

107TH CONGRESS
2D SESSION

S. 2507

To amend the Toxic Substances Control Act and the Federal Insecticide, Fungicide, and Rodenticide Act to implement the Stockholm Convention on Persistent Organic Pollutants, the Protocol on Persistent Organic Pollutants to the Convention on Long-Range Transboundary Air Pollution, and the Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade.

IN THE SENATE OF THE UNITED STATES

MAY 13 (legislative day, MAY 9), 2002

Mr. SMITH of New Hampshire (by request) introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

A BILL

To amend the Toxic Substances Control Act and the Federal Insecticide, Fungicide, and Rodenticide Act to implement the Stockholm Convention on Persistent Organic Pollutants, the Protocol on Persistent Organic Pollutants to the Convention on Long-Range Transboundary Air Pollution, and the Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

2 (a) SHORT TITLE.—This Act may be cited as the
3 “POPs and PIC Implementation Act of 2002”.

4 (b) TABLE OF CONTENTS.—The table of contents of
5 this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—USE OR PRODUCTION OF POPS CHEMICAL SUBSTANCES
OR MIXTURES

Sec. 101. Definitions.

Sec. 102. Regulation of hazardous chemical substances and mixtures.

Sec. 103. Reporting and retention of information.

Sec. 104. International conventions and cooperation in international efforts.

Sec. 105. Exports.

Sec. 106. Prohibited acts.

TITLE II—USE OR PRODUCTION OF POPS PESTICIDES

Sec. 201. Definitions.

Sec. 202. Registration of pesticides.

Sec. 203. Unlawful acts.

Sec. 204. Imports, exports, and international conventions.

Sec. 205. Conforming amendments.

6 **TITLE I—USE OR PRODUCTION**
7 **OF POPS CHEMICAL SUB-**
8 **STANCES OR MIXTURES**

9 **SEC. 101. DEFINITIONS.**

10 Section 3 of the Toxic Substances Control Act (15
11 U.S.C. 2602) is amended—

12 (1) by redesignating paragraphs (4), (5), (6),
13 (7), (8), (9), (10), (11), (12), (13), and (14) as
14 paragraphs (6), (7), (9), (13), (14), (15), (21), (22),
15 (23), (24), and (25), respectively;

16 (2) by inserting after paragraph (3) the fol-
17 lowing:

1 “(4) CONFERENCE.—The term ‘Conference’
2 means the Conference of the Parties established by
3 paragraph 1 of Article 19 of the POPs Convention.

4 “(5) DESIGNATED NATIONAL AUTHORITY.—The
5 term ‘designated national authority’ means the 1 or
6 more authorities that a government has designated
7 in a notification to the Secretariat of the PIC Con-
8 vention in accordance with the PIC Convention.”;

9 (3) by inserting after paragraph (7) (as redesign-
10 nated by paragraph (1)) the following:

11 “(8) EXECUTIVE BODY.—The term ‘Executive
12 Body’ means the Executive Body established by Ar-
13 ticle 10 of the LRTAP Convention.”;

14 (4) by inserting after paragraph (9) (as redesign-
15 nated by paragraph (1)) the following:

16 “(10) LRTAP CONVENTION.—The term
17 ‘LRTAP Convention’ means the Convention on
18 Long-Range Transboundary Air Pollution, done at
19 Geneva on November 13, 1979 (TIAS 10541), to
20 which the United States is a party.

21 “(11) LRTAP POPS CHEMICAL SUBSTANCE OR
22 MIXTURE.—The term ‘LRTAP POPs chemical sub-
23 stance or mixture’ means any chemical substance or
24 mixture—

1 “(A) that is listed in Annex I or II to the
2 LRTAP POPs Protocol; and

3 “(B) with respect to which the listing has
4 entered into force with respect to the United
5 States under paragraph 3 of Article 14 of the
6 LRTAP POPs Protocol.

7 “(12) LRTAP POPS PROTOCOL.—The term
8 ‘LRTAP POPs Protocol’ means the Protocol on Per-
9 sistent Organic Pollutants to the LRTAP Conven-
10 tion, done at Aarhus on June 24, 1998, to which the
11 United States is a party.”; and

12 (5) by inserting after paragraph (15) (as redes-
13 igned by paragraph (1)) the following:

14 “(16) PCB.—The term ‘PCB’ means a poly-
15 chlorinated biphenyl.

16 “(17) PIC CONVENTION.—The term ‘PIC Con-
17 vention’ means the Rotterdam Convention on the
18 Prior Informed Consent Procedure for Certain Haz-
19 ardous Chemicals and Pesticides in International
20 Trade, done at Rotterdam on September 10, 1998,
21 to which the United States is a party.

22 “(18) POPS CHEMICAL SUBSTANCE OR MIX-
23 TURE.—The term ‘POPs chemical substance or mix-
24 ture’ means any chemical substance or mixture—

1 “(A) that is listed in Annex A or B to the
2 POPs Convention; and

3 “(B) with respect to which any applicable
4 provision of the POPs Convention has entered
5 into force with respect to the United States
6 under paragraph 4 of Article 22 of the POPs
7 Convention.

8 “(19) POPS CONVENTION.—The term ‘POPs
9 Convention’ means the Stockholm Convention on
10 Persistent Organic Pollutants, done at Stockholm on
11 May 22, 2001, to which the United States is a
12 party.

13 “(20) POPS REVIEW COMMITTEE.—The term
14 ‘POPs Review Committee’ means the Persistent Or-
15 ganic Pollutants Review Committee established
16 under paragraph 6 of Article 19 of the POPs Con-
17 vention.”.

18 **SEC. 102. REGULATION OF HAZARDOUS CHEMICAL SUB-**
19 **STANCES AND MIXTURES.**

20 Section 6 of the Toxic Substances Control Act (15
21 U.S.C. 2605) is amended by adding at the end the fol-
22 lowing:

23 “(f) POPS CONVENTION.—

24 “(1) PROHIBITION ON SPECIFIED POPS CHEM-
25 ICAL SUBSTANCES AND MIXTURES.—Subject to

paragraph (2), subsection (i), and the POPs Convention, notwithstanding any other provision of law, a person shall not manufacture, process, distribute in commerce, use, or dispose of any of the following POPs chemical substances or mixtures:

“(A) Aldrin.

“(B) Chlordane.

“(C) Dichlorodiphenyltrichloroethane
(DDT).

“(D) Dieldrin.

“(E) Endrin.

“(F) Heptachlor.

“(G) Hexachlorobenzene.

“(H) Mirex.

“(I) PCBs.

“(J) Toxaphene.

“(2) EXEMPTIONS.—

“(A) UNINTENTIONAL TRACE CONTAMINANTS.—To the extent consistent with the POPs Convention, the prohibitions specified in paragraph (1) shall not apply to any quantity of a POPs chemical substance or mixture that occurs as an unintentional trace contaminant in a product or article.

1 “(B) RESEARCH.—To the extent con-
2 sistent with the POPs Convention, the prohibi-
3 tions specified in paragraph (1) shall not apply
4 to any quantity of a POPs chemical substance
5 or mixture that is used for laboratory scale re-
6 search or as a reference standard.

7 “(C) CONSTITUENT OF ARTICLE IN USE
8 BEFORE PROHIBITION APPLIED.—To the extent
9 consistent with the POPs Convention, the pro-
10 hibitions specified in paragraph (1) shall not
11 apply to any quantity of a POPs chemical sub-
12 stance or mixture that occurs as a constituent
13 of an article (other than a PCB article, which
14 may continue to be used in accordance with
15 Annex A to the POPs Convention and para-
16 graph 6 of Article 3 of the POPs Convention),
17 if—

18 “(i) the article is manufactured or in
19 use on or before the date of entry into
20 force of the obligation applicable to the
21 POPs chemical substance or mixture; and

22 “(ii) the Administrator has met any
23 applicable requirement of the POPs Con-
24 vention to notify the Secretariat of the
25 POPs Convention concerning the article.

1 “(D) CLOSED-SYSTEM SITE-LIMITED IN-
2 INTERMEDIATE.—

3 “(i) EXEMPTION.—To the extent con-
4 sistent with the POPs Convention, the pro-
5 hibitions specified in paragraph (1) shall
6 not apply to any quantity of a POPs chem-
7 ical substance or mixture that is manufac-
8 tured and used as a closed-system site-lim-
9 ited intermediate, if, before the commence-
10 ment of the manufacture or use under the
11 POPs Convention, and each 10-year period
12 thereafter—

13 “(I) any person that desires to
14 invoke the exemption provides to the
15 Administrator information
16 concerning—

17 “(aa) the annual total quan-
18 tity of the POPs chemical sub-
19 stance or mixture anticipated to
20 be manufactured or used or a
21 reasonable estimate of the quan-
22 tity; and

23 “(bb) the nature of the
24 closed-system site-limited process,
25 including the quantity of any

1 nontransformed and unintentional
2 trace contamination by the
3 POPs chemical substance or mixture
4 that remains in the final
5 product; and

6 “(II) notwithstanding any other
7 provision of law, the Administrator—

8 “(aa) determines, with the
9 concurrence of the Secretary of
10 State, that the information provided
11 under subclause (I) is complete
12 and sufficient; and

13 “(bb) transmits the information
14 to the Secretariat of the
15 POPs Convention.

16 “(ii) TERMINATION OF EXEMPTION.—

17 If, at the termination of any 10-year exemption
18 period under clause (i), a particular
19 closed-system site-limited intermediate
20 exemption is no longer authorized
21 for the United States under the POPs
22 Convention, it shall be unlawful for any
23 person to continue to manufacture or use
24 any such POPs chemical substance or mixture.

1 ture as a closed-system site-limited inter-
2 mediate.

3 “(E) PCB MATERIALS.—To the extent
4 consistent with the POPs Convention, the pro-
5 hibitions specified in paragraph (1) shall not
6 apply to any PCB materials described in Part
7 II of Annex A to the POPs Convention if the
8 PCB materials are handled in accordance with
9 the POPs Convention, including Annex A to the
10 POPs Convention.

11 “(F) DISTRIBUTION IN COMMERCE FOR
12 EXPORT IF PRODUCTION OR USE SPECIFIC EX-
13 EMPTION OR ACCEPTABLE PURPOSE IS IN EF-
14 FECT.—

15 “(i) IN GENERAL.—To the extent con-
16 sistent with the POPs Convention, the pro-
17 hibitions specified in paragraph (1) shall
18 not apply to any distribution in commerce
19 for export of any POPs chemical substance
20 or mixture for which a production or use
21 specific exemption under Annex A to the
22 POPs Convention is in effect, or for which
23 a production or use specific exemption or
24 acceptable purpose under Annex B to the
25 POPs Convention is in effect, to the extent

1 that the POPs chemical substance or mix-
2 ture complies with an export condition de-
3 scribed in clause (ii), (iii), or (iv). Any de-
4 termination by the Administrator that an
5 export condition described in clause (ii),
6 (iii), or (iv) is not met shall be made in co-
7 operation with the heads of other inter-
8 ested Federal agencies.

9 “(ii) EXPORT FOR ENVIRONMENTALLY
10 SOUND DISPOSAL.—An export condition re-
11 ferred to in clause (i) is that the POPs
12 chemical substance or mixture is exported
13 for the purpose of environmentally sound
14 disposal in accordance with paragraph 1(d)
15 of Article 6 of the POPs Convention.

16 “(iii) EXPORT TO PARTY WITH PER-
17 MISSION TO USE.—An export condition re-
18 ferred to in clause (i) is that the POPs
19 chemical substance or mixture is exported
20 to a party to the POPs Convention that is
21 permitted to use the POPs chemical sub-
22 stance or mixture under Annex A or B to
23 the POPs Convention.

1 “(iv) EXPORT TO NONPARTY THAT
2 HAS PROVIDED A NONPARTY CERTIFI-
3 CATION.—

4 “(I) IN GENERAL.—An export
5 condition referred to in clause (i) is
6 that the POPs chemical substance or
7 mixture is exported, to an importing
8 foreign state that is not a party to the
9 POPs Convention with respect to the
10 POPs chemical substance or mixture,
11 that has provided an annual certifi-
12 cation.

13 “(II) COMMITMENTS BY IMPORT-
14 ING NONPARTY.—Consistent with
15 paragraph 2(b)(iii) of Article 3 of the
16 POPs Convention, an annual
17 nonparty certification under subclause
18 (I) shall specify the intended use of
19 the POPs chemical substance or mix-
20 ture and state that, with respect to
21 the POPs chemical substance or mix-
22 ture, the importing nonparty is com-
23 mitted to—

24 “(aa) protecting human
25 health and the environment by

1 taking necessary measures to
2 minimize or prevent releases;

3 “(bb) complying with para-
4 graph 1 of Article 6 of the POPs
5 Convention; and

6 “(cc) complying, to the ex-
7 tent appropriate, with paragraph
8 2 of Part II of Annex B to the
9 POPs Convention.

10 “(III) SUBMISSION TO SECRE-
11 TARIAT OF POPS CONVENTION.—Not
12 later than 60 days after the date of
13 receipt of a nonparty certification, the
14 Administrator shall submit a copy of
15 the nonparty certification to the Sec-
16 retariat of the POPs Convention.

17 “(G) EXPORT FOR ENVIRONMENTALLY
18 SOUND DISPOSAL IF NO PRODUCTION OR USE
19 SPECIFIC EXEMPTION IN EFFECT.—To the ex-
20 tent consistent with the POPs Convention, the
21 prohibitions specified in paragraph (1) shall not
22 apply to any distribution in commerce for ex-
23 port for the purpose of environmentally sound
24 disposal, in accordance with paragraph 1(d) of
25 Article 6 of the POPs Convention, of a POPs

1 chemical substance or mixture listed in Annex
2 A to the POPs Convention for which no produc-
3 tion or use specific exemption is in effect for
4 any party to the POPs Convention.

5 “(H) IMPORTS FOR ENVIRONMENTALLY
6 SOUND DISPOSAL.—To the extent consistent
7 with the POPs Convention, the prohibitions
8 specified in paragraph (1) shall not apply to
9 any distribution in commerce of a POPs chem-
10 ical substance or mixture that is imported for
11 the purpose of environmentally sound disposal
12 in accordance with paragraph 1(d) of Article 6
13 of the POPs Convention.

14 “(I) WASTE.—To the extent consistent
15 with the POPs Convention, the prohibitions
16 specified in paragraph (1) shall not apply to
17 any quantity of a POPs chemical substance or
18 mixture, including any article that consists of,
19 contains, or is contaminated with a POPs
20 chemical substance or mixture, that has become
21 waste and that is managed in a manner con-
22 sistent with Article 6 of the POPs Convention.

23 “(J) NO EFFECT ON OTHER PROHIBI-
24 TIONS.—Nothing in this paragraph authorizes
25 any manufacture, processing, distribution in

1 commerce, use, or disposal of a POPs chemical
2 substance or mixture that is prohibited under
3 any other provision of law.

4 “(3) CERTIFICATION STATEMENT ACCOM-
5 PANYING POPS CHEMICAL SUBSTANCES OR MIX-
6 TURES.—

7 “(A) IN GENERAL.—Each POPs chemical
8 substance or mixture that is distributed in com-
9 merce under subparagraph (B), (E), (F), (G),
10 (H) or (I) of paragraph (2) shall be accom-
11 panied by a certification statement.

12 “(B) PERSON REQUIRED TO PREPARE.—A
13 certification statement required by subpara-
14 graph (A) shall be prepared—

15 “(i) by the manufacturer or processor
16 of the POPs chemical substance or mix-
17 ture; or

18 “(ii) if there is no certification state-
19 ment accompanying the POPs chemical
20 substance or mixture, by any person that
21 distributes the POPs chemical substance
22 or mixture in commerce.

23 “(C) REQUIRED ELEMENTS.—The certifi-
24 cation statement shall contain—

1 “(i) a specification of the quantity
2 and identity of the POPs chemical sub-
3 stance or mixture;

4 “(ii) the basis for application of sub-
5 paragraph (B), (E), (F), (G), (H) or (I) of
6 paragraph (2); and

7 “(iii) such other information as the
8 Administrator, after public notice and op-
9 portunity for comment, determines to be
10 necessary for effective enforcement of this
11 subsection.

12 “(D) DUTIES OF DISTRIBUTORS.—Any
13 person that distributes in commerce the POPs
14 chemical substance or mixture shall ensure
15 that—

16 “(i) the certification statement accom-
17 panies the POPs chemical substance or
18 mixture when the POPs chemical sub-
19 stance or mixture is distributed in com-
20 merce; and

21 “(ii) the distribution in commerce is
22 consistent with the certification statement.

23 “(E) MAINTENANCE OF CERTIFICATION
24 STATEMENT.—A person that prepares a certifi-
25 cation statement shall maintain a copy of the

1 certification statement for a period of not less
2 than 3 years beginning on the date on which
3 the certification statement is prepared.

4 “(F) REGULATIONS.—The Administrator
5 may promulgate such regulations as are
6 necessary—

7 “(i) to facilitate implementation of
8 this paragraph;

9 “(ii) to ensure compliance with the
10 POPs Convention; and

11 “(iii) to harmonize the requirements
12 of this paragraph with certification re-
13 quirements under other provisions of this
14 Act so as to avoid any requirement that
15 multiple certification statements accom-
16 pany any single POPs chemical substance
17 or mixture.

18 “(g) LRTAP POPs PROTOCOL.—

19 “(1) PROHIBITION ON SPECIFIED LRTAP POPs
20 CHEMICAL SUBSTANCES OR MIXTURES.—Subject to
21 paragraph (2), subsection (i), and the LRTAP POPs
22 Protocol, notwithstanding any other provision of law,
23 a person shall not manufacture, process, distribute
24 in commerce, or use any of the following LRTAP
25 POPs chemical substances or mixtures:

- 1 “(A) Aldrin.
2 “(B) Chlordane.
3 “(C) Chlordecone.
4 “(D) Dichlorodiphenyltrichloroethane
5 (DDT).
6 “(E) Dieldrin.
7 “(F) Endrin.
8 “(G) Heptachlor.
9 “(H) Hexabromobiphenyl.
10 “(I) Hexachlorobenzene.
11 “(J) Hexachlorocyclohexane (HCH).
12 “(K) Mirex.
13 “(L) PCBs.
14 “(M) Toxaphene.

15 “(2) EXEMPTIONS.—

16 “(A) IN GENERAL.—To the extent con-
17 sistent with the LRTAP POPs Protocol, the
18 prohibitions on manufacture, processing, dis-
19 tribution in commerce, or use specified in para-
20 graph (1) shall not apply to—

21 “(i) any quantity of a LRTAP POPs
22 chemical substance or mixture that is used
23 for laboratory scale research or as a ref-
24 erence standard;

1 “(ii) any quantity of a LRTAP POPs
2 chemical substance or mixture that occurs
3 as a contaminant in a product;

4 “(iii) any quantity of a LRTAP POPs
5 chemical substance or mixture that is in an
6 article manufactured or in use on or before
7 the date of entry into force of the obliga-
8 tion of the LRTAP POPs Protocol applica-
9 ble to the POPs chemical substance or
10 mixture;

11 “(iv) any quantity of a LRTAP POPs
12 chemical substance or mixture that occurs
13 as a site-limited chemical intermediate in
14 the manufacture of 1 or more different
15 substances and that is subsequently chemi-
16 cally transformed;

17 “(v) the production or use of any
18 quantity of hexachlorocyclohexane (HCH)
19 that complies with the restrictions and con-
20 ditions specified for HCH in Annex II to
21 the LRTAP POPs Protocol;

22 “(vi) any quantity of a LRTAP POPs
23 chemical substance or mixture that has be-
24 come waste and that is disposed of in an
25 environmentally sound manner in accord-

ance with paragraph 1(b) of the LRTAP
POPs Protocol; or

“(vii) any PCB materials described in
Annex II to the LRTAP POPs Protocol if
the PCB materials are handled in accord-
ance with the LRTAP POPs Protocol, in-
cluding Annex II to the LRTAP POPs
Protocol.

“(B) EXEMPTIONS AUTHORIZED BY LRTAP
POPS PROTOCOL.—

“(i) IN GENERAL.—The Adminis-
trator, with the concurrence of the Sec-
retary of State, on the Administrator’s own
motion or on petition of any person, may
grant an exemption from a prohibition
specified in paragraph (1) that is con-
sistent with the exemptions authorized
under paragraph 2 of Article 4 of the
LRTAP POPs Protocol.

“(ii) REQUIRED ELEMENTS OF PETI-
TIONS.—Any petition under clause (i)
shall, at a minimum, contain—

“(I) information relating to each
finding, if any, that the Administrator
is required to make under the LRTAP

1 POPs Protocol before granting the ex-
2 emption; and

3 “(II) any additional information,
4 if any, that the Administrator is re-
5 quired to provide to the Secretariat of
6 the LRTAP POPs Protocol con-
7 cerning a granted exemption.

8 “(iii) GRANT OF EXEMPTION.—The
9 Administrator, with the concurrence of the
10 Secretary of State, shall, if the exemption
11 is authorized for the United States under,
12 and is otherwise consistent with, the
13 LRTAP POPs Protocol, grant an exemp-
14 tion under this subparagraph with such
15 conditions or limitations as are necessary
16 to meet any requirement of the LRTAP
17 POPs Protocol or any other provision of
18 law.

19 “(iv) PROVISION OF INFORMATION TO
20 SECRETARIAT.—Notwithstanding any other
21 provision of law, if the Administrator
22 grants an exemption under this subpara-
23 graph, the Administrator, not later than
24 90 days after the date on which the ex-
25 emption is granted, shall provide to the

1 Secretariat of the LRTAP POPs Protocol
2 the information specified in paragraph 3 of
3 Article 4 of the LRTAP POPs Protocol.

4 “(v) DISALLOWANCE OF EXEMPTION
5 BY LRTAP POPS PROTOCOL.—If, after an
6 exemption has been granted under this
7 subparagraph, the exemption is no longer
8 authorized for the United States under the
9 LRTAP POPs Protocol, it shall be unlaw-
10 ful for any person to manufacture, process,
11 distribute in commerce, or use a LRTAP
12 POPs chemical substance or mixture in the
13 manner authorized by the exemption.

14 “(vi) NO EFFECT ON OTHER PROHIBI-
15 TIONS.—Nothing in this subparagraph au-
16 thORIZES any manufacture, processing, dis-
17 tribution in commerce, or use of a LRTAP
18 POPs chemical substance or mixture that
19 is prohibited under any other provision of
20 law.

21 “(3) CERTIFICATION STATEMENT ACCOM-
22 PANYING LRTAP POPS CHEMICAL SUBSTANCES OR
23 MIXTURES.—

24 “(A) IN GENERAL.—Each LRTAP POPs
25 chemical substance or mixture that is distrib-

1 uted in commerce under subparagraph (A)(i),
2 (A)(vi), (A)(vii), or (B) of paragraph (2) shall
3 be accompanied by a certification statement.

4 “(B) PERSON REQUIRED TO PREPARE.—A
5 certification statement required by subpara-
6 graph (A) shall be prepared—

7 “(i) by the manufacturer or processor
8 of the LRTAP POPs chemical substance
9 or mixture; or

10 “(ii) if there is no certification state-
11 ment accompanying the LRTAP POPs
12 chemical substance or mixture, by any per-
13 son that distributes the LRTAP POPs
14 chemical substance or mixture in com-
15 merce.

16 “(C) REQUIRED ELEMENTS.—The certifi-
17 cation statement shall contain—

18 “(i) a specification of the quantity
19 and identity of the LRTAP POPs chemical
20 substance or mixture;

21 “(ii) the basis for application of sub-
22 paragraph (A)(i), (A)(vi), (A)(vii), or (B)
23 of paragraph (2); and

24 “(iii) such other information as the
25 Administrator, after public notice and op-

portunity for comment, determines to be necessary for effective enforcement of this subsection.

“(D) DUTIES OF DISTRIBUTORS.—Any person that distributes in commerce the LRTAP POPs chemical substance or mixture shall ensure that—

“(i) the certification statement accompanies the LRTAP POPs chemical substance or mixture when the LRTAP POPs chemical substance or mixture is distributed in commerce; and

“(ii) the distribution in commerce is consistent with the certification statement.

“(E) MAINTENANCE OF CERTIFICATION STATEMENT.—A person that prepares a certification statement shall maintain a copy of the certification statement for a period of not less than 3 years beginning on the date on which the certification statement is prepared.

“(F) REGULATIONS.—The Administrator may promulgate such regulations as are necessary—

“(i) to facilitate implementation of this paragraph;

1 “(ii) to ensure compliance with the
2 LRTAP POPs Protocol; and

3 “(iii) to harmonize the requirements
4 of this paragraph with certification re-
5 quirements under other provisions of this
6 Act so as to avoid any requirement that
7 multiple certification statements accom-
8 pany any single LRTAP POPs chemical
9 substance or mixture.

10 “(h) NOTICE AND RECORD OF PROHIBITIONS, EX-
11 EMPTIONS, DISALLOWANCES, AND OTHER INFORMA-
12 TION.—

13 “(1) IN GENERAL.—The Administrator, in co-
14 operation with the Secretary of State—

15 “(A) shall publish in the Federal Register
16 timely notice concerning—

17 “(i)(I) the POPs chemical substances
18 and mixtures subject to the prohibitions
19 specified in subsection (f);

20 “(II) any exemptions from the prohi-
21 bitions authorized under subsection (f), in-
22 cluding any disallowances of exemptions;
23 and

24 “(III) a list of importing foreign
25 states from which the Administrator has

received a nonparty certification under
subsection (f)(2)(F)(iv); and

“(ii)(I) the LRTAP POPs chemical
substances and mixtures subject to the
prohibitions specified in subsection (g);
and

“(II) any exemptions from the prohi-
bitions authorized under subsection (g), in-
cluding any disallowances of exemptions
under subsection (g)(2)(B)(v); and

“(B) may include in the notice any other
information that the Administrator determines
to be necessary to ensure adequate notice of the
requirements of—

“(i) this section;

“(ii) the POPs Convention; or

“(iii) the LRTAP POPs Protocol.

“(2) INTEGRATION WITH FIFRA INFORMA-
TION.—The Administrator shall—

“(A) maintain a record that integrates the
information in the notice published under para-
graph (1) with any information published under
section 17(g) of the Federal Insecticide, Fun-
gicide, and Rodenticide Act (7 U.S.C. 136o(g));

“(B) update the record as necessary; and

1 “(C) make the record publicly available.

2 “(i) HARMONIZATION OF POPs CONVENTION AND
3 LRTAP POPs CONVENTION.—

4 “(1) IN GENERAL.—If a chemical substance or
5 mixture is both a POPs chemical substance or mix-
6 ture and a LRTAP POPs chemical substance or
7 mixture, both subsection (f) and subsection (g) shall
8 apply to the chemical substance or mixture.

9 “(2) CONFLICT.—In the case of a conflict be-
10 tween subsection (f) and subsection (g) with respect
11 to a chemical substance or mixture, the more strin-
12 gent provision shall govern.

13 “(3) APPLICATION.—With respect to a chemical
14 substance or mixture, subsections (f) and (g) shall
15 be applied in such a manner as to ensure that the
16 United States is in compliance with both the POPs
17 Convention and the LRTAP POPs Protocol with re-
18 spect to the chemical substance or mixture.”.

19 **SEC. 103. REPORTING AND RETENTION OF INFORMATION.**

20 Section 8 of the Toxic Substances Control Act (15
21 U.S.C. 2607) is amended—

22 (1) by redesignating subsection (f) as sub-
23 section (h); and

24 (2) by inserting after subsection (e) the fol-
25 lowing:

1 “(f) INFORMATION COLLECTION UNDER THE POPs
2 CONVENTION.—

3 “(1) PROPOSAL FOR LISTING MEETS POPs CON-
4 VENTION SCREENING CRITERIA.—

5 “(A) PUBLICATION OF NOTICE IN FED-
6 ERAL REGISTER.—As soon as practicable after
7 the date of a determination by the POPs Re-
8 view Committee that a proposal for listing a
9 chemical substance or mixture in Annex A, B,
10 or C to the POPs Convention meets the screen-
11 ing criteria specified in Annex D to the POPs
12 Convention, the Administrator may publish in
13 the Federal Register a notice that—

14 “(i) identifies the chemical substance
15 or mixture; and

16 “(ii) summarizes the determination of
17 the POPs Review Committee.

18 “(B) PROVISION OF INFORMATION BY
19 MANUFACTURERS, PROCESSORS, AND DISTRIBUTU-
20 TORS.—Not later than 60 days after the date of
21 publication of the notice under subparagraph
22 (A), any person that manufactures, processes,
23 or distributes in commerce a chemical substance
24 or mixture that is the subject of the notice
25 shall, and any other interested person may, pro-

vide to the Administrator all of the following existing information that is known or reasonably ascertainable to the person:

“(i) The annual quantity of the chemical substance or mixture manufactured and the locations of the manufacture.

“(ii) The uses of the chemical substance or mixture.

“(iii) The annual quantity of the chemical substance or mixture that enters each environmental medium.

“(iv) Other information relating to the chemical substance or mixture that is consistent with the information specified in paragraph 1 of Annex D, and subsections (b) through (e) of Annex E, to the POPs Convention.

“(C) UPDATING OF INFORMATION.—Information required to be provided under subparagraph (B) shall be updated on an annual basis until such time as—

“(i) the Conference determines not to list the chemical substance or mixture in any Annex to the POPs Convention; or

1 “(ii) the Administrator, with the con-
2 currence of the Secretary of State, deter-
3 mines that such updates are no longer nec-
4 essary.

5 “(D) PROVISION OF INFORMATION BY IN-
6 TERESTED PERSONS.—Not later than 60 days
7 after the date of publication of the notice under
8 subparagraph (A), any interested person may
9 provide to the Administrator any arguments or
10 information associated with the risks or benefits
11 of use of the chemical substance or mixture
12 that is the subject of the notice that, in the
13 opinion of the interested person, supports a de-
14 termination that—

15 “(i) the determination by the POPs
16 Review Committee with respect to the
17 chemical substance or mixture is correct or
18 incorrect; or

19 “(ii) some or all manufacturing, proc-
20 essing, distribution in commerce, use, or
21 disposal of the chemical substance or mix-
22 ture in the United States does or does not
23 present an unreasonable risk of injury to
24 health or the environment.

1 “(E) REPORT BY ADMINISTRATOR TO SEC-
2 RETARY OF STATE.—Based on information re-
3 ceived under this paragraph and any other rel-
4 evant information available to the Adminis-
5 trator, the Administrator, not later than 180
6 days after the date of publication of the notice
7 under subparagraph (A), shall submit to the
8 Secretary of State a report that contains, at a
9 minimum—

10 “(i) information on the production
11 and uses in the United States of the chem-
12 ical substance or mixture; and

13 “(ii) an assessment of the benefits
14 and risks associated with the production
15 and uses in the United States of the chem-
16 ical substance or mixture.

17 “(2) DECISION TO PROCEED WITH LISTING
18 PROCESS.—

19 “(A) PUBLICATION OF NOTICE IN FED-
20 ERAL REGISTER.—If the POPs Review Com-
21 mittee decides under paragraph 7 of Article 8
22 of the POPs Convention that a proposal for
23 listing a chemical substance or mixture shall
24 proceed, the Administrator may publish in the
25 Federal Register a notice that—

1 “(i) identifies the chemical substance
2 or mixture; and

3 “(ii) summarizes the decision of the
4 POPs Review Committee.

5 “(B) PROVISION OF INFORMATION BY
6 MANUFACTURERS, PROCESSORS, AND DISTRIBUTORS.—Not later than 60 days after the date of
7 publication of the notice under subparagraph
8 (A), any person that manufactures, processes,
9 or distributes in commerce a chemical substance
10 or mixture that is the subject of the notice
11 shall, and any other interested person may, provide to the Administrator—

12 “(i) consistent with the information
13 needs described in Annex F to the POPs
14 Convention, any information that the person believes is relevant to—

15 “(I) a risk management evaluation
16 carried out under paragraph 7 of
17 Article 8 of the POPs Convention;

18 “(II) a decision by the Conference under paragraph 9 of Article
19 8 of the POPs Convention; or

20 “(III) a determination whether
21 some or all of the manufacturing,
22
23
24
25

1 processing, distribution in commerce,
2 use, or disposal of the chemical sub-
3 stance or mixture in the United
4 States does or does not present an un-
5 reasonable risk of injury to health or
6 the environment; and

7 “(ii) information on any article in use
8 that consists of, contains, or is contami-
9 nated with the chemical substance or mix-
10 ture.

11 “(3) APPLICABILITY OF INFORMATION RE-
12 QUIREMENTS.—The information requirements of
13 this subsection shall not apply to a person subject to
14 the requirements to the extent that the person has
15 actual knowledge that the Administrator has been
16 adequately informed of any of the information re-
17 quired to be provided under this subsection.

18 “(4) EFFECT OF FAILURE TO PROVIDE RE-
19 QUIRED INFORMATION.—A person that fails to pro-
20 vide a particular argument or piece of information
21 by a deadline established under this subsection may
22 not provide the information to be part of the record
23 of any subsequent rulemaking under section 6(a) to
24 regulate the chemical substance or mixture unless
25 the person demonstrates that the information could

1 not reasonably have been made available to the Ad-
2 ministrator by the deadlines established under this
3 subsection.

4 “(g) INFORMATION COLLECTION UNDER THE
5 LRTAP POPs PROTOCOL.—

6 “(1) RISK PROFILE IN SUPPORT OF PROPOSED
7 AMENDMENT TO LIST.—

8 “(A) PUBLICATION OF NOTICE IN FED-
9 ERAL REGISTER.—As soon as practicable after
10 the date of submission to the Executive Body of
11 a risk profile in support of a proposed amend-
12 ment to list a chemical substance or mixture in
13 Annex I, II, or III to the LRTAP POPs Pro-
14 tocol, the Administrator may publish in the
15 Federal Register a notice that—

16 “(i) identifies the chemical substance
17 or mixture; and

18 “(ii) summarizes the risk profile for
19 the chemical substance or mixture.

20 “(B) PROVISION OF INFORMATION TO THE
21 ADMINISTRATOR.—Not later than 60 days after
22 the date of publication of the notice under sub-
23 paragraph (A), any person that manufactures,
24 processes, or distributes in commerce a chem-
25 ical substance or mixture that is the subject of

1 the notice shall, and any other interested person
2 may, provide to the Administrator all of the fol-
3 lowing existing information that is known or
4 reasonably ascertainable to the person:

5 “(i) The potential for long-range
6 transboundary atmospheric transport of
7 the chemical substance or mixture.

8 “(ii) The toxicity of the chemical sub-
9 stance or mixture.

10 “(iii) The persistence of the chemical
11 substance or mixture, including biotic deg-
12 radation processes and rates and degrada-
13 tion products.

14 “(iv) The bioaccumulation of the
15 chemical substance or mixture, including
16 bioavailability.

17 “(v) The annual quantity of the chem-
18 ical substance or mixture manufactured
19 and the locations of the manufacture.

20 “(vi) The uses of the chemical sub-
21 stance or mixture.

22 “(vii) The annual quantity of the
23 chemical substance or mixture that enters
24 each environmental medium.

1 “(viii) Environmental monitoring data
2 relating to the chemical substance or mix-
3 ture.

4 “(ix)(I) Information on alternatives to
5 the uses of the chemical substance or mix-
6 ture and the efficacy of each alternative.

7 “(II) Information on any known ad-
8 verse environmental or human health ef-
9 fects associated with each alternative.

10 “(x) Information on—

11 “(I) process changes, control
12 technologies, operating practices, and
13 other pollution prevention techniques
14 that can be used to reduce the emis-
15 sions of the chemical substance or
16 mixture; and

17 “(II) the applicability and effec-
18 tiveness of each technique described in
19 subclause (I).

20 “(xi) Information on the nonmonetary
21 costs and benefits and the quantifiable
22 costs and benefits associated with the use
23 of each alternative described in clause (ix)
24 or technique described in clause (x).

1 “(C) UPDATING OF INFORMATION.—Infor-
2 mation required to be provided under subpara-
3 graph (B) shall be updated on an annual basis
4 until such time as—

5 “(i) the parties to the LRTAP POPs
6 Protocol determine not to list the chemical
7 substance or mixture in any Annex to the
8 LRTAP POPs Protocol; or

9 “(ii) the Administrator, with the con-
10 currence of the Secretary of State, deter-
11 mines that such updates are no longer nec-
12 essary.

13 “(D) PROVISION OF INFORMATION BY IN-
14 TERESTED PERSONS.—Not later than 60 days
15 after the date of publication of the notice under
16 subparagraph (A), any interested person may
17 provide to the Administrator any arguments or
18 information associated with the risks or benefits
19 of use of the chemical substance or mixture
20 that is the subject of the notice that, in the
21 opinion of the interested person, supports a de-
22 termination that—

23 “(i) the risk profile for the chemical
24 substance or mixture is correct or incor-
25 rect; or

1 “(ii) some or all manufacturing, proc-
2 essing, distribution in commerce, use, or
3 disposal of the chemical substance or mix-
4 ture in the United States does or does not
5 present an unreasonable risk of injury to
6 health or the environment.

7 “(E) REPORT BY ADMINISTRATOR TO SEC-
8 RETARY OF STATE.—Based on information re-
9 ceived under this paragraph and any other rel-
10 evant information available to the Adminis-
11 trator, the Administrator, not later than 180
12 days after the date of publication of the notice
13 under subparagraph (A), shall submit to the
14 Secretary of State a report that contains, at a
15 minimum—

16 “(i) information on the production
17 and uses in the United States of the chem-
18 ical substance or mixture; and

19 “(ii) an assessment of the benefits
20 and risks associated with the production
21 and uses in the United States of the chem-
22 ical substance or mixture.

23 “(2) APPLICABILITY OF INFORMATION RE-
24 QUIREMENTS.—The information requirements of
25 this subsection shall not apply to a person subject to

1 the requirements to the extent that the person has
 2 actual knowledge that the Administrator has been
 3 adequately informed of any of the information re-
 4 quired to be provided under this subsection.

5 “(3) EFFECT OF FAILURE TO PROVIDE RE-
 6 QUIRED INFORMATION.—A person that fails to pro-
 7 vide a particular argument or piece of information
 8 by a deadline established under this subsection may
 9 not provide the information to be part of the record
 10 of any subsequent rulemaking under section 6(a) to
 11 regulate the chemical substance or mixture unless
 12 the person demonstrates that the information could
 13 not reasonably have been made available to the Ad-
 14 ministrator by the deadlines established under this
 15 subsection.”.

16 **SEC. 104. INTERNATIONAL CONVENTIONS AND COOPERA-**
 17 **TION IN INTERNATIONAL EFFORTS.**

18 (a) IN GENERAL.—Section 9 of the Toxic Substances
 19 Control Act (15 U.S.C. 2608) is amended—

20 (1) in the section heading, by inserting “;
 21 **INTERNATIONAL CONVENTIONS**” before the pe-
 22 riod at the end; and

23 (2) by adding at the end the following:

24 “(e) INTERNATIONAL CONVENTIONS AND COOPERA-
 25 TION IN INTERNATIONAL EFFORTS.—In cooperation with

1 the Secretary of State and the head of any other appro-
 2 priate Federal agency, the Administrator—

3 “(1) shall participate and cooperate in any
 4 international efforts to develop improved research
 5 and regulations on chemical substances and mix-
 6 tures; and

7 “(2) should pursue opportunities to participate
 8 in technical cooperation and capacity building activi-
 9 ties designed to support implementation of—

10 “(A) the LRTAP POPs Protocol;

11 “(B) the PIC Convention; and

12 “(C) the POPs Convention.”.

13 (b) CONFORMING AMENDMENT.—The table of con-
 14 tents in section 1 of the Toxic Substances Control Act (15
 15 U.S.C. prec. 2601) is amended by striking the item relat-
 16 ing to section 9 and inserting the following:

“Sec. 9. Relationship to other Federal laws; international conventions.”.

17 **SEC. 105. EXPORTS.**

18 Section 12 of the Toxic Substances Control Act (15
 19 U.S.C. 2611) is amended—

20 (1) in subsection (a)(1), by striking “subsection
 21 (b), this Act (other than section 8)” and inserting
 22 “subsections (b) through (g), this Act (other than
 23 sections 6(f), 6(g), and 8)”; and

24 (2) by adding at the end the following:

25 “(c) REQUIREMENTS FOR EXPORTS.—

1 “(1) COMPLIANCE AND CERTIFICATION.—In the
2 case of a chemical substance or mixture identified by
3 the Administrator in a notice issued under sub-
4 section (f)(3), any person that manufactures, proc-
5 esses, or distributes in commerce the chemical sub-
6 stance or mixture for export shall—

7 “(A) comply with any export conditions or
8 restrictions identified by the Administrator in
9 the notice; and

10 “(B) certify that the chemical substance or
11 mixture complies with the conditions or restric-
12 tions.

13 “(2) CERTIFICATION STATEMENT.—

14 “(A) IN GENERAL.—The certification
15 statement for a chemical substance or mixture
16 described in paragraph (1)(B) shall include—

17 “(i) an identification of the chemical
18 substance or mixture;

19 “(ii) an identification of the foreign
20 state to which the chemical substance or
21 mixture is intended for export;

22 “(iii) the export conditions or restric-
23 tions identified by the Administrator in the
24 notice issued under subsection (f)(3) with

1 respect to the chemical substance or mix-
2 ture;

3 “(iv) a description of the manner in
4 which those conditions or restrictions will
5 be complied with; and

6 “(v) any other information that the
7 Administrator determines to be necessary
8 for effective enforcement of the export con-
9 ditions or restrictions applicable to the
10 chemical substance or mixture.

11 “(B) SHIPPING.—The certification state-
12 ment for a chemical substance or mixture de-
13 scribed in subparagraph (A) shall be included
14 among the shipping documents for, and shall
15 accompany, the chemical substance or mixture.

16 “(C) MAINTENANCE OF CERTIFICATION
17 STATEMENT.—A person that is required to pre-
18 pare a certification statement under paragraph
19 (1)(B) shall maintain a copy of the certification
20 statement for a period of not less than 3 years
21 beginning on the date on which the certification
22 statement is prepared.

23 “(D) REGULATIONS.—The Administrator
24 may promulgate such regulations as the Admin-
25 istrator determines to be necessary—

1 “(i) to facilitate implementation of
2 this subsection;

3 “(ii) to ensure compliance with the
4 PIC Convention; and

5 “(iii) to harmonize the certification
6 requirement of this subsection with certifi-
7 cation requirements under other provisions
8 of this Act so as to avoid any requirement
9 that multiple certification statements ac-
10 company any single chemical substance or
11 mixture.

12 “(d) BANNED AND RESTRICTED CHEMICAL SUB-
13 STANCES AND MIXTURES.—

14 “(1) IN GENERAL.—

15 “(A) REQUIREMENT.—Except as provided
16 in paragraph (2), in the case of a chemical sub-
17 stance or mixture that the Administrator deter-
18 mines to be banned or severely restricted under
19 subsection (f)(1), the exporter of the chemical
20 substance or mixture shall provide to the Ad-
21 ministrator notice of the intent of the exporter
22 to export the chemical substance or mixture.

23 “(B) TIMING OF NOTICE.—

24 “(i) FIRST EXPORT.—In the case of a
25 first export from the territory of the

1 United States to each importing foreign
2 state that occurs after the Administrator
3 issues a notice under subsection (f)(1), the
4 notice shall be received not earlier than 30
5 days but not later than 15 days before the
6 date of export.

7 “(ii) SUBSEQUENT EXPORTS.—In the
8 case of subsequent exports to the foreign
9 state, the notice shall be received not ear-
10 lier than 30 days but not later than 15
11 days before the date of the first export in
12 each calendar year.

13 “(2) LATER NOTICES.—Notwithstanding para-
14 graph (1), the Administrator may permit notices of
15 intent to export to be received less than 15 days be-
16 fore the date of a first export described in paragraph
17 (1)(A), or less than 15 days before the date of a
18 first export in each calendar year described in para-
19 graph (1)(B), if the Administrator determines, based
20 on the Administrator’s experience with the notifica-
21 tion program under this subsection, that the notice
22 activities under this subsection may be administered
23 in accordance with the PIC Convention despite such
24 a shortened notice period.

1 “(3) INCLUSIONS.—A notice of intent to export
2 submitted to the Administrator under paragraph (1)
3 shall include—

4 “(A) the name and address of the exporter;

5 “(B) the name and address of the appro-
6 priate designated national authority of the
7 United States;

8 “(C) the name and address of the appro-
9 priate designated national authority of the im-
10 porting foreign state, if available;

11 “(D) the name and address of the im-
12 porter;

13 “(E) the name of the chemical substance
14 or mixture for which the notice is required;

15 “(F) the expected date of export;

16 “(G) the foreseen uses of the chemical sub-
17 stance or mixture, if known, in the importing
18 foreign state;

19 “(H) any information on precautionary
20 measures to reduce exposure to, and emission
21 of, the chemical substance or mixture;

22 “(I) the concentration of the chemical sub-
23 stance or mixture; and

24 “(J) any other information specified in
25 Annex V to the PIC Convention.

1 “(e) LABELING REQUIREMENTS.—

2 “(1) IN GENERAL.—In the case of any chemical
3 substance or mixture that is the subject of a notice
4 issued under paragraph (1) or (3) of subsection (f)
5 and that is manufactured, processed, or distributed
6 in commerce for export, the chemical substance or
7 mixture shall, in accordance with the PIC
8 Convention—

9 “(A) bear labeling information relating to
10 any significant risks or hazards to human
11 health or the environment; and

12 “(B) be accompanied by shipping docu-
13 ments that include any relevant safety data
14 sheets on the chemical substance or mixture.

15 “(2) CUSTOM CODES.—A chemical substance or
16 mixture that is the subject of a notice issued under
17 subsection (f)(3) and that is distributed or sold for
18 export shall be accompanied by shipping documents
19 that bear, at a minimum, any appropriate har-
20 monized system customs codes assigned by the
21 World Customs Organization.

22 “(f) NOTICE REQUIREMENTS AND EXEMPTION.—

23 “(1) DETERMINATION WHETHER PESTICIDE IS
24 BANNED OR SEVERELY RESTRICTED.—

1 “(A) IN GENERAL.—The Administrator,
2 with the concurrence of the Secretary of State,
3 shall determine whether a chemical substance
4 or mixture is banned or severely restricted with-
5 in the United States (as those terms are de-
6 fined by the PIC Convention).

7 “(B) NOTICE OF DETERMINATIONS.—Not-
8 withstanding any other provision of law, the
9 Administrator shall issue to the Secretariat of
10 the PIC Convention and the public a notice of
11 each determination under subparagraph (A)
12 that includes—

13 “(i) in the case of a notice to the Sec-
14 retariat of the PIC Convention, the infor-
15 mation specified in Annex I to the PIC
16 Convention; and

17 “(ii) in the case of a notice to the
18 public, at a minimum, a summary of that
19 information.

20 “(2) NOTICE TO FOREIGN COUNTRIES.—

21 “(A) IN GENERAL.—Notwithstanding any
22 other provision of law, on receipt of a notice of
23 intent to export under subsection (d), the Ad-
24 ministrator shall provide a copy of the notice to

the designated national authority of the importing foreign state.

“(B) NONIDENTIFIED DESIGNATED NATIONAL AUTHORITY.—In a case in which a designated national authority has not been identified, the Administrator shall provide the notice of intent to export to any other appropriate official of the importing foreign state, as identified by the Administrator.

“(3) NOTICE TO PUBLIC.—

“(A) IN GENERAL.—The Administrator, with the concurrence of the Secretary of State, shall issue a notice to inform the public of—

“(i) any chemical substance or mixture that is listed on Annex III to the PIC Convention; and

“(ii) any condition or restriction of an importing foreign state that is applicable to the import, in accordance with the PIC Convention, of the chemical substance or mixture.

“(B) TIMING.—A notice required under subparagraph (A) shall be issued not later than 90 days after, and any conditions or restrictions described in subparagraph (A)(ii) shall take ef-

fect not later than 180 days after, the date of receipt of a notice from the Secretariat of the PIC Convention who—

“(i) transmits import decisions of the parties to the PIC Convention; or

“(ii) provides notice of the failure of the parties to provide import decisions.

“(C) TREATMENT OF CONDITIONS AND RESTRICTIONS.—A condition or restriction identified by a notice required under subparagraph (A) shall be considered to be an export condition or restriction for the purpose of subsection (c).

“(4) NOTICE OF EXEMPTION.—The Administrator may issue a notice exempting any chemical substance or mixture from the requirements of subsections (c) through (e) and this subsection if the Administrator determines, with the concurrence of the Secretary of State, that the exemption would be consistent with the PIC Convention.

“(5) INTEGRATION WITH OTHER NOTICES.—To the maximum extent practicable, the Administrator shall integrate the information contained in any notice issued under this subsection into any notice published under—

1 “(A) section 6(h); or

2 “(B) section 17(g) of the Federal Insecti-
3 cide, Fungicide, and Rodenticide Act (7 U.S.C.
4 136o(g)).

5 “(g) HARMONIZATION OF POPS CONVENTION AND
6 PIC CONVENTION.—

7 “(1) IN GENERAL.—If the export of a chemical
8 substance or mixture is addressed or restricted
9 under both section 6(f) and this section, both section
10 6(f) and this section shall apply to the chemical sub-
11 stance or mixture.

12 “(2) CONFLICT.—In the case of a conflict be-
13 tween section 6(f) and this section with respect to a
14 chemical substance or mixture, the more stringent
15 provision shall govern.

16 “(3) APPLICATION.—With respect to a chemical
17 substance or mixture, section 6(f) and this section
18 shall be applied in such a manner as to ensure that
19 the United States is in compliance with both the
20 POPS Convention and the PIC Convention with re-
21 spect to the chemical substance or mixture.”.

22 **SEC. 106. PROHIBITED ACTS.**

23 Section 15(1) of the Toxic Substances Control Act
24 (15 U.S.C. 2614(1)) is amended by striking “or (D)” and
25 inserting “(D) any requirement of section 12 or 13 (in-

cluding regulations promulgated under either section), or
(E)’’.

TITLE II—USE OR PRODUCTION OF POPS PESTICIDES

SEC. 201. DEFINITIONS.

Section 2 of the Federal Insecticide, Fungicide, and
Rodenticide Act (7 U.S.C. 136) is amended by adding at
the end the following:

“(pp) CONFERENCE.—The term ‘Conference’ means
the Conference of the Parties established by paragraph 1
of Article 19 of the POPs Convention.

“(qq) DESIGNATED NATIONAL AUTHORITY.—The
term ‘designated national authority’ means the 1 or more
authorities that a government designates in a notification
to the Secretariat of the PIC Convention in accordance
with the PIC Convention.

“(rr) EXECUTIVE BODY.—The term ‘Executive
Body’ means the Executive Body established by Article 10
of the LRTAP Convention.

“(ss) LRTAP CONVENTION.—The term ‘LRTAP
Convention’ means the Convention on Long-Range
Transboundary Air Pollution, done at Geneva on Novem-
ber 13, 1979 (TIAS 10541), to which the United States
is a party.

1 “(tt) LRTAP POPs PESTICIDE.—The term ‘LRTAP
2 POPs pesticide’ means any pesticide or active
3 ingredient—

4 “(1) used in producing a pesticide that is listed
5 in Annex I or II to the LRTAP POPs Protocol; and

6 “(2) with respect to which the listing has en-
7 tered into force with respect to the United States
8 under paragraph 3 of Article 14 of the LRTAP
9 POPs Protocol.

10 “(uu) LRTAP POPs PROTOCOL.—The term
11 ‘LRTAP POPs Protocol’ means the Protocol on Persistent
12 Organic Pollutants to the LRTAP Convention, done at
13 Aarhus on June 24, 1998, to which the United States is
14 a party.

15 “(vv) PIC CONVENTION.—The term ‘PIC Conven-
16 tion’ means the Rotterdam Convention on the Prior In-
17 formed Consent Procedure for Certain Hazardous Chemi-
18 cals and Pesticides in International Trade, done at Rot-
19 terdam on September 10, 1998, to which the United
20 States is a party.

21 “(ww) POPs CONVENTION.—The term ‘POPs Con-
22 vention’ means the Stockholm Convention on Persistent
23 Organic Pollutants, done at Stockholm on May 22, 2001,
24 to which the United States is a party.

1 “(xx) POPs PESTICIDE.—The term ‘POPs pesticide’
 2 means any pesticide or active ingredient used in producing
 3 a pesticide—

4 “(1) that is listed in Annex A or B to the POPs
 5 Convention; and

6 “(2) with respect to which any applicable provi-
 7 sion of the POPs Convention has entered into force
 8 with respect to the United States under paragraph
 9 4 of Article 22 of the POPs Convention.

10 “(yy) POPs REVIEW COMMITTEE.—The term ‘POPs
 11 Review Committee’ means the Persistent Organic Pollut-
 12 ants Review Committee established under paragraph 6 of
 13 Article 19 of the POPs Convention.”.

14 **SEC. 202. REGISTRATION OF PESTICIDES.**

15 Section 3 of the Federal Insecticide, Fungicide, and
 16 Rodenticide Act (7 U.S.C. 136a) is amended by striking
 17 subsection (b) and inserting the following:

18 “(b) EXEMPTIONS.—

19 “(1) IN GENERAL.—Except as provided in para-
 20 graph (2), any pesticide that is not registered with
 21 the Administrator may be transferred if—

22 “(A) the transfer is from 1 registered es-
 23 tablishment to a second registered establish-
 24 ment operated by the same producer solely
 25 for—

1 “(i) packaging at the second establish-
2 ment; or

3 “(ii) use as a constituent part of an-
4 other pesticide at the second establish-
5 ment; or

6 “(B) the transfer is in accordance with the
7 requirements of an experimental use permit.

8 “(2) POPs PESTICIDES.—Paragraph (1) shall
9 not apply to a POPs pesticide or LRTAP POPs pes-
10 ticide unless the POPs pesticide or LRTAP POPs
11 pesticide is permitted to be transferred under any
12 applicable exemption under subsection (e)(2) or
13 (f)(2) of section 17.”.

14 **SEC. 203. UNLAWFUL ACTS.**

15 Section 12(a)(2) of the Federal Insecticide, Fun-
16 gicide, and Rodenticide Act (7 U.S.C. 136j(a)(2)) is
17 amended—

18 (1) in subparagraph (R), by striking “or” at
19 the end;

20 (2) in subparagraph (S), by striking the period
21 at the end and inserting “; or”; and

22 (3) by adding at the end the following:

23 “(T) to violate section 17 (including any
24 regulations promulgated under that section).”.

1 **SEC. 204. IMPORTS, EXPORTS, AND INTERNATIONAL CON-**
 2 **VENTIONS.**

3 (a) PESTICIDES AND DEVICES INTENDED FOR EX-
 4 PORT.—Section 17(a) of the Federal Insecticide, Fun-
 5 gicide, and Rodenticide Act (7 U.S.C. 136o(a)) is
 6 amended—

7 (1) in the first sentence—

8 (A) in paragraph (1), by striking “and” at
 9 the end;

10 (B) in paragraph (2), by striking the pe-
 11 riod at the end and inserting “; and”; and

12 (C) by adding at the end the following:

13 “(3) if the export is in compliance with this sec-
 14 tion.”; and

15 (2) in the second sentence, by striking “that
 16 statement” and inserting “the statement required
 17 under paragraph (2)”.

18 (b) IMPORTS OF PESTICIDES AND DEVICES.—Section
 19 17(c) of the Federal Insecticide, Fungicide, and
 20 Rodenticide Act (7 U.S.C. 136o(c)) is amended by adding
 21 at the end the following: “Nothing in this subsection au-
 22 thorizes the import of any POPs pesticide or LRTAP
 23 POPs pesticide that is prohibited under subsection (e) or
 24 (f).”.

25 (c) INTERNATIONAL CONVENTIONS AND COOPERA-
 26 TION IN INTERNATIONAL EFFORTS.—Section 17 of the

1 Federal Insecticide, Fungicide, and Rodenticide Act (7
2 U.S.C. 136o) is amended—

3 (1) in subsection (d)—

4 (A) by striking “Administrator shall,” and
5 inserting “Administrator,”;

6 (B) by striking “agency, participate” and
7 inserting “agency—

8 “(1) shall participate”;

9 (C) by striking the period at the end and
10 inserting “; and”; and

11 (D) by adding at the end the following:

12 “(2) should pursue opportunities to participate
13 in technical cooperation and capacity building activi-
14 ties designed to support implementation of—

15 “(A) the LRTAP POPs Protocol;

16 “(B) the PIC Convention; and

17 “(C) the POPs Convention.”;

18 (2) by redesignating subsection (e) as sub-
19 section (j); and

20 (3) by inserting after subsection (d) the fol-
21 lowing:

22 “(e) POPs CONVENTION.—

23 “(1) PROHIBITION ON SPECIFIED POPS PES-
24 TICIDES.—Subject to paragraph (2), subsection (i),
25 and the POPs Convention, notwithstanding any

other provision of law, a person shall not sell, distribute, use, produce, or conduct any disposal operation that may lead to recovery, recycling, reclamation, reuse, or an alternative use of any of the following POPs pesticides:

“(A) Aldrin.

“(B) Chlordane.

“(C) Dichlorodiphenyltrichloroethane
(DDT).

“(D) Dieldrin.

“(E) Endrin.

“(F) Heptachlor.

“(G) Hexachlorobenzene.

“(H) Mirex.

“(I) Toxaphene.

“(2) EXEMPTIONS.—

“(A) UNINTENTIONAL TRACE CONTAMINANTS.—To the extent consistent with the POPs Convention, the prohibitions specified in paragraph (1) shall not apply to any quantity of a POPs pesticide that occurs as an unintentional trace contaminant in a product or article.

“(B) RESEARCH.—To the extent consistent with the POPs Convention, the prohibitions specified in paragraph (1) shall not apply

1 to any quantity of a POPs pesticide that is
 2 used for laboratory scale research or as a ref-
 3 erence standard.

4 “(C) CONSTITUENT OF ARTICLE IN USE
 5 BEFORE PROHIBITION APPLIED.—To the extent
 6 consistent with the POPs Convention, the pro-
 7 hibitions specified in paragraph (1) shall not
 8 apply to any quantity of a POPs pesticide that
 9 occurs as a constituent of an article, if—

10 “(i) the article is manufactured or in
 11 use on or before the date of entry into
 12 force of the obligation of the POPs Con-
 13 vention applicable to the POPs pesticide;
 14 and

15 “(ii) the Administrator has met any
 16 applicable requirement of the POPs Con-
 17 vention to notify the Secretariat of the
 18 POPs Convention concerning the article.

19 “(D) DISTRIBUTION FOR EXPORT IF PRO-
 20 Duction OR USE SPECIFIC EXEMPTION OR AC-
 21 CEPTABLE PURPOSE IS IN EFFECT.—

22 “(i) IN GENERAL.—To the extent con-
 23 sistent with the POPs Convention, the pro-
 24 hibitions specified in paragraph (1) shall
 25 not apply to any distribution for export of

1 any POPs pesticide for which a production
2 or use specific exemption under Annex A
3 to the POPs Convention is in effect, or for
4 which a production or use specific exemp-
5 tion or acceptable purpose under Annex B
6 to the POPs Convention is in effect, to the
7 extent that the POPs pesticide complies
8 with an export condition described in
9 clause (ii), (iii), or (iv). Any determination
10 by the Administrator that an export condi-
11 tion described in clause (ii), (iii), or (iv) is
12 not met shall be made in cooperation with
13 the heads of other interested Federal agen-
14 cies.

15 “(ii) EXPORT FOR ENVIRONMENTALLY
16 SOUND DISPOSAL.—An export condition re-
17 ferred to in clause (i) is that the POPs
18 pesticide is exported for the purpose of en-
19 vironmentally sound disposal in accordance
20 with paragraph 1(d) of Article 6 of the
21 POPs Convention.

22 “(iii) EXPORT TO PARTY WITH PER-
23 MISSION TO USE.—An export condition re-
24 ferred to in clause (i) is that the POPs
25 pesticide is exported to a party to the

1 POPs Convention that is permitted to use
2 the POPs pesticide under Annex A or B to
3 the POPs Convention.

4 “(iv) EXPORT TO NONPARTY THAT
5 HAS PROVIDED A NONPARTY CERTIFI-
6 CATION.—

7 “(I) IN GENERAL.—An export
8 condition referred to in clause (i) is
9 that the POPs pesticide is exported,
10 to an importing foreign state that is
11 not a party to the POPs Convention
12 with respect to the POPs pesticide,
13 that has provided an annual certifi-
14 cation.

15 “(II) COMMITMENTS BY IMPORT-
16 ING NONPARTY.—Consistent with
17 paragraph (2)(b)(iii) of Article 3 of
18 the POPs Convention, an annual
19 nonparty certification under subclause
20 (I) shall specify the intended use of
21 the POPs pesticide and state that,
22 with respect to the POPs pesticide,
23 the importing nonparty is committed
24 to—

1 “(aa) protecting human
2 health and the environment by
3 taking necessary measures to
4 minimize or prevent releases;

5 “(bb) complying with para-
6 graph 1 of Article 6 of the POPs
7 Convention; and

8 “(cc) complying, to the ex-
9 tent appropriate, with paragraph
10 2 of Part II of Annex B to the
11 POPs Convention.

12 “(III) SUBMISSION TO SECRE-
13 TARIAT OF POPS CONVENTION.—Not
14 later than 60 days after the date of
15 receipt of a nonparty certification, the
16 Administrator shall submit a copy of
17 the nonparty certification to the Sec-
18 retariat of the POPs Convention.

19 “(E) EXPORT FOR ENVIRONMENTALLY
20 SOUND DISPOSAL IF NO PRODUCTION OR USE
21 SPECIFIC EXEMPTION IN EFFECT.—To the ex-
22 tent consistent with the POPs Convention, the
23 prohibitions specified in paragraph (1) shall not
24 apply to any distribution for export for the pur-
25 pose of environmentally sound disposal, in ac-

1 cordance with paragraph 1(d) of Article 6 of
2 the POPs Convention, of a POPs pesticide list-
3 ed in Annex A to the POPs Convention for
4 which no production or use specific exemption
5 is in effect for any party to the POPs Conven-
6 tion.

7 “(F) IMPORTS FOR ENVIRONMENTALLY
8 SOUND DISPOSAL.—To the extent consistent
9 with the POPs Convention, the prohibitions
10 specified in paragraph (1) shall not apply to
11 any distribution of a POPs pesticide that is im-
12 ported for the purpose of environmentally sound
13 disposal in accordance with paragraph 1(d) of
14 Article 6 of the POPs Convention.

15 “(G) NO EFFECT ON OTHER PROHIBI-
16 TIONS.—Nothing in this paragraph authorizes
17 any sale, distribution, use, or production, or
18 any disposal operation, that may lead to recov-
19 ery, recycling, reclamation, reuse, or an alter-
20 native use, of any POPs pesticide that is pro-
21 hibited under any other provision of law.

22 “(3) CERTIFICATION STATEMENT ACCOM-
23 PANYING POPS PESTICIDES.—

24 “(A) IN GENERAL.—Each POPs pesticide
25 that is sold or distributed under subparagraph

1 (B), (D), (E), or (F) of paragraph (2) shall be
2 accompanied by a certification statement.

3 “(B) PERSON REQUIRED TO PREPARE.—A
4 certification statement required by subpara-
5 graph (A) shall be prepared—

6 “(i) by the producer of the POPs pes-
7 ticide; or

8 “(ii) if there is no certification state-
9 ment accompanying the POPs pesticide, by
10 any person that sells or distributes the
11 POPs pesticide.

12 “(C) REQUIRED ELEMENTS.—The certifi-
13 cation statement shall contain—

14 “(i) a specification of the quantity
15 and identity of the POPs pesticide;

16 “(ii) the basis for application of sub-
17 paragraph (B), (D), (E), or (F) of para-
18 graph (2); and

19 “(iii) such other information as the
20 Administrator, after public notice and op-
21 portunity for comment, determines to be
22 necessary for effective enforcement of this
23 subsection.

“(D) DUTIES OF SELLERS AND DISTRIBUTORS.—Any person that sells or distributes the POPs pesticide shall ensure that—

“(i) the certification statement accompanies the POPs pesticide when the POPs pesticide is sold or distributed; and

“(ii) the sale or distribution is consistent with the certification statement.

“(E) MAINTENANCE OF CERTIFICATION STATEMENT.—A person that prepares a certification statement shall maintain a copy of the certification statement for a period of not less than 3 years beginning on the date on which the certification statement is prepared.

“(F) REGULATIONS.—The Administrator may promulgate such regulations as are necessary—

“(i) to facilitate implementation of this paragraph;

“(ii) to ensure compliance with the POPs Convention; and

“(iii) to harmonize the requirements of this paragraph with certification requirements under other provisions of this Act so as to avoid any requirement that

1 multiple certification statements accom-
2 pany any single POPs pesticide.

3 “(4) SUBMISSION OF INFORMATION.—

4 “(A) PROPOSAL FOR LISTING MEETS POPS
5 CONVENTION SCREENING CRITERIA.—

6 “(i) PUBLICATION OF NOTICE IN FED-
7 ERAL REGISTER.—As soon as practicable
8 after the date of a determination by the
9 POPs Review Committee that a proposal
10 for listing a pesticide in Annex A, B, or C
11 to the POPs Convention meets the screen-
12 ing criteria specified in Annex D to the
13 POPs Convention, the Administrator may
14 publish in the Federal Register a notice
15 that—

16 “(I) identifies the pesticide; and

17 “(II) summarizes the determina-
18 tion of the POPs Review Committee.

19 “(ii) PROVISION OF ARGUMENTS OR
20 INFORMATION TO THE ADMINISTRATOR.—

21 Not later than 60 days after the date of
22 publication of the notice under clause (i),
23 any registrant of the pesticide or other in-
24 terested person that might support or ob-
25 ject to any listing of the pesticide in Annex

1 A, B, or C to the POPs Convention may
2 provide to the Administrator any argu-
3 ments or information associated with the
4 risks or benefits of use of the pesticide (in-
5 cluding information specified in Annex D
6 or E to the POPs Convention) that, in the
7 opinion of the registrant or other inter-
8 ested person, supports a determination
9 that—

10 “(I) the determination by the
11 POPs Review Committee is correct or
12 incorrect; or

13 “(II) any or all uses of the pes-
14 ticide in the United States do or do
15 not result in any unreasonable adverse
16 effect on the environment.

17 “(iii) PROVISION OF ADDITIONAL IN-
18 FORMATION.—If a registrant or other in-
19 terested person obtains, after the deadline
20 established under clause (ii), additional in-
21 formation that was not available to the
22 registrant or other interested person by the
23 deadline, the registrant or other interested
24 person may provide to the Administrator
25 the additional information, and arguments

1 based on the additional information, not
2 later than 60 days after the date of acqui-
3 sition by the registrant or other interested
4 person of the additional information.

5 “(iv) REPORT BY ADMINISTRATOR TO
6 SECRETARY OF STATE.—Based on infor-
7 mation received under this paragraph and
8 any other relevant information available to
9 the Administrator, the Administrator, not
10 later than 180 days after the date of publi-
11 cation of the notice under clause (i), shall
12 submit to the Secretary of State a report
13 that contains, at a minimum—

14 “(I) information on the reg-
15 istered uses in the United States of
16 the pesticide; and

17 “(II) an assessment of the bene-
18 fits and risks associated with the uses
19 in the United States of the pesticide.

20 “(B) DECISION TO PROCEED WITH LIST-
21 ING PROCESS.—

22 “(i) PUBLICATION OF NOTICE IN FED-
23 ERAL REGISTER.—If the POPs Review
24 Committee decides under paragraph 7 of
25 Article 8 of the POPs Convention that a

1 proposal for listing a pesticide shall pro-
2 ceed, the Administrator may publish in the
3 Federal Register a notice that—

4 “(I) identifies the pesticide; and

5 “(II) summarizes the decision of
6 the POPs Review Committee.

7 “(ii) PROVISION OF INFORMATION BY
8 INTERESTED PERSONS.—Not later than 60
9 days after the date of publication of the
10 notice under clause (i), any person inter-
11 ested in a pesticide that is the subject of
12 the notice may provide to the
13 Administrator—

14 “(I) consistent with the informa-
15 tion needs described in Annex F to
16 the POPs Convention, any informa-
17 tion that the person believes is rel-
18 evant to—

19 “(aa) a risk management
20 evaluation carried out under
21 paragraph 7 of Article 8 of the
22 POPs Convention;

23 “(bb) a decision by the Con-
24 ference under paragraph 9 of Ar-

1 title 8 of the POPs Convention;
2 or

3 “(cc) a determination wheth-
4 er some or all of the uses of the
5 pesticide cause unreasonable ad-
6 verse effects on the environment;
7 and

8 “(II) information on any article
9 in use that consists of, contains, or is
10 contaminated with the pesticide.

11 “(C) EFFECT OF FAILURE TO SUBMIT IN-
12 FORMATION.—If an argument or item of infor-
13 mation is not submitted by a deadline estab-
14 lished under this paragraph, a person may not
15 raise the argument or submit the information in
16 any subsequent cancellation proceeding initiated
17 by the Administrator under section 6 unless the
18 person that seeks to raise the argument or sub-
19 mit the information demonstrates that the ar-
20 gument or information could not reasonably
21 have been made available to the Administrator
22 by the deadlines established under this para-
23 graph.

24 “(f) LRTAP POPs PROTOCOL.—

1 “(1) PROHIBITION ON SPECIFIED LRTAP POPS
 2 PESTICIDES.—Subject to paragraph (2), subsection
 3 (i), and the LRTAP POPs Protocol, notwithstanding
 4 any other provision of law, a person shall not sell,
 5 distribute, use, or produce any of the following
 6 LRTAP POPs pesticides:

7 “(A) Aldrin.

8 “(B) Chlordane.

9 “(C) Chlordecone.

10 “(D) Dichlorodiphenyltrichloroethane
 11 (DDT).

12 “(E) Dieldrin.

13 “(F) Endrin.

14 “(G) Heptachlor.

15 “(H) Hexabromobiphenyl.

16 “(I) Hexachlorobenzene.

17 “(J) Hexachlorocyclohexane (HCH).

18 “(K) Mirex.

19 “(L) PCBs.

20 “(M) Toxaphene.

21 “(2) EXEMPTIONS.—

22 “(A) IN GENERAL.—To the extent con-
 23 sistent with the LRTAP POPs Protocol, the
 24 prohibitions specified in paragraph (1) shall not
 25 apply to—

1 “(i) any quantity of a LRTAP POPs
 2 pesticide that is used for laboratory scale
 3 research or as a reference standard;

4 “(ii) any quantity of a LRTAP POPs
 5 pesticide that occurs as a contaminant in
 6 a product;

7 “(iii) any quantity of a LRTAP POPs
 8 pesticide that is in an article manufactured
 9 or in use on or before the date of entry
 10 into force of the obligation of the LRTAP
 11 POPs Protocol applicable to the POPs pes-
 12 ticide; or

13 “(iv) the production or use of any
 14 quantity of hexachlorocyclohexane (HCH)
 15 that complies with the restrictions and con-
 16 ditions specified for HCH in Annex II to
 17 the LRTAP POPs Protocol.

18 “(B) EXEMPTIONS AUTHORIZED BY LRTAP
 19 POPS PROTOCOL.—

20 “(i) IN GENERAL.—The Adminis-
 21 trator, with the concurrence of the Sec-
 22 retary of State, on the Administrator’s own
 23 motion or on petition of any person, may
 24 grant an exemption from a prohibition
 25 specified in paragraph (1) that is con-

1 sistent with the exemptions authorized
2 under paragraph 2 of Article 4 of the
3 LRTAP POPs Protocol.

4 “(ii) REQUIRED ELEMENTS OF PETI-
5 TIONS.—Any petition under clause (i)
6 shall, at a minimum, contain—

7 “(I) information relating to each
8 finding, if any, that the Administrator
9 is required to make under the LRTAP
10 POPs Protocol before granting the ex-
11 emption; and

12 “(II) any additional information,
13 if any, that the Administrator is re-
14 quired to provide to the Secretariat of
15 the LRTAP POPs Protocol con-
16 cerning a granted exemption.

17 “(iii) GRANT OF EXEMPTION.—The
18 Administrator, with the concurrence of the
19 Secretary of State, shall, if the exemption
20 is authorized for the United States under,
21 and is otherwise consistent with, the
22 LRTAP POPs Protocol, grant an exemp-
23 tion under this subparagraph with such
24 conditions or limitations as are necessary
25 to meet any requirement of the LRTAP

1 POPs Protocol or any other provision of
2 law.

3 “(iv) PROVISION OF INFORMATION TO
4 SECRETARIAT.—Notwithstanding any other
5 provision of law, if the Administrator
6 grants an exemption under this subpara-
7 graph, the Administrator, not later than
8 90 days after the date on which the ex-
9 emption is granted, shall provide to the
10 Secretariat of the LRTAP POPs Protocol
11 the information specified in paragraph 3 of
12 Article 4 of the LRTAP POPs Protocol.

13 “(v) DISALLOWANCE OF EXEMPTION
14 BY LRTAP POPS PROTOCOL.—If, after an
15 exemption has been granted under this
16 subparagraph, the exemption is no longer
17 authorized for the United States under the
18 LRTAP POPs Protocol, it shall be unlaw-
19 ful for any person to sell, distribute, use,
20 or produce a LRTAP POPs pesticide in
21 the manner authorized by the exemption.

22 “(C) NO EFFECT ON OTHER PROHIBI-
23 TIONS.—Nothing in this paragraph authorizes
24 any sale, distribution, use, or production of any

1 LRTAP POPs pesticide that is prohibited
2 under any other provision of law.

3 “(3) CERTIFICATION STATEMENT ACCOM-
4 PANYING LRTAP POPs PESTICIDES.—

5 “(A) IN GENERAL.—Each LRTAP POPs
6 pesticide that is sold or distributed under sub-
7 paragraph (A)(i) or (B) of paragraph (2) shall
8 be accompanied by a certification statement.

9 “(B) PERSON REQUIRED TO PREPARE.—A
10 certification statement required by subpara-
11 graph (A) shall be prepared—

12 “(i) by the producer of the LRTAP
13 POPs pesticide; or

14 “(ii) if there is no certification state-
15 ment accompanying the LRTAP POPs
16 pesticide, by any person that sells or dis-
17 tributes the LRTAP POPs pesticide.

18 “(C) REQUIRED ELEMENTS.—The certifi-
19 cation statement shall contain—

20 “(i) a specification of the quantity
21 and identity of the LRTAP POPs pes-
22 ticide;

23 “(ii) the basis for application of sub-
24 paragraph (A)(i) or (B) of paragraph (2);
25 and

1 “(iii) such other information as the
 2 Administrator, after public notice and op-
 3 portunity for comment, determines to be
 4 necessary for effective enforcement of this
 5 subsection.

6 “(D) DUTIES OF SELLERS AND DISTRIBUTORS.—Any person that sells or distributes the
 7 LRTAP POPs pesticide shall ensure that—
 8

9 “(i) the certification statement accom-
 10 panies the LRTAP POPs pesticide when
 11 the LRTAP POPs pesticide is sold or dis-
 12 tributed; and

13 “(ii) the sale or distribution is con-
 14 sistent with the certification statement.

15 “(E) MAINTENANCE OF CERTIFICATION
 16 STATEMENT.—A person that prepares a certifi-
 17 cation statement shall maintain a copy of the
 18 certification statement for a period of not less
 19 than 3 years beginning on the date on which
 20 the certification statement is prepared.

21 “(F) REGULATIONS.—The Administrator
 22 may promulgate such regulations as are
 23 necessary—

24 “(i) to facilitate implementation of
 25 this paragraph;

“(ii) to ensure compliance with the LRTAP POPs Protocol; and

“(iii) to harmonize the requirements of this paragraph with certification requirements under other provisions of this Act so as to avoid any requirement that multiple certification statements accompany any single POPs pesticide.

“(4) SUBMISSION OF INFORMATION.—

“(A) RISK PROFILE IN SUPPORT OF PROPOSED AMENDMENT TO LIST.—

“(i) PUBLICATION OF NOTICE IN FEDERAL REGISTER.—As soon as practicable after the date of submission to the Executive Body of a risk profile in support of a proposed amendment to list a pesticide in Annex I, II, or III to the LRTAP POPs Protocol, the Administrator may publish in the Federal Register a notice that—

“(I) identifies the pesticide; and

“(II) summarizes the risk profile for the pesticide.

“(ii) PROVISION OF ARGUMENTS OR INFORMATION TO THE ADMINISTRATOR.—

Not later than 60 days after the date of

1 publication of the notice under clause (i),
2 any registrant of the pesticide or other in-
3 terested person that might support or ob-
4 ject to any listing of the pesticide in Annex
5 I, II, or III to the LRTAP POPs Protocol
6 may provide to the Administrator any ar-
7 guments or information associated with the
8 risks or benefits of use of the pesticide
9 that, in the opinion of the registrant or
10 other interested person, supports a deter-
11 mination that—

12 “(I) the risk profile is correct or
13 incorrect; or

14 “(II) any or all uses of the pes-
15 ticide in the United States do or do
16 not result in any unreasonable adverse
17 effect on the environment.

18 “(iii) PROVISION OF ADDITIONAL IN-
19 FORMATION.—If a registrant or other in-
20 terested person obtains, after the deadline
21 established under clause (ii), additional in-
22 formation that was not available to the
23 registrant or other interested person by the
24 deadline, the registrant or other interested
25 person may provide to the Administrator

1 the additional information, and arguments
2 based on the additional information, not
3 later than 60 days after the date of acqui-
4 sition by the registrant or other interested
5 person of the additional information.

6 “(iv) REPORT BY ADMINISTRATOR TO
7 SECRETARY OF STATE.—Based on infor-
8 mation received under this paragraph and
9 any other relevant information available to
10 the Administrator, the Administrator, not
11 later than 180 days after the date of publi-
12 cation of the notice under clause (i), shall
13 submit to the Secretary of State a report
14 that contains, at a minimum—

15 “(I) information on the reg-
16 istered uses in the United States of
17 the pesticide; and

18 “(II) an assessment of the bene-
19 fits and risks associated with the uses
20 in the United States of the pesticide.

21 “(B) EFFECT OF FAILURE TO SUBMIT IN-
22 FORMATION.—If an argument or item of infor-
23 mation is not submitted by a deadline estab-
24 lished under this paragraph, a person may not
25 raise the argument or submit the information in

1 any subsequent cancellation proceeding initiated
 2 by the Administrator under section 6 unless the
 3 person that seeks to raise the argument or sub-
 4 mit the information demonstrates that the ar-
 5 gument or information could not reasonably
 6 have been made available to the Administrator
 7 by the deadlines established under this para-
 8 graph.

9 “(g) NOTICE AND RECORD OF PROHIBITIONS, EX-
 10 EMPTIONS, DISALLOWANCES, AND OTHER INFORMA-
 11 TION.—

12 “(1) IN GENERAL.—The Administrator, in co-
 13 operation with the Secretary of State—

14 “(A) shall publish in the Federal Register
 15 timely notice concerning—

16 “(i)(I) the POPs pesticides subject to
 17 the prohibitions specified in subsection (e);

18 “(II) any exemptions from the prohi-
 19 bitions authorized under subsection (e), in-
 20 cluding any disallowances of exemptions;
 21 and

22 “(III) a list of importing foreign
 23 states from which the Administrator has
 24 received a nonparty certification under
 25 subsection (e)(2)(D)(iv); and

1 “(ii)(I) the LRTAP POPs pesticides
 2 subject to the prohibitions specified in sub-
 3 section (f); and

4 “(II) any exemptions from the prohi-
 5 bitions authorized under subsection (f), in-
 6 cluding any disallowances of exemptions
 7 under subsection (f)(2)(B)(v); and

8 “(B) may include in the notice any other
 9 information that the Administrator determines
 10 to be necessary to ensure adequate notice of the
 11 requirements of—

12 “(i) this section;

13 “(ii) the POPs Convention; or

14 “(iii) the LRTAP POPs Protocol.

15 “(2) INTEGRATION WITH TSCA INFORMATION.—

16 The Administrator shall—

17 “(A) maintain a record that integrates the
 18 information in the notice published under para-
 19 graph (1) with any information published under
 20 section 6(h) of the Toxic Substances Control
 21 Act (15 U.S.C. 2605(h));

22 “(B) update the record as necessary; and

23 “(C) make the record publicly available.

24 “(h) PIC CONVENTION.—

25 “(1) REQUIREMENTS FOR EXPORTS.—

1 “(A) COMPLIANCE AND CERTIFICATION.—

2 “(i) IN GENERAL.—In the case of a
3 pesticide or active ingredient used in pro-
4 ducing a pesticide identified by the Admin-
5 istrator in a notice issued under paragraph
6 (2)(C), any person that distributes or sells
7 the pesticide or active ingredient for export
8 shall—

9 “(I) comply with any export con-
10 ditions or restrictions identified by the
11 Administrator in the notice; and

12 “(II) certify that the pesticide or
13 active ingredient complies with the
14 conditions or restrictions.

15 “(ii) CERTIFICATION STATEMENT.—

16 “(I) IN GENERAL.—The certifi-
17 cation statement for a pesticide or ac-
18 tive ingredient described in clause
19 (i)(II) shall include—

20 “(aa) an identification of the
21 pesticide or active ingredient;

22 “(bb) an identification of the
23 foreign state to which the pes-
24 ticide or active ingredient is in-
25 tended for export;

1 “(cc) the export conditions
2 or restrictions identified by the
3 Administrator in the notice
4 issued under paragraph (2)(C)
5 with respect to the pesticide or
6 active ingredient;

7 “(dd) a description of the
8 manner in which those conditions
9 or restrictions will be complied
10 with; and

11 “(ee) any other information
12 that the Administrator deter-
13 mines to be necessary for effec-
14 tive enforcement of the export
15 conditions or restrictions applica-
16 ble to the pesticide or active in-
17 gredient.

18 “(II) SHIPPING.—The certifi-
19 cation statement for a pesticide or ac-
20 tive ingredient described in subclause
21 (I) shall be included among the ship-
22 ping documents for, and shall accom-
23 pany, the pesticide or active ingre-
24 dient.

1 “(III) MAINTENANCE OF CER-
2 TIFICATION STATEMENT.—A person
3 that is required to prepare a certifi-
4 cation statement under clause (i)(II)
5 shall maintain a copy of the certifi-
6 cation statement for a period of not
7 less than 3 years beginning on the
8 date on which the certification state-
9 ment is prepared.

10 “(IV) REGULATIONS.—The Ad-
11 ministrator may promulgate such reg-
12 ulations as the Administrator deter-
13 mines to be necessary—

14 “(aa) to facilitate implemen-
15 tation of this subparagraph;

16 “(bb) to ensure compliance
17 with the PIC Convention; and

18 “(cc) to harmonize the cer-
19 tification requirement of this sub-
20 paragraph with certification re-
21 quirements under other provi-
22 sions of this Act so as to avoid
23 any requirement that multiple
24 certification statements accom-

1 pany any single pesticide or ac-
2 tive ingredient.

3 “(B) BANNED AND RESTRICTED PES-
4 TICIDES AND ACTIVE INGREDIENTS.—

5 “(i) IN GENERAL.—

6 “(I) REQUIREMENT.—Except as
7 provided in clause (ii), in the case of
8 a pesticide or active ingredient used in
9 producing a pesticide that the Admin-
10 istrator determines to be banned or
11 severely restricted under paragraph
12 (2)(A), the exporter of the pesticide or
13 active ingredient shall provide to the
14 Administrator notice of the intent of
15 the exporter to export the pesticide or
16 active ingredient.

17 “(II) TIMING OF NOTICE.—

18 “(aa) FIRST EXPORT.—In
19 the case of a first export from
20 the territory of the United States
21 to each importing foreign state
22 that occurs after the Adminis-
23 trator issues a notice under para-
24 graph (2)(A), the notice shall be
25 received not earlier than 30 days

1 but not later than 15 days before
2 the date of export.

3 “(bb) SUBSEQUENT EX-
4 PORTS.—In the case of subse-
5 quent exports to the foreign
6 state, the notice shall be received
7 not earlier than 30 days but not
8 later than 15 days before the
9 date of the first export in each
10 calendar year.

11 “(ii) LATER NOTICES.—Notwith-
12 standing clause (i), the Administrator may
13 permit notices of intent to export to be re-
14 ceived less than 15 days before the date of
15 a first export described in clause (i)(I), or
16 less than 15 days before the date of a first
17 export in each calendar year described in
18 clause (i)(II), if the Administrator deter-
19 mines, based on the Administrator’s expe-
20 rience with the notification program under
21 this subparagraph, that the notice activi-
22 ties under this subparagraph may be ad-
23 ministered in accordance with the PIC
24 Convention despite such a shortened notice
25 period.

1 “(iii) INCLUSIONS.—A notice of intent
2 to export submitted to the Administrator
3 under clause (i) shall include—

4 “(I) the name and address of the
5 exporter;

6 “(II) the name and address of
7 the appropriate designated national
8 authority of the United States;

9 “(III) the name and address of
10 the appropriate designated national
11 authority of the importing foreign
12 state, if available;

13 “(IV) the name and address of
14 the importer;

15 “(V) the name of the pesticide or
16 active ingredient used in producing a
17 pesticide for which the notice is re-
18 quired;

19 “(VI) the expected date of ex-
20 port;

21 “(VII) the foreseen uses of the
22 pesticide or active ingredient used in
23 producing a pesticide, if known, in the
24 importing foreign state;

1 “(VIII) any information on pre-
2 cautionary measures to reduce expo-
3 sure to, and emission of, the pesticide
4 or active ingredient used in producing
5 a pesticide;

6 “(IX) the concentration of the
7 pesticide or active ingredient used in
8 producing a pesticide; and

9 “(X) any other information speci-
10 fied in Annex V to the PIC Conven-
11 tion.

12 “(C) LABELING REQUIREMENTS.—

13 “(i) IN GENERAL.—In the case of any
14 pesticide or active ingredient used in pro-
15 ducing a pesticide that is the subject of a
16 notice issued under subparagraph (A) or
17 (C) of paragraph (2) and that is distrib-
18 uted or sold for export, the pesticide or ac-
19 tive ingredient shall, in accordance with
20 the PIC Convention—

21 “(I) bear labeling information re-
22 lating to any significant risks or haz-
23 ards to human health or the environ-
24 ment; and

1 “(II) be accompanied by shipping
2 documents that include any relevant
3 safety data sheets on the pesticide or
4 active ingredient.

5 “(ii) CUSTOM CODES.—A pesticide or
6 active ingredient used in producing a pes-
7 ticide that is the subject of a notice issued
8 under paragraph (2)(C) and that is distrib-
9 uted or sold for export shall be accom-
10 panied by shipping documents that bear, at
11 a minimum, any appropriate harmonized
12 system customs codes assigned by the
13 World Customs Organization.

14 “(2) NOTICE REQUIREMENTS AND EXEMP-
15 TIONS.—

16 “(A) DETERMINATION WHETHER PES-
17 TICIDE IS BANNED OR SEVERELY RE-
18 STRICTED.—

19 “(i) IN GENERAL.—The Adminis-
20 trator, with the concurrence of the Sec-
21 retary of State, shall determine whether a
22 pesticide or active ingredient used in pro-
23 ducing a pesticide is banned or severely re-
24 stricted within the United States (as those
25 terms are defined by the PIC Convention).

1 “(ii) NOTICE OF DETERMINATIONS.—
 2 Notwithstanding any other provision of
 3 law, the Administrator shall issue to the
 4 Secretariat of the PIC Convention and the
 5 public a notice of each determination
 6 under clause (i) that includes—

7 “(I) in the case of a notice to the
 8 Secretariat of the PIC Convention,
 9 the information specified in Annex I
 10 to the PIC Convention; and

11 “(II) in the case of a notice to
 12 the public, at a minimum, a summary
 13 of that information.

14 “(B) NOTICE TO FOREIGN COUNTRIES.—

15 “(i) IN GENERAL.—Notwithstanding
 16 any other provision of law, on receipt of a
 17 notice of intent to export under paragraph
 18 (1)(B), the Administrator shall provide a
 19 copy of the notice to the designated na-
 20 tional authority of the importing foreign
 21 state.

22 “(ii) NONIDENTIFIED DESIGNATED
 23 NATIONAL AUTHORITY.—In a case in
 24 which a designated national authority has
 25 not been identified, the Administrator shall

1 provide the notice of intent to export to
2 any other appropriate official of the im-
3 porting foreign state, as identified by the
4 Administrator.

5 “(C) NOTICE TO PUBLIC.—

6 “(i) IN GENERAL.—The Adminis-
7 trator, with the concurrence of the Sec-
8 retary of State, shall issue a notice to in-
9 form the public of—

10 “(I) any pesticide or active ingre-
11 dient used in producing a pesticide
12 that is listed on Annex III to the PIC
13 Convention; and

14 “(II) any condition or restriction
15 of an importing foreign state that is
16 applicable to the import, in accord-
17 ance with the PIC Convention, of the
18 pesticide or active ingredient.

19 “(ii) TIMING.—A notice required
20 under clause (i) shall be issued not later
21 than 90 days after, and any conditions or
22 restrictions described in clause (i)(II) shall
23 take effect not later than 180 days after,
24 the date of receipt of a notice from the
25 Secretariat of the PIC Convention who—

1 “(I) transmits import decisions of
2 the parties to the PIC Convention; or

3 “(II) provides notice of the fail-
4 ure of the parties to provide import
5 decisions.

6 “(iii) TREATMENT OF CONDITIONS
7 AND RESTRICTIONS.—A condition or re-
8 striction identified by a notice required
9 under clause (i) shall be considered to be
10 an export condition or restriction for the
11 purpose of paragraph (1)(A).

12 “(D) NOTICE OF EXEMPTION.—The Ad-
13 ministrator may issue a notice exempting any
14 pesticide or active ingredient used in producing
15 a pesticide from the requirements of paragraph
16 (1) or this paragraph if the Administrator de-
17 termines, with the concurrence of the Secretary
18 of State, that the exemption would be con-
19 sistent with the PIC Convention.

20 “(E) INTEGRATION WITH OTHER NO-
21 TICES.—To the maximum extent practicable,
22 the Administrator shall integrate the informa-
23 tion contained in any notice issued under this
24 paragraph into any notice published under—

25 “(i) subsection (g); or

1 “(ii) section 6(h) of the Toxic Sub-
2 stances Control Act (15 U.S.C. 2605(h)).

3 “(i) HARMONIZATION.—

4 “(1) POPs CONVENTION AND LRTAP POPs PRO-
5 TOCOL.—

6 “(A) IN GENERAL.—If a pesticide is both
7 a POPs pesticide and a LRTAP POPs pes-
8 ticide, both subsection (e) and subsection (f)
9 shall apply to the pesticide.

10 “(B) CONFLICT.—In the case of a conflict
11 between subsection (e) and subsection (f) with
12 respect to a pesticide or active ingredient used
13 in producing a pesticide, the more stringent
14 provision shall govern.

15 “(C) APPLICATION.—With respect to a
16 pesticide, subsections (e) and (f) shall be ap-
17 plied in such a manner as to ensure that the
18 United States is in compliance with both the
19 POPs Convention and the LRTAP POPs Pro-
20 tocol with respect to the pesticide.

21 “(2) POPs CONVENTION AND PIC CONVEN-
22 TION.—

23 “(A) IN GENERAL.—If distribution or sale
24 for export of a pesticide or active ingredient
25 used in producing a pesticide is addressed or

1 restricted under both subsection (e) and sub-
2 section (h), both of those subsections shall
3 apply to the pesticide or active ingredient.

4 “(B) CONFLICT.—In the case of a conflict
5 between subsection (e) and subsection (h) with
6 respect to a pesticide or active ingredient used
7 in producing a pesticide, the more stringent
8 provision shall govern.

9 “(C) APPLICATION.—With respect to a
10 pesticide, subsections (e) and (h) shall be ap-
11 plied in such a manner as to ensure that the
12 United States is in compliance with the POPs
13 Convention and the PIC Convention with re-
14 spect to the pesticide.”.

15 **SEC. 205. CONFORMING AMENDMENTS.**

16 The table of contents in section 1(b) of the Federal
17 Insecticide, Fungicide, and Rodenticide Act (7 U.S.C.
18 prec. 121) is amended—

19 (1) in the items relating to section 2, by adding
20 at the end the following:

“(pp) Conference.
 “(qq) Designated national authority.
 “(rr) Executive Body.
 “(ss) LRTAP Convention.
 “(tt) LRTAP POPs pesticide.
 “(uu) LRTAP POPs Protocol.
 “(vv) PIC Convention.
 “(ww) POPs Convention.
 “(xx) POPs pesticide.
 “(yy) POPs Review Committee.”;

1 (2) in the items relating to section 3, by strik-
 2 ing the item relating to subsection (b) and inserting
 3 the following:

“(b) Exemptions.
 “(1) In general.
 “(2) POPs pesticides.”;

4 and

5 (2) in the items relating to section 17, by strik-
 6 ing the items relating to subsection (e) and inserting
 7 the following:

“(e) POPs Convention.
 “(1) Prohibition on specified POPs pesticides.
 “(2) Exemptions.
 “(3) Certification statement accompanying POPs pes-
 ticides.
 “(4) Submission of information.
 “(f) LRTAP POPs Protocol.
 “(1) Prohibition on specified LRTAP POPs pesticides.
 “(2) Exemptions.
 “(3) Certification statement accompanying LRTAP POPs
 pesticides.
 “(4) Submission of information.
 “(g) Notice and record of prohibitions, exemptions, disallow-
 ances, and other information.
 “(1) In general.
 “(2) Integration with TSCA information.
 “(h) PIC Convention.
 “(1) Requirements for exports.
 “(2) Notice requirements and exemptions.
 “(i) Harmonization.
 “(1) POPs Convention and LRTAP POPs Protocol.
 “(2) POPs Convention and PIC Convention.
 “(j) Regulations.”.

