

SEC. 17. STATE-FEDERAL RELATIONSHIP.

Section 18 of the Toxic Substances Control Act ([15 U.S.C. 2617](#)) is amended by striking subsections (a) and (b) and inserting the following:

“(a) *IN GENERAL.*—

“(1) *ESTABLISHMENT OR ENFORCEMENT.*—Except as provided in subsections (c), (d), (e), (f), and (g), and subject to paragraph (2), no State or political subdivision of a State may establish or continue to enforce any of the following:

“(A) *TESTING.*—A statute or administrative action to require the development of information on a chemical substance or category of substances that is reasonably likely to produce the same information required under section 4, 5, or 6 in—

“(i) a rule promulgated by the Administrator;

“(ii) a testing consent agreement entered into by the Administrator; or

“(iii) an order issued by the Administrator.

“(B) *CHEMICAL SUBSTANCES FOUND TO MEET THE SAFETY STANDARD OR RESTRICTED.*—A statute or administrative action to prohibit or otherwise restrict the manufacture, processing, or distribution in commerce or use of a chemical substance—

“(i) found to meet the safety standard and consistent with the scope of the determination made under section 6; or

“(ii) found not to meet the safety standard, after the effective date of the rule issued under section 6(d) for the substance, consistent with the scope of the determination made by the Administrator.

“(C) *SIGNIFICANT NEW USE.*—A statute or administrative action requiring the notification of a use of a chemical substance that the Administrator has specified as a significant new use and for which the Administrator has required notification pursuant to a rule promulgated under section 5.

“(2) *EFFECTIVE DATE OF PREEMPTION.*—Under this subsection, Federal preemption of statutes and administrative actions applicable to specific substances shall not occur until the effective date of the applicable action described in paragraph (1) taken by the Administrator.

“(b) *NEW STATUTES OR ADMINISTRATIVE ACTIONS CREATING PROHIBITIONS OR OTHER RESTRICTIONS.*—

*“(1) IN GENERAL.—Except as provided in subsections (c), (d), (e), (f), and (g), beginning on the date on which the Administrator defines and publishes the scope of a safety assessment and safety determination under section 6(a)(2) and ending on the date on which the deadline established pursuant to section 6(a) for completion of the safety determination expires, or on the date on which the Administrator publishes the safety determination under section 6(a), whichever is earlier, no State or political subdivision of a State may establish a statute or administrative action prohibiting or restricting the manufacture, processing, distribution in commerce or use of a chemical substance that is a high-priority substance designated under section 4A.*

*“(2) EFFECT OF SUBSECTION.—*

*“(A) IN GENERAL.—This subsection does not restrict the authority of a State or political subdivision of a State to continue to enforce any statute enacted, or administrative action taken, prior to the date on which the Administrator defines and publishes the scope of a safety assessment and safety determination under section 6(a)(2).*

*“(B) LIMITATION.—Subparagraph (A) does not allow a State or political subdivision of a State to enforce any new prohibition or restriction under a statute or administrative action described in that subparagraph, if the prohibition or restriction is established after the date described in that subparagraph.*

*“(c) SCOPE OF PREEMPTION.—Federal preemption under subsections (a) and (b) of statutes and administrative actions applicable to specific substances shall apply only to—*

*“(1) the chemical substances or category of substances subject to a rule, order, or consent agreement under section 4;*

*“(2) the hazards, exposures, risks, and uses or conditions of use of such substances that are identified by the Administrator as subject to review in a safety assessment and included in the scope of the safety determination made by the Administrator for the substance, or of any rule the Administrator promulgates pursuant to section 6(d); or*

*“(3) the uses of such substances that the Administrator has specified as significant new uses and for which the Administrator has required notification pursuant to a rule promulgated under section 5.*

*“(d) EXCEPTIONS.—*

*“(1) NO PREEMPTION OF STATUTES AND ADMINISTRATIVE ACTIONS.—*

*“(A) IN GENERAL.—Nothing in this Act, nor any amendment made by this Act, nor any rule, standard of performance, safety determination, or scientific assessment implemented pursuant to this Act, shall affect the right of a State or a political subdivision of a State to adopt or enforce any rule, standard of performance, safety*

*determination, scientific assessment, or any protection for public health or the environment that—*

*“(i) is adopted or authorized under the authority of any other Federal law or adopted to satisfy or obtain authorization or approval under any other Federal law;*

*“(ii) implements a reporting, monitoring, disclosure, or other information obligation for the chemical substance not otherwise required by the Administrator under this Act or required under any other Federal law;*

*“(iii) is adopted pursuant to authority under a law of the State or political subdivision of the State related to water quality, air quality, or waste treatment or disposal, except to the extent that the action—*

*“(I) imposes a restriction on the manufacture, processing, distribution in commerce, or use of a chemical substance; and*

*“(II) (aa) addresses the same hazards and exposures, with respect to the same conditions of use as are included in the scope of the safety determination pursuant to section 6, but is inconsistent with the action of the Administrator; or*

*“(bb) would cause a violation of the applicable action by the Administrator under section 5 or 6; or*

*“(iv) subject to subparagraph (B), is identical to a requirement prescribed by the Administrator.*

*“(B) IDENTICAL REQUIREMENTS.—*

*“(i) IN GENERAL.—The penalties and other sanctions applicable under a law of a State or political subdivision of a State in the event of noncompliance with the identical requirement shall be no more stringent than the penalties and other sanctions available to the Administrator under section 16 of this Act.*

*“(ii) PENALTIES.—In the case of an identical requirement—*

*“(I) a State or political subdivision of a State may not assess a penalty for a specific violation for which the Administrator has assessed an adequate penalty under section 16; and*

*“(II) if a State or political subdivision of a State has assessed a penalty for a specific violation, the Administrator may not assess a penalty for that violation in an amount that would cause the total of the penalties assessed for the violation by the State or political subdivision of a State and the*

*Administrator combined to exceed the maximum amount that may be assessed for that violation by the Administrator under section 16.*

*“(2) APPLICABILITY TO CERTAIN RULES OR ORDERS.—Notwithstanding subsection (e)—*

*“(A) nothing in this section shall be construed as modifying the effect under this section, as in effect on the day before the effective date of the Frank R. Lautenberg Chemical Safety for the 21st Century Act, of any rule or order promulgated or issued under this Act prior to that effective date; and*

*“(B) with respect to a chemical substance or mixture for which any rule or order was promulgated or issued under section 6 prior to the effective date of the Frank R. Lautenberg Chemical Safety for the 21st Century Act with regards to manufacturing, processing, distribution in commerce, use, or disposal of a chemical substance, this section (as in effect on the day before the effective date of the Frank R. Lautenberg Chemical Safety for the 21st Century Act) shall govern the preemptive effect of any rule or order that is promulgated or issued respecting such chemical substance or mixture under section 6 of this Act after that effective date, unless the latter rule or order is with respect to a chemical substance or mixture containing a chemical substance and follows a designation of that chemical substance as a high-priority substance under subsection (b) or (c) of section 4A or as an additional priority for safety assessment and safety determination under section 4A(c).*

*“(e) PRESERVATION OF CERTAIN LAWS.—*

*“(1) IN GENERAL.—Nothing in this Act, subject to subsection (g) of this section, shall—*

*“(A) be construed to preempt or otherwise affect the authority of a State or political subdivision of a State to continue to enforce any action taken before August 1, 2015, under the authority of a law of the State or political subdivision of the State that prohibits or otherwise restricts manufacturing, processing, distribution in commerce, use, or disposal of a chemical substance; or*

*“(B) be construed to preempt or otherwise affect any action taken pursuant to a State law that was in effect on August 31, 2003.*

*“(2) EFFECT OF SUBSECTION.—This subsection does not affect, modify, or alter the relationship between Federal law and laws of a State or political subdivision of a State pursuant to any other Federal law.*

*“(f) WAIVERS.—*

*“(1) DISCRETIONARY EXEMPTIONS.—Upon application of a State or political subdivision of a State, the Administrator may by rule, exempt from subsection (a), under*

*such conditions as may be prescribed in the rule, a statute or administrative action of that State or political subdivision of the State that relates to the effects of, or exposure to, a chemical substance under the conditions of use if the Administrator determines that—*

*“(A) compelling conditions warrant granting the waiver to protect health or the environment;*

*“(B) compliance with the proposed requirement of the State or political subdivision of the State would not unduly burden interstate commerce in the manufacture, processing, distribution in commerce, or use of a chemical substance;*

*“(C) compliance with the proposed requirement of the State or political subdivision of the State would not cause a violation of any applicable Federal law, rule, or order; and*

*“(D) in the judgment of the Administrator, the proposed requirement of the State or political subdivision of the State is designed to address a risk of a chemical substance, under the conditions of use, that was identified—*

*“(i) consistent with the best available science;*

*“(ii) using supporting studies conducted in accordance with sound and objective scientific practices; and*

*“(iii) based on the weight of the scientific evidence.*

*“(2) REQUIRED EXEMPTIONS.—Upon application of a State or political subdivision of a State, the Administrator shall exempt from subsection (b) a statute or administrative action of a State or political subdivision of a State that relates to the effects of exposure to a chemical substance under the conditions of use if the Administrator determines that—*

*“(A) compliance with the proposed requirement of the State or political subdivision of the State would not unduly burden interstate commerce in the manufacture, processing, distribution in commerce, or use of a chemical substance;*

*“(B) compliance with the proposed requirement of the State or political subdivision of the State would not cause a violation of any applicable Federal law, rule, or order; and*

*“(C) the State or political subdivision of the State has a concern about the chemical substance or use of the chemical substance based in peer-reviewed science.*

*“(3) DETERMINATION OF A WAIVER REQUEST.—The duty of the Administrator to grant or deny a waiver application shall be nondelegable and shall be exercised—*

*“(A) not later than 180 days after the date on which an application under paragraph (1) is submitted; and*

*“(B) not later than 110 days after the date on which an application under paragraph (2) is submitted.*

*“(4) FAILURE TO MAKE DETERMINATION.—If the Administrator fails to make a determination under paragraph (3)(B) during the 110-day period beginning on the date on which an application under paragraph (2) is submitted, the statute or administrative action of the State or political subdivision of the State that was the subject of the application shall not be considered to be an existing statute or administrative action for purposes of subsection (b) by reason of the failure of the Administrator to make a determination.*

*“(5) NOTICE AND COMMENT.—Except in the case of an application approved under paragraph (9), the application of a State or political subdivision of a State shall be subject to public notice and comment.*

*“(6) FINAL AGENCY ACTION.—The decision of the Administrator on the application of a State or political subdivision of a State shall be—*

*“(A) considered to be a final agency action; and*

*“(B) subject to judicial review.*

*“(7) DURATION OF WAIVERS.—A waiver granted under paragraph (2) or approved under paragraph (9) shall remain in effect until such time as the Administrator publishes the safety determination under section 6(a)(4).*

*“(8) JUDICIAL REVIEW OF WAIVERS.—Not later than 60 days after the date on which the Administrator makes a determination on an application of a State or political subdivision of a State under paragraph (1) or (2), any person may file a petition for judicial review in the United States Court of Appeals for the District of Columbia Circuit, which shall have exclusive jurisdiction over the determination.*

*“(9) APPROVAL.—*

*“(A) AUTOMATIC APPROVAL.—If the Administrator fails to meet the deadline established under paragraph (3)(B), the application of a State or political subdivision of a State under paragraph (2) shall be automatically approved, effective on the date that is 10 days after the deadline.*

*“(B) REQUIREMENTS.—Notwithstanding paragraph (6), approval of a waiver application under subparagraph (A) for failure to meet the deadline under paragraph (3)(B) shall not be considered final agency action or be subject to judicial review or public notice and comment.*

“(g) SAVINGS.—

“(1) NO PREEMPTION OF COMMON LAW OR STATUTORY CAUSES OF ACTION FOR CIVIL RELIEF OR CRIMINAL CONDUCT.—

“(A) IN GENERAL.—Nothing in this Act, nor any amendment made by this Act, nor any safety standard, rule, requirement, standard of performance, safety determination, or scientific assessment implemented pursuant to this Act, shall be construed to preempt, displace, or supplant any state or Federal common law rights or any state or Federal statute creating a remedy for civil relief, including those for civil damage, or a penalty for a criminal conduct.

“(B) CLARIFICATION OF NO PREEMPTION.—Notwithstanding any other provision of this Act, nothing in this Act, nor any amendments made by this Act, shall preempt or preclude any cause of action for personal injury, wrongful death, property damage, or other injury based on negligence, strict liability, products liability, failure to warn, or any other legal theory of liability under any State law, maritime law, or Federal common law or statutory theory.

“(2) NO EFFECT ON PRIVATE REMEDIES.—

“(A) IN GENERAL.—Nothing in this Act, nor any amendments made by this Act, nor any rules, regulations, requirements, safety assessments, safety determinations, scientific assessments, or orders issued pursuant to this Act shall be interpreted as, in either the plaintiff’s or defendant’s favor, dispositive in any civil action.

“(B) AUTHORITY OF COURTS.—This Act does not affect the authority of any court to make a determination in an adjudicatory proceeding under applicable State or Federal law with respect to the admission into evidence or any other use of this Act or rules, regulations, requirements, standards of performance, safety assessments, scientific assessments, or orders issued