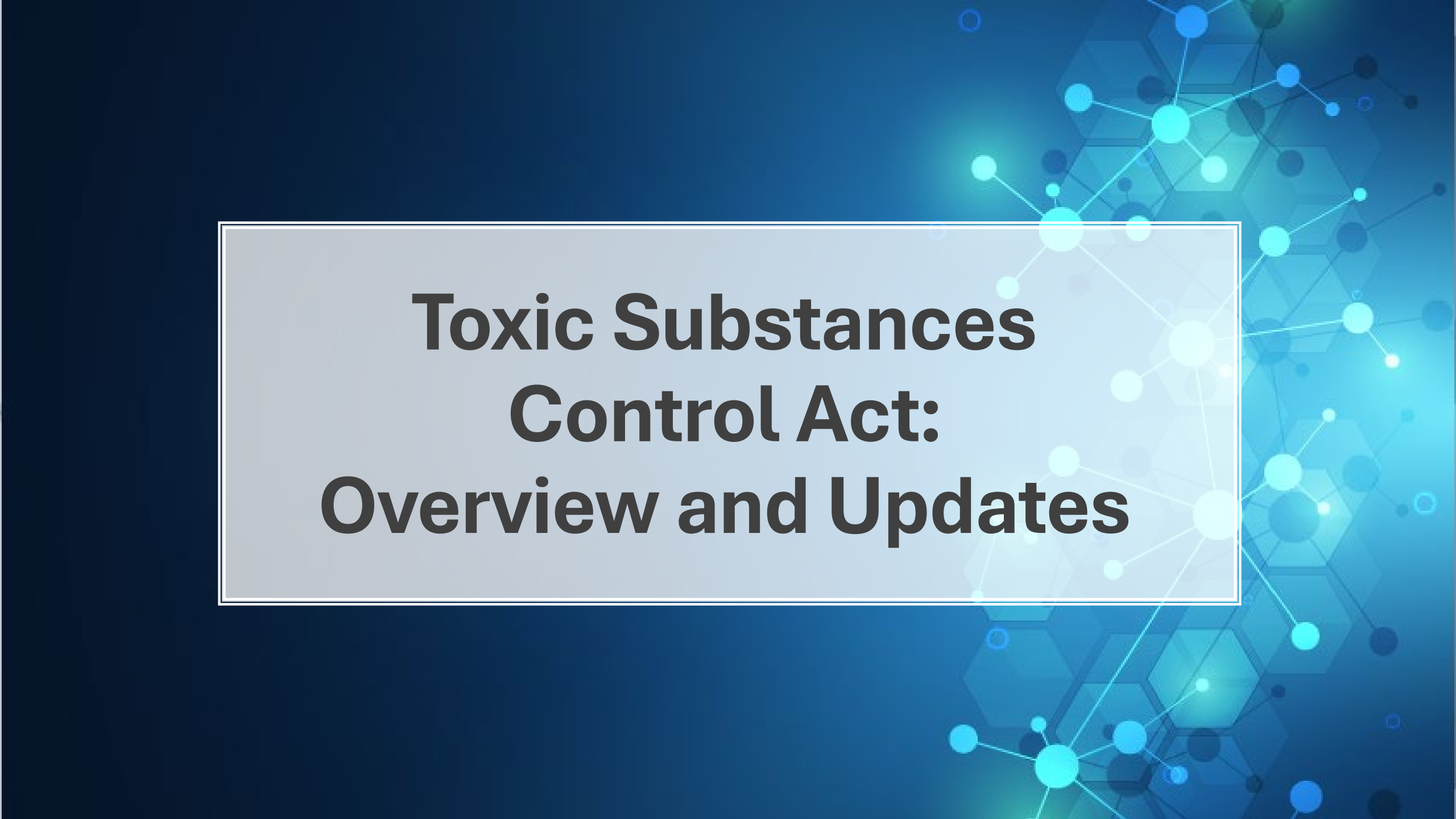




Chemical and Product Regulation

The British are coming...

Clarissa Howley Mills, Holland & Knight
Cynthia Stroman, King & Spalding



Toxic Substances Control Act: Overview and Updates

TSCA Overview

- First enacted in 1976 to regulate chemicals that “present an unreasonable risk of injury to health or the environment”
- Title I addresses control of toxic substances
- Titles II – VI address specific chemicals

1976-2016: The need for reform

- Slow pace of chemical regulation and testing
- No clear process for prioritizing the assessment of chemical substances or assessing existing chemicals
- No requirement to make an affirmative “unreasonable risk” finding for new chemicals or significant new uses
- Issues with recordkeeping and evaluating CBI claims

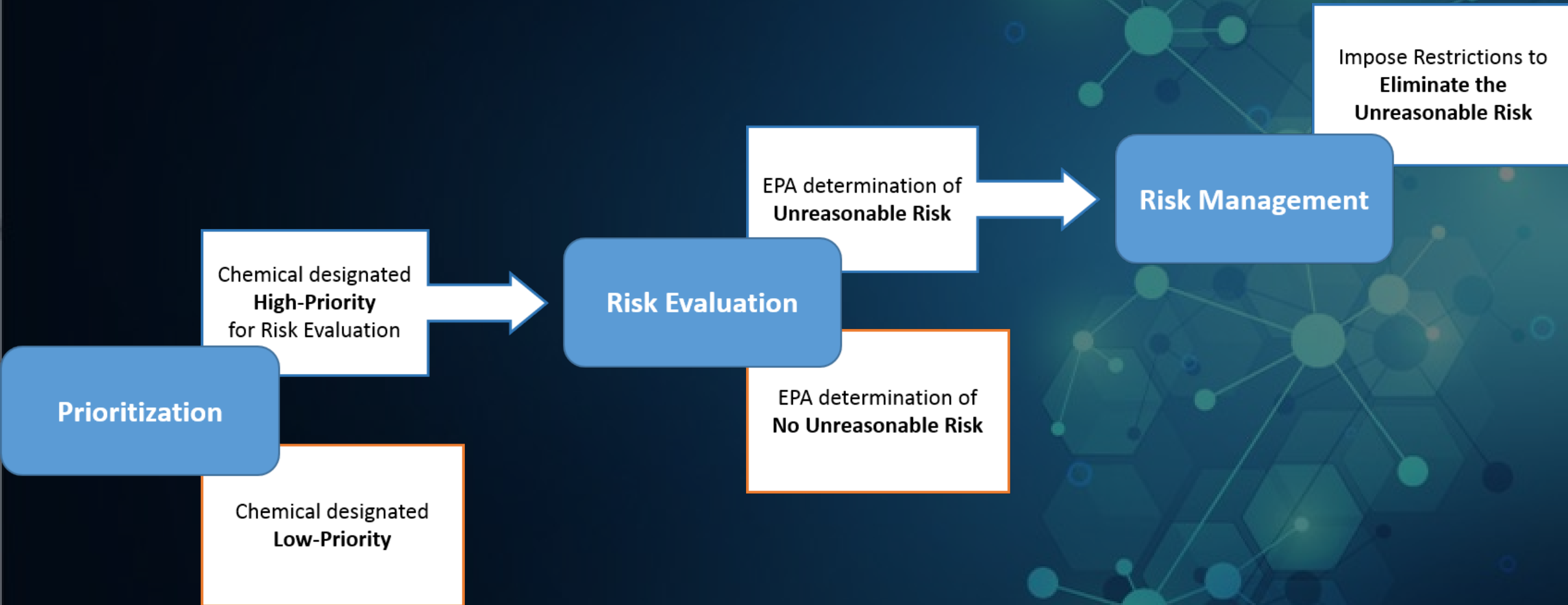
The Frank R. Lautenberg Chemical Safety for the 21st Century Act (LCSA)

- First overhaul of the TSCA chemical review process in 40 years
- Goals:
 - Enhance protection of human health and the environment
 - Establish a clear process for chemical risk evaluation to provide regulatory certainty and ensure public confidence
 - Provide a flexible approach to evaluating and managing risk

LCSA – section-by-section overview

- **Sec. 4** – Test Orders for the development and submission to EPA of chemical information
- **Sec. 5** – Premanufacture notices (PMNs) for new chemicals; Significant New Use Rules (SNURs) and Significant New Use Notices (SNUNs) for significant new uses of chemicals
- **Sec. 6** – Prioritization and risk evaluation
- **Sec. 7** – Imminent hazards and chemicals that pose significant risk
- **Sec. 8** – Reporting and recordkeeping
- **Sec. 9** – Coordinating TSCA actions with other federal laws
- **Sec. 10** – Research, development, and monitoring
- **Sec. 11** – Inspection and subpoena authorities
- **Sec. 14** – CBI protections
- **Sec. 18** – Preemption of certain state actions
- **Secs. 19-22** – Judicial review, citizen enforcement

TSCA's new risk evaluation process



TSCA Reform at 10

- Risk evaluation for the initial 10 high-priority chemicals selected by EPA is ongoing

Chemical	Status
1,4-Dioxane	Final Risk Evaluation Rule published November 2024
1-Bromopropane	Risk Management Rule proposed August 2024
Asbestos	Part 1 (chrysotile asbestos): Final Risk Management Rule published March 2024
	Part 2 (legacy uses): Final Risk Evaluation Rule published November 2024
Carbon tetrachloride	Final Risk Management Rule published December 2024 ¹
Cyclic Aliphatic Bromide Cluster (HBCD)	Final Risk Evaluation Rule published September 2020
Methylene Chloride	Final Risk Management Rule published May 2024
N-Methylpyrrolidone	Risk Management Rule proposed June 2024
C.I. Pigment Violet 29	Risk Management Rule proposed January 2025
Trichloroethylene	Final Risk Management Rule published December 2024 ¹
Tetrachloroethylene	Final Risk Management Rule published December 2024 ¹

¹ EPA is considering amendments to these rules

- Risk evaluation for additional chemicals designed high-priority also remain ongoing

Recent Developments

- EPA is finalizing amendments to the risk evaluation process that include:
 - Discretion to narrow scope of conditions of use to evaluate
 - Making risk determinations on a “use-by-use basis”
 - Consideration of workers’ use of personal protective equipment when evaluating risk
- Members of Congress have introduced bills to further streamline and reform the chemical review process; tied to reauthorization of TSCA fees
 - Movement on this front has largely stalled

Texas Updates

- The Attorney General's office has been actively investigating and litigating against manufacturers over deceptive marking, hidden contaminants, and the safety of consumer and agricultural products
- Recent examples:
 - December 2024 lawsuit against PFAS manufacturers for advertising products as safe
 - May 2026 settlement with supermarkets for misting organic produce with synthetic pesticides
 - June 2026 investigation into pesticide and food manufacturers' use of glyphosate