

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.

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## 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

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## 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:

See. 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 redesig-  
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 redesig-  
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                  gnated 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

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

6 “(A) Aldrin.

7 “(B) Chlordane.

8 “(C) Dichlorodiphenyltrichloroethane  
9 (DDT).

10 “(D) Dieldrin.

11 “(E) Endrin.

12 “(F) Heptachlor.

13 “(G) Hexachlorobenzene.

14 “(H) Mirex.

15 “(I) PCBs.

16 “(J) Toxaphene.

17 “(2) EXEMPTIONS.—

18 “(A) UNINTENTIONAL TRACE CONTAMI-  
19 NANTS.—To the extent consistent with the  
20 POPs Convention, the prohibitions specified in  
21 paragraph (1) shall not apply to any quantity  
22 of a POPs chemical substance or mixture that  
23 occurs as an unintentional trace contaminant in  
24 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                     TERMEDIATE.—

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

ture as a closed-system site-limited intermediate.

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.—

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.

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

taking necessary measures to minimize or prevent releases;

“(bb) complying with paragraph 1 of Article 6 of the POPs Convention; and

“(cc) complying, to the extent appropriate, with paragraph 2 of Part II of Annex B to the POPs Convention.

“(III) SUBMISSION TO SECRETARIAT OF POPS CONVENTION.—Not later than 60 days after the date of receipt of a nonparty certification, the administrator shall submit a copy of the nonparty certification to the Secretariat of the POPS Convention.

EXPORT FOR ENVIRONMENTALLY  
SAL IF NO PRODUCTION OR USE  
EMPTION IN EFFECT.—To the ex-  
t with the POPs Convention, the  
specified in paragraph (1) shall not  
distribution in commerce for ex-  
purpose of environmentally sound  
ecordance with paragraph 1(d) 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) Chlordcone.

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-





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-

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

1 opportunity for comment, determines to be  
2 necessary for effective enforcement of this  
3 subsection.

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

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

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

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

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

7                   “(II) any exemptions from the prohibi-  
8                   tions authorized under subsection (g), in-  
9                   cluding any disallowances of exemptions  
10                   under subsection (g)(2)(B)(v); and

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

15                   “(i) this section;

16                   “(ii) the POPs Convention; or

17                   “(iii) the LRTAP POPs Protocol.

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

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

25                   “(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; and16           “(ii) summarizes the determination of  
17 the POPs Review Committee.18           “(B) PROVISION OF INFORMATION BY  
19 MANUFACTURERS, PROCESSORS, AND DISTRIBU-  
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-

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

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

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

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

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

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

19 “(i) the Conference determines not to  
20 list the chemical substance or mixture in  
21 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, pro-  
12                    vide to the Administrator—

14                    “(i) consistent with the information  
15                    needs described in Annex F to the POPs  
16                    Convention, any information that the per-  
17                    son believes is relevant to—

18                    “(I) a risk management evalua-  
19                    tion carried out under paragraph 7 of  
20                    Article 8 of the POPs Convention;

21                    “(II) a decision by the Con-  
22                    ference under paragraph 9 of Article  
23                    8 of the POPs Convention; or

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

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

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

“(2) LATER NOTICES.—Notwithstanding paragraph (1), the Administrator may permit notices of intent to export to be received less than 15 days before the date of a first export described in paragraph (1)(A), or less than 15 days before the date of a first export in each calendar year described in paragraph (1)(B), if the Administrator determines, based on the Administrator’s experience with the notification program under this subsection, that the notice activities under this subsection may be administered in accordance with the PIC Convention despite such 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 appropriate  
6           designated national authority of the  
7           United States;

8           “(C) the name and address of the appropriate  
9           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 within  
5                     the United States (as those terms are defined by the PIC Convention).

7                     “(B) NOTICE OF DETERMINATIONS.—Notwithstanding any other provision of law, the Administrator shall issue to the Secretariat of the PIC Convention and the public a notice of each determination under subparagraph (A) that includes—

13                     “(i) in the case of a notice to the Secretariat of the PIC Convention, the information specified in Annex I to the PIC Convention; and

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

20                     “(2) NOTICE TO FOREIGN COUNTRIES.—

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

1 the designated national authority of the import-  
2 ing foreign state.

10                   “(3) NOTICE TO PUBLIC.—

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

22                   “(B) TIMING.—A notice required under  
23                   subparagraph (A) shall be issued not later than  
24                   90 days after, and any conditions or restrictions  
25                   described in subparagraph (A)(ii) shall take ef-

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

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

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

8                   “(C) TREATMENT OF CONDITIONS AND RE-  
9                   STRICTIONS.—A condition or restriction identi-  
10                  fied by a notice required under subparagraph  
11                  (A) shall be considered to be an export condi-  
12                  tion or restriction for the purpose of subsection  
13                  (c).

14                  “(4) NOTICE OF EXEMPTION.—The Adminis-  
15                  trator may issue a notice exempting any chemical  
16                  substance or mixture from the requirements of sub-  
17                  sections (c) through (e) and this subsection if the  
18                  Administrator determines, with the concurrence of  
19                  the Secretary of State, that the exemption would be  
20                  consistent with the PIC Convention.

21                  “(5) INTEGRATION WITH OTHER NOTICES.—To  
22                  the maximum extent practicable, the Administrator  
23                  shall integrate the information contained in any no-  
24                  tice issued under this subsection into any notice  
25                  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               POP<sup>s</sup> 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-

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

3 **TITLE II—USE OR PRODUCTION**  
4 **OF POPS PESTICIDES**

5 **SEC. 201. DEFINITIONS.**

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

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

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

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

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

1 other provision of law, a person shall not sell, dis-  
2 tribute, use, produce, or conduct any disposal oper-  
3 ation that may lead to recovery, recycling, reclama-  
4 tion, reuse, or an alternative use of any of the fol-  
5 lowing POPs pesticides:

6 "“(A) Aldrin.

## 7                           “(B) Chlordane.

8                           “(C)           Dichlorodiphenyltrichloroethane  
9                           (DDT).

10 " (D) Dieldrin.

11 “(E) Endrin.

## 12 “(F) Heptachlor.

### 13                             “(G) Hexachlorobenzene.

14 “(H) Mirex.

16                   “(2) EXEMPTIONS.—

18 NANTS.—To the extent consistent with the  
19 POPs Convention, the prohibitions specified in  
20 paragraph (1) shall not apply to any quantity  
21 of a POPs pesticide that occurs as an uninten-  
22 tional trace contaminant in a product or article.

23                   “(B) RESEARCH.—To the extent con-  
24                   sistent with the POPs Convention, the prohibi-  
25                   tions 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                             “(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 subparagraph (A) shall be prepared—

6 “(i) by the producer of the POPs pesticide; or

8 “(ii) if there is no certification statement accompanying the POPs pesticide, by any person that sells or distributes the POPs pesticide.

12 “(C) REQUIRED ELEMENTS.—The certification statement shall contain—

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

16 “(ii) the basis for application of subparagraph (B), (D), (E), or (F) of paragraph (2); and

19 “(iii) such other information as the Administrator, after public notice and opportunity for comment, determines to be necessary for effective enforcement of this subsection.

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

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

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

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

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

14                    “(i) to facilitate implementation of  
15                    this paragraph;

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

18                    “(iii) to harmonize the requirements  
19                    of this paragraph with certification requirements under other provisions of this  
20                    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.

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

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 ticle 8 of the POPs Convention;

2 or

3 “(cc) a determination whether some or all of the uses of the  
4 pesticide cause unreasonable adverse effects on the environment;

5 and

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

9  
10  
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) Chlordcone.  
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 exem-  
23                   ption 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 DISTRIBU-  
7                             TORS.—Any person that sells or distributes the  
8                             LRTAP POPs pesticide shall ensure that—

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;

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 POPs pesticide.

9                         “(4) SUBMISSION OF INFORMATION.—

10                         “(A) RISK PROFILE IN SUPPORT OF PRO-  
11                         POSED AMENDMENT TO LIST.—

12                         “(i) PUBLICATION OF NOTICE IN FED-  
13                         ERAL REGISTER.—As soon as practicable  
14                         after the date of submission to the Execu-  
15                         tive Body of a risk profile in support of a  
16                         proposed amendment to list a pesticide in  
17                         Annex I, II, or III to the LRTAP POPs  
18                         Protocol, the Administrator may publish in  
19                         the Federal Register a notice that—

20                         “(I) identifies the pesticide; and

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

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

25                         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.

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; and12                   “(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 CERTIFICATION STATEMENT.—A person  
2                             that is required to prepare a certification statement under clause (i)(II)  
3                             shall maintain a copy of the certification statement for a period of not  
4                             less than 3 years beginning on the  
5                             date on which the certification statement is prepared.

6  
7  
8  
9  
10                           “(IV) REGULATIONS.—The Administrator may promulgate such regulations as the Administrator determines to be necessary—

11  
12  
13  
14                           “(aa) to facilitate implementation of this subparagraph;  
15  
16                           “(bb) to ensure compliance with the PIC Convention; and  
17  
18                           “(cc) to harmonize the certification requirement of this subparagraph with certification requirements under other provisions of this Act so as to avoid any requirement that multiple certification statements accom-

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

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



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                     POP<sup>s</sup> 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.”;

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

4 and

“(e) POPs Convention.

“(1) Prohibition on specified POPs pesticides.

“(2) Exemptions.

“(3) Certification statement accompanying POPs pesticides.

“(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, disallowances, 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. Explanation.”

“(j) Regulations.”