



# ACC Overview: EPA TSCA Priorities & Environmental Regulatory Activity

Air & Waste Management Association  
2024 Spring Conference Keynote  
March 7, 2024



# **ACC TSCA Regulatory Update**

**Suzanne Hartigan**  
**Senior Director, ACC Regulatory &  
Scientific Affairs**

# Agenda



**01**

**TSCA Overview**

**02**

**TSCA Reform**

**03**

**Current Status  
and Lessons  
Learned**

**04**

**Why it  
Matters and  
What's Next**

# TSCA Overview

- **Congress finds that –**
  - There are exposures to lots of chemicals
  - Some chemicals may present risks
  - Chemicals should be regulated
- **Toxic Substances Control Act (TSCA) - enacted 1976**
  - **Regulates production and use of chemicals in commerce**
  - It is the policy of the U.S. that –
    - Manufacturers develop data on chemicals
    - [EPA] should regulate chemicals with risks
    - Regulation should not create unnecessary economic barriers to technological innovation

# The Road to Reform

## What TSCA Did:

- Required Reporting
- Testing
- Screening new chemicals for market entry

## What TSCA Didn't Do:

- Emphasize assessment or regulation of chemicals existing on the market prior to 1976

**Goal: Create a robust and efficient system to assess all chemicals in commerce with multiple deadlines to keep EPA on track**

# Key takeaways from the 2016 Amendments

✓ Process for prioritization, evaluation, and management of existing chemicals with aggressive deadlines

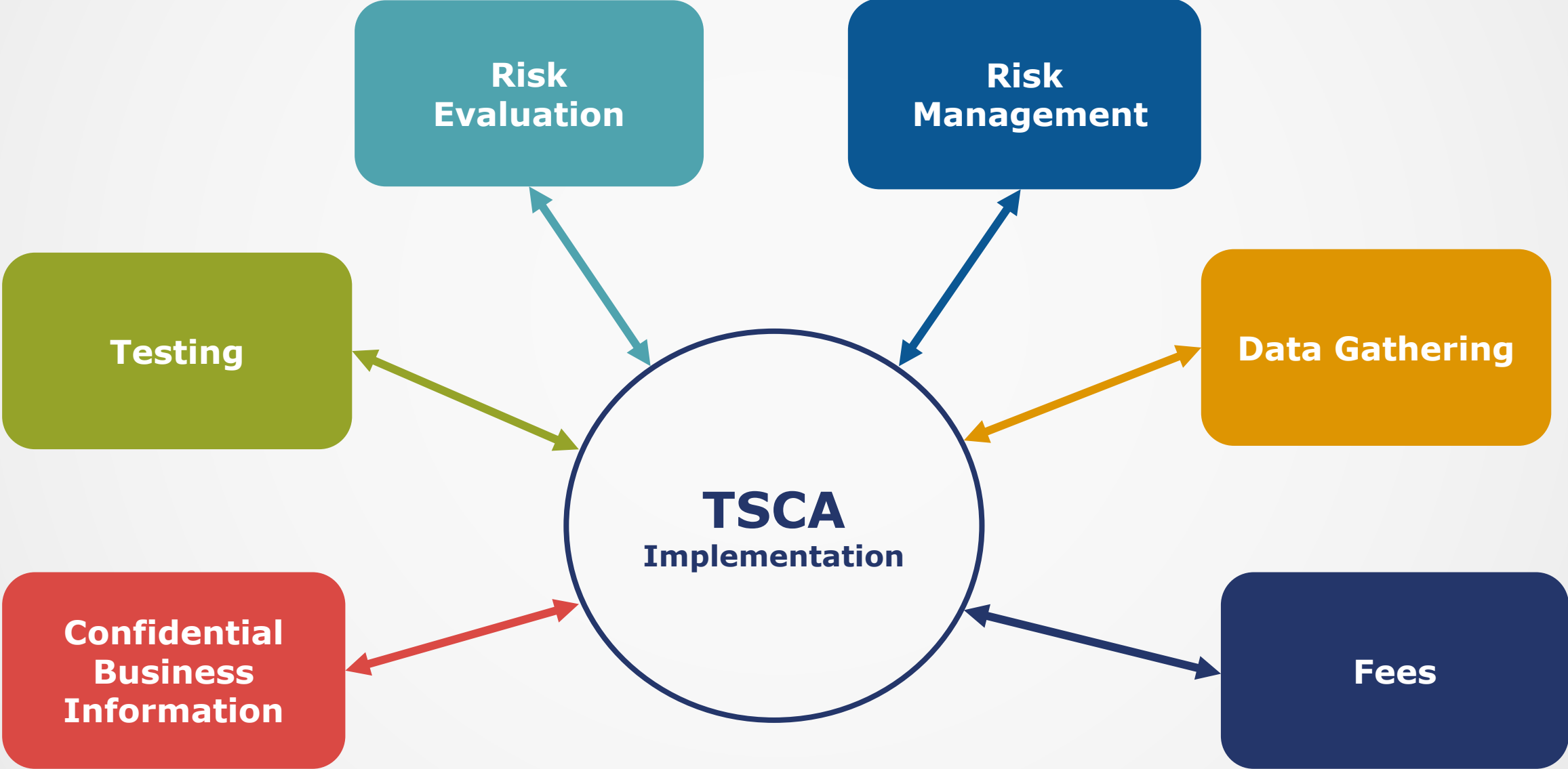
✓ New best available science, weight of scientific evidence standards

✓ Now easier for EPA to require safety testing of chemicals

✓ Affirmative safety determination required before manufacturing can start for a new chemical

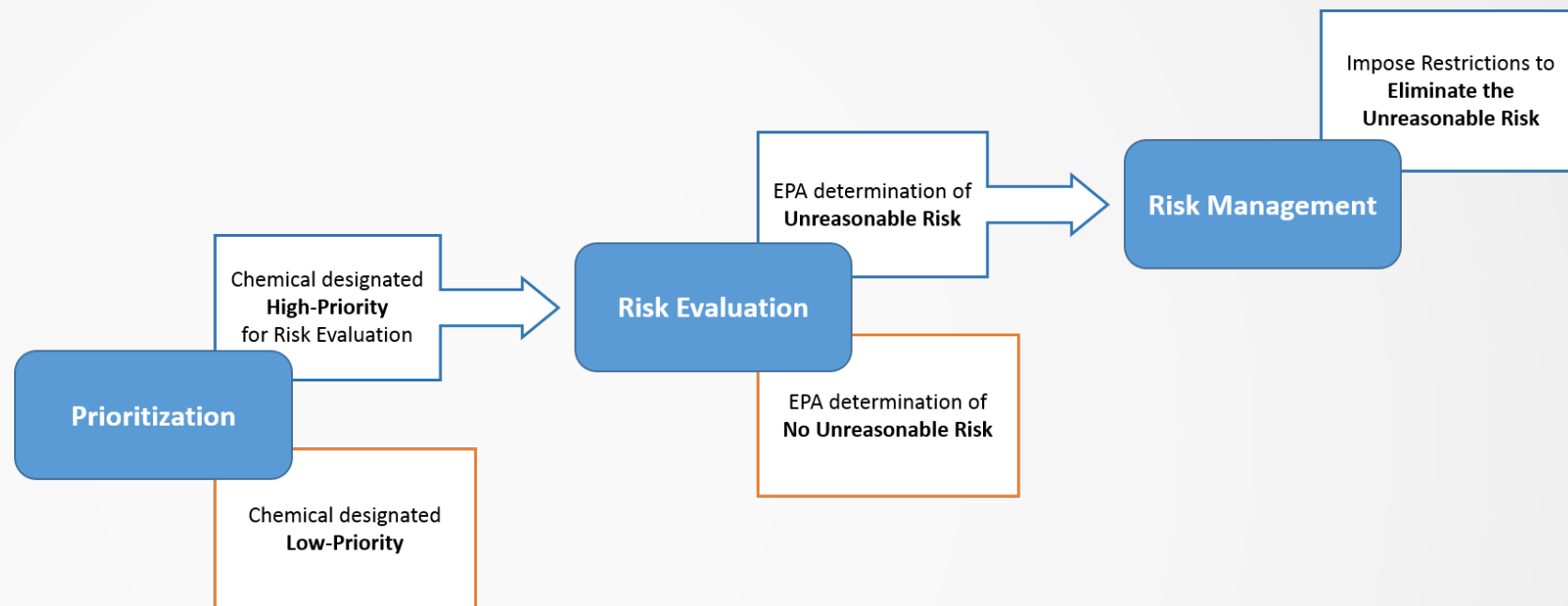
✓ Safety determined without consideration of cost, pushing final choices to the end of the regulatory process

# How is it going?



# Existing Chemicals Process

2016 Amendments to TSCA required establishment of a process for existing chemicals –

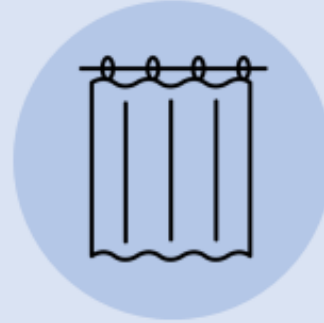


- **Framework rules for prioritization and risk evaluation**

<https://www.epa.gov/assessing-and-managing-chemicals-under-tsca/risk-evaluations-existing-chemicals-under-tsca>



# One Chemical, Many Conditions of Use



# Statutory Requirements for Risk Evaluations

- **Timelines** – 3-3.5 years to complete
- **Throughput requirements** -
  - First ten chemicals selected to undergo risk evaluation in December 2016
  - Next 20 chemicals designated as high priority in December 2019
  - *Must have 20 risk evaluations ongoing*
- **Science Standards** -
  - Best available science
  - Weight of the scientific evidence
- **Components**

# Proposed Changes to Risk Evaluation Framework Rule

- **Scope** - All conditions of use are in scope, including...
- **Single risk determination** --> no "*no unreasonable risk*" determinations
- **Workers** - Assumption of uncontrolled worker exposure
- **General Population** - Focus on fenceline/environmental justice
- Emphasis on **aggregate exposures**
- **Science standards** - changes to definitions

## **Lessons Learned: Risk Evaluation**

### **DON'T ASSUME**

- **Automatic exclusions from scope or exemption of uses regulated by other authorities**
- **EPA has information on YOUR chemical**
- **The Risk Evaluation process is predictable**
- **Manufacturers are aware of all of the downstream uses of a chemical**
- **The value chain is aware of TSCA Risk Evaluation**
- **OSHA compliance prevents EPA action on occupational exposures**
- **Existing data will meet EPA's data quality guidelines (i.e., systematic review)**
- **Reasonable assumptions will be used in estimating exposures**
- **Additional testing won't be necessary**

	<b>Methylene Chloride</b>	<b>Perchloroethylene</b>	<b>Carbon Tetrachloride</b>	<b>Trichloroethylene</b>
<b>Risk Evaluation Completed</b>	June 2020	December 2020	November 2020	November 2020
<b>Proposed Risk Management Rule</b>	May 2023	June 2023	July 2023	Oct 2023
<b>Proposed effective date</b>	August 2024	Oct 2024	Dec 2024	Dec 2024
<b>Occupational Limits (ppm)</b>				
<b>OSHA PEL</b>	25	100	10	100
<b>ECEL – Full Shift (FS)</b>	2	0.14	0.03	0.0011 (0.004)*

\* - The primary regulatory alternative for the TCE proposal includes an ECEL of 0.004 ppm.

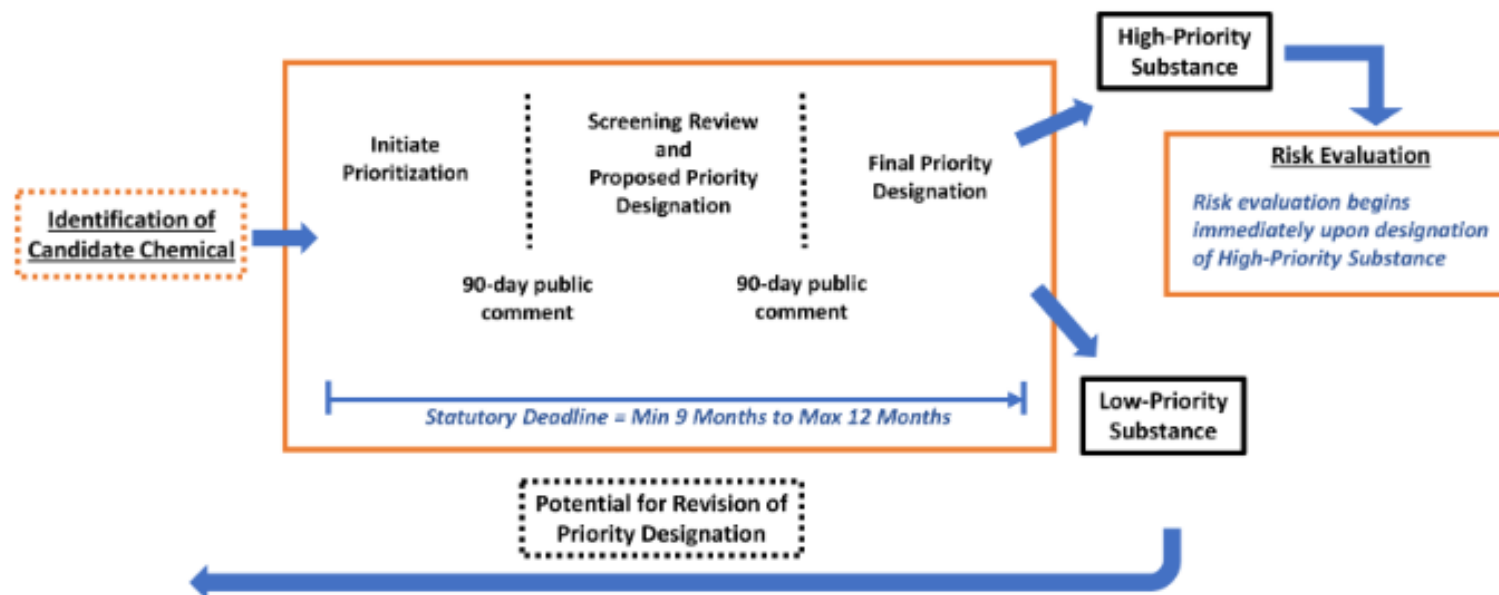
# **Lessons Learned: Risk Management**

## **What we have observed**

- **Akin to REACH Authorization**
  - **Everything is banned except what is permitted by EPA**
- **Section 6(g) exemption is a phase out**
- **EPA will require unique Workplace Chemical Protection Plans (WCPPs) for permitted uses**
- **EPA will establish a new occupational exposure limit (i.e., the Existing Chemical Exposure Limit (ECEL))**
- **Lack of engagement puts you at a disadvantage**

# Prioritization and Data Gathering

## Chemical Prioritization Process



<https://www.epa.gov/assessing-and-managing-chemicals-under-tsca/prioritizing-existing-chemicals-risk-evaluation>

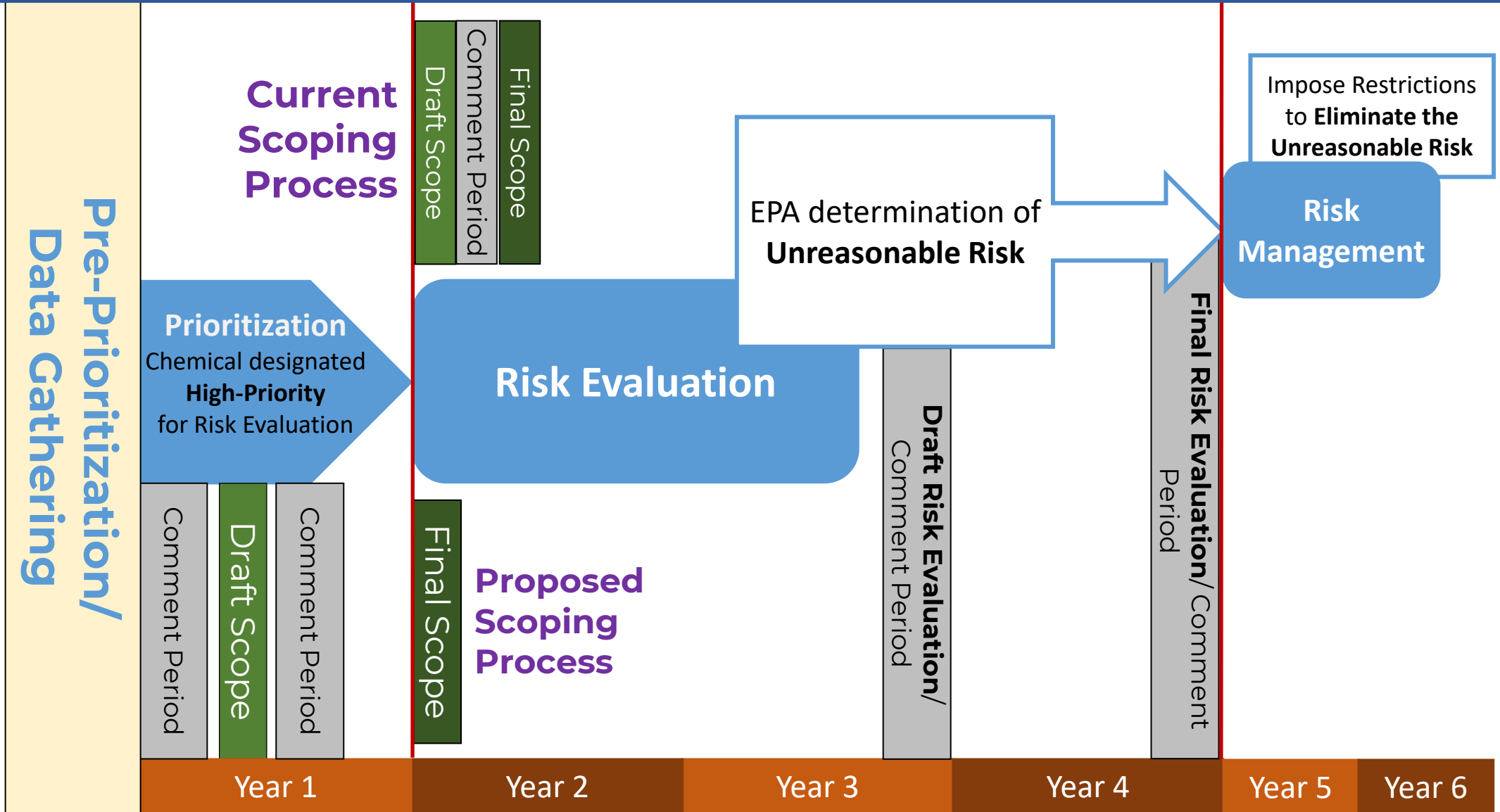
- **Pre-prioritization –**
  - List of 15
- **Additional data gathering -**
  - 8(c) – significant adverse reactions
  - 8(d) – health and safety data
  - 8(a) reporting rules, CDR

# Proposed and Potential Priority Chemicals

CAS No	Chemical Name [Synonym]
101-14-4	<b>4,4'-Methylene bis(2-chloroaniline)</b>
75-01-4	<b>Vinyl chloride</b>
75-07-0	<b>Acetaldehyde</b>
107-13-1	<b>Acrylonitrile</b>
62-53-3	<b>Benzenamine [Aniline]</b>
71-43-2	<b>Benzene</b>
80-05-7	<b>Bisphenol A</b>
100-41-4	<b>Ethylbenzene</b>
91-20-3	<b>Naphthalene</b>
100-42-5	<b>Styrene</b>
75-25-2	<b>Tribromomethane [Bromoform]</b>
2451-62-9	<b>Triglycidyl isocyanurate</b>
140-66-9	<b>4-tert-Octylphenol</b> [4-(1,1,3,3-Tetramethylbutyl)-phenol]
7664-39-3	<b>Hydrogen fluoride</b>
793-24-8	<b>1,4-Benzenediamine, N-(1,3-dimethylbutyl)-N'-phenyl-</b> [6-PPD]

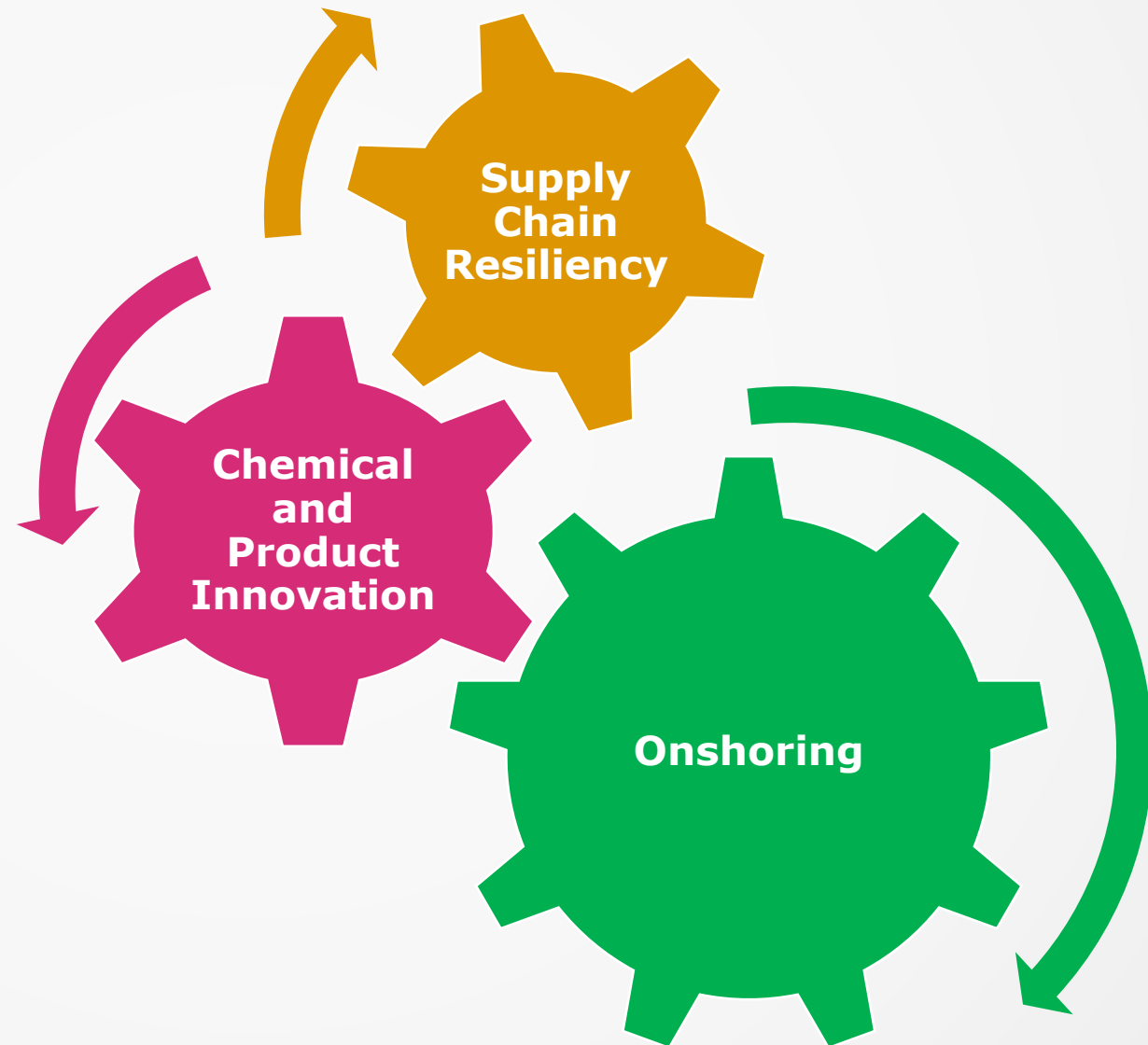


# TSCA Section 6 Existing Chemical Process



## Why it matters

**Broad impact** - the ability to get building block materials are at risk.



# How to prepare

## CONSIDER

- Engaging as a company and as a coalition
- Educating EPA about your industry/use (the earlier the better!)
- Understanding chemical use in your operations
- Understanding chemical use in your supply chains
- Determining what data are available to support the RE (and what data are not available – data needs)
- Simulating EPA's ECEL calculation
- Whether additional information is needed or things that should be put in place proactively – be realistic about the time necessary to accomplish those tasks.

# Additional Resources

- **TSCA Prioritization Rule:**  
<https://www.regulations.gov/document/EPA-HQ-OPPT-2016-0636-0074>
- **Proposed Updates to the TSCA Risk Evaluation Rule:**  
<https://www.regulations.gov/docket/EPA-HQ-OPPT-2023-0496/document>
- **Ongoing and Completed Chemical Risk Evaluations under TSCA:** <https://www.epa.gov/assessing-and-managing-chemicals-under-tsca/ongoing-and-completed-chemical-risk-evaluations-under>
- **TSCA Work Plan for Chemical Assessments: 2014 Update:**  
<https://www.epa.gov/assessing-and-managing-chemicals-under-tsca/tsca-work-plan-chemical-assessments-2014-update>

# **ACC Clean Air Act (CAA) Regulatory Update**

**Brendan Mascarenhas**  
**Senior Director, ACC Regulatory &  
Scientific Affairs**

# CAA Update Agenda



**01**

**HON Final  
Rulemaking &  
Key Issues**

**02**

**CAA New Source  
Performance  
Standards (NSPS)  
Rules**

**03**

**Other Significant  
Issues: Ethylene  
Oxide & New  
Source Review  
(NSR)**

**04**

**Environmental  
Justice Updates**

# HON Rulemaking Overview

- ❑ **HON Final Rule** (NSPS for the Synthetic Organic Chemical Manufacturing Industry & NESHAP for the Synthetic Organic Chemical Manufacturing Industry and Group I & II Polymers and Resins Industry)
  - ❑ Timeline: April 25, 2023 FR Publication / Deadline March 29, 2024
  - ❑ CAA Risk Review
  
- ❑ **Ethylene Oxide (EO) Requirements**
  - ❑ “In EO Service”
  - ❑ Revised requirements for connectors, valves, wastewater, etc.
  - ❑ Flares – 20 ton flare cap; PRDs
  - ❑ Delay of Repair
  - ❑ Total Resource Effectiveness
  
- ❑ **Fenceline Monitoring Program**
  - ❑ M327

# HON Rulemaking Overview

- ❑ **Risk review is voluntary and discretionary**
  - ❑ Legal concerns
  - ❑ Risks inflated due to flawed risk values & outdated emissions data
  - ❑ Results in significantly costly controls; potential for unit and facility shutdown
  - ❑ Unworkable Timeframe
- ❑ **EPA has authority to consider more recent emissions data, which further reduce risks associated with emissions.**
- ❑ **EPA can achieve meaningful emissions reductions through its Clean Air Act technology review authority.**



# Legal Concerns & EO IRIS Value



- **Legal Concerns**
- **EO IRIS Value**
  - Continued concerns with use of IRIS value;
  - Addressed places where EPA indicated lack of information in the MON
    - Updated Supporting Scientific Information
  - TCEQ Peer Review
- **Streamlined Areas of Focus to Address Emissions**

**HON**  
**Practical &**  
**Technical**  
**Issues:**  
**“Delay of**  
**Repair”(DOR)**  
**Provisions and**  
**Other**  
**Requirements**

- ❑ Proposed elimination of DOR provisions may result in additional shutdowns and startups to repair leaks
  - ❑ DOR provisions provide critical flexibility & minimize emissions
- ❑ Compliance with the proposed elimination will also impact ability to comply with other proposed requirements
  - ❑ Limits on flare capacity for EO
    - ❑ Significant Issues with Thermal Oxidizers
  - ❑ Limits for maintenance vents
- ❑ Additional Time Necessary
- ❑ Broader Market Impacts with Other Applications

# Fenceline Monitoring Program

- ❑ **General Concerns with FLM**
  - ❑ Statutory Basis & CAA 112 Issues
  - ❑ Practical Challenges
    - ❑ Need for Applicability Thresholds
    - ❑ Action Levels & Program Requirements
    - ❑ Cost Considerations
  - ❑ Additional Time Required to Establish Required Programs
    - ❑ At least three years necessary
  
- ❑ **Any revised approach should advance a position that allows for further development of proposed EO monitoring method.**

# NSPS Rules

- ❑ Final NSPS for New, Reconstructed, and Modified Sources and Emissions Guidelines for Existing Sources: Oil and Natural Gas Sector Climate Review
  - ❑ Pre-Publication Version Released December 2, 2023
  - ❑ Super-Emitter Response Program & Other Priorities
  
- ❑ NSPS Volatile Organic Liquid Storage Vessels (Including Petroleum Liquid Storage Vessels)
  - ❑ Comments submitted December 8, 2023
  - ❑ Final Rule anticipated September 2024
  - ❑ Applicability Issues & Proposed Control Requirements

# OTHER SIGNIFICANT CAA RULES & ETHYLENE OXIDE

---

# Key Clean Air Act Rules

- ❑ EPA Hazardous Waste Combustors MACT RTR Proposal
  - ❑ Draft CAA 114 Test Order
  - ❑ Rulemaking Timeline
  
- ❑ EPA Proposed Action “Clarifying the Scope of ‘Applicable Requirements’ Under State Operating Permit Programs and the Federal Operating Permit Program”
  - ❑ Comments due 4/10/24
  
- ❑ EPA Proposed PSD and Nonattainment NSR Regulations Related to Project Emissions Accounting
  - ❑ 2/22 Pre-Publication Version

# ACC EO Advocacy Update

- ❑ ACC Advocacy
  - ❑ 3/6 ACC-OMB HON Meeting
  - ❑ Timeline & Path Forward
  
- ❑ Other Regulatory Actions
  - ❑ EPA Commercial Sterilizers Rule – March 1<sup>st</sup> Deadline
  
- ❑ Litigation
  - ❑ 10/16 D.C. Circuit Oral Arguments

# ENVIRONMENTAL JUSTICE ADVOCACY UPDATE

---



# EJ Advocacy Update

- ❑ Administration Activity
  - ❑ EJ Scorecard – CEQ RFI
  
- ❑ EPA Activity
  - ❑ Technical Guidance for Assessing EJ in Regulatory Analysis
  - ❑ Equity Action Plan
  - ❑ IRA \$81 million grant for new air monitoring
    - ❑ \$2 million for air sensors in EJ Communities
    - ❑ April 8<sup>th</sup> Application Deadline
  
- ❑ State Activity
  - ❑ Legislative monitoring data (WV, MD)
  
- ❑ ACC Activity
  - ❑ Air Monitoring Advocacy



**Brendan Mascarenhas**  
**Senior Director, Environment**  
**Regulatory & Scientific Affairs**

**[Brendan\\_Mascarenhas@americanchemistry.com](mailto:Brendan_Mascarenhas@americanchemistry.com)**

**(202) 249-6423**