

107TH CONGRESS
2^D SESSION

S. 2118

To amend the Toxic Substances Control Act and the Federal Insecticide, Fungicide, and Rodenticide Act to implement the Stockholm Convention on Persistent Organic Pollutants and the Protocol on Persistent Organic Pollutants to the Convention on Long-Range Transboundary Air Pollution.

IN THE SENATE OF THE UNITED STATES

APRIL 11, 2002

Mr. JEFFORDS introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

A BILL

To amend the Toxic Substances Control Act and the Federal Insecticide, Fungicide, and Rodenticide Act to implement the Stockholm Convention on Persistent Organic Pollutants and the Protocol on Persistent Organic Pollutants to the Convention on Long-Range Transboundary Air Pollution.

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; TABLE OF CONTENTS.**

4 (a) **SHORT TITLE.**—This Act may be cited as the
5 “POPS Implementation Act of 2002”.

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

Sec. 1. Short title; table of contents.

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

Sec. 101. Definitions.

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

Sec. 103. Reporting and retention of information.

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

Sec. 105. Exports.

Sec. 106. Prohibited acts.

Sec. 107. Research program to support POPs Convention.

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.

3 **TITLE I—USE OR PRODUCTION**
 4 **OF POPS CHEMICAL SUB-**
 5 **STANCES OR MIXTURES**

6 **SEC. 101. DEFINITIONS.**

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

9 (1) in paragraph (2)(B), by striking clause (ii)
 10 and inserting the following:

11 “(ii) any pesticide that may, under the Federal
 12 Insecticide, Fungicide, and Rodenticide Act (7
 13 U.S.C. 136 et seq.), be lawfully sold or distributed
 14 for use in the United States,”;

15 (2) by redesignating paragraphs (4), (5), (6),
 16 (7), (8), (9), (10), (11), (12), (13), and (14) as

1 paragraphs (5), (6), (8), (12), (13), (14), (19), (20),
2 (21), (22), and (23), respectively;

3 (3) by inserting after paragraph (3) the fol-
4 lowing:

5 “(4) CONFERENCE.—The term ‘Conference’
6 means the Conference of the Parties established by
7 paragraph 1 of Article 19 of the POPs Conven-
8 tion.”;

9 (4) by inserting after paragraph (6) (as redesign-
10 nated by paragraph (2)) the following:

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

14 (5) by inserting after paragraph (8) (as redesign-
15 nated by paragraph (2)) the following:

16 “(9) 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).

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

24 “(A)(i) that is listed in Annex I or II to
25 the LRTAP POPs Protocol; but

1 “(ii) that is not listed in Annex A or B to
2 the POPs Convention; and

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

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

12 (6) by inserting after paragraph (14) (as redes-
13 ignated by paragraph (2)) the following:

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

16 “(16) POPS CHEMICAL SUBSTANCE OR MIX-
17 TURE.—The term ‘POPs chemical substance or mix-
18 ture’ means—

19 “(A) aldrin;

20 “(B) chlordan;e;

21 “(C) dichlorodiphenyltrichloroethane
22 (DDT); and

23 “(D) dieldrin;

24 “(E) endrin;

25 “(F) heptachlor;

1 “(G) hexachlorobenzene;
2 “(H) mirex;
3 “(I) PCBs;
4 “(J) toxaphene; and
5 “(K) any other chemical substance or
6 mixture—

7 “(i) that is listed in Annex A or B to
8 the POPs Convention; and

9 “(ii) with respect to which an amend-
10 ment adding the chemical substance or
11 mixture to Annex A or B to the POPs
12 Convention has entered into force with re-
13 spect to the United States under para-
14 graph 4 of Article 22 of the POPs Conven-
15 tion.

16 “(17) POPs CONVENTION.—The term ‘POPs
17 Convention’ means the Stockholm Convention on
18 Persistent Organic Pollutants, done at Stockholm on
19 May 22, 2001.

20 “(18) POPs REVIEW COMMITTEE.—The term
21 ‘POPs Review Committee’ means the Persistent Or-
22 ganic Pollutants Review Committee established
23 under paragraph 6 of Article 19 of the POPs Con-
24 vention.”.

1 **SEC. 102. REGULATION OF HAZARDOUS CHEMICAL SUB-**
2 **STANCES AND MIXTURES.**

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

6 “(f) POPS CONVENTION.—

7 “(1) PROHIBITION ON SPECIFIED POPS CHEM-
8 ICAL SUBSTANCES AND MIXTURES.—Subject to
9 paragraph (3) and the POPS Convention, notwith-
10 standing any other provision of law, a person shall
11 not manufacture, process, distribute in commerce,
12 use, or dispose of a POPS chemical substance or
13 mixture specified in any of subparagraphs (A)
14 through (J) of section 3(16).

15 “(2) PROHIBITION ON OTHER POPS CHEMICAL
16 SUBSTANCES AND MIXTURES.—

17 “(A) IN GENERAL.—Subject to paragraph
18 (3), notwithstanding any other provision of law,
19 a person shall not manufacture, process, dis-
20 tribute in commerce, use, or dispose of a POPS
21 chemical substance or mixture described in sec-
22 tion 3(16)(K)—

23 “(i) that is not subject to paragraph
24 (1); and

1 “(ii) with respect to which regulations
2 have been promulgated under subpara-
3 graph (B).

4 “(B) REGULATIONS BY THE ADMINIS-
5 TRATOR.—

6 “(i) CHEMICAL SUBSTANCE OR MIX-
7 TURE LISTED UNDER POPS CONVEN-
8 TION.—Notwithstanding any other provi-
9 sion of law, if the Conference adopts an
10 amendment to list a chemical substance or
11 mixture in Annex A or B to the POPs
12 Convention, the Administrator may, at the
13 discretion of the Administrator, commence
14 a rulemaking under subsection (a) to pro-
15 hibit or restrict any manufacture, proc-
16 essing, distribution in commerce, use, or
17 disposal of the chemical substance or mix-
18 ture that is or would be inconsistent with
19 the amendment.

20 “(ii) DETERMINATION OF UNREASON-
21 ABLE RISKS.—

22 “(I) IN GENERAL.—Subject to
23 subclause (II), in any rulemaking de-
24 scribed in clause (i), any manufacture,
25 processing, distribution in commerce,

1 use, or disposal of the chemical sub-
2 stance or mixture that is or would be
3 inconsistent with the amendment de-
4 scribed in that clause (as determined
5 by the Administrator with the concur-
6 rence of the Secretary of State) shall
7 be deemed to present an unreasonable
8 risk of injury to health or the environ-
9 ment.

10 “(II) EXCEPTIONS.—Subclause
11 (I) shall not apply to a chemical sub-
12 stance or mixture to the extent that
13 the Administrator determines that—

14 “(aa) any or all of the man-
15 ufacture, processing, distribution
16 in commerce, use, or disposal is
17 necessary to prevent significant
18 harm to an important sector of
19 the economy; and

20 “(bb) each substitute that
21 the Administrator evaluates
22 based on reporting under section
23 8(f) and other information avail-
24 able to the Administrator pre-
25 sents risks to health or the envi-

1 ronment that are significantly
2 greater than the risks presented
3 by the chemical substance or
4 mixture.

5 “(iii) EFFECTIVENESS OF FINAL REG-
6 ULATIONS.—Final regulations relying on
7 an unreasonable risk of injury to health or
8 the environment resulting from an amend-
9 ment by the Conference under this para-
10 graph shall become effective only to the ex-
11 tent that an amendment adding the chem-
12 ical substance or mixture to Annex A or B
13 to the POPs Convention has entered into
14 force with respect to the United States
15 under paragraph 4 of Article 22 of the
16 POPs Convention.

17 “(iv) EXEMPTION FROM REQUIRE-
18 MENT TO PUBLISH STATEMENT.—In any
19 rulemaking under this subparagraph, the
20 Administrator shall not be required to pub-
21 lish a statement under subsection (c)(1).

22 “(3) EXEMPTIONS.—

23 “(A) EXEMPTIONS UNDER POPS CONVEN-
24 TION.—The prohibitions specified in paragraphs
25 (1) and (2) shall not apply to any manufacture,

1 processing, distribution in commerce, use, or
2 disposal of a POPs chemical substance or mix-
3 ture that the Administrator determines,
4 through final regulations promulgated under
5 subsection (a)—

6 “(i) is consistent with—

7 “(I) a production or use specific
8 exemption under Annex A or B to the
9 POPs Convention; or

10 “(II) an acceptable purpose avail-
11 able to the United States under
12 Annex B to the POPs Convention;
13 and

14 “(ii) would, as a result, not prevent
15 the United States from complying with the
16 obligations of the United States under the
17 POPs Convention.

18 “(B) UNINTENTIONAL TRACE CONTAMI-
19 NANTS.—To the extent consistent with the
20 POPs Convention, the prohibitions specified in
21 paragraphs (1) and (2) shall not apply to any
22 quantity of a POPs chemical substance or mix-
23 ture that occurs as an unintentional trace con-
24 taminant in an article.

1 “(C) RESEARCH.—To the extent consistent
2 with the POPs Convention, the prohibitions
3 specified in paragraphs (1) and (2) shall not
4 apply to any quantity of a POPs chemical sub-
5 stance or mixture that is used for laboratory
6 scale research or as a reference standard.

7 “(D) CONSTITUENT OF ARTICLE IN USE
8 BEFORE PROHIBITION APPLIED.—To the extent
9 consistent with the POPs Convention, the pro-
10 hibitions specified in paragraphs (1) and (2)
11 shall not apply to any quantity of a POPs
12 chemical substance or mixture that occurs as a
13 constituent of an article (other than a PCB ar-
14 ticle, which may continue to be used in accord-
15 ance with Annex A to the POPs Convention
16 and paragraph 6 of Article 3 of the POPs Con-
17 vention), 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 “(E) 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 paragraphs (1) and
6 (2) shall not apply to any quantity of a
7 POPs chemical substance or mixture that
8 is manufactured and used as a closed-sys-
9 tem site-limited intermediate, if, before the
10 commencement of the manufacture or use
11 under the POPs Convention, and at the
12 end of each 10-year period thereafter—

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

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

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

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

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

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

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

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

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

3 “(F) PCB MATERIALS.—To the extent
4 consistent with the POPs Convention, the pro-
5 hibitions specified in paragraphs (1) and (2)
6 shall not apply to any PCB materials described
7 in Part II of Annex A to the POPs Convention
8 if the PCB materials are handled in accordance
9 with the POPs Convention, including Annex A
10 to the POPs Convention.

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

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

1 fect, if the POPs chemical substance or
2 mixture complies with an export condition
3 described in clause (ii), (iii), or (iv).

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

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

19 “(iv) EXPORT TO NONPARTY IN AC-
20 CORDANCE WITH NONPARTY CERTIFI-
21 CATION.—

22 “(I) IN GENERAL.—An export
23 condition referred to in clause (i) is
24 that the POPs chemical substance or
25 mixture is exported, to an importing

1 country that is not a party to the
2 POPs Convention with respect to the
3 POPs chemical substance or mixture,
4 for distribution in commerce or use in
5 accordance with a complete and accu-
6 rate nonparty certification that the
7 importing country annually provides
8 to the Administrator.

9 “(II) COMMITMENTS BY IMPORT-
10 ING NONPARTY.—Consistent with the
11 POPs Convention, an annual
12 nonparty certification under subclause
13 (I) shall specify the intended use of
14 the POPs chemical substance or mix-
15 ture and state that, with respect to
16 the POPs chemical substance or mix-
17 ture, the importing nonparty is com-
18 mitted to—

19 “(aa) protecting human
20 health and the environment by
21 taking necessary measures to
22 minimize or prevent releases;

23 “(bb) complying with para-
24 graph 1 of Article 6 of the POPs
25 Convention; and

1 “(cc) complying, to the ex-
2 tent appropriate, with paragraph
3 2 of Part II of Annex B to the
4 POPs Convention.

5 “(III) SUPPORTING DOCUMENTA-
6 TION.—Each nonparty certification
7 shall include any appropriate sup-
8 porting documentation, such as legis-
9 lation, regulatory instruments, and
10 administrative or policy guidelines.

11 “(IV) SUBMISSION TO SECRE-
12 TARIAT OF POPS CONVENTION.—Not
13 later than 60 days after the date of
14 receipt of a complete nonparty certifi-
15 cation, the Administrator shall submit
16 a copy of the nonparty certification to
17 the Secretariat of the POPs Conven-
18 tion.

19 “(H) 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 paragraphs (1) and (2)
24 shall not apply to any distribution in commerce
25 for export for the purpose of environmentally

1 sound disposal, in accordance with paragraph
2 1(d) of Article 6 of the POPs Convention, of a
3 POPs chemical substance or mixture listed in
4 Annex A to the POPs Convention for which no
5 production or use specific exemption is in effect
6 for any party to the POPs Convention.

7 “(I) IMPORTS FOR SPECIFIED PUR-
8 POSES.—To the extent consistent with the
9 POPs Convention, the prohibitions specified in
10 paragraphs (1) and (2) shall not apply to any
11 distribution in commerce of a POPs chemical
12 substance or mixture that is imported—

13 “(i) for the purpose of environ-
14 mentally sound disposal in accordance with
15 paragraph 1(d) of Article 6 of the POPs
16 Convention; or

17 “(ii) for a purpose authorized under
18 final regulations promulgated under this
19 subsection.

20 “(J) WASTE.—To the extent consistent
21 with the POPs Convention, the prohibitions
22 specified in paragraphs (1) and (2) shall not
23 apply to any quantity of a POPs chemical sub-
24 stance or mixture, including any article that
25 consists of, contains, or is contaminated with a

1 POPs chemical substance or mixture, that has
2 become waste and that is managed in a manner
3 consistent with Article 6 of the POPs Conven-
4 tion.

5 “(K) NO EFFECT ON OTHER PROHIBI-
6 TIONS.—Nothing in this paragraph authorizes
7 any manufacture, processing, distribution in
8 commerce, use, or disposal of a POPs chemical
9 substance or mixture that is prohibited under
10 any other provision of law.

11 “(4) CERTIFICATION STATEMENT ACCOM-
12 PANYING POPS CHEMICAL SUBSTANCES OR MIX-
13 TURES.—

14 “(A) IN GENERAL.—Each POPs chemical
15 substance or mixture that is distributed in com-
16 merce under subparagraph (A), (C), (E), (F),
17 (G), (H), (I) or (J) of paragraph (3) shall be
18 accompanied by a certification statement.

19 “(B) PERSON REQUIRED TO PREPARE.—A
20 certification statement required by subpara-
21 graph (A) shall be prepared—

22 “(i) by the manufacturer or processor
23 of the POPs chemical substance or mix-
24 ture; or

1 “(ii) if there is no certification state-
2 ment accompanying the POPs chemical
3 substance or mixture, by any person that
4 distributes the POPs chemical substance
5 or mixture in commerce.

6 “(C) REQUIRED ELEMENTS.—The certifi-
7 cation statement shall contain—

8 “(i) a specification of the quantity
9 and identity of the POPs chemical sub-
10 stance or mixture;

11 “(ii) the basis for application of sub-
12 paragraph (A), (C), (E), (F), (G), (H), (I)
13 or (J) of paragraph (3); and

14 “(iii) such other information as the
15 Administrator determines to be necessary
16 for effective enforcement of this subsection.

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

21 “(i) the certification statement accom-
22 panies the POPs chemical substance or
23 mixture when the POPs chemical sub-
24 stance or mixture is distributed in com-
25 merce; and

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

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

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

12 “(i) to facilitate implementation of
13 this paragraph; and

14 “(ii) to ensure that this paragraph is
15 implemented in compliance with the POPs
16 Convention.

17 “(g) LRTAP POPs PROTOCOL.—

18 “(1) PROHIBITION ON SPECIFIED LRTAP POPs
19 CHEMICAL SUBSTANCES OR MIXTURES.—

20 “(A) IN GENERAL.—Subject to subpara-
21 graph (B) and the LRTAP POPs Protocol, not-
22 withstanding any other provision of law, a per-
23 son shall not manufacture, process, distribute
24 in commerce, or use any of the following
25 LRTAP POPs chemical substances or mixtures:

1 “(i) Chlordecone.

2 “(ii) Hexabromobiphenyl.

3 “(iii) Hexachlorocyclohexane (HCH).

4 “(B) ADDITION TO ANNEX A OR B TO POPS
5 CONVENTION.—If a LRTAP POPs chemical
6 substance or mixture specified in subparagraph
7 (A) is added to Annex A or B to the POPs
8 Convention and the amendment making the ad-
9 dition enters into force with respect to the
10 United States under paragraph 4 of Article 22
11 of the POPs Convention—

12 “(i) subparagraph (A) shall not apply
13 to the LRTAP POPs chemical substance
14 or mixture; and

15 “(ii) the LRTAP POPs chemical sub-
16 stance or mixture shall be subject to sub-
17 section (f).

18 “(2) PROHIBITION ON OTHER LRTAP POPS
19 CHEMICAL SUBSTANCES AND MIXTURES.—

20 “(A) IN GENERAL.—Subject to paragraph
21 (3), notwithstanding any other provision of law,
22 a person shall not manufacture, process, dis-
23 tribute in commerce, use, or dispose of a
24 LRTAP POPs chemical substance or mixture—

1 “(i) that is not subject to paragraph
2 (1); and

3 “(ii) with respect to which regulations
4 have been promulgated under subpara-
5 graph (B).

6 “(B) REGULATIONS BY THE ADMINIS-
7 TRATOR.—

8 “(i) CHEMICAL SUBSTANCE OR MIX-
9 TURE LISTED UNDER LRTAP POPS PRO-
10 TOCOL.—Notwithstanding any other provi-
11 sion of law, if the parties to the LRTAP
12 POPs Protocol approve an amendment to
13 list a chemical substance or mixture in
14 Annex I or II to the LRTAP POPs Pro-
15 tocol, the Administrator may, at the discre-
16 tion of the Administrator, commence a
17 rulemaking under subsection (a) to pro-
18 hibit or restrict any manufacture, proc-
19 essing, distribution in commerce, use, or
20 disposal of the chemical substance or mix-
21 ture that is or would be inconsistent with
22 the amendment.

23 “(ii) DETERMINATION OF UNREASON-
24 ABLE RISKS.—

1 “(I) IN GENERAL.—Subject to
2 subclause (II), in any rulemaking de-
3 scribed in clause (i), any manufacture,
4 processing, distribution in commerce,
5 use, or disposal of the chemical sub-
6 stance or mixture that is or would be
7 inconsistent with the amendment de-
8 scribed in that clause (as determined
9 by the Administrator with the concu-
10 rence of the Secretary of State) shall
11 be deemed to present an unreasonable
12 risk of injury to health or the environ-
13 ment.

14 “(II) EXCEPTIONS.—Subclause
15 (I) shall not apply to a chemical sub-
16 stance or mixture to the extent that
17 the Administrator determines that—

18 “(aa) any or all of the man-
19 ufacture, processing, distribution
20 in commerce, use, or disposal is
21 necessary to prevent significant
22 harm to an important sector of
23 the economy; and

24 “(bb) each substitute that
25 the Administrator evaluates

1 based on reporting under section
2 8(g) and other information avail-
3 able to the Administrator pre-
4 sents risks to health or the envi-
5 ronment that are significantly
6 greater than the risks presented
7 by the chemical substance or
8 mixture.

9 “(iii) EFFECTIVENESS OF FINAL REG-
10 ULATIONS.—Final regulations relying on
11 an unreasonable risk of injury to health or
12 the environment resulting from an amend-
13 ment by the parties to the LRTAP POPs
14 Protocol under this paragraph shall be-
15 come effective only to the extent that an
16 amendment adding the chemical substance
17 or mixture to Annex I or II to the LRTAP
18 POPs Protocol has entered into force with
19 respect to the United States under para-
20 graph 3 of Article 14 of the LRTAP POPs
21 Protocol.

22 “(iv) EXEMPTION FROM REQUIRE-
23 MENT TO PUBLISH STATEMENT.—In any
24 rulemaking under this subparagraph, the

1 Administrator shall not be required to pub-
2 lish a statement under subsection (e)(1).

3 “(3) EXEMPTIONS.—

4 “(A) IN GENERAL.—To the extent con-
5 sistent with the LRTAP POPs Protocol, the
6 prohibitions on manufacture, processing, dis-
7 tribution in commerce, or use specified in para-
8 graph (1) shall not apply to—

9 “(i) any manufacture, processing, dis-
10 tribution in commerce, or use of a LRTAP
11 POPs chemical substance or mixture that
12 the Administrator determines, through
13 final regulations promulgated under sub-
14 section (a)—

15 “(I) is consistent with an exemp-
16 tion available to the United States
17 under Annex I or II to the LRTAP
18 POPs Protocol; and

19 “(II) would, as a result, not pre-
20 vent the United States from com-
21 plying with the obligations of the
22 United States under the LRTAP
23 POPs Protocol;

24 “(ii) any quantity of a LRTAP POPs
25 chemical substance or mixture that is used

1 for laboratory scale research or as a ref-
2 erence standard;

3 “(iii) any quantity of a LRTAP POPs
4 chemical substance or mixture that occurs
5 as a contaminant in an article;

6 “(iv) any quantity of a LRTAP POPs
7 chemical substance or mixture that is in an
8 article manufactured or in use on or
9 before—

10 “(I) the implementation date of
11 the LRTAP POPs Protocol; or

12 “(II) in the case of any LRTAP
13 POPs chemical substance or mixture
14 added to any applicable Annex after
15 the implementation date of the
16 LRTAP POPs Protocol, the imple-
17 mentation date of the amendment to
18 the LRTAP POPs Protocol that
19 makes the addition;

20 “(v) any quantity of a LRTAP POPs
21 chemical substance or mixture that occurs
22 as a site-limited chemical intermediate in
23 the manufacture of 1 or more different
24 substances and that is subsequently chemi-
25 cally transformed;

1 “(vi) the production or use of any
2 quantity of hexachlorocyclohexane (HCH)
3 that complies with the restrictions and con-
4 ditions specified for HCH in Annex II to
5 the LRTAP POPs Protocol; and

6 “(vii) any quantity of a LRTAP
7 POPs chemical substance or mixture that
8 has become waste and that is disposed of
9 in an environmentally sound manner in ac-
10 cordance with paragraph 1(b) of the
11 LRTAP POPs Protocol.

12 “(B) PETITIONS FOR EXEMPTIONS AU-
13 THORIZED BY LRTAP POPS PROTOCOL.—

14 “(i) IN GENERAL.—A person may pe-
15 tition the Administrator for an exemption
16 from a prohibition specified in paragraph
17 (1) or (2) that is consistent with the ex-
18 emptions authorized under paragraph 2 of
19 Article 4 of the LRTAP POPs Protocol.

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

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

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

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

8 “(iii) GRANT OR DENIAL OF PETI-
9 TION.—The Administrator, with the con-
10 currence of the Secretary of State, shall—

11 “(I) if the petition is authorized
12 for the United States under, and is
13 otherwise consistent with, the LRTAP
14 POPs Protocol, grant the petition
15 with such conditions or limitations as
16 are necessary to meet any require-
17 ment of the LRTAP POPs Protocol
18 or any other provision of law; or

19 “(II) deny the petition.

20 “(iv) PROVISION OF INFORMATION TO
21 SECRETARIAT.—Notwithstanding any other
22 provision of law, if the Administrator
23 grants the petition, the Administrator, not
24 later than 90 days after the date on which
25 the petition is granted, shall provide the

1 Secretariat of the LRTAP POPs Protocol
2 with the information specified in para-
3 graph 3 of Article 4 of the LRTAP POPs
4 Protocol.

5 “(v) DISALLOWANCE OF EXEMPTION
6 BY LRTAP POPs PROTOCOL.—

7 “(I) IN GENERAL.—If, after an
8 exemption has been granted under
9 this subparagraph, the exemption is
10 no longer authorized for the United
11 States under the LRTAP POPs Pro-
12 tocol, it shall be unlawful for any per-
13 son to manufacture, process, dis-
14 tribute in commerce, or use a LRTAP
15 POPs chemical substance or mixture
16 in the manner authorized by the ex-
17 emption.

18 “(II) PUBLICATION OF NOTICE
19 IN FEDERAL REGISTER.—The Admin-
20 istrator shall publish in the Federal
21 Register a notice announcing the dis-
22 allowance of any exemption under
23 subclause (I).

24 “(vi) NO EFFECT ON OTHER PROHIBI-
25 TIONS.—Nothing in this subparagraph au-

1 thorizes any manufacture, processing, dis-
2 tribution in commerce, or use of a LRTAP
3 POPs chemical substance or mixture that
4 is prohibited under any other provision of
5 law.

6 “(4) CERTIFICATION STATEMENT ACCOM-
7 PANYING LRTAP POPS CHEMICAL SUBSTANCES OR
8 MIXTURES.—

9 “(A) IN GENERAL.—Each LRTAP POPs
10 chemical substance or mixture that is distrib-
11 uted in commerce under subparagraph (A)(i),
12 (A)(ii), or (B) of paragraph (3) shall be accom-
13 panied by a certification statement.

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

17 “(i) by the manufacturer or processor
18 of the LRTAP POPs chemical substance
19 or mixture; or

20 “(ii) if there is no certification state-
21 ment accompanying the LRTAP POPs
22 chemical substance or mixture, by any per-
23 son that distributes the LRTAP POPs
24 chemical substance or mixture in com-
25 merce.

1 “(C) REQUIRED ELEMENTS.—The certifi-
2 cation statement shall contain—

3 “(i) a specification of the quantity
4 and identity of the LRTAP POPs chemical
5 substance or mixture;

6 “(ii) the basis for application of sub-
7 paragraph (A)(i), (A)(ii), or (B) of para-
8 graph (3); and

9 “(iii) such other information as the
10 Administrator determines to be necessary
11 for effective enforcement of this subsection.

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

16 “(i) the certification statement accom-
17 panies the LRTAP POPs chemical sub-
18 stance or mixture when the LRTAP POPs
19 chemical substance or mixture is distrib-
20 uted in commerce; 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; and

9 “(ii) to ensure that this paragraph is
10 implemented in compliance with the
11 LRTAP POPs Protocol.

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

15 “(1) IN GENERAL.—The Administrator—

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

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

21 “(II) any exemptions from the prohi-
22 bitions authorized under subsection (f);
23 and

24 “(III) any importing country from
25 which any POPs chemical substance or

1 mixture has received a nonparty certifi-
2 cation under subsection (f)(3)(G)(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 prohi-
8 bitions authorized under subsection (g), in-
9 cluding any disallowances of exemptions
10 under subsection (g)(3)(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(e));

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

1 “(C) make the record publicly available.”

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

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

5 (1) by redesignating subsection (f) as sub-
6 section (h); and

7 (2) by inserting after subsection (e) the fol-
8 lowing:

9 “(f) INFORMATION COLLECTION UNDER THE POPs
10 CONVENTION.—

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

13 “(A) PUBLICATION OF NOTICE IN FED-
14 ERAL REGISTER.—As soon as practicable after
15 the date of a determination by the POPs Re-
16 view Committee that a proposal for listing a
17 chemical substance or mixture in Annex A, B,
18 or C to the POPs Convention meets the screen-
19 ing criteria specified in Annex D to the POPs
20 Convention, the Administrator shall publish in
21 the Federal Register a notice that—

22 “(i) identifies the chemical substance
23 or mixture; and

24 “(ii) summarizes the determination of
25 the POPs Review Committee.

1 “(B) PROVISION OF INFORMATION TO THE
2 ADMINISTRATOR.—Not later than 60 days after
3 the date of publication of the notice under sub-
4 paragraph (A), any person that manufactures,
5 processes, distributes, or uses in commerce a
6 chemical substance or mixture that is the sub-
7 ject of the notice shall provide to the Adminis-
8 trator all of the following information that is
9 known or reasonably ascertainable to the per-
10 son:

11 “(i) The annual quantity of the chem-
12 ical substance or mixture manufactured
13 and the locations of the manufacture.

14 “(ii) The uses of the chemical sub-
15 stance or mixture.

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

19 “(iv) Other information monitoring
20 data relating to the chemical substance or
21 mixture that is consistent with the infor-
22 mation specified in paragraph 1 of Annex
23 D, and subsections (b) through (e) of
24 Annex E, to the POPs Convention.

1 “(C) UPDATING OF INFORMATION.—The
2 information provided under subparagraph (B)
3 shall be updated on an annual basis until such
4 time as—

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

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

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

21 “(i) information on the production
22 and uses in the United States of the chem-
23 ical substance or mixture; and

24 “(ii) an assessment of the benefits
25 and risks associated with the production

1 and uses in the United States of the chem-
2 ical substance or mixture.

3 “(2) DECISION TO PROCEED WITH LISTING
4 PROCESS.—

5 “(A) PUBLICATION OF NOTICE IN FED-
6 ERAL REGISTER.—If the POPs Review Com-
7 mittee decides under paragraph 7 of Article 8
8 of the POPs Convention that a proposal for
9 listing a chemical substance or mixture shall
10 proceed, the Administrator shall publish in the
11 Federal Register a notice that—

12 “(i) identifies the chemical substance
13 or mixture; and

14 “(ii) summarizes the decision of the
15 POPs Review Committee.

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

24 “(i) consistent with the information
25 needs described in Annex F to the POPs

1 Convention, any information that the per-
2 son believes is relevant to—

3 “(I) a risk management evalua-
4 tion carried out under paragraph 7 of
5 Article 8 of the POPs Convention;

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

9 “(III) an action under section
10 6(a); and

11 “(ii) information on any article in use
12 that consists of, contains, or is contami-
13 nated with the chemical substance or mix-
14 ture.

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

22 “(4) EFFECT OF FAILURE TO PROVIDE RE-
23 QUIRED INFORMATION.—A person that fails to pro-
24 vide information by a deadline established under this
25 subsection may not provide the information to be

1 part of the record of any subsequent rulemaking
2 under section 6(a) to regulate the chemical sub-
3 stance or mixture unless the person demonstrates
4 that the information could not reasonably have been
5 made available to the Administrator by the deadlines
6 established under this subsection.

7 “(g) INFORMATION COLLECTION UNDER THE
8 LRTAP POPs PROTOCOL.—

9 “(1) RISK PROFILE IN SUPPORT OF PROPOSED
10 AMENDMENT TO LIST.—

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

19 “(i) identifies the chemical substance
20 or mixture; and

21 “(ii) summarizes the risk profile for
22 the chemical substance or mixture.

23 “(B) PROVISION OF INFORMATION TO THE
24 ADMINISTRATOR.—Not later than 60 days after
25 the date of publication of the notice under sub-

1 paragraph (A), any person that manufactures,
2 processes, or distributes in commerce a chem-
3 ical substance or mixture that is the subject of
4 the notice shall provide to the Administrator all
5 of the following information that is known or
6 reasonably ascertainable to the person:

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

10 “(ii) The toxicity of the chemical sub-
11 stance or mixture.

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

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

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

22 “(vi) The uses of the chemical sub-
23 stance or mixture.

1 “(vii) The annual quantity of the
2 chemical substance or mixture that enters
3 each environmental medium.

4 “(viii) Environmental monitoring data
5 relating to the chemical substance or mix-
6 ture (in areas distant from sources).

7 “(ix)(I) Information on alternatives to
8 the uses of the chemical substance or mix-
9 ture and the efficacy of each alternative.

10 “(II) Information on any known ad-
11 verse environmental or human health ef-
12 fects associated with each alternative.

13 “(x) Information on—

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

20 “(II) the applicability and effec-
21 tiveness of each technique described in
22 subclause (I).

23 “(xi) Information on the nonmonetary
24 costs and benefits and the quantifiable
25 costs and benefits associated with the use

1 of each alternative described in clause (ix)
2 or technique described in clause (x).

3 “(C) UPDATING OF INFORMATION.—The
4 information provided under subparagraph (B)
5 shall be updated on an annual basis until such
6 time as—

7 “(i) the parties to the LRTAP POPs
8 Protocol decide not to list the chemical
9 substance or mixture in any Annex to the
10 LRTAP POPs Protocol; or

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

15 “(D) REPORT BY ADMINISTRATOR TO SEC-
16 RETARY OF STATE.—Based on information re-
17 ceived under this paragraph and any other rel-
18 evant information available to the Adminis-
19 trator, the Administrator, not later than 180
20 days after the date of publication of the notice
21 under subparagraph (A), shall submit to the
22 Secretary of State a report that contains, at a
23 minimum—

1 “(i) information on the production
2 and uses in the United States of the chem-
3 ical substance or mixture; and

4 “(ii) an assessment of the benefits
5 and risks associated with the production
6 and uses in the United States of the chem-
7 ical substance or mixture.

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

15 “(3) EFFECT OF FAILURE TO SUBMIT RE-
16 QUIRED INFORMATION.—A person that fails to sub-
17 mit information by a deadline established under this
18 subsection may not submit the information to be
19 part of the record of any subsequent rulemaking
20 under section 6(a) to regulate the chemical sub-
21 stance or mixture unless the person demonstrates
22 that the information could not reasonably have been
23 made available to the Administrator by the deadlines
24 established under this subsection.”.

1 **SEC. 104. INTERNATIONAL CONVENTIONS AND COOPERA-**
2 **TION IN INTERNATIONAL EFFORTS.**

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

5 (1) in the section heading, by inserting “;
6 **INTERNATIONAL CONVENTIONS**” before the pe-
7 riod at the end; and

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

9 “(e) **INTERNATIONAL CONVENTIONS AND COOPERA-**
10 **TION IN INTERNATIONAL EFFORTS.**—In cooperation with
11 the Secretary of State and the head of any other appro-
12 priate Federal agency, the Administrator shall—

13 “(1) participate and cooperate in any inter-
14 national efforts to develop improved research and
15 regulations on chemical substances and mixtures;
16 and

17 “(2) participate in technical cooperation and ca-
18 pacity building activities designed to support imple-
19 mentation of—

20 “(A) the LRTAP POPs Protocol;

21 “(B) the Rotterdam Convention on the
22 Prior Informed Consent Procedure for Certain
23 Hazardous Chemicals and Pesticides in Inter-
24 national Trade, done at Rotterdam on Sep-
25 tember 10, 1998; and

26 “(C) the POPs Convention.”.

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

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

5 **SEC. 105. EXPORTS.**

6 Section 12(a) of the Toxic Substances Control Act
7 (15 U.S.C. 2611(a)) is amended by striking paragraph (2)
8 and inserting the following:

9 “(2) SUBSTANCES THAT PRESENT UNREASON-
10 ABLE RISK OF INJURY TO HEALTH OR THE ENVI-
11 RONMENT IN THE UNITED STATES.—

12 “(A) IN GENERAL.—Paragraph (1) shall
13 not apply to—

14 “(i) any chemical substance, mixture,
15 or article if the Administrator finds that
16 the substance, mixture, or article will
17 present an unreasonable risk of injury to
18 health within the United States or to the
19 environment of the United States; or

20 “(ii) any chemical substance or mix-
21 ture with respect to which manufacture,
22 processing, distribution in commerce, use,
23 or disposal is prohibited or restricted under
24 subsection (f) or (g) of section 6.

1 “(B) REQUIREMENT FOR TESTING.—The
2 Administrator may require, under section 4,
3 testing of any chemical substance or mixture
4 exempted from this Act by paragraph (1) for
5 the purpose of determining whether the sub-
6 stance or mixture presents an unreasonable risk
7 of injury described in subparagraph (A)(i).”.

8 **SEC. 106. PROHIBITED ACTS.**

9 Section 15 of the Toxic Substances Control Act (15
10 U.S.C. 2614) is amended by striking paragraphs (3) and
11 (4) and inserting the following:

12 “(3) fail or refuse—

13 “(A) to establish or maintain records;

14 “(B) to submit reports, notices, or other
15 information; or

16 “(C) to permit access to or copying of
17 records;

18 as required by this Act (including regulations pro-
19 mulgated under this Act);

20 “(4) fail or refuse to permit entry or inspection
21 as required by section 11; or

22 “(5) fail or refuse to comply with section 12 or
23 13 (including regulations promulgated under those
24 sections).”.

1 **SEC. 107. RESEARCH PROGRAM TO SUPPORT POPS CON-**
2 **VENTION.**

3 (a) DEFINITIONS.—In this section:

4 (1) ACADEMY.—The term “Academy” means
5 the National Academy of Sciences.

6 (2) ADMINISTRATOR.—The term “Adminis-
7 trator” means the Administrator of the Environ-
8 mental Protection Agency.

9 (3) CONTRACT.—The term “contract” means a
10 contract entered into between the Academy and Ad-
11 ministrator to carry out this section.

12 (4) LRTAP POPS PROTOCOL.—The term
13 “LRTAP POPs Protocol” means the Protocol on
14 Persistent Organic Pollutants to the LRTAP Con-
15 vention, done at Aarhus on June 24, 1998.

16 (5) PERSISTENT, BIOACCUMULATIVE TOXIC
17 SUBSTANCE.—The terms “persistent, bioaccumula-
18 tive toxic substance” and “PBT substance” mean a
19 toxic, long-lasting substance that has the potential
20 to accumulate in the food chain to a level that is
21 harmful to current and future human and ecosystem
22 health.

23 (6) POPS CHEMICAL SUBSTANCE OR MIX-
24 TURE.—The term “POPs chemical substance or
25 mixture” has the meaning given the term in section

1 3 of the Toxic Substances Control Act (15 U.S.C.
2 2602) (as amended by section 101).

3 (7) POPS CONVENTION.—The term “POPS
4 Convention” means the Stockholm Convention on
5 Persistent Organic Pollutants, done at Stockholm on
6 May 22, 2001.

7 (b) CONTRACT.—The Administrator may offer to
8 enter into a contract with the Academy to conduct a re-
9 search program in support of the POPs Convention.

10 (c) SCREENING OF CHEMICAL SUBSTANCES OR MIX-
11 TURES.—Using the criteria of persistence, bioaccumula-
12 tion, capacity for long-range transport, and toxicity (as de-
13 fined in Annex D to the POPs Convention), the contract
14 shall require the Academy—

15 (1) to screen a wide range of potential POPs
16 chemical substances or mixtures; and

17 (2) to provide scientific data and recommenda-
18 tions for those chemicals substances or mixtures
19 that should be nominated for addition to the POPs
20 Convention, in order of priority.

21 (d) REQUIRED ACTIVITIES.—To carry out this sec-
22 tion, the contract shall require the Academy—

23 (1) to develop and apply screening criteria for
24 adding new substances or mixtures to the POPs

1 Convention, including review of proposed models,
2 testing methods, and data compilations;

3 (2) to propose alternative designs for a global
4 monitoring program aimed at identifying persistent
5 and bioaccumulative chemical substances or mix-
6 tures in the environment, and potential mechanisms
7 for implementation of the designs; and

8 (3) to recommend priority candidate POPs
9 chemical substances or mixtures for possible nomina-
10 tion to the Persistent Organic Pollutants Review
11 Committee established under paragraph 6 of Article
12 19 of the POPs Convention.

13 (e) SCREENING FOR CANDIDATE POPS CHEMICAL
14 SUBSTANCES OR MIXTURES.—

15 (1) IN GENERAL.—In selecting potential POPS
16 chemical substances or mixtures for screening and
17 monitoring, the contract shall require the Academy
18 to pay particular attention to chemical substances or
19 mixtures that—

20 (A) display the characteristics of POPS
21 chemical substances or mixtures;

22 (B) are not listed in Annex A or B to the
23 POPs Convention as of the date of enactment
24 of this Act; and

1 (C) are being addressed or considered in
2 other international forums.

3 (2) INCLUSIONS.—Chemical substances or mix-
4 tures that are covered by paragraph (1) include—

5 (A) chlordecone, hexabromobiphenyl, HCH
6 (lindane), and polyaromatic hydrocarbons,
7 which are listed in Annex I or II to the LRTAP
8 POPs Protocol as of the date of enactment of
9 this Act;

10 (B) pentabromodiphenyl ether (PeBDE),
11 dicofol, hexachlorobutadiene, pentachloro-
12 benzene, and polychlorinated naphthalenes
13 (PCNs), which are being considered (as of the
14 date of enactment of this Act) by an expert
15 group for listing in Annex I or II to the
16 LRTAP POPs Protocol;

17 (C) endosulfan, octyl and decyl phenols
18 and trichlorobenzenes, and other substances on
19 the list of 14 priority substances submitted by
20 the DYNAMEC committee to the Oslo-Paris
21 Commission;

22 (D) polybrominated diphenylethers
23 (PBDEs), methylmercury, and tributyltin com-
24 pounds, which are being considered (as of the
25 date of enactment of this Act) under the

1 UNEP/GEF Regionally Based Assessment of
2 Persistent Toxic Substances Project;

3 (E) perfluorooctyl sulfonyl fluoride
4 (POSF) and other chemicals that can degrade
5 to perfluorooctanoyl sulphonate (PFOS), for
6 which an in-depth risk assessment by the
7 OECD Chemicals Programme is being carried
8 out as of the date of enactment of this Act;

9 (F) pentachlorophenol (PCP), which is the
10 subject of an International Declaration that—

11 (i) was signed in 1998 by a number of
12 Parties to the LRTAP POPs Protocol; and

13 (ii) states that PCP use should be
14 “tightly controlled to minimize emissions
15 to the environment”;

16 (G) short-chain chlorinated paraffins
17 (SCCPs), which—

18 (i) are the subject of an International
19 Declaration that was signed in 1998 by a
20 number of Parties to the LRTAP POPs
21 Protocol; and

22 (ii) has “the objective of controlling
23 and limiting the risks arising from the dis-
24 persive uses of short-chain chlorinated

1 paraffins using appropriate national and/or
2 international procedures”;

3 (H) octachlorostyrene, which—

4 (i) is structurally similar to
5 hexachlorobenzene, a POPs chemical sub-
6 stance or mixture listed in Annex A to the
7 POPs Convention; and

8 (ii) can reasonably be anticipated to
9 have a similar toxicological profile to
10 hexachlorobenzene; and

11 (I) tetrachlorobenzene, which studies dem-
12 onstrate is likely to meet the persistence and
13 bioaccumulation criteria of the POPs Conven-
14 tion.

15 (f) MONITORING STRATEGIES FOR PERSISTENT AND
16 BIOACCUMULATIVE SUBSTANCES.—The contract shall re-
17 quire the Academy—

18 (1) to pay special attention to persistent and
19 bioaccumulating substances;

20 (2) to develop new strategies to search more
21 broadly for persistent and bioaccumulative sub-
22 stances in the environment in a manner that com-
23 bines selections of sample sites, sample media, and
24 sampling methods; and

1 (3) to explore the implementation of the new
2 strategies.

3 (g) SUBMISSION OF REPORT.—Not later than Janu-
4 ary 1, 2004, the contract shall require the Academy to
5 submit to the Committee on Environment and Public
6 Works of the Senate, the Committee on Energy and Com-
7 merce of the House of Representatives, and the Adminis-
8 trator a report on the research program conducted under
9 this section.

10 (h) COMPLETION OF EPA DIOXIN REASSESS-
11 MENT.—Not later than 90 days after the date of enact-
12 ment of this Act, the Administrator shall submit to the
13 Committee on Environment and Public Works of the Sen-
14 ate and the Committee on Energy and Commerce of the
15 House of Representatives the final exposure and human
16 health reassessment by the Administrator of 2,3,7,8-
17 Tetrachlorodibenzo-p-Dioxin (TCDD) and related com-
18 pounds.

19 (i) PERSISTENT, BIOACCUMULATIVE TOXIC SUB-
20 STANCES STRATEGY.—

21 (1) REPORT.—Not later than 1 year after the
22 date of enactment of this Act, the Administrator
23 shall develop and submit to the Committee on Envi-
24 ronment and Public Works of the Senate and the
25 Committee on Energy and Commerce of the House

1 of Representatives a report that describes a strategy
2 that will reduce public exposure to persistent, bio-
3 accumulative toxic substances.

4 (2) REQUIREMENTS.—The strategy shall—

5 (A) develop and implement national action
6 plans to reduce priority PBT substances, using
7 the full range of tools available to the Adminis-
8 trator;

9 (B) screen and select more priority PBT
10 substances for action;

11 (C) prevent new PBT substances from en-
12 tering the marketplace;

13 (D) use the resources of the Environ-
14 mental Protection Agency and other Federal
15 agencies to identify or develop substitutes to
16 PBT substances;

17 (E) measure progress in carrying out ac-
18 tions under the strategy against the goals and
19 national commitments of the Environmental
20 Protection Agency under the Government Per-
21 formance and Results Act of 1993 (Public Law
22 103–62) and amendments made by that Act;

23 (F) include recommendations for amend-
24 ments to regulations in effect on the date of en-
25 actment of this Act under the Toxic Release In-

1 ventory under the Emergency Planning and
2 Community Right-To-Know Act of 1986 (42
3 U.S.C. 11001 et seq.), the Toxic Substances
4 Control Act (15 U.S.C. 2601 et seq.), and pro-
5 grams conducted under other laws that will re-
6 duce public and ecosystem exposure to PBT
7 substances; and

8 (G) identify the amount and sources of—

9 (i) funds used as of the date of enact-
10 ment of this Act for reducing exposure to,
11 and researching the effects of, PBT sub-
12 stances; and

13 (ii) funds necessary to implement sub-
14 paragraphs (A), (B) and (C) during the 5-
15 year period beginning on the date of enact-
16 ment of this Act.

17 (3) COORDINATION.—In developing the strat-
18 egy, the Administrator shall consult with representa-
19 tives of States, public interest groups, environmental
20 health agencies, and other Federal agencies with ex-
21 pertise in public and ecosystem health.

1 **TITLE II—USE OR PRODUCTION**
2 **OF POPS PESTICIDES**

3 **SEC. 201. DEFINITIONS.**

4 Section 2 of the Federal Insecticide, Fungicide, and
5 Rodenticide Act (7 U.S.C. 136) is amended—

6 (1) by striking subsection (bb) and inserting
7 the following:

8 “(bb) UNREASONABLE ADVERSE EFFECT ON THE
9 ENVIRONMENT.—

10 “(1) IN GENERAL.—The term ‘unreasonable ad-
11 verse effect on the environment’, with respect to a
12 pesticide, means—

13 “(A) any unreasonable risk to humans or
14 the environment, taking into account the eco-
15 nomic, social, and environmental costs and ben-
16 efits of the use of the pesticide;

17 “(B) a human dietary risk from a residue
18 that results from a use of the pesticide in or on
19 any food inconsistent with the standard estab-
20 lished under section 408 of the Federal Food,
21 Drug, and Cosmetic Act (21 U.S.C. 346a); or

22 “(C) any production or use of the pesticide
23 that is inconsistent with an amendment to
24 Annex A or B to the POPs Convention as
25 adopted by the Conference, or an amendment to

1 Annex I or II to the LRTAP POPs Protocol as
2 adopted by the Executive Body, unless the pro-
3 duction or use of the pesticide is necessary—

4 “(i) to prevent significant adverse ef-
5 fects on human health or the environment
6 that would pose significantly greater risks
7 than the risks associated with the produc-
8 tion or use of the pesticide; or

9 “(ii) to avoid a significant disruption
10 in domestic production of an adequate,
11 wholesome, and economical food supply.

12 “(2) PUBLIC HEALTH PESTICIDES.—

13 “(A) IN GENERAL.—The Administrator
14 shall consider the risks and benefits of public
15 health pesticides separately from the risks and
16 benefits of other pesticides.

17 “(B) HEALTH RISKS.—In weighing any
18 regulatory action concerning a public health
19 pesticide under this Act, the Administrator
20 shall weigh any risks of the public health pes-
21 ticide against the health risks (such as the dis-
22 eases transmitted by the vector) to be controlled
23 by the public health pesticide.”; and

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

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

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

7 “(rr) LRTAP CONVENTION.—The term ‘LRTAP
8 Convention’ means the Convention on Long-Range
9 Transboundary Air Pollution, done at Geneva on Novem-
10 ber 13, 1979 (TIAS 10541).

11 “(ss) LRTAP POPs PESTICIDE.—The term ‘LRTAP
12 POPs pesticide’ means any pesticide or active
13 ingredient—

14 “(1) used in producing a pesticide that—

15 “(A) is listed in Annex I or II to the
16 LRTAP POPs Protocol; but

17 “(B) is not listed in Annex A or B to the
18 POPs Convention; and

19 “(2) with respect to which the listing in Annex
20 I or II to the LRTAP POPs Protocol has entered
21 into force with respect to the United States under
22 paragraph 3 of Article 14 of the LRTAP POPs Pro-
23 tocol.

24 “(tt) LRTAP POPs PROTOCOL.—The term ‘LRTAP
25 POPs Protocol’ means the Protocol on Persistent Organic

1 Pollutants to the LRTAP Convention, done at Aarhus on
2 June 24, 1998.

3 “(uu) POPS CONVENTION.—The term ‘POPs Con-
4 vention’ means the Stockholm Convention on Persistent
5 Organic Pollutants, done at Stockholm on May 22, 2001.

6 “(vv) POPS PESTICIDE.—The term ‘POPs pesticide’
7 means—

8 “(1) aldrin;

9 “(2) chlordane;

10 “(3) dichlorodiphenyltrichloroethane (DDT);

11 “(4) dieldrin;

12 “(5) endrin;

13 “(6) heptachlor;

14 “(7) hexachlorobenzene;

15 “(8) mirex;

16 “(9) toxaphene; and

17 “(10) any other pesticide or active ingredient
18 used in producing a pesticide—

19 “(A) that is listed in Annex A or B to the
20 POPS Convention; and

21 “(B) with respect to which an amendment
22 adding the pesticide or active ingredient used in
23 producing a pesticide to Annex A or B to the
24 POPS Convention has entered into force with

1 respect to the United States under paragraph 4
2 of Article 22 of the POPs Convention.

3 “(ww) 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. 202. REGISTRATION OF PESTICIDES.**

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

11 “(b) EXEMPTIONS.—

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

15 “(A) the transfer is from 1 registered es-
16 tablishment to a second registered establish-
17 ment operated by the same producer solely
18 for—

19 “(i) packaging at the second establish-
20 ment; or

21 “(ii) use as a constituent part of an-
22 other pesticide at the second establish-
23 ment; or

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

1 “(2) POPs PESTICIDES.—Paragraph (1) shall
2 not apply to a POPs pesticide or LRTAP POPs pes-
3 ticide unless the POPs pesticide or LRTAP POPs
4 pesticide is permitted to be transferred under any
5 applicable exemption under subsection (e)(3) or
6 (f)(3) of section 17.”.

7 **SEC. 203. UNLAWFUL ACTS.**

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

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

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

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

16 “(T) to violate section 17.”.

17 **SEC. 204. IMPORTS, EXPORTS, AND INTERNATIONAL CON-**
18 **VENTIONS.**

19 (a) PESTICIDES AND DEVICES INTENDED FOR EX-
20 PORT.—Section 17(a) of the Federal Insecticide, Fun-
21 gicide, and Rodenticide Act (7 U.S.C. 136o(a)) is amended
22 in the first sentence—

23 (1) in paragraph (1), by striking “and” at the
24 end;

1 (2) in paragraph (2), by striking the period at
2 the end and inserting “; and”; and

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

4 “(3) if the export is in compliance with this sec-
5 tion.”.

6 (b) IMPORTS OF PESTICIDES AND DEVICES.—Section
7 17(c) of the Federal Insecticide, Fungicide, and
8 Rodenticide Act (7 U.S.C. 136o(c)) is amended by adding
9 at the end the following: “Nothing in this subsection au-
10 thorizes the import of any POPs pesticide that is prohib-
11 ited under subsection (e).”.

12 (c) INTERNATIONAL CONVENTIONS AND COOPERA-
13 TION IN INTERNATIONAL EFFORTS.—Section 17 of the
14 Federal Insecticide, Fungicide, and Rodenticide Act (7
15 U.S.C. 136o) is amended—

16 (1) in subsection (d)—

17 (A) by striking “agency, participate” and
18 inserting “agency—

19 “(1) participate”;

20 (B) by striking the period at the end and
21 inserting “; and”; and

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

23 “(2) participate in technical cooperation and ca-
24 pacity building activities designed to support imple-
25 mentation of—

1 “(A) the LRTAP POPs Protocol;

2 “(B) the Rotterdam Convention on the
3 Prior Informed Consent Procedure for Certain
4 Hazardous Chemicals and Pesticides in Inter-
5 national Trade, done at Rotterdam on Sep-
6 tember 10, 1998; and

7 “(C) the POPs Convention.”;

8 (2) by redesignating subsection (e) as sub-
9 section (h); and

10 (3) by inserting after subsection (d) the fol-
11 lowing:

12 “(e) POPs CONVENTION.—

13 “(1) PROHIBITION ON SPECIFIED POPS PES-
14 TICIDES.—Subject to paragraph (3) and the POPs
15 Convention, notwithstanding any other provision of
16 law, a person shall not sell, distribute, use, produce,
17 or conduct any disposal operation that may lead to
18 recovery, recycling, reclamation, reuse, or an alter-
19 native use of a POPs pesticide specified in any of
20 paragraphs (1) through (9) of section 2(vv).

21 “(2) PROHIBITION ON OTHER POPS PES-
22 TICIDES.—

23 “(A) IN GENERAL.—Subject to paragraph
24 (3), notwithstanding any other provision of law,
25 a person shall not use, produce, or conduct any

1 disposal operation that may lead to recovery,
2 recycling, reclamation, reuse, or an alternative
3 use of a POPs pesticide described in section
4 2(vv)(10) that—

5 “(i) is not subject to paragraph (1);

6 and

7 “(ii) meets a condition described in
8 subparagraph (B).

9 “(B) CANCELLATION OR STATEMENT OF
10 COMPLIANCE.—

11 “(i) IN GENERAL.—The condition re-
12 ferred to in subparagraph (A)(ii) is that, in
13 accordance with this Act, the Adminis-
14 trator, with the concurrence of the Sec-
15 retary of State—

16 “(I) subject to clause (ii), cancels
17 under section 6 any existing registra-
18 tion that the Administrator deter-
19 mines would prevent the United
20 States from complying with the obli-
21 gations of the United States under
22 the POPs Convention if the United
23 States were to become a party to the
24 POPs Convention with respect to the
25 POPs pesticide; or

1 “(II) after providing notice and
2 an opportunity for comment—

3 “(aa) issues a statement
4 that there are no existing reg-
5 istrations for the POPs pesticide
6 that would prevent the United
7 States from complying with the
8 obligations of the United States
9 under the POPs Convention; and

10 “(bb) in the statement, iden-
11 tifies any uses of the POPs pes-
12 ticide permitted in the United
13 States that would not prevent the
14 United States from complying
15 with the obligations of the United
16 States under the POPs Conven-
17 tion.

18 “(ii) EFFECTIVE DATE OF CANCELLA-
19 TION.—An action under clause (i)(I) and
20 section 6 based on a finding of the Admin-
21 istrator that production or use of a POPs
22 pesticide would result in an unreasonable
23 adverse effect on the environment because
24 of an inconsistency with an amendment to
25 Annex A or B to the POPs Convention

1 shall not become effective until such time
2 as the amendment enters into force with
3 respect to the United States under para-
4 graph 4 of Article 22 of the POPs Conven-
5 tion.

6 “(3) EXEMPTIONS.—

7 “(A) EXEMPTIONS UNDER POPS CONVEN-
8 TION.—To the extent consistent with the POPs
9 Convention, the prohibitions specified in para-
10 graphs (1) and (2) shall not apply to any sale,
11 distribution, use, or production of a POPs pes-
12 ticide that the Administrator determines,
13 through a cancellation order issued under sec-
14 tion 6 or a statement issued under paragraph
15 (2)(B)(i)(II)—

16 “(i) is consistent with—

17 “(I) a production or use specific
18 exemption under Annex A or B to the
19 POPs Convention; or

20 “(II) an acceptable purpose avail-
21 able to the United States under
22 Annex B to the POPs Convention;
23 and

24 “(ii) would, as a result, not prevent
25 the United States from complying with the

1 obligations of the United States under the
2 POPs Convention.

3 “(B) UNINTENTIONAL TRACE CONTAMI-
4 NANTS.—To the extent consistent with the
5 POPs Convention, the prohibitions specified in
6 paragraphs (1) and (2) shall not apply to any
7 quantity of a POPs pesticide that occurs as an
8 unintentional trace contaminant in an article.

9 “(C) RESEARCH.—To the extent consistent
10 with the POPs Convention, the prohibitions
11 specified in paragraphs (1) and (2) shall not
12 apply to any quantity of a POPs pesticide that
13 is used for laboratory scale research or as a ref-
14 erence standard.

15 “(D) CONSTITUENT OF ARTICLE IN USE
16 BEFORE PROHIBITION APPLIED.—To the extent
17 consistent with the POPs Convention, the pro-
18 hibitions specified in paragraphs (1) and (2)
19 shall not apply to any quantity of a POPs pes-
20 ticide that occurs as a constituent of an article,
21 if—

22 “(i) the article is manufactured or in
23 use on or before the date of entry into
24 force of the obligation applicable to the
25 POPs pesticide; and

1 “(ii) the Administrator has met any
2 applicable requirement of the POPs Con-
3 vention to notify the Secretariat of the
4 POPs Convention concerning the article.

5 “(E) DISTRIBUTION FOR EXPORT IF PRO-
6 DUCTION OR USE SPECIFIC EXEMPTION OR AC-
7 CEPTABLE PURPOSE IS IN EFFECT.—

8 “(i) IN GENERAL.—To the extent con-
9 sistent with the POPs Convention, the pro-
10 hibitions specified in paragraphs (1) and
11 (2) shall not apply to any distribution for
12 export of any POPs pesticide for which a
13 production or use specific exemption under
14 Annex A to the POPs Convention is in ef-
15 fect, or for which a production or use spe-
16 cific exemption or acceptable purpose
17 under Annex B to the POPs Convention is
18 in effect, if the POPs pesticide complies
19 with an export condition described in
20 clause (ii), (iii), or (iv).

21 “(ii) EXPORT FOR ENVIRONMENTALLY
22 SOUND DISPOSAL.—An export condition re-
23 ferred to in clause (i) is that the POPs
24 pesticide is exported for the purpose of en-
25 vironmentally sound disposal in accordance

1 with paragraph 1(d) of Article 6 of the
2 POPs Convention.

3 “(iii) EXPORT TO PARTY WITH PER-
4 MISSION TO USE.—An export condition re-
5 ferred to in clause (i) is that the POPs
6 pesticide is exported to a party to the
7 POPs Convention that is permitted to use
8 the POPs pesticide under Annex A or B to
9 the POPs Convention.

10 “(iv) EXPORT TO NONPARTY IN AC-
11 CORDANCE WITH NONPARTY CERTIFI-
12 CATION.—

13 “(I) IN GENERAL.—An export
14 condition referred to in clause (i) is
15 that the POPs pesticide is exported,
16 to an importing country that is not a
17 party to the POPs Convention with
18 respect to the POPs pesticide, for
19 sale, distribution, or use in accordance
20 with a complete and accurate
21 nonparty certification that the import-
22 ing country annually provides to the
23 Administrator.

24 “(II) COMMITMENTS BY IMPORT-
25 ING NONPARTY.—Consistent with the

1 POPs Convention, an annual
2 nonparty certification under subclause
3 (I) shall specify the intended use of
4 the POPs pesticide and state that,
5 with respect to the POPs pesticide,
6 the importing nonparty is committed
7 to—

8 “(aa) protecting human
9 health and the environment by
10 taking necessary measures to
11 minimize or prevent releases;

12 “(bb) complying with para-
13 graph 1 of Article 6 of the POPs
14 Convention; and

15 “(cc) complying, to the ex-
16 tent appropriate, with paragraph
17 2 of Part II of Annex B to the
18 POPs Convention.

19 “(III) SUPPORTING DOCUMENTA-
20 TION.—Each nonparty certification
21 shall include any appropriate sup-
22 porting documentation, such as legis-
23 lation, regulatory instruments, and
24 administrative or policy guidelines.

1 “(IV) SUBMISSION TO SECRE-
2 TARIAT OF POPS CONVENTION.—Not
3 later than 60 days after the date of
4 receipt of a complete nonparty certifi-
5 cation, the Administrator shall submit
6 a copy of the nonparty certification to
7 the Secretariat of the POPs Conven-
8 tion.

9 “(F) EXPORT FOR ENVIRONMENTALLY
10 SOUND DISPOSAL IF NO PRODUCTION OR USE
11 SPECIFIC EXEMPTION IN EFFECT.—To the ex-
12 tent consistent with the POPs Convention, the
13 prohibitions specified in paragraphs (1) and (2)
14 shall not apply to any distribution for export
15 for the purpose of environmentally sound dis-
16 posal, in accordance with paragraph 1(d) of Ar-
17 ticle 6 of the POPs Convention, of a POPs pes-
18 ticide listed in Annex A to the POPs Conven-
19 tion for which no production or use specific ex-
20 emption is in effect for any party to the POPs
21 Convention.

22 “(G) IMPORTS FOR SPECIFIED PUR-
23 POSES.—To the extent consistent with the
24 POPs Convention, the prohibitions specified in
25 paragraphs (1) and (2) shall not apply to any

1 distribution of a POPs pesticide that is
2 imported—

3 “(i) for the purpose of environ-
4 mentally sound disposal in accordance with
5 paragraph 1(d) of Article 6 of the POPs
6 Convention; or

7 “(ii) for a purpose authorized under a
8 cancellation order issued under section 6.

9 “(H) NO EFFECT ON OTHER PROHIBI-
10 TIONS.—Nothing in this paragraph authorizes
11 any sale, distribution, use, or production, or
12 any disposal operation, that may lead to recov-
13 ery, recycling, reclamation, reuse, or an alter-
14 native use, of any POPs pesticide that is pro-
15 hibited under any other provision of law.

16 “(4) CERTIFICATION STATEMENT ACCOM-
17 PANYING POPS PESTICIDES.—

18 “(A) IN GENERAL.—Each POPs pesticide
19 that is sold or distributed under subparagraph
20 (A), (C), (E), (F), or (G) of paragraph (3) shall
21 be accompanied by a certification statement.

22 “(B) PERSON REQUIRED TO PREPARE.—A
23 certification statement required by subpara-
24 graph (A) shall be prepared—

1 “(i) by the producer of the POPs pes-
2 ticide; or

3 “(ii) if there is no certification state-
4 ment accompanying the POPs pesticide, by
5 any person that sells or distributes the
6 POPs pesticide.

7 “(C) REQUIRED ELEMENTS.—The certifi-
8 cation statement shall contain—

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

11 “(ii) the basis for application of sub-
12 paragraph (A), (C), (E), (F), or (G) of
13 paragraph (3); and

14 “(iii) such other information as the
15 Administrator determines to be necessary
16 for effective enforcement of this subsection.

17 “(D) DUTIES OF SELLERS AND DISTRIBU-
18 TORS.—Any person that sells or distributes the
19 POPs pesticide shall ensure that—

20 “(i) the certification statement accom-
21 panies the POPs pesticide when the POPs
22 pesticide is sold or distributed; and

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

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

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

10 “(i) to facilitate implementation of
11 this paragraph; and

12 “(ii) to ensure that this paragraph is
13 implemented in compliance with the POPs
14 Convention.

15 “(5) SUBMISSION OF INFORMATION.—

16 “(A) PROPOSAL FOR LISTING MEETS POPs
17 CONVENTION SCREENING CRITERIA.—

18 “(i) PUBLICATION OF NOTICE IN FED-
19 ERAL REGISTER.—As soon as practicable
20 after the date of a determination by the
21 POPs Review Committee that a proposal
22 for listing a pesticide in Annex A, B, or C
23 to the POPs Convention meets the screen-
24 ing criteria specified in Annex D to the
25 POPs Convention, the Administrator shall

1 publish in the Federal Register a notice
2 that—

3 “(I) identifies the pesticide; and

4 “(II) summarizes the determina-
5 tion of the POPs Review Committee.

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

8 Not later than 60 days after the date of
9 publication of the notice under clause (i),
10 any registrant of the pesticide or other in-
11 terested person that might support or ob-
12 ject to any listing of the pesticide in Annex
13 A, B, or C to the POPs Convention may
14 provide to the Administrator any argu-
15 ments or information associated with the
16 risks or benefits of use of the pesticide (in-
17 cluding information specified in Annex D
18 or E to the POPs Convention) that, in the
19 opinion of the registrant or other inter-
20 ested person, supports a determination
21 that—

22 “(I) the determination by the

23 POPs Review Committee is incorrect;

24 or

1 “(II) any or all uses of the pes-
2 ticide in the United States do or do
3 not result in any unreasonable adverse
4 effect on the environment.

5 “(iii) PROVISION OF ADDITIONAL IN-
6 FORMATION.—If a registrant or other in-
7 terested person obtains, after the deadline
8 established under clause (ii), additional in-
9 formation that was not available to the
10 registrant or other interested person by the
11 deadline, the registrant or other interested
12 person may provide to the Administrator
13 the additional information, and arguments
14 based on the additional information, not
15 later than 60 days after the date of acqui-
16 sition by the registrant or other interested
17 person of the additional information.

18 “(iv) REPORT BY ADMINISTRATOR TO
19 SECRETARY OF STATE.—Based on infor-
20 mation received under this paragraph and
21 any other relevant information available to
22 the Administrator, the Administrator, not
23 later than 180 days after the date of publi-
24 cation of the notice under clause (i), shall

1 submit to the Secretary of State a report
2 that contains, at a minimum—

3 “(I) information on the reg-
4 istered uses in the United States of
5 the pesticide; and

6 “(II) an assessment of the bene-
7 fits and risks associated with the uses
8 in the United States of the pesticide.

9 “(B) DECISION TO PROCEED WITH LIST-
10 ING PROCESS.—

11 “(i) PUBLICATION OF NOTICE IN FED-
12 ERAL REGISTER.—If the POPs Review
13 Committee decides under paragraph 7 of
14 Article 8 of the POPs Convention that a
15 proposal for listing a pesticide shall pro-
16 ceed, the Administrator shall publish in the
17 Federal Register a notice that—

18 “(I) identifies the pesticide; and

19 “(II) summarizes the decision of
20 the POPs Review Committee.

21 “(ii) PROVISION OF INFORMATION BY
22 INTERESTED PERSONS.—Not later than 60
23 days after the date of publication of the
24 notice under clause (i), any person inter-
25 ested in a pesticide that is the subject of

1 the notice may provide to the
2 Administrator—

3 “(I) consistent with the informa-
4 tion needs described in Annex F to
5 the POPs Convention, any informa-
6 tion that the person believes is rel-
7 evant to—

8 “(aa) a risk management
9 evaluation carried out under
10 paragraph 7 of Article 8 of the
11 POPs Convention;

12 “(bb) a decision by the Con-
13 ference under paragraph 9 of Ar-
14 ticle 8 of the POPs Convention;
15 or

16 “(cc) an action under sec-
17 tion 6(b); and

18 “(II) information on any article
19 in use that consists of, contains, or is
20 contaminated with the pesticide.

21 “(C) 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 in re-
3 sponse to a listing decision by the Conference
4 unless the person that seeks to raise the argu-
5 ment or submit the information demonstrates
6 that the argument or information could not rea-
7 sonably have been made available to the Admin-
8 istrator by the deadlines established under this
9 paragraph.

10 “(f) LRTAP POPs PROTOCOL.—

11 “(1) PROHIBITION ON SPECIFIED LRTAP POPs
12 PESTICIDES.—

13 “(A) IN GENERAL.—Subject to subpara-
14 graph (B), paragraph (3), and the LRTAP
15 POPs Protocol, notwithstanding any other pro-
16 vision of law, a person shall not sell, distribute,
17 use, produce, or conduct any disposal operation
18 that may lead to recovery, recycling, reclama-
19 tion, reuse, or an alternative use of any of the
20 following LRTAP POPs pesticides:

21 “(i) Chlordecone.

22 “(ii) Hexabromobiphenyl.

23 “(iii) Hexachlorocyclohexane (HCH).

24 “(B) ADDITION TO ANNEX A OR B TO POPs
25 CONVENTION.—If a LRTAP POPs pesticide

1 specified in subparagraph (A) is added to
2 Annex A or B to the POPs Convention and the
3 amendment making the addition enters into
4 force with respect to the United States under
5 paragraph 4 of Article 22 of the POPs
6 Convention—

7 “(i) subparagraph (A) shall not apply
8 to the LRTAP POPs pesticide; and

9 “(ii) the LRTAP POPs pesticide shall
10 be subject to subsection (e).

11 “(2) PROHIBITION ON OTHER LRTAP POPS PES-
12 TICIDES.—

13 “(A) IN GENERAL.—Subject to paragraph
14 (3), notwithstanding any other provision of law,
15 a person shall not sell, distribute, use, or
16 produce a LRTAP POPs pesticide that—

17 “(i) is not subject to paragraph (1);

18 and

19 “(ii) meets a condition described in
20 subparagraph (B).

21 “(B) CANCELLATION OR STATEMENT OF
22 COMPLIANCE.—

23 “(i) IN GENERAL.—The condition re-
24 ferred to in subparagraph (A)(ii) is that, in
25 accordance with this Act, the Adminis-

1 trator, with the concurrence of the Sec-
2 retary of State—

3 “(I) subject to clause (ii), cancels
4 under section 6 any existing registra-
5 tion that the Administrator deter-
6 mines would prevent the United
7 States from complying with the obli-
8 gations of the United States under
9 the LRTAP POPs Protocol if the
10 United States were to become a party
11 to the LRTAP POPs Protocol for the
12 LRTAP POPs pesticide; or

13 “(II) after providing notice and
14 an opportunity for comment—

15 “(aa) issues a statement
16 that there are no existing reg-
17 istrations for the LRTAP POPs
18 pesticide that would prevent the
19 United States from complying
20 with the obligations of the United
21 States under the LRTAP POPs
22 Protocol; and

23 “(bb) in the statement, iden-
24 tifies any uses of the LRTAP
25 POPs pesticide permitted in the

1 United States that would not
2 prevent the United States from
3 complying with the obligations of
4 the United States under the
5 POPs Convention.

6 “(ii) EFFECTIVE DATE OF CANCELLA-
7 TION.—An action under clause (i)(I) and
8 section 6 based on a finding of the Admin-
9 istrator that production or use of a pes-
10 ticide would result in an unreasonable ad-
11 verse effect on the environment because of
12 an inconsistency with an amendment to
13 Annex I or II to the LRTAP POPs Pro-
14 tocol shall not become effective until such
15 time as the amendment enters into force
16 with respect to the United States under
17 paragraph 3 of Article 14 of the LRTAP
18 POPs Protocol.

19 “(3) EXEMPTIONS.—

20 “(A) IN GENERAL.—To the extent con-
21 sistent with the LRTAP POPs Protocol, the
22 prohibitions specified in paragraphs (1) and (2)
23 shall not apply to—

24 “(i) any sale, distribution, use, or pro-
25 duction of a LRTAP POPs pesticide that

1 the Administrator determines, through a
2 cancellation order issued under section 6
3 or a statement issued under paragraph
4 (2)(B)(i)(II)—

5 “(I) is consistent with an exemp-
6 tion available to the United States
7 under Annex I or II to the LRTAP
8 POPs Protocol; and

9 “(II) would, as a result, not pre-
10 vent the United States from com-
11 plying with the obligations of the
12 United States under the LRTAP
13 POPs Protocol;

14 “(ii) any quantity of a LRTAP POPs
15 pesticide that is used for laboratory scale
16 research or as a reference standard;

17 “(iii) any quantity of a LRTAP POPs
18 pesticide that occurs as a contaminant in
19 an article;

20 “(iv) any quantity of a LRTAP POPs
21 pesticide that is in an article manufactured
22 or in use on or before—

23 “(I) the implementation date of
24 the LRTAP POPs Protocol; or

1 “(II) in the case of any LRTAP
2 POPs pesticide added to any applica-
3 ble Annex after the implementation
4 date of the LRTAP POPs Protocol,
5 the implementation date of the
6 amendment to the LRTAP POPs Pro-
7 tocol that makes the addition; or

8 “(v) the production or use of any
9 quantity of hexachlorocyclohexane (HCH)
10 that complies with the restrictions and con-
11 ditions specified for HCH in Annex II to
12 the LRTAP POPs Protocol.

13 “(B) PETITIONS FOR EXEMPTIONS AU-
14 THORIZED BY LRTAP POPS PROTOCOL.—

15 “(i) IN GENERAL.—A person may pe-
16 tition the Administrator for an exemption
17 from a prohibition specified in paragraph
18 (1) or (2) that is consistent with the ex-
19 emptions authorized under paragraph 2 of
20 Article 4 of the LRTAP POPs Protocol.

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

24 “(I) information relating to each
25 finding, if any, that the Administrator

1 is required to make under the LRTAP
2 POPs Protocol before granting the ex-
3 emption; and

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

9 “(iii) GRANT OR DENIAL OF PETI-
10 TION.—The Administrator, with the con-
11 currence of the Secretary of State, shall—

12 “(I) if the petition is authorized
13 for the United States under, and is
14 otherwise consistent with, the LRTAP
15 POPs Protocol, grant the petition
16 with such conditions or limitations as
17 are necessary to meet any require-
18 ment of the LRTAP POPs Protocol
19 or any other provision of law; or

20 “(II) deny the petition.

21 “(iv) PROVISION OF INFORMATION TO
22 SECRETARIAT.—Notwithstanding any other
23 provision of law, if the Administrator
24 grants the petition, the Administrator, not
25 later than 90 days after the date on which

1 the petition is granted, shall provide the
2 Secretariat of the LRTAP POPs Protocol
3 with the information specified in para-
4 graph 3 of Article 4 of the LRTAP POPs
5 Protocol.

6 “(v) DISALLOWANCE OF EXEMPTION
7 BY LRTAP POPS PROTOCOL.—

8 “(I) IN GENERAL.—If, after an
9 exemption has been granted under
10 this subparagraph, the exemption is
11 no longer authorized for the United
12 States under the LRTAP POPs Pro-
13 tocol, it shall be unlawful for any per-
14 son to sell, distribute, use, or produce
15 a LRTAP POPs pesticide in the man-
16 ner authorized by the petition.

17 “(II) PUBLICATION OF NOTICE
18 IN FEDERAL REGISTER.—The Admin-
19 istrator shall publish in the Federal
20 Register a notice announcing the dis-
21 allowance of any exemption under
22 subclause (I).

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

1 posal operation that may lead to recovery, recy-
2 cling, reclamation, reuse, or an alternative use
3 of any LRTAP POPs pesticide that is prohib-
4 ited under any other provision of law.

5 “(4) CERTIFICATION STATEMENT ACCOM-
6 PANYING LRTAP POPS PESTICIDES.—

7 “(A) IN GENERAL.—Each LRTAP POPs
8 pesticide that is sold or distributed under sub-
9 paragraph (A)(i), (A)(ii), or (B) of paragraph
10 (3) shall be accompanied by a certification
11 statement.

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

15 “(i) by the producer of the LRTAP
16 POPs pesticide; or

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

21 “(C) REQUIRED ELEMENTS.—The certifi-
22 cation statement shall contain—

23 “(i) a specification of the quantity
24 and identity of the LRTAP POPs pes-
25 ticide;

1 “(ii) the basis for application of sub-
2 paragraph (A)(i), (A)(ii), or (B) of para-
3 graph (3); and

4 “(iii) such other information as the
5 Administrator determines to be necessary
6 for effective enforcement of this subsection.

7 “(D) DUTIES OF SELLERS AND DISTRIBUTORS.—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

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

3 “(ii) to ensure that this paragraph is
4 implemented in compliance with the
5 LRTAP POPs Protocol.

6 “(5) SUBMISSION OF INFORMATION.—

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

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

17 “(I) identifies the pesticide; and

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

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

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

1 ject to any listing of the pesticide in Annex
2 I, II, or III to the LRTAP POPs Protocol
3 may provide to the Administrator any ar-
4 guments or information associated with the
5 risks or benefits of use of the pesticide
6 that, in the opinion of the registrant or
7 other interested person, supports a deter-
8 mination that—

9 “(I) the risk profile is incorrect;

10 or

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

15 “(iii) PROVISION OF ADDITIONAL IN-
16 FORMATION.—If a registrant or other in-
17 terested person obtains, after the deadline
18 established under clause (ii), additional in-
19 formation that was not available to the
20 registrant or other interested person by the
21 deadline, the registrant or other interested
22 person may provide to the Administrator
23 the additional information, and arguments
24 based on the additional information, not
25 later than 60 days after the date of acqui-

1 sition by the registrant or other interested
2 person of the additional information.

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

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

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

18 “(B) EFFECT OF FAILURE TO SUBMIT IN-
19 FORMATION.—If an argument or item of infor-
20 mation is not submitted by a deadline estab-
21 lished under this paragraph, a person may not
22 raise the argument or submit the information in
23 any subsequent cancellation proceeding initiated
24 by the Administrator under section 6 in re-
25 sponse to an amendment to Annex I, II, or III

1 to the LRTAP POPs Protocol unless the person
2 that seeks to raise the argument or submit the
3 information demonstrates that the argument or
4 information could not reasonably have been
5 made available to the Administrator by the
6 deadlines established under this paragraph.

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

10 “(1) IN GENERAL.—The Administrator—

11 “(A) shall publish in the Federal Register
12 timely notice concerning—

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

15 “(II) any exemptions from the prohi-
16 bitions authorized under subsection (e);
17 and

18 “(III) any importing country from
19 which any POPs pesticide has received a
20 nonparty certification under subsection
21 (e)(3)(E)(iv); and

22 “(ii)(I) the LRTAP POPs pesticides
23 subject to the prohibitions specified in sub-
24 section (f); and

1 “(II) any exemptions from the prohi-
 2 bitions authorized under subsection (f), in-
 3 cluding any disallowances of exemptions
 4 under subsection (f)(3)(B)(v); and

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

9 “(i) this section;

10 “(ii) the POPs Convention; or

11 “(iii) the LRTAP POPs Protocol.

12 “(2) INTEGRATION WITH TSCA INFORMATION.—

13 The Administrator shall—

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

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

20 “(C) make the record publicly available.”.

21 **SEC. 205. CONFORMING AMENDMENTS.**

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

25 (1) in the items relating to section 2—

1 (A) by striking the item relating to sub-
2 section (bb) and inserting the following:

“(bb) Unreasonable adverse effect on the environment.
“(1) In general.
“(2) Public health pesticides.”;

3 and

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

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

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

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

8 and

9 (3) in the items relating to section 17, by strik-
10 ing the items relating to subsection (e) and inserting
11 the following:

- “(e) POPs Convention.
 - “(1) Prohibition on specified POPs pesticides.
 - “(2) Prohibition on other POPs pesticides.
 - “(3) Exemptions.
 - “(4) Certification statement accompanying POPs pesticides.
 - “(5) Submission of information.
- “(f) LRTAP POPs Protocol.
 - “(1) Prohibition on specified LRTAP POPs pesticides.
 - “(2) Prohibition on other LRTAP POPs pesticides.
 - “(3) Exemptions.
 - “(4) Certification statement accompanying LRTAP POPs pesticides.
 - “(5) Submission of information.
- “(g) Notice and record of prohibitions, exemptions, and other information.
 - “(1) In general.
 - “(2) Integration with TSCA information.
- “(h) Regulations.”.

