

Summary Comparison of Existing Chemical Policy Laws

	TSCA	REACH	the States
The Statutes (Government, Year Passed)	Toxic Substances Control Act (United States, 1976)	Registration, Evaluation, Authorisation, and Restriction of Chemicals (European Union, 2006)	New state laws create a chemical policy framework (California, Maine, and Washington, 2008)
Addresses many EXISTING CHEMICALS	NO – 62,000 chemicals grandfathered in without testing or restrictions	YES – more than 30,000 chemicals must be registered, potentially subject to further action	NO – <i>but</i> focuses on priority hazardous chemicals in products (ME, WA, CA authority)
PRECAUTIONARY PRINCIPLE in play	NO	YES	YES (all 3 states)
BURDEN of PROOF	on government	on industry	on government (all 3) <i>and</i> industry (ME, WA)
HAZARD DATA required for most chemicals	NO – first requires substantial evidence re: potential risk	YES – industry must submit information on > 30,000 chemicals	NO – <i>but</i> California law requires a database on chemical hazards
USE DATA and EXPOSURE DATA on chemicals	LIMITED information reported for some every 5 years	EXTENSIVE information must flow up & down supply chain	DISCLOSURE of priority chemicals in products (ME, WA)
PUBLIC ACCESS & CONFIDENTIALITY	Very restrictive - poor public right to know	Good public access to data <i>and</i> protection	Public access to data, <i>but</i> could be improved
Identification of priority chemicals: HAZARD-BASED &	NO <i>not applicable</i>	YES – substances of very high concern, i.e. CMRs, PBTs, vPvBs & EDCs	YES – based on hazard traits similar to REACH (ME, WA, CA authority)
EXPOSURE-BASED factors applied		Wide dispersive use and/or high volume use	In people, products, high volume use (all 3)
ALTERNATIVES ASSESSMENT & Substitution Plan	NO	YES – may be required for priority substances of very high concern	YES – may be required for priority chemicals (CA, ME, WA for PBTs)

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Risk Management Pathways	TSCA	REACH	the States
1. Prohibit use of chemicals <i>unless</i> industry shows SUBSTITUTION is not feasible	NO – <i>but</i> the production of highly hazardous PCBs was banned by statute and uses were restricted	YES – for priority substances of very high concern that are PBTs , vPvBs or have no safe exposure threshold	YES – for same priority chemicals of high concern in products (ME, WA for PBTs)
<i>What has to be shown</i> to avoid or trigger prohibition	<i>not applicable</i>	To continue chemical use, industry must show socio-economic benefits outweigh risks <i>and</i> there are no suitable alternative substances or technologies	To trigger restriction, state must show there's exposure <i>and</i> safer alternatives available at comparable cost (ME, WA through PBTs rule)
2. Prohibit use of chemicals <i>unless</i> industry controls RISKS or substitution is not feasible	NO	YES – for <i>other</i> priority substances of very high concern, e.g. CMRs , where a safe threshold can be determined	YES - for same priority chemicals of high concern in products (<i>without regard to risk</i>) (ME)
<i>What has to be shown</i> to avoid or trigger prohibition	<i>not applicable</i>	Industry shows risks are adequately controlled, <i>or</i> socio-economic benefits outweigh risks <i>and</i> there are no suitable alternative substances or technologies	To trigger restriction, state must show there's exposure <i>and</i> safer alternatives available at comparable cost (ME)
3. Restrict specific uses of chemicals	YES – may restrict chemical production, use or disposal by rule	YES – for <i>other toxic</i> chemicals not subject to authorization above	YES – broad authority to restrict or prohibit chemical use (CA)
<i>What has to be shown</i> to restrict chemical uses	Agency must show unreasonable risk <i>and</i> restrictions are least burdensome after cost-benefit analyses of all alternatives	Agency must show unacceptable risk to health or environment considering socio-economic impact and available alternatives	Not yet specified in rules under development, <i>but</i> must consider hazards, exposure pathways and alternatives (CA)

NOTES: **CMRs** = Carcinogens, Mutagens, Reproductive toxicants; **PBTs** = Persistent, Bioaccumulative and Toxic chemicals; **vPvBs** = very Persistent, very Bioaccumulative chemicals; **EDCs** = Endocrine Disrupting Chemicals