inconsistency between the principle and its subsequent explanation, the Principles seem to be uncertain with the role of the availability of substitutes:

“Principle No. 3: Risk Management Decisions Should Take into Account Sensitive Subpopulations, Cost, Availability of Substitutes and Other Relevant Considerations.

EPA should have clear authority to take risk management actions when chemicals do not meet the safety standard, with flexibility to take into account a range of considerations, including children’s health, economic costs, social benefits, and equity concerns.”

Another troubling principle is the one that did not appear in the list: the principle of pre-market review. Unlike marketing of drugs and pesticides, construction of oil refineries, and a host of other business activities, government approval is not typically required for the introduction of a new chemical into commerce under existing law. The Principles are silent on this point, as was the Administrator in her talk on Tuesday. Given the conventional tone of the Principles, that is hardly comforting.