

111TH CONGRESS
1ST SESSION

S. 519

To amend the Federal Insecticide, Fungicide, and Rodenticide Act to implement pesticide-related obligations of the United States under the international conventions or protocols known as the PIC Convention, the POPs Convention, and the LRTAP POPs Protocol.

IN THE SENATE OF THE UNITED STATES

MARCH 3, 2009

Mr. HARKIN (for himself and Mr. CHAMBLISS) introduced the following bill; which was read twice and referred to the Committee on Agriculture, Nutrition, and Forestry

A BILL

To amend the Federal Insecticide, Fungicide, and Rodenticide Act to implement pesticide-related obligations of the United States under the international conventions or protocols known as the PIC Convention, the POPs Convention, and the LRTAP POPs Protocol.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “POPs, LRTAP POPs,
5 and PIC Implementation Act of 2009”.

1 **SEC. 2. DEFINITIONS.**

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

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

8 “(qq) CONFERENCE LISTING DECISION.—The term
9 ‘Conference listing decision’ means a decision by the Con-
10 ference to approve an amendment to list a pesticide in
11 Annex A or B to the POPs Convention.

12 “(rr) DESIGNATED NATIONAL AUTHORITY.—The
13 term ‘designated national authority’ means 1 or more au-
14 thorities that a government has designated in a notifica-
15 tion to the Secretariat of the PIC Convention in accord-
16 ance with Article 4 of the PIC Convention.

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

20 “(tt) EXECUTIVE BODY DECISION 1998/2.—The
21 term ‘Executive Body Decision 1998/2’ means the decision
22 of the Executive Body titled ‘Executive Body Decision
23 1998/2 on Information to Be Submitted and the Proce-
24 dure for Adding Substances to Annexes I, II, or III to
25 the Protocol on Persistent Organic Pollutants’ and any

1 other Executive Body decision done pursuant to Article
2 14 of the LRTAP POPs Protocol.

3 “(uu) LRTAP CONVENTION.—The term ‘LRTAP
4 Convention’ means the Convention on Long-Range
5 Transboundary Air Pollution, done at Geneva on Novem-
6 ber 13, 1979 (TIAS 10541), and any subsequent amend-
7 ments to which the United States is a party.

8 “(vv) LRTAP POPs PESTICIDE.—The term
9 ‘LRTAP POPs pesticide’ means—

10 “(1) aldrin;

11 “(2) chlordane;

12 “(3) chlordecone;

13 “(4) dichlorodiphenyltrichloroethane (DDT);

14 “(5) dieldrin;

15 “(6) endrin;

16 “(7) hexachlorocyclohexane (HCH);

17 “(8) heptachlor;

18 “(9) hexachlorobenzene;

19 “(10) hexabromobiphenyl;

20 “(11) mirex;

21 “(12) polychlorinated biphenyls (PCBs);

22 “(13) toxaphene; and

23 “(14) any other pesticide—

24 “(A) that is listed on Annex I or II of the
25 LRTAP POPs Protocol;

1 “(B) that has no existing United States
2 registrations that would prevent the United
3 States from complying with its obligations
4 under the LRTAP POPs Protocol if the United
5 States were to become a party to the LRTAP
6 POPs Protocol for that pesticide; and

7 “(C) for which an amendment listing the
8 pesticide on Annex I or II of the LRTAP POPs
9 Protocol has entered into force for the United
10 States.

11 “(ww) LRTAP POPs PROTOCOL.—The term
12 ‘LRTAP POPs Protocol’ means the Protocol on Persistent
13 Organic Pollutants to the LRTAP Convention, done at
14 Aarhus on June 24, 1998, and any subsequent amend-
15 ment to which the United States is a party.

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

22 “(yy) POPs CONVENTION.—The term ‘POPs Con-
23 vention’ means the Stockholm Convention on Persistent
24 Organic Pollutants, done at Stockholm on May 22, 2001,

1 and any subsequent amendment to which the United
2 States is a party.

3 “(zz) POPs PESTICIDE.—The term ‘POPs pesticide’
4 means—

5 “(1) aldrin;

6 “(2) chlordane;

7 “(3) dichlorodiphenyltrichloroethane (DDT);

8 “(4) dieldrin;

9 “(5) endrin;

10 “(6) heptachlor;

11 “(7) hexachlorobenzene;

12 “(8) mirex;

13 “(9) polychlorinated biphenyls (PCBs);

14 “(10) toxaphene; and

15 “(11) any other pesticide—

16 “(A) that is listed on Annex A or B of the
17 POPs Convention;

18 “(B) that has no existing United States
19 registrations that would prevent the United
20 States from complying with its obligations
21 under the POPs Convention if the United
22 States were to become a party to the POPs
23 Convention for that pesticide; and

24 “(C) for which an amendment listing the
25 pesticide on Annex A or B of the POPs Con-

1 vention has entered into force for the United
2 States.

3 “(aaa) POPS REVIEW COMMITTEE.—The term
4 ‘POPs Review Committee’ means the Persistent Organic
5 Pollutants Review Committee established under paragraph
6 6 of Article 19 of the POPs Convention.”.

7 **SEC. 3. POPS CONVENTION, LRTAP POPS PROTOCOL, AND**
8 **PIC CONVENTION.**

9 Section 17 of the Federal Insecticide, Fungicide, and
10 Rodenticide Act (7 U.S.C. 136o) is amended—

11 (1) in the section heading, by striking “**IM-**
12 **PORTS AND EXPORTS.**” and inserting “**IMPORTS,**
13 **EXPORTS, AND INTERNATIONAL CONVEN-**
14 **TIONS.**”;

15 (2) in subsection (a)—

16 (A) in the matter preceding paragraph (1),
17 by striking “this Act—” and inserting “this
18 Act, if—”;

19 (B) in paragraph (1)—

20 (i) by striking “when” and inserting
21 “the pesticide or device or active ingredient
22 used in producing a pesticide is”; and

23 (ii) by striking “and” after the semi-
24 colon; and

1 (C) by striking paragraph (2) and all that
2 follows and inserting the following:

3 “(2) in the case of any pesticide other than a
4 pesticide registered under section 3 or sold under
5 section 6(a)(1), the foreign purchaser has, prior to
6 export, signed a statement acknowledging that the
7 purchaser understands that the pesticide is not reg-
8 istered for use in the United States and cannot be
9 sold in the United States under this Act; and

10 “(3) the export is in compliance with all of the
11 applicable provisions of this section.

12 A copy of the statement under paragraph (2) shall be
13 transmitted to an appropriate official of the government
14 of the importing country.”;

15 (3) in subsection (c)—

16 (A) by redesignating the first through
17 fourth sentences as paragraphs (1) through (4),
18 respectively; and

19 (B) by adding at the end the following:

20 “(5) PROHIBITED IMPORTS.—Nothing in this
21 subsection permits the importation of any POPs pes-
22 ticide or LRTAP POPs pesticide that otherwise is
23 prohibited under subsection (e).”;

24 (4) in the subsection heading of subsection (d),
25 by inserting “**GENERALLY**” after “**EFFORTS**”; and

1 (5) by striking subsection (e) and inserting the
2 following:

3 “(e) POPS CONVENTION, LRTAP POPS PROTOCOL,
4 AND PIC CONVENTION.—

5 “(1) IN GENERAL.—The Administrator shall, in
6 cooperation with the Department of State and any
7 other appropriate Federal agency, participate in
8 technical cooperation and capacity building activities
9 designed to support implementation of the POPs
10 Convention, the LRTAP POPs Protocol, and the
11 PIC Convention.

12 “(2) PROHIBITIONS.—No person may sell, dis-
13 tribute, use, produce, or dispose of a POPs pesticide
14 or LRTAP POPs pesticide in a manner inconsistent
15 with obligations of the United States under the
16 POPs Convention or LRTAP POPs Protocol.

17 “(3) NOTICE AND REPORT AFTER DECISION
18 THAT SCREENING CRITERIA ARE MET UNDER POPS
19 CONVENTION OR AFTER RISK PROFILE SUBMITTED
20 UNDER LRTAP POPS PROTOCOL.—

21 “(A) APPLICABILITY.—This paragraph ap-
22 plies if—

23 “(i) the POPs Review Committee or
24 Conference decides—

1 “(I) under paragraph 4(a) of Ar-
2 ticle 8 of the POPs Convention, that
3 a proposal for listing a pesticide in
4 Annex A, B, or C to the POPs Con-
5 vention fulfills the screening criteria
6 specified in Annex D to the POPs
7 Convention; or

8 “(II) under paragraph 5 of Arti-
9 cle 8 of the POPs Convention, that
10 such a proposal shall proceed; or

11 “(ii) a party to the LRTAP POPs
12 Protocol submits to the Executive Body a
13 risk profile in support of a proposal to list
14 a pesticide in Annex I, II, or III to the
15 LRTAP POPs Protocol.

16 “(B) NOTICE.—Not later than 45 days
17 after the date of the POPs Review Committee
18 or Conference decision on a proposal or the
19 submission of a risk profile in support of a pro-
20 posal under the LRTAP POPs Protocol de-
21 scribed in clause (i) or (ii) of subparagraph (A),
22 respectively, the Administrator shall—

23 “(i) publish in the Federal Register a
24 notice of the proposal; and

1 “(ii) provide opportunity for comment
2 on the proposal.

3 “(C) REQUIRED ELEMENTS OF NOTICE.—

4 A notice under subparagraph (B) shall—

5 “(i) identify the pesticide that is the
6 subject of the proposal;

7 “(ii) include a summary of the process
8 under the POPs Convention or the
9 LRTAP POPs Protocol for the submission
10 of a proposal and listing of a pesticide that
11 is the subject of a proposal (including cri-
12 teria applied in that process);

13 “(iii) include—

14 “(I) a summary of the POPs Re-
15 view Committee or Conference deci-
16 sion and the basis for the decision; or

17 “(II) a summary of the risk pro-
18 file that a party to the LRTAP POPs
19 Protocol submitted to the Executive
20 Body;

21 “(iv) request information relevant to
22 and comment on—

23 “(I) in the case of a pesticide
24 proposed for listing in an Annex to
25 the POPs Convention, the information

1 requirements and screening criteria
2 elements covered under Annex D to
3 the POPs Convention; or

4 “(II) in the case of a pesticide
5 proposed for listing in an Annex to
6 the LRTAP POPs Protocol, the infor-
7 mation referenced in paragraph 6(a)
8 of Article 14 of the LRTAP POPs
9 Protocol;

10 “(v) request information described in
11 subparagraph (D);

12 “(vi) include any other information
13 that the Administrator considers to be rel-
14 evant to the proposal;

15 “(vii) request information and com-
16 ment on—

17 “(I) information relevant to the
18 risk profile of the POPs Review Com-
19 mittee covered under Annex E to the
20 POPs Convention; and

21 “(II) information relevant to any
22 technical review conducted under
23 paragraph 2 of Executive Body Deci-
24 sion 1998/2; and

1 “(viii) include a statement that any
2 information submitted may be part of the
3 record of any cancellation proceeding re-
4 lated to the pesticide that the Adminis-
5 trator may undertake under section 6.

6 “(D) PROVISION OF INFORMATION.—

7 “(i) PROVISION OF INFORMATION
8 UNDER POPS CONVENTION.—Not later
9 than 60 days after the date of publication
10 of the notice under subparagraph (B) re-
11 garding a proposal to list a pesticide on an
12 Annex to the POPs Convention, or not
13 later than a later date as determined by
14 the Administrator, any interested person
15 may provide to the Administrator informa-
16 tion or comment on—

17 “(I) the annual quantity of the
18 pesticide manufactured and the 1 or
19 more locations of the manufacture;

20 “(II) the uses of the pesticide;

21 “(III) the approximate annual
22 quantity of the pesticide that is re-
23 leased into the environment; and

24 “(IV) other information or moni-
25 toring data relating to the pesticide

1 that is consistent with the information
2 specified in paragraph 1 of Annex D,
3 and subsections (b) through (e) of
4 Annex E, to the POPs Convention.

5 “(ii) PROVISION OF INFORMATION
6 UNDER LRTAP POPS PROTOCOL.—Not later
7 than 60 days after the date of publication
8 of the notice under subparagraph (B) re-
9 garding a proposal to list a pesticide on an
10 Annex of the LRTAP POPs Protocol, or
11 not later than a later date as determined
12 by the Administrator, any interested per-
13 son may provide to the Administrator in-
14 formation on—

15 “(I) the potential for long-range
16 transboundary atmospheric transport
17 of the pesticide;

18 “(II) the toxicity of the pesticide;

19 “(III) the persistence of the pes-
20 ticide, including biotic degradation
21 process and rates of degradation prod-
22 ucts;

23 “(IV) the bioaccumulation of the
24 pesticide, including bioavailability;

1 “(V) the annual quantity of the
2 pesticide manufactured and the 1 or
3 more locations of the manufacture;

4 “(VI) the uses of the pesticide;

5 “(VII) the approximate annual
6 quantity of the pesticide released into
7 the environment;

8 “(VIII) environmental monitoring
9 data relating to the pesticide (in areas
10 distant from sources);

11 “(IX) information on—

12 “(aa) alternatives to the
13 uses of the pesticide and the effi-
14 cacy of each alternative; and

15 “(bb) known adverse envi-
16 ronmental or human health ef-
17 fects associated with each alter-
18 native;

19 “(X) information on—

20 “(aa) process changes, con-
21 trol technologies, operating prac-
22 tices, and other pollution preven-
23 tion techniques that can be used
24 to reduce the emissions of the
25 pesticide; and

1 “(bb) the applicability and
2 effectiveness of each technique
3 describe in item (aa); and

4 “(XI) information on nonmone-
5 tary costs and benefits and the quan-
6 tifiable costs and benefits associated
7 with the use of each alternative de-
8 scribed in subclause (IX) or technique
9 described in subclause (X)(aa).

10 “(E) REPORT BY THE ADMINISTRATOR.—

11 Not later than 240 days after the date of publi-
12 cation of a notice under subparagraph (B),
13 based on information received under this para-
14 graph and any other relevant information avail-
15 able to the Administrator, the Administrator,
16 after consulting with the Secretary of Agri-
17 culture or, for public health pesticides, with the
18 Secretary of Health and Human Services, shall
19 issue for public comment and peer review a re-
20 port that contains, at a minimum—

21 “(i) information on the production
22 and uses in the United States of the pes-
23 ticide; and

24 “(ii) a review of the benefits and risks
25 in the United States and internationally

1 associated with the production and uses in
2 the United States and internationally of
3 the pesticide.

4 “(4) NOTICE AND REPORT AFTER DECISION
5 THAT GLOBAL ACTION WARRANTED UNDER POPS
6 CONVENTION OR THAT FURTHER CONSIDERATION
7 OF PESTICIDES WARRANTED UNDER LRTAP POPS
8 PROTOCOL.—

9 “(A) APPLICABILITY.—This paragraph ap-
10 plies if—

11 “(i) the POPs Review Committee de-
12 cides, under paragraph 7(a) of Article 8 of
13 the POPs Convention, that global action is
14 warranted with respect to a pesticide that
15 is the subject of a proposal, or the Con-
16 ference decides, under paragraph 8 of that
17 Article, that the proposal shall proceed; or

18 “(ii) the Executive Body determines
19 pursuant to paragraph 2 of Executive
20 Body Decision 1998/2 that further consid-
21 eration of a pesticide is warranted and
22 therefore requires 1 or more technical re-
23 views of a proposal.

24 “(B) NOTICE.—Not later than 45 days
25 after the date of the decision or determination

1 under subparagraph (A), the Administrator
2 shall—

3 “(i) publish in the Federal Register a
4 notice of the decision or determination;
5 and

6 “(ii) provide an opportunity for com-
7 ment on the decision or determination.

8 “(C) REQUIRED ELEMENTS OF NOTICE.—
9 A notice under subparagraph (B) shall—

10 “(i) identify the pesticide that is the
11 subject of the proposal;

12 “(ii) include a summary of—

13 “(I) the POPs Review Committee
14 or Conference decision and the basis
15 for the decision; or

16 “(II) the Executive Body deter-
17 mination and the basis for the deter-
18 mination;

19 “(iii) request information and com-
20 ment—

21 “(I) in the case of a pesticide
22 proposed for addition to an Annex of
23 the POPs Convention, on socio-
24 economic considerations covered under
25 Annex F of the POPs Convention, in-

1 including on the technical feasibility and
2 costs and benefits of the range of pos-
3 sible prohibitions described pursuant
4 to clause (vi);

5 “(II) in the case of a pesticide
6 proposed for listing on an Annex to
7 the LRTAP POPs Protocol, on—

8 “(aa) any additional meas-
9 ures not described pursuant to
10 clause (vi) that may exist to re-
11 duce the risks of adverse health
12 effects on human health or the
13 environment that result from the
14 long-range transboundary atmos-
15 pheric transport of the pesticide;

16 “(bb) the technical feasi-
17 bility of any of the additional
18 measures or the measures de-
19 scribed pursuant to clause (vi);
20 and

21 “(cc) the associated costs
22 and benefits of the additional
23 measures and the measures de-
24 scribed pursuant to clause (vi);

1 “(iv) request information on any cur-
2 rent or anticipated production or use of
3 the pesticide that is the subject of the pro-
4 posal for which the United States may
5 wish to—

6 “(I) seek an exemption or accept-
7 able purpose under the POPs Conven-
8 tion; or

9 “(II) allow a restricted use or
10 condition under the LRTAP POPs
11 Protocol;

12 “(v) request information described in
13 subparagraph (D);

14 “(vi) outline a broad range of possible
15 actions that the United States could take
16 to address any risks that the pesticide may
17 pose;

18 “(vii) specify what changes, if any, to
19 registrations of or tolerances for the pes-
20 ticide have been made since the date of
21 publication of the notice under paragraph
22 (3); and

23 “(viii) include a statement that any
24 information submitted may be included as
25 part of the record of any cancellation pro-

1 ceeding related to the pesticide that the
2 Administrator may undertake under sec-
3 tion 6.

4 “(D) PROVISION OF INFORMATION.—Not
5 later than 60 days after the date of publication
6 of the notice under subparagraph (B), or not
7 later than a later date as determined by the Ad-
8 ministrators, any interested person may provide
9 to the Administrator—

10 “(i) consistent with the information
11 needs described in Annex F to the POPs
12 Convention, any information that the per-
13 son believes is relevant to—

14 “(I) a risk management evalua-
15 tion carried out under paragraph 7 of
16 Article 8 of the POPs Convention; or

17 “(II) a decision by the Con-
18 ference under paragraph 9 of Article
19 8 of the POPs Convention;

20 “(ii) consistent with the information
21 needs for the technical review described in
22 paragraph 2 of Executive Body Decision
23 1998/2, any information the person be-
24 lieves is relevant to the technical review or
25 to an Executive Body decision made under

1 paragraph 3 of Article 14 of the LRTAP
2 POPs Protocol;

3 “(iii) any information that the person
4 believes is relevant to an action under this
5 subsection; and

6 “(iv) information on any article in use
7 that consists of, contains, or is contami-
8 nated with the pesticide.

9 “(E) REPORT BY ADMINISTRATOR.—Not
10 later than 240 days after the date of publica-
11 tion of the notice under subparagraph (B),
12 based on information received under this para-
13 graph and any other information available to
14 the Administrator, the Administrator, after con-
15 sultation with the Secretary of Agriculture or,
16 for public health pesticides, with the Secretary
17 of Health and Human Services, shall issue a re-
18 port for public comment and peer review that
19 includes, at a minimum, information relating to
20 the costs and benefits of the prohibitions or re-
21 strictions described in response to subparagraph
22 (C)(vi) that could be placed on the sale, dis-
23 tribution, production, use, or disposal of the
24 pesticide (including the possible consequences of
25 using alternative products or processes).

1 “(5) NOTICE AFTER RECOMMENDATION THAT
2 CONFERENCE CONSIDER LISTING OR AFTER COM-
3 PLETION OF TECHNICAL REVIEW.—

4 “(A) APPLICABILITY.—This paragraph ap-
5 plies—

6 “(i) if the POPs Review Committee
7 recommends, under paragraph 9 of Article
8 8 of the POPs Convention, that the Con-
9 ference consider making a Conference list-
10 ing decision with respect to the pesticide in
11 accordance with the proposal; or

12 “(ii) after completion of a technical
13 review of a proposal to list a pesticide on
14 an Annex to the LRTAP POPs Protocol.

15 “(B) NOTICE.—Not later than 45 days
16 after the date of the POPs Review Committee
17 recommendation or completion of a technical re-
18 view described in clause (i) or (ii) of subpara-
19 graph (A), respectively, the Administrator
20 shall—

21 “(i) publish in the Federal Register a
22 notice of the recommendation or comple-
23 tion of the technical review; and

1 “(ii) provide opportunity for comment
2 on the recommendation or the technical re-
3 view.

4 “(C) REQUIRED ELEMENTS OF NOTICE.—
5 A notice under subparagraph (B) shall—

6 “(i) include a summary of the POPs
7 Review Committee recommendation and
8 the basis for the recommendation or a
9 summary of the technical review;

10 “(ii) summarize any control measures
11 for the pesticide that are—

12 “(I) identified by the POPs Re-
13 view Committee; or

14 “(II) covered by the technical re-
15 view; and

16 “(iii) include a statement that any in-
17 formation submitted may be included as
18 part of the record of any cancellation pro-
19 ceeding related to the pesticide that the
20 Administrator may undertake under sec-
21 tion 6.

22 “(6) CONSIDERATION OF INFORMATION IN CAN-
23 CELLATION OF REGISTRATION.—In a cancellation
24 proceeding under section 6 for a pesticide listed on
25 Annex A or B of the POPs Convention or Annex I

1 or II of the LRTAP POPs Protocol, the Adminis-
2 trator may consider—

3 “(A) the record compiled under paragraphs
4 (3), (4), and (5);

5 “(B) information related to domestic sale,
6 distribution, production, export, and use of the
7 pesticide;

8 “(C) information related to national and
9 international consequences that are likely to
10 arise as a result of domestic regulatory actions
11 (including the possible consequences of using al-
12 ternative products or processes);

13 “(D) for pesticides listed on Annex A or B
14 of the POPs Convention—

15 “(i) the POPs Review Committee rec-
16 ommendation under paragraph 9 of Article
17 8 of the POPs Convention;

18 “(ii) the Conference listing decision;
19 and

20 “(iii) information that the United
21 States submits to the POPs Review Com-
22 mittee or to the Conference pursuant to
23 Article 8 of the POPs Convention;

24 “(E) for pesticides listed on Annex I or II
25 of the LRTAP POPs Protocol—

1 “(i) any technical review conducted
2 pursuant to paragraph 2 of Executive
3 Body Decision 1998/2;

4 “(ii) the LRTAP POPs Protocol list-
5 ing decision; and

6 “(iii) information that the United
7 States submitted to the Executive Body, or
8 a subsidiary of the Executive Body, in re-
9 lation to a technical review or listing deci-
10 sion; and

11 “(F) scientific information included in or
12 used to develop or support the items listed in
13 subparagraphs (A) through (E).

14 “(7) NO EFFECT ON OTHER PROVISIONS.—

15 “(A) IN GENERAL.—Nothing in this sub-
16 section authorizes any sale, distribution, use,
17 production, or disposal of any POPs pesticide
18 or LRTAP POPs pesticide that is prohibited
19 under any other provision of law.

20 “(B) ACTION BY THE ADMINISTRATOR.—
21 Except to the extent necessary to comply with
22 the PIC Convention, the POPs Convention, or
23 the LRTAP POPs Protocol, nothing in this
24 subsection interferes with or is a prerequisite to

1 the Administrator taking any action authorized
2 under this Act.

3 “(8) REQUIREMENTS FOR EXPORTS.—In the
4 case of a pesticide or active ingredient used in pro-
5 ducing a pesticide identified by the Administrator as
6 listed on Annex III of the PIC Convention in a no-
7 tice issued under paragraph (11)(C), any person
8 that distributes in commerce the pesticide or active
9 ingredient used in producing a pesticide for export
10 shall comply with any export conditions or restric-
11 tions identified by the Administrator in the notice.

12 “(9) PRE-EXPORT NOTICES.—

13 “(A) IN GENERAL.—

14 “(i) REQUIREMENT.—In the case of—

15 “(I) a pesticide or active ingre-
16 dient used in producing a pesticide
17 that the Administrator determines to
18 be banned or severely restricted under
19 paragraph (11)(A);

20 “(II) a pesticide or active ingre-
21 dient used in producing a pesticide
22 identified by the Administrator in a
23 notice issued under paragraph
24 (11)(C); or

1 “(III) a POPs pesticide the ex-
2 port of which is not prohibited under
3 paragraph (2);

4 the exporter of the pesticide or active in-
5 gredient used in producing the pesticide
6 shall provide to the Administrator notice of
7 the intent of the exporter to export the
8 pesticide.

9 “(ii) TIMING OF NOTICE FOR BANNED
10 OR SEVERELY RESTRICTED PESTICIDES OR
11 ACTIVE INGREDIENTS USED IN PRODUCING
12 PESTICIDES.—

13 “(I) FIRST EXPORT.—In the case
14 of a first export of a pesticide or ac-
15 tive ingredient described in paragraph
16 (11)(A) that an exporter makes from
17 the territory of the United States to
18 each importing foreign state after the
19 Administrator issues a notice under
20 paragraph (11)(A), the exporter shall
21 provide the notice so that the Admin-
22 istrator receives the notice not earlier
23 than 45 nor later than 15 calendar
24 days before the date of export.

1 “(II) SUBSEQUENT EXPORTS.—

2 In the case of subsequent exports of a
3 pesticide or active ingredient described
4 in paragraph (11)(A) to the importing
5 foreign state in calendar years subse-
6 quent to the notification provided
7 under subclause (I), the exporter shall
8 provide the notice so that the Admin-
9 istrator receives the notice not earlier
10 than 45 nor later than 15 calendar
11 days before the date of the first ex-
12 port in each calendar year.

13 “(iii) TIMING OF PRE-EXPORT NOTICE
14 FOR PESTICIDES LISTED ON ANNEX III OF
15 PIC CONVENTION.—

16 “(I) FIRST EXPORT.—In the case
17 of a first export of a pesticide listed in
18 Annex III to the PIC Convention that
19 an exporter makes from the territory
20 of the United States to each import-
21 ing foreign state after the Adminis-
22 trator notifies the public under para-
23 graph (11)(C), the exporter shall pro-
24 vide the notice so that the Adminis-
25 trator receives the notice not earlier

1 than 45 nor later than 15 calendar
2 days before the date of export.

3 “(II) SUBSEQUENT EXPORTS.—

4 In the case of subsequent exports of a
5 pesticide listed in Annex III to the
6 PIC Convention by the exporter to the
7 importing foreign state in calendar
8 years subsequent to the notification
9 provided under subclause (I), the ex-
10 porter shall provide the notice so that
11 the Administrator receives the notice
12 not earlier than 45 nor later than 15
13 calendar days before the date of the
14 first such subsequent export in each
15 calendar year.

16 “(III) CHANGED CIRCUMSTANCES

17 MERITING NEW NOTICE.—If condi-
18 tions or restrictions imposed by the
19 importing foreign state change and
20 the Administrator notifies the public
21 of the change under paragraph
22 (11)(C), or if an earlier pre-export no-
23 tice no longer applies, the exporter
24 shall provide the notice so that the
25 Administrator receives the notice not

1 earlier than 45 nor later than 15 cal-
2 endar days before the date of export.

3 “(iv) TIMING OF PRE-EXPORT NOTICE
4 FOR PESTICIDES THE EXPORT OF WHICH
5 IS NOT PROHIBITED.—

6 “(I) FIRST EXPORT OF THE CAL-
7 ENDAR YEAR.—In the case of the first
8 export of a pesticide not prohibited
9 from being exported under paragraph
10 (2) that an exporter makes from the
11 territory of the United States to each
12 importing foreign state, the exporter
13 shall provide the notice so that the
14 Administrator receives the notice not
15 earlier than 45 nor later than 15 cal-
16 endar days before the date of the first
17 export.

18 “(II) SUBSEQUENT EXPORTS.—
19 In the case of subsequent exports of a
20 pesticide not prohibited from being ex-
21 ported under paragraph (2) that an
22 exporter makes from the territory of
23 the United States to each importing
24 foreign state by the exporter to the
25 importing foreign state in calendar

1 years subsequent to the notification
2 provided under subclause (I) to the
3 importing foreign state, the exporter
4 shall provide the notice so that the
5 Administrator receives the notice not
6 earlier than 45 nor later than 15 cal-
7 endar days before the date of the first
8 such subsequent export in each cal-
9 endar year.

10 “(III) CHANGED CIRCUMSTANCES
11 MERITING NEW NOTICE.—If the infor-
12 mation provided in an earlier pre-ex-
13 port notice is no longer accurate, the
14 exporter shall provide the notice so
15 that the Administrator receives the
16 notice not earlier than 45 nor later
17 than 15 calendar days before the date
18 of export.

19 “(B) ALTERNATE TIME FRAME FOR NO-
20 TICES.—

21 “(i) DISCRETIONARY ALTERNATE
22 TIME FRAMES.—Notwithstanding clauses
23 (ii), (iii), and (iv) of subparagraph (A), the
24 Administrator may set an alternate time
25 frame for receipt of notices if the Adminis-

1 trator determines that such alternate time
2 frame is appropriate and that the Adminis-
3 trator is able, within such alternate time
4 frame, to administer notice activities in ac-
5 cordance with the PIC Convention and
6 comply with the POPs Convention.

7 “(ii) MANDATORY REVIEW OF STATU-
8 TORY TIME FRAMES AND PROCESSES.—

9 “(I) IN GENERAL.—Not later
10 than 18 months of entry into force for
11 the United States of the PIC Conven-
12 tion and not later than 18 months of
13 entry into force for the United States
14 of the POPs Convention, the Adminis-
15 trator shall review the statutory time
16 frames for receipt of pre-export no-
17 tices and the processing of the notices
18 by the Administrator.

19 “(II) CONSIDERATION OF APPRO-
20 PRIATENESS OF AMENDMENTS.—In
21 review of the time frames and proc-
22 esses, the Administrator, with the
23 concurrence of the Secretary of State,
24 shall consider whether amendments to
25 the time frames and modifications to

1 the processes would be appropriate to
2 administer notice activities in accord-
3 ance with the PIC Convention and to
4 comply with the POPs Convention.

5 “(C) CONTENT OF PRE-EXPORT NO-
6 TICES.—

7 “(i) NOTICES FOR BANNED OR SE-
8 VERELY RESTRICTED PESTICIDES OR AC-
9 TIVE INGREDIENT USED IN PRODUCING
10 PESTICIDES.—A notice under subpara-
11 graph (A)(ii) shall include—

12 “(I) the name and address of the
13 exporter;

14 “(II) the name and address of
15 the appropriate designated national
16 authority of the United States;

17 “(III) the name and address of
18 the appropriate designated national
19 authority of the importing foreign
20 state, if available;

21 “(IV) the name and address of
22 the importer;

23 “(V) the name of the pesticide or
24 active ingredient used in producing

1 the pesticide for which the notice is
2 required;

3 “(VI) the expected date of ex-
4 port;

5 “(VII) information relating to
6 the foreseen uses of the pesticide or
7 active ingredient used in producing a
8 pesticide, if known, in the importing
9 foreign state;

10 “(VIII) information on pre-
11 cautionary measures to reduce expo-
12 sure to, and emission of, the pesticide
13 or active ingredient used in producing
14 a pesticide;

15 “(IX) information relating to the
16 concentration of the pesticide or active
17 ingredient used in producing a pes-
18 ticide; and

19 “(X) any other information speci-
20 fied in Annex V to the PIC Conven-
21 tion.

22 “(ii) NOTICES FOR PESTICIDES LIST-
23 ED ON ANNEX III OF THE PIC CONVEN-
24 TION.—A notice under subparagraph
25 (A)(iii) shall include—

1 “(I) all of the information re-
2 quired to be included under clause (i);

3 “(II) any information relating to
4 export conditions or restrictions iden-
5 tified by the Administrator in the no-
6 tice issued under paragraph (11)(C)
7 with respect to the pesticide;

8 “(III) a general description of
9 the manner in which the export com-
10 plies with those conditions; and

11 “(IV) any other information that
12 the Administrator determines by order
13 published in the Federal Register to
14 be necessary for effective enforcement
15 of the export conditions or restrictions
16 applicable to the pesticide.

17 “(iii) NOTICES FOR PESTICIDES THE
18 EXPORT OF WHICH IS NOT PROHIBITED.—
19 A notice submitted to the Administrator
20 under subparagraph (A)(iv) shall include—

21 “(I) the name and address of the
22 exporter;

23 “(II) the name and address of
24 the importer;

1 “(III) a specification of the iden-
2 tity of the POPs pesticide;

3 “(IV) a general description of
4 how the export complies with the pro-
5 visions related to export in paragraph
6 2 of Article 3, or other applicable pro-
7 visions, of the POPs Convention; and

8 “(V) such other information as
9 the Administrator determines by order
10 published in the Federal Register to
11 be necessary for enforcement of the
12 export-related obligations of the POPs
13 Convention applicable to the pesticide.

14 “(D) PRE-EXPORT NOTICES ACCOM-
15 PANYING EACH EXPORT.—An exporter shall en-
16 sure that a copy of the most recent applicable
17 pre-export notice accompanies each shipment
18 for export and is available for inspection on ex-
19 port for—

20 “(i) any pesticide or active ingredient
21 used in producing a pesticide that the Ad-
22 ministrator has identified under paragraph
23 (11)(C) as being listed on Annex III of the
24 PIC Convention; or

1 “(ii) any POPs pesticide that is ex-
2 ported.

3 “(E) RETENTION OF PRE-EXPORT NO-
4 TICES.—

5 “(i) IN GENERAL.—An exporter re-
6 quired to provide a notice under clauses
7 (iii) and (iv) of subparagraph (A) shall
8 comply with sections 7 and 8 and any reg-
9 ulations promulgated under those sections
10 with regard to maintenance of the notice
11 and other documents used to generate the
12 notice and with regard to their availability
13 for inspection and copying.

14 “(ii) TIME PERIOD FOR RETEN-
15 TION.—Notwithstanding clause (i), an ex-
16 porter required to provide a notice under
17 clauses (iii) and (iv) of subparagraph (A)
18 shall maintain a copy of the notice and
19 other documents used to generate the no-
20 tice for a period of not less than 3 years
21 beginning on the date on which the notice
22 is provided.

23 “(10) LABELING REQUIREMENTS.—

24 “(A) IN GENERAL.—In the case of any
25 pesticide or active ingredient used in producing

1 a pesticide that is the subject of a notice issued
2 under subparagraph (A) or (C) of paragraph
3 (11) and that is sold, distributed, or produced,
4 the pesticide or active ingredient used in pro-
5 ducing a pesticide, shall, in accordance with the
6 PIC Convention—

7 “(i) bear labeling information relating
8 to risks or hazards to human health or the
9 environment; and

10 “(ii) be accompanied by shipping doc-
11 uments that include any relevant safety
12 data sheets on the pesticide.

13 “(B) CUSTOM CODES.—A pesticide or ac-
14 tive ingredient used in producing a pesticide
15 that is the subject of a notice issued under
16 paragraph (11)(C) and that is distributed or
17 sold for export shall be accompanied by ship-
18 ping documents that bear, at a minimum, any
19 appropriate harmonized system customs codes
20 assigned by the World Customs Organization.

21 “(11) NOTICE REQUIREMENTS AND EXEMP-
22 TION.—

23 “(A) DETERMINATION WHETHER PES-
24 TICIDES ARE BANNED OR SEVERELY RE-
25 STRICTED.—

1 “(i) IN GENERAL.—The Adminis-
2 trator, with the concurrence of the Sec-
3 retary of State, shall determine whether a
4 pesticide or active ingredient used in pro-
5 ducing a pesticide is banned or severely re-
6 stricted within the United States (as those
7 terms are defined by the PIC Convention).

8 “(ii) NOTICE OF DETERMINATIONS.—
9 Notwithstanding any other provision of
10 law, the Administrator shall issue to the
11 Secretariat of the PIC Convention and the
12 public a notice of each determination
13 under clause (i) that includes—

14 “(I) in the case of a notice to the
15 Secretariat of the PIC Convention,
16 the information specified in Annex I
17 to the PIC Convention; and

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

21 “(B) NOTICE TO FOREIGN COUNTRIES.—

22 “(i) IN GENERAL.—Notwithstanding
23 any other provision of law, on receipt of a
24 notice of intent to export under paragraph
25 (9)(A)(ii), the Administrator shall provide

1 a copy of the notice to the designated na-
2 tional authority of the importing foreign
3 state.

4 “(ii) NONIDENTIFIED DESIGNATED
5 NATIONAL AUTHORITY.—In a case in
6 which a designated national authority has
7 not been identified, the Administrator shall
8 provide the notice of intent to export to
9 any other appropriate official of the im-
10 porting foreign state, as identified by the
11 Administrator.

12 “(C) NOTICE TO PUBLIC.—

13 “(i) IN GENERAL.—The Adminis-
14 trator, with the concurrence of the Sec-
15 retary of State, shall issue a notice to in-
16 form the public of—

17 “(I) any pesticide that is listed
18 on Annex III to the PIC Convention;
19 and

20 “(II) any condition or restriction
21 of an importing foreign state that is
22 applicable to the import, in accord-
23 ance with the PIC Convention, of the
24 pesticide.

1 “(ii) TIMING.—A notice required
2 under clause (i) shall be issued not later
3 than 90 days after, and any conditions or
4 restrictions described in clause (i)(II) shall
5 take effect not later than 180 days after,
6 the date of receipt of a notice from the
7 Secretariat of the PIC Convention who—

8 “(I) transmits import decisions of
9 the parties to the PIC Convention; or

10 “(II) provides notice of the fail-
11 ure of the parties to provide import
12 decisions.

13 “(iii) TREATMENT OF CONDITIONS
14 AND RESTRICTIONS.—A condition or re-
15 striction identified by a notice required
16 under clause (i) shall be considered to be
17 an export condition or restriction for the
18 purpose of paragraph (8).

19 “(D) NOTICE OF EXEMPTION.—The Ad-
20 ministrator may issue a notice exempting any
21 pesticide or active ingredient used in producing
22 a pesticide from the requirements of paragraphs
23 (8) through (10) if the Administrator deter-
24 mines, with the concurrence of the Secretary of

1 State, that the exemption would be consistent
2 with the PIC Convention or POPs Convention.

3 “(12) HARMONIZATION OF POPS CONVENTION
4 AND LRTAP POPS PROTOCOL.—

5 “(A) IN GENERAL.—If a pesticide is both
6 a POPs pesticide and a LRTAP POPs pes-
7 ticide, in the case of a conflict between a provi-
8 sion of this subsection applicable to a POPs
9 pesticide and a provision of this subsection ap-
10 plicable to a LRTAP POPs pesticide, the more
11 stringent provision shall apply, as determined
12 by the Administrator, with the concurrence of
13 the Secretary of State.

14 “(B) APPLICATION.—In the case of a pes-
15 ticide described in subparagraph (A), this para-
16 graph shall be applied in such a manner as to
17 ensure that the United States is in compliance
18 with its obligations under the POPs Convention
19 and the LRTAP POPs Protocol with respect to
20 the pesticide.

21 “(13) HARMONIZATION OF POPS CONVENTION
22 AND PIC CONVENTION.—

23 “(A) IN GENERAL.—If the export of a pes-
24 ticide is addressed or restricted under para-
25 graphs (2) through (6) and paragraphs (8)

1 through (11), all of those paragraphs shall
2 apply to the pesticide.

3 “(B) CONFLICT.—In the case of a conflict
4 between paragraphs (2) through (6) and para-
5 graphs (8) through (11) with respect to a pes-
6 ticide, the more stringent provision shall apply.

7 “(C) APPLICATION.—With respect to a
8 pesticide, paragraphs (2) through (11) shall be
9 applied in manner as to ensure that the United
10 States is in compliance with its obligations
11 under both the POPs Convention and the PIC
12 Convention with respect to the pesticide.

13 “(f) REGULATIONS.—

14 “(1) IN GENERAL.—The Administrator may
15 promulgate such regulations as the Administrator
16 determines, with the concurrence of the Secretary of
17 State and after providing notice to any other inter-
18 ested Federal agency, to be necessary—

19 “(A) to implement this section;

20 “(B) to allow the pre-export notice require-
21 ment under this section and any pre-export no-
22 tice requirement in other provisions of this Act
23 or in any other Federal law to be satisfied by
24 a single notice; and

1 “(C) to ensure compliance with the PIC
2 Convention, the POPs Convention, and the
3 LRTAP POPs Protocol.

4 “(2) IMPORTATION OF PESTICIDES AND DE-
5 VICES.—The Secretary of the Treasury, in consulta-
6 tion with the Administrator, shall promulgate regu-
7 lations for the enforcement of subsection (c).”.

8 **SEC. 4. CONFORMING AMENDMENTS.**

9 (a) Section 3(b) of the Federal Insecticide, Fungicide,
10 and Rodenticide Act (7 U.S.C. 136a(b)) is amended in the
11 matter preceding paragraph (1) by striking “A pesticide”
12 and inserting “Except as provided in section 17, a pes-
13 ticide”.

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

17 (1) in subparagraph (R), by striking “or” after
18 the semicolon;

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

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

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

1 (c) Section 17(c) of the Federal Insecticide, Fun-
 2 gicide, and Rodenticide Act (7 U.S.C. 136o(c)) (as amend-
 3 ed by section 3(3)) is amended—

4 (1) in paragraph (1), by inserting “IN GEN-
 5 ERAL.—” before “The Secretary”;

6 (2) in paragraph (2), by inserting “REFUSAL
 7 AND DESTRUCTION.—” before “If it appears”;

8 (3) in paragraph (3), by inserting “DELIVERY
 9 AND FORFEITURE.—” before “The Secretary of the
 10 Treasury may”; and

11 (4) in paragraph (4), by inserting
 12 “CHARGES.—” before “All charges”.

13 **SEC. 5. CONFORMING AMENDMENTS TO FIFRA TABLE OF**
 14 **CONTENTS.**

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

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

- “(hh) Nitrogen stabilizer.
- “(jj) Maintenance applicator.
- “(kk) Service technician.
- “(ll) Minor use.
- “(mm) Antimicrobial pesticide.
- “(nn) Public health pesticide.
- “(oo) Vector.
- “(pp) Conference.
- “(qq) Conference listing decision.
- “(rr) Designated national authority.
- “(ss) Executive Body.
- “(tt) Executive Body decision 1998/2.
- “(uu) LRTAP Convention.
- “(vv) LRTAP POPs pesticide.

“(ww) LRTAP POPs Protocol.
 “(xx) PIP Convention.
 “(yy) POPs Convention.
 “(zz) POPs pesticide.
 “(aaa) POPs Review Committee.”;

1 and

2 (2) by striking the items relating to section 17

3 and inserting the following:

“Sec. 17. Imports, exports, and international conventions.
 “(a) Pesticides and devices intended for export.
 “(b) Cancellation notices furnished to foreign governments.
 “(c) Importation of pesticides and devices.
 “(1) In general.
 “(2) Refusal and destruction.
 “(3) Delivery and forfeiture.
 “(4) Charges.
 “(5) Prohibited imports.
 “(d) Cooperation in international efforts generally.
 “(e) POPs Convention, LRTAP POPs Protocol, and PIC Convention.
 “(1) In general.
 “(2) Prohibitions.
 “(3) Notice and report after decision that screening criteria are met under POPs Convention or after risk profile submitted under LRTAP POPs Protocol.
 “(4) Notice and report after decision that global action warranted under POPs Convention or that further consideration of pesticides warranted under LRTAP POPs Protocol.
 “(5) Notice after recommendation that Conference consider listing or after completion of technical review.
 “(6) Consideration of information in cancellation of registration.
 “(7) No effect on other provisions.
 “(8) Requirements for exports.
 “(9) Pre-export notices.
 “(10) Labeling requirements.
 “(11) Notice requirements and exemption.
 “(12) Harmonization of POPs Convention and LRTAP POPs Protocol.
 “(13) Harmonization of POPs Convention and PIC Convention.
 “(f) Regulations.
 “(1) In general.
 “(2) Importation of pesticides and devices.”.

○