

Calendar No. 481108TH CONGRESS
2^D SESSION**S. 1486****[Report No. 108-256]**

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

IN THE SENATE OF THE UNITED STATES

JULY 29 (legislative day, JULY 21), 2003

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

APRIL 29, 2004

Reported by Mr. INHOFE, with an amendment

[Strike out all after the enacting clause and insert the part printed in *italic*]

A BILL

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

formed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade.

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

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

4 (a) **SHORT TITLE.**—This Act may be cited as the
 5 “POPs, LRTAP POPs, and PIC Implementation Act of
 6 2003”.

7 (b) **TABLE OF CONTENTS.**—The table of contents of
 8 this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—IMPLEMENTATION OF INTERNATIONAL AGREEMENTS

Sec. 101. Implementation of international agreements.

“**TITLE V—IMPLEMENTATION OF INTERNATIONAL AGREEMENTS**

“Sec. 501. Definitions.

“Sec. 502. Implementation of POPs Convention and LRTAP POPs Protocol.

“Sec. 503. Notice and record of prohibitions, exemptions, disallowances, and other information.

“Sec. 504. International conventions and cooperation in international efforts.

“Sec. 505. Exports.

“Sec. 506. Judicial review.”.

Sec. 102. Exports.

Sec. 103. Prohibited acts.

Sec. 104. Conforming amendments.

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.

1 **TITLE I—IMPLEMENTATION OF**
2 **INTERNATIONAL AGREEMENTS**

3 **SEC. 101. IMPLEMENTATION OF INTERNATIONAL AGREE-**
4 **MENTS.**

5 The Toxic Substances Control Act (15 U.S.C. 2601
6 et seq.) is amended by adding at the end the following:

7 **“TITLE V—IMPLEMENTATION OF**
8 **INTERNATIONAL AGREEMENTS**

9 **“SEC. 501. DEFINITIONS.**

10 “In this title:

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

14 “(2) CONFERENCE LISTING DECISION.—The
15 term ‘Conference listing decision’ means a decision
16 by the Conference to approve an amendment to list
17 a chemical substance or mixture in Annex A or B
18 to the POPs Convention.

19 “(3) DESIGNATED NATIONAL AUTHORITY.—The
20 term ‘designated national authority’ means the 1 or
21 more authorities that a government has designated
22 in a notification to the Secretariat of the PIC Con-
23 vention in accordance with Article 4 of the PIC Con-
24 vention.

1 “(4) EXECUTIVE BODY.—The term ‘Executive
2 Body’ means the Executive Body established by Ar-
3 ticle 10 of the LRTAP Convention.

4 “(5) HCH.—The term ‘HCH’ means
5 hexachlorocyclohexane.

6 “(6) LRTAP CONVENTION.—The term
7 ‘LRTAP Convention’ means the Convention on
8 Long-Range Transboundary Air Pollution, done at
9 Geneva on November 13, 1979 (TIAS 10541), if the
10 United States is a party.

11 “(7) LRTAP POPs CHEMICAL SUBSTANCE OR
12 MIXTURE.—The term ‘LRTAP POPs chemical sub-
13 stance or mixture’ means—

14 “(A) chlordecone;

15 “(B) hexabromobiphenyl;

16 “(C) HCH; and

17 “(D) any other chemical substance or mix-
18 ture that is listed in Annex I or II to the
19 LRTAP POPs Protocol.

20 “(8) LRTAP POPs LISTING DECISION.—The
21 term ‘LRTAP POPs listing decision’ means a deci-
22 sion by the parties to the LRTAP POPs Protocol to
23 approve an amendment to list a chemical substance
24 or mixture in Annex I or II to the LRTAP POPs
25 Protocol.

1 “(9) LRTAP POPS PROTOCOL.—The term
2 ‘LRTAP POPs Protocol’ means the Protocol on Per-
3 sistent Organic Pollutants to the LRTAP Conven-
4 tion, done at Aarhus on June 24, 1998, if the
5 United States is a party.

6 “(10) PCB.—The term ‘PCB’ means a poly-
7 chlorinated biphenyl.

8 “(11) PIC CONVENTION.—The term ‘PIC Con-
9 vention’ means the Rotterdam Convention on the
10 Prior Informed Consent Procedure for Certain Haz-
11 ardous Chemicals and Pesticides in International
12 Trade, done at Rotterdam on September 10, 1998,
13 if the United States is a party.

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

17 “(A) aldrin;

18 “(B) chlordane;

19 “(C) dichlorodiphenyltrichloroethane
20 (DDT);

21 “(D) dieldrin;

22 “(E) endrin;

23 “(F) heptachlor;

24 “(G) hexachlorobenzene;

25 “(H) mirex;

1 “(1) A POPs chemical substance or mixture
2 specified in any of subparagraphs (A) through (J) of
3 section 501(12).

4 “(2) A LRTAP POPs chemical substance or
5 mixture specified in any of subparagraphs (A)
6 through (C) of section 501(7).

7 “(b) PROHIBITION ON OTHER POPs CHEMICAL SUB-
8 STANCES AND MIXTURES AND LRTAP POPs CHEMICAL
9 SUBSTANCES AND MIXTURES.—Subject to subsections
10 (c), (d), and (i), notwithstanding any other provision of
11 law, a person shall not manufacture, process, distribute
12 in commerce for export, use, or dispose of a POPs chem-
13 ical substance or mixture described in section 501(12)(K),
14 or a LRTAP POPs chemical substance or mixture de-
15 scribed in 501(7)(D), in a manner that is inconsistent
16 with regulations promulgated under subsection (h).

17 “(c) EXEMPTIONS UNDER POPs CONVENTION.—

18 “(1) IN GENERAL.—The prohibitions specified
19 in subsection (b) shall not apply to any manufacture,
20 processing, distribution in commerce for export, use,
21 or disposal of a POPs chemical substance or mixture
22 that the Administrator (with the concurrence of the
23 Secretary of State) determines, through final regula-
24 tions promulgated under subsection (h)—

25 “(A) is consistent with—

1 “(i) a production or use specific ex-
2 emption available to the United States
3 under Annex A or B to the POPs Conven-
4 tion; or

5 “(ii) an acceptable purpose applicable
6 to the United States under Annex B to the
7 POPs Convention; and

8 “(B) would, as a result, not prevent the
9 United States from complying with the obliga-
10 tions of the United States under the POPs
11 Convention.

12 “(2) UNINTENTIONAL TRACE CONTAMI-
13 NANTS.—To the extent consistent with the POPs
14 Convention, the prohibitions specified in subsections
15 (a) and (b) shall not apply to any quantity of a
16 POPs chemical substance or mixture that occurs as
17 an unintentional trace contaminant in a product or
18 article.

19 “(3) RESEARCH.—To the extent consistent with
20 the POPs Convention, the prohibitions specified in
21 subsections (a) and (b) shall not apply to any quan-
22 tity of a POPs chemical substance or mixture that
23 is used for laboratory scale research or as a ref-
24 erence standard.

1 “(4) CONSTITUENT OF ARTICLE IN USE BE-
2 FORE PROHIBITION APPLIED.—To the extent con-
3 sistent with the POPs Convention, the prohibitions
4 specified in subsections (a) and (b) shall not apply
5 to any quantity of a POPs chemical substance or
6 mixture that occurs as a constituent of an article;
7 if—

8 “(A) the article is manufactured or in use
9 on or before the date of entry into force of the
10 obligation applicable to the POPs chemical sub-
11 stance or mixture; and

12 “(B) the United States has met any appli-
13 cable requirement of the POPs Convention to
14 notify the Secretariat of the POPs Convention
15 concerning the article.

16 “(5) CLOSED-SYSTEM SITE-LIMITED INTER-
17 MEDIATE.—

18 “(A) EXEMPTION.—

19 “(i) IN GENERAL.—Subject to clause
20 (ii), to the extent consistent with the POPs
21 Convention, the prohibitions specified in
22 subsections (a) and (b) shall not apply to
23 any quantity of a POPs chemical sub-
24 stance or mixture that is—

1 “(I) manufactured and used as a
2 closed-system site-limited inter-
3 mediate; and

4 “(II) chemically transformed in
5 the manufacture of other chemicals
6 that do not exhibit the characteristics
7 of persistent organic pollutants (tak-
8 ing into consideration the criteria in
9 paragraph 1 of Annex D of the POPs
10 Convention).

11 “(ii) CONDITIONS.—Clause (i) applies
12 if, before the commencement of the manu-
13 facture or use under the POPs Convention,
14 and each 10-year period thereafter—

15 “(I) any person that desires to
16 invoke the exemption provides to the
17 Administrator information con-
18 cerning—

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

1 “(bb) the nature of the
2 closed system site-limited proe-
3 cess, including the quantity of any
4 nontransformed and uninten-
5 tional trace contamination by the
6 POPs chemical substance or mix-
7 ture that remains in the final
8 product; and

9 “(H) notwithstanding any other
10 provision of law, the Administrator—

11 “(aa) determines, with the
12 concurrence of the Secretary of
13 State, that the information pro-
14 vided under subelause (I) is com-
15 plete and sufficient; and

16 “(bb) transmits the informa-
17 tion to the Secretariat of the
18 POPs Convention.

19 “(B) TERMINATION OF EXEMPTION.—If,
20 at the termination of any 10-year exemption pe-
21 riod under subparagraph (A), a particular
22 closed-system site-limited intermediate exemp-
23 tion is no longer authorized for the United
24 States under the POPs Convention, it shall be
25 unlawful for any person to continue to manu-

1 facture or use any such POPs chemical sub-
2 stance or mixture as a closed-system site-lim-
3 ited intermediate.

4 “(6) PCB MATERIALS.—Any person that man-
5 ages PCBs in compliance with the rules promulgated
6 under section 6(e) shall be—

7 “(A) considered to be in compliance with
8 this title; and

9 “(B) presumed to be consistent with the
10 POPs Convention, unless the Administrator de-
11 termines that the applicable rule promulgated
12 under section 6(e) is inconsistent with the
13 POPs Convention.

14 “(7) DISTRIBUTION IN COMMERCE FOR EXPORT
15 IF PRODUCTION OR USE SPECIFIC EXEMPTION OR
16 ACCEPTABLE PURPOSE IS IN EFFECT.—

17 “(A) IN GENERAL.—To the extent con-
18 sistent with the POPs Convention, the prohibi-
19 tions specified in subsections (a) and (b) shall
20 not apply to any distribution in commerce for
21 export of any POPs chemical substance or mix-
22 ture for which a production or use specific ex-
23 emption under Annex A to the POPs Conven-
24 tion available to the United States is in effect,
25 or for which a production or use specific exemp-

1 tion or acceptable purpose under Annex B to
2 the POPs Convention available to the United
3 States is in effect, unless the POPs chemical
4 substance or mixture does not comply with an
5 export condition described in—

6 “(i) subparagraph (B), as determined
7 by the Administrator in consultation with
8 the heads of other interested Federal agen-
9 cies; or

10 “(ii) subparagraph (C) or (D), as de-
11 termined by the Administrator in consulta-
12 tion with the heads of other interested
13 Federal agencies and with the concurrence
14 of the Secretary of State and the United
15 States Trade Representative.

16 “(B) EXPORT FOR ENVIRONMENTALLY
17 SOUND DISPOSAL.—An export condition re-
18 ferred to in subparagraph (A) is that the POPs
19 chemical substance or mixture is exported for
20 the purpose of environmentally sound disposal
21 in accordance with paragraph 1(d) of Article 6
22 of the POPs Convention.

23 “(C) EXPORT TO PARTY WITH PERMISSION
24 TO USE.—An export condition referred to in
25 subparagraph (A) is that the POPs chemical

1 substance or mixture is exported to a party to
2 the POPs Convention that is permitted to use
3 the POPs chemical substance or mixture under
4 Annex A or B to the POPs Convention.

5 “(D) EXPORT TO NONPARTY THAT HAS
6 PROVIDED NONPARTY CERTIFICATION.—

7 “(i) IN GENERAL.—An export condi-
8 tion referred to in subparagraph (A) is
9 that the POPs chemical substance or mix-
10 ture is exported to an importing foreign
11 state that—

12 “(I) is not a party to the POPs
13 Convention with respect to the POPs
14 chemical substance or mixture; and

15 “(II) has provided an annual cer-
16 tification to the Administrator.

17 “(ii) COMMITMENTS BY IMPORTING
18 NONPARTY.—Consistent with the POPs
19 Convention, an annual nonparty certifi-
20 cation under clause (i) shall specify the in-
21 tended use of the POPs chemical substance
22 or mixture and state that, with respect to
23 the POPs chemical substance or mixture,
24 the importing nonparty is committed to—

1 “(I) protecting human health and
2 the environment by taking necessary
3 measures to minimize or prevent re-
4 leases;

5 “(II) complying with paragraph
6 1(d) of Article 6 of the POPs Conven-
7 tion; and

8 “(III) complying, to the extent
9 appropriate, with paragraph 2 of Part
10 H of Annex B to the POPs Conven-
11 tion.

12 “(iii) SUPPORTING DOCUMENTA-
13 TION.—Each nonparty certification shall
14 include any appropriate supporting docu-
15 mentation, such as legislation, regulatory
16 instruments, and administrative or policy
17 guidelines.

18 “(iv) SUBMISSION TO SECRETARIAT
19 OF POPS CONVENTION.—Not later than 60
20 days after the date of receipt of a complete
21 nonparty certification, the Administrator
22 shall submit a copy of the nonparty certifi-
23 cation to the Secretariat of the POPs Con-
24 vention.

1 “(8) EXPORT FOR ENVIRONMENTALLY SOUND
2 DISPOSAL IF NO PRODUCTION OR USE SPECIFIC EX-
3 EMPTION IN EFFECT.—To the extent consistent with
4 the POPs Convention, the prohibitions specified in
5 subsections (a) and (b) shall not apply to any dis-
6 tribution in commerce for export for the purpose of
7 environmentally sound disposal, in accordance with
8 paragraph 1(d) of Article 6 of the POPs Convention,
9 of a POPs chemical substance or mixture listed in
10 Annex A to the POPs Convention for which no pro-
11 duction or use specific exemption is in effect for any
12 party to the POPs Convention.

13 “(9) IMPORTS FOR SPECIFIED PURPOSES.—To
14 the extent consistent with the POPs Convention, the
15 prohibitions specified in subsections (a) and (b) shall
16 not apply to a POPs chemical substance or mixture
17 that is imported for the purpose of environmentally
18 sound disposal in accordance with paragraph 1(d) of
19 Article 6 of the POPs Convention.

20 “(10) WASTE.—To the extent consistent with
21 the POPs Convention, the prohibitions specified in
22 subsections (a) and (b) shall not apply to any quan-
23 tity of a POPs chemical substance or mixture, in-
24 cluding any article that consists of, contains, or is
25 contaminated with a POPs chemical substance or

1 mixture, that has become waste and that is managed
 2 in a manner consistent with Article 6 of the POPs
 3 Convention.

4 “(11) NO EFFECT ON OTHER PROHIBITIONS.—

5 Nothing in this subsection authorizes any manufac-
 6 ture, processing, distribution in commerce for ex-
 7 port, use, or disposal of a POPs chemical substance
 8 or mixture that is prohibited under any other provi-
 9 sion of law.

10 “(d) EXEMPTIONS UNDER LRTAP POPs PRO-
 11 Tocol.—

12 “(1) IN GENERAL.—To the extent consistent
 13 with the LRTAP POPs Protocol, the prohibitions on
 14 manufacture, processing, distribution in commerce
 15 for export, or use specified in subsections (a) and
 16 (b) shall not apply to—

17 “(A) any manufacture, processing, dis-
 18 tribution in commerce for export, or use of a
 19 LRTAP POPs chemical substance or mixture
 20 that the Administrator determines (with the
 21 concurrence of the Secretary of State), through
 22 final regulations promulgated in accordance
 23 with subsection (h)—

24 “(i) is consistent with an allowed re-
 25 stricted use or condition available to the

1 United States under Annex I or II to the
2 LRTAP POPs Protocol; and

3 “(ii) would, as a result, not prevent
4 the United States from complying with the
5 obligations of the United States under the
6 LRTAP POPs Protocol;

7 “(B) any quantity of a LRTAP POPs
8 chemical substance or mixture that is used for
9 laboratory scale research or as a reference
10 standard;

11 “(C) any quantity of a LRTAP POPs
12 chemical substance or mixture that occurs as a
13 contaminant in a product;

14 “(D) any quantity of a LRTAP POPs
15 chemical substance or mixture that is in an ar-
16 ticle manufactured or in use on or before—

17 “(i) the implementation date of any
18 applicable obligation of the LRTAP POPs
19 Protocol; or

20 “(ii) in the case of any LRTAP POPs
21 chemical substance or mixture added to
22 any applicable Annex after the implemen-
23 tation date of the applicable obligation of
24 the LRTAP POPs Protocol, the implemen-
25 tation date in the amendment to the

1 LRTAP POPs Protocol that makes the ad-
2 dition;

3 “(E) any quantity of a LRTAP POPs
4 chemical substance or mixture that occurs as a
5 site-limited chemical intermediate in the manu-
6 facture of 1 or more different substances and
7 that is subsequently chemically transformed;

8 “(F) the production or use of any quantity
9 of HCH that complies with the restrictions and
10 conditions specified for HCH in Annex H to the
11 LRTAP POPs Protocol;

12 “(G) any quantity of a LRTAP POPs
13 chemical substance or mixture that has become
14 waste and that is disposed of in an environ-
15 mentally sound manner in accordance with
16 paragraph 1(b) of Article 3 of the LRTAP
17 POPs Protocol;

18 “(H) any distribution in commerce for ex-
19 port of a LRTAP POPs chemical substance or
20 mixture if the distribution in commerce for ex-
21 port is conducted in an environmentally sound
22 manner; or

23 “(I) any import of a LRTAP POPs chem-
24 ical substance or mixture if the import is con-
25 ducted in an environmentally sound manner.

1 “(2) EXEMPTIONS BY ADMINISTRATOR.—The
2 Administrator, with the concurrence of the Secretary
3 of State, may grant an exemption from the prohibi-
4 tions applicable to LRTAP POPs chemical sub-
5 stances or mixtures specified in subsection (a) or (b)
6 that the Administrator determines are consistent
7 with the exemptions authorized under paragraph 2
8 of Article 4 of the LRTAP POPs Protocol.

9 “(3) EXEMPTIONS BY PETITION.—

10 “(A) PETITIONS.—A person may petition
11 the Administrator for an exemption from a pro-
12 hibition applicable to LRTAP POPs chemical
13 substances or mixtures specified in subsection
14 (a) or (b) that is consistent with the exemptions
15 authorized under paragraph 2 of Article 4 of
16 the LRTAP POPs Protocol.

17 “(B) REQUIRED ELEMENTS OF PETI-
18 TIONS.—Any petition under subparagraph (A)
19 shall, at a minimum, contain—

20 “(i) information relating to each find-
21 ing, if any, that the Administrator is re-
22 quired to make under the LRTAP POPs
23 Protocol before granting the exemption;
24 and

1 “(ii) any additional information, if
 2 any, that the Administrator is required to
 3 provide to the Secretariat of the LRTAP
 4 POPs Protocol concerning a granted ex-
 5 emption.

6 “(C) GRANT OR DENIAL OF PETITION.—

7 The Administrator, with the concurrence of the
 8 Secretary of State, shall—

9 “(i) if the petition is authorized for
 10 the United States under, and is otherwise
 11 consistent with, the LRTAP POPs Pro-
 12 tocol, grant the petition with such condi-
 13 tions or limitations as are necessary to
 14 meet any requirement of the LRTAP
 15 POPs Protocol or any other provision of
 16 law; or

17 “(ii) deny the petition.

18 “(4) PROVISION OF INFORMATION TO SECRE-
 19 TARIAT.—Notwithstanding any other provision of
 20 law, if the Administrator grants an exemption under
 21 this subsection, the Administrator, not later than 90
 22 days after the date on which the exemption is grant-
 23 ed, shall provide the Secretariat of the LRTAP
 24 POPs Protocol with the information specified in

1 paragraph 3 of Article 4 of the LRTAP POPs Pro-
2 tocol.

3 ~~“(5) DISALLOWANCE OF EXEMPTION BY LRTAP~~
4 ~~POPS PROTOCOL.—~~

5 ~~“(A) IN GENERAL.—If, after an exemption~~
6 ~~has been granted under this subsection, the ex-~~
7 ~~emption is no longer authorized by the United~~
8 ~~States under the LRTAP POPs Protocol, it~~
9 ~~shall be unlawful for any person to manufac-~~
10 ~~ture, process, distribute in commerce for export,~~
11 ~~or use a LRTAP POPs chemical substance or~~
12 ~~mixture in the manner authorized by the ex-~~
13 ~~emption.~~

14 ~~“(B) PUBLICATION OF NOTICE IN FED-~~
15 ~~ERAL REGISTER.—The Administrator shall pub-~~
16 ~~lish in the Federal Register a notice announcing~~
17 ~~the disallowance of any exemption under sub-~~
18 ~~paragraph (A).~~

19 ~~“(6) NO EFFECT ON OTHER PROHIBITIONS.—~~
20 ~~Nothing in this subsection authorizes any manufac-~~
21 ~~ture, processing, distribution in commerce for ex-~~
22 ~~port, or use of a LRTAP POPs chemical substance~~
23 ~~or mixture that is prohibited under any other provi-~~
24 ~~sion of law.~~

1 “(e) NOTICE AND REPORT AFTER DECISION THAT
2 SCREENING CRITERIA ARE MET UNDER POPs CONVEN-
3 TION OR AFTER RISK PROFILE SUBMITTED UNDER
4 LRTAP POPs PROTOCOL.—

5 “(1) APPLICABILITY.—This subsection applies
6 if—

7 “(A) the POPs Review Committee or Con-
8 ference decides—

9 “(i) under paragraph 4(a) of Article 8
10 of the POPs Convention; that a proposal
11 for listing a chemical substance or mixture
12 in Annex A, B, or C to the POPs Conven-
13 tion fulfills the screening criteria specified
14 in Annex D to the POPs Convention; or

15 “(ii) under paragraph 5 of Article 8
16 of the POPs Convention; that such a pro-
17 posal shall proceed; or

18 “(B) if a party to the LRTAP POPs Pro-
19 tocol submits to the Executive Body a risk pro-
20 file in support of a proposal to list a chemical
21 substance or mixture in Annex I, II, or III to
22 the LRTAP POPs Protocol.

23 “(2) REQUIREMENT.—Not later than 45 days
24 after the date of the POPs Review Committee or
25 Conference decision on a proposal or the submission

1 of a risk profile in support of a proposal under the
2 LRTAP POPs Protocol described in subparagraph
3 (A) or (B) of paragraph (1), respectively, the Ad-
4 ministrator shall—

5 “(A) publish in the Federal Register a no-
6 tice of the proposal; and

7 “(B) provide opportunity for comment on
8 the proposal.

9 “(3) REQUIRED ELEMENTS OF NOTICE.—A no-
10 tice under paragraph (2) shall—

11 “(A) identify the chemical substance or
12 mixture that is the subject of the proposal;

13 “(B) include a summary of the process
14 under the POPs Convention or the LRTAP
15 POPs Protocol for submission of a proposal and
16 listing of a chemical substance or mixture that
17 is the subject of a proposal (including criteria
18 applied in that process);

19 “(C) include a summary of the POPs Re-
20 view Committee or Conference decision and the
21 basis for the decision;

22 “(D) request information relevant to and
23 comment on—

24 “(i) in the case of a chemical sub-
25 stance or mixture proposed for listing in

1 an Annex to the POPs Convention; the in-
2 formation requirements and screening cri-
3 teria elements covered under Annex D to
4 the POPs Convention; and

5 “(ii) in the case of a chemical sub-
6 stance or mixture proposed for listing in
7 an Annex to the LRTAP POPs Protocol;
8 the information referenced in paragraph
9 6(a) of Article 14 of the LRTAP POPs
10 Protocol;

11 “(E) request the information required
12 under paragraph (4);

13 “(F) include any other information that
14 the Administrator considers to be relevant to
15 the proposal;

16 “(G) include a statement that any infor-
17 mation submitted will be part of the record
18 used as the basis for rulemaking that the Ad-
19 ministrator may undertake under this title; and

20 “(H) request information and comment
21 on—

22 “(i) information relevant to the risk
23 profile of the POPs Review Committee cov-
24 ered under Annex E to the POPs Conven-
25 tion; and

1 “(ii) information relevant to any tech-
2 nical review conducted under paragraph 2
3 of Executive Body decision 1998/2.

4 “(4) PROVISION OF INFORMATION.—

5 “(A) PROVISION OF INFORMATION UNDER
6 POPS CONVENTION.—Not later than 60 days
7 after the date of publication of the notice under
8 paragraph (2) regarding a proposal to list a
9 chemical substance or mixture on an Annex of
10 the POPs Convention, any person that manu-
11 factures, processes, distributes in commerce for
12 export, or disposes of a chemical substance or
13 mixture that is the subject of the notice shall
14 provide (and any other interested person may
15 provide) to the Administrator information (to
16 the extent the information is known or readily
17 obtainable to the person) on—

18 “(i) the annual quantity of the chem-
19 ical substance or mixture that the person
20 manufactures and the locations of the
21 manufacture;

22 “(ii) the uses of the chemical sub-
23 stance or mixture;

24 “(iii) the approximate annual quantity
25 of the chemical substance or mixture that

1 the person releases into the environment;
2 and

3 “(iv) other information or monitoring
4 data relating to the chemical substance or
5 mixture that is consistent with the infor-
6 mation specified in paragraph 1 of Annex
7 D, and subsections (b) through (e) of
8 Annex E, to the POPs Convention.

9 “(B) PROVISION OF INFORMATION UNDER
10 LRTAP POPS PROTOCOL.—Not later than 60
11 days after the date of publication of the notice
12 under paragraph (2) regarding a proposal to
13 list a chemical substance or mixture on an
14 Annex of the LRTAP POPs Protocol, any per-
15 son that manufactures, processes, distributes in
16 commerce for export, or disposes of a chemical
17 substance or mixture that is the subject of the
18 notice shall provide (and any other interested
19 person may provide) to the Administrator infor-
20 mation (to the extent the information is known
21 or readily obtainable to the person) on—

22 “(i) the potential for long-range
23 transboundary atmospheric transport of
24 the chemical substance or mixture;

1 “(ii) the toxicity of the chemical sub-
2 stance or mixture;

3 “(iii) the persistence of the chemical
4 substance or mixture, including biotic deg-
5 radation processes and rates and degrada-
6 tion products;

7 “(iv) the bioaccumulation of the chem-
8 ical substance or mixture, including bio-
9 availability;

10 “(v) the annual quantity of the chem-
11 ical substance or mixture that the person
12 manufactures and the locations of the
13 manufacture;

14 “(vi) the uses of the chemical sub-
15 stance or mixture;

16 “(vii) the approximate annual quan-
17 tity of the chemical substance or mixture
18 that the person releases into the environ-
19 ment;

20 “(viii) environmental monitoring data
21 relating to the chemical substance or mix-
22 ture (in areas distant from sources);

23 “(ix)(I) information on alternatives to
24 the uses of the chemical substance or mix-

1 ture and the efficacy of each alternative;
2 and

3 “~~(H)~~ information on any known ad-
4 verse environmental or human health ef-
5 fects associated with each alternative;

6 “~~(x)~~ information on—

7 “~~(I)~~ process changes, control
8 technologies, operating practices, and
9 other pollution prevention techniques
10 that can be used to reduce the emis-
11 sions of the chemical substance or
12 mixture; and

13 “~~(H)~~ the applicability and effec-
14 tiveness of each technique described in
15 subclause ~~(I)~~; and

16 “~~(xi)~~ information on the nonmonetary
17 costs and benefits and the quantifiable
18 costs and benefits associated with the use
19 of each alternative described in clause ~~(ix)~~
20 or technique described in clause ~~(x)~~~~(I)~~.

21 “~~(C)~~ UPDATING OF INFORMATION.—

22 “~~(i)~~ VOLUNTARY UPDATES.—Any per-
23 son that submits information under sub-
24 paragraph ~~(A)~~ or ~~(B)~~ may voluntarily up-
25 date the information at any time.

1 “(ii) REQUIRED UPDATES.—If the Ad-
2 ministrator determines, with the concu-
3 rence of the Secretary of State, that an
4 update of information submitted under
5 subparagraph (A) or (B) is necessary, the
6 Administrator may, through a notice pub-
7 lished in the Federal Register, require 1 or
8 more persons that are required to submit
9 the information to update the information.

10 “(iii) NEW INFORMATION.—The Ad-
11 ministrator may require any person that
12 (after the date under subparagraphs (A)
13 and (B) by which persons are required to
14 submit information) commences manufac-
15 turing, processing, distributing in com-
16 merce for export, or disposing of a chem-
17 ical substance or mixture subject to the re-
18 quirements in subparagraph (A) or (B), to
19 submit the information required to be sub-
20 mitted under subparagraph (A) or (B).

21 “(D) REPORT.—Based on information re-
22 ceived under this section and any other relevant
23 information available to the Administrator, the
24 Administrator, not later than 240 days after
25 the date of publication of the notice under this

1 paragraph, shall issue for public comment a re-
2 port that contains, at a minimum—

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

6 “(ii) a review of the benefits and risks
7 in the United States and internationally
8 associated with the production and uses in
9 the United States and internationally of
10 the chemical substance or mixture.

11 “(f) NOTICE AFTER DECISION THAT GLOBAL AC-
12 TION WARRANTED UNDER POPS CONVENTION OR THAT
13 FURTHER CONSIDERATION OF CHEMICAL SUBSTANCE OR
14 MIXTURE WARRANTED UNDER LRTAP POPS PRO-
15 Tocol.—

16 “(1) APPLICABILITY.—This subsection applies
17 if—

18 “(A) the POPS Review Committee decides,
19 under paragraph 7(a) of Article 8 of the POPS
20 Convention, that global action is warranted with
21 respect to the chemical substance or mixture
22 that is the subject of the proposal, or the Con-
23 ference decides, under paragraph 8 of that Arti-
24 cle, that the proposal shall proceed; or

1 “(B) the Executive Body determines pur-
2 suant to paragraph 2 of Executive Body Deci-
3 sion 1998/2 that further consideration of the
4 chemical substance or mixture is warranted;
5 and therefore requires 1 or more technical re-
6 views of the proposal.

7 “(2) NOTICE.—Not later than 45 days after the
8 date on which a decision or determination is made
9 under paragraph (1), the Administrator shall—

10 “(A) publish in the Federal Register a no-
11 tice of the decision or determination; and

12 “(B) provide opportunity for comment on
13 the decision or determination.

14 “(3) REQUIRED ELEMENTS OF NOTICE.—A no-
15 tice under paragraph (1) shall—

16 “(A) identify the chemical substance or
17 mixture that is the subject of the proposal;

18 “(B) include a summary of—

19 “(i) the POPs Review Committee or
20 Conference decision and the basis for the
21 decision; or

22 “(ii) the Executive Body determina-
23 tion and basis for the determination;

24 “(C) request information and comment
25 on—

1 “(i) in the case of a chemical sub-
2 stance or mixture proposed for addition to
3 an Annex of the POPs Convention—

4 “(I) information on socio-
5 economic considerations covered under
6 Annex F to the POPs Convention;
7 and

8 “(II) information on socio-
9 economic considerations covered under
10 Annex F to the POPs Convention ap-
11 plicable to the range of possible prohi-
12 bitions described in subparagraph (F);
13 and

14 “(ii) in the case of a chemical sub-
15 stance or mixture proposed for listing on
16 an Annex to the LRTAP POPs Protocol,
17 information on—

18 “(I) any additional measures not
19 described in the notice published
20 under subparagraph (F) that may
21 exist to reduce the risks of adverse ef-
22 fects on human health or the environ-
23 ment that result from the long-range
24 transboundary atmospheric transport

1 of the chemical substance or mixture;
2 and

3 “(H) the feasibility of any of the
4 additional measures or the measures
5 outlined in the notice published pursu-
6 ant to subparagraph (F’);

7 “(D) request information on any current
8 or anticipated production or use of the chemical
9 substance or mixture that is the subject of the
10 proposal for which the United States may wish
11 to—

12 “(i) seek an exemption or acceptable
13 purpose under the POPs Convention; or

14 “(ii) allow a restricted use or condi-
15 tion under the LRTAP POPs Protocol;

16 “(E) request the information required
17 under paragraph (4);

18 “(F) describe a broad range of possible
19 prohibitions or restrictions that the United
20 States could impose on the manufacture, proe-
21 cessing, distribution in commerce for export, use,
22 or disposal of the chemical substance or mix-
23 ture to address any risks that the chemical sub-
24 stance or mixture may pose;

1 “(G) specify what changes, if any, to the
2 regulatory requirements and risk management
3 measures applicable to the chemical substance
4 or mixture in the United States have been made
5 since the date of publication of the notice under
6 subsection (e); and

7 “(H) include a statement that any infor-
8 mation submitted will be part of the record
9 used as the basis for a rulemaking that the Ad-
10 ministrators may undertake under this title.

11 “(4) PROVISION OF INFORMATION.—Not later
12 than 60 days after the date of publication of the no-
13 tice under paragraph (1), any person that manufac-
14 tures, processes, distributes in commerce for export,
15 or disposes of a chemical substance or mixture that
16 is the subject of the notice shall provide (and any
17 other interested party may provide) to the Adminis-
18 trator—

19 “(A) consistent with the information needs
20 described in Annex F to the POPs Convention,
21 any information that the person believes is rel-
22 evant to—

23 “(i) a risk management evaluation
24 carried out under paragraph 7 of Article 8
25 of the POPs Convention; or

1 “(ii) a decision by the Conference
2 under paragraph 9 of Article 8 of the
3 POPs Convention;

4 “(B) consistent with the information needs
5 for the technical review described in paragraph
6 2 of Executive Body Decision 1998/2, any in-
7 formation the person believes is relevant to the
8 technical review or to an Executive Body deci-
9 sion made under paragraph 3 of Article 14 of
10 the LRTAP POPs Protocol;

11 “(C) any information that the person be-
12 lieves is relevant to an action under this section;
13 and

14 “(D) information on any article in use that
15 consists of, contains, or is contaminated with
16 the chemical substance or mixture.

17 “(5) REPORT BY ADMINISTRATOR.—Not later
18 than 240 days after the date of publication of the
19 notice under this paragraph, based on information
20 received under this subsection and any other infor-
21 mation available to the Administrator, the Adminis-
22 trator shall issue a report for public comment that
23 contains, at a minimum, information relating to the
24 feasibility of possible prohibitions or restrictions that
25 could be placed on the manufacture, processing, dis-

1 tribution in commerce for export, use, or disposal of
2 the chemical substance or mixture (including the
3 possible consequences of using alternative products
4 or processes).

5 “(g) NOTICE AFTER RECOMMENDATION THAT CON-
6 FERENCE CONSIDER LISTING OR AFTER COMPLETION OF
7 TECHNICAL REVIEW.—

8 “(1) APPLICABILITY.—This subsection ap-
9 plies—

10 “(A) if the POPs Review Committee rec-
11 ommends, under paragraph 9 of Article 8 of the
12 POPs Convention, that the Conference consider
13 making a Conference listing decision with re-
14 spect to the chemical substance or mixture in
15 accordance with the proposal; or

16 “(B) after completion of a technical review
17 of a proposal to list a chemical substance or
18 mixture on an Annex of the LRTAP POPs Pro-
19 tocol.

20 “(2) NOTICE.—Not later than 45 days after the
21 date on which a recommendation under paragraph
22 (1) is made or a technical review described in para-
23 graph (1) is completed, the Administrator shall—

1 “(A) publish in the Federal Register a no-
2 tice of the recommendation or completion of the
3 technical review; and

4 “(B) provide opportunity for comment on
5 the recommendation or the technical review.

6 “(3) REQUIRED ELEMENTS.—A notice under
7 paragraph (1) shall—

8 “(A) include a summary of the POPs Re-
9 view Committee recommendation and the basis
10 for the recommendation or a summary of the
11 technical review;

12 “(B) summarize any control measures for
13 the chemical substance or mixture that are
14 identified by the POPs Review Committee or in
15 the technical review; and

16 “(C) include a statement that any informa-
17 tion submitted will be part of the record used
18 as the basis for a rulemaking that the Adminis-
19 trator may undertake under this title.

20 “(h) REGULATIONS BY THE ADMINISTRATOR.—

21 “(1) CHEMICAL SUBSTANCE OR MIXTURE LIST-
22 ED UNDER POPS CONVENTION OR LRTAP POPS PRO-
23 TOCOL.—If the Conference decides to list a chemical
24 substance or mixture in Annex A or B of the POPs
25 Convention; or if the parties to the LRTAP POPs

1 Protocol decide to list a chemical substance or mix-
2 ture in Annex I or II to the LRTAP POPs Protocol,
3 the Administrator may commence a rulemaking to
4 prohibit or restrict the manufacture, processing, dis-
5 tribution in commerce for export, use, or disposal of
6 the chemical substance or mixture.

7 “(2) CRITERIA FOR REGULATIONS.—

8 “(A) IN GENERAL.—If the Administrator
9 decides to commence a rulemaking to prohibit
10 or restrict the manufacture, processing, dis-
11 tribution in commerce for export, use, or dis-
12 posal of the chemical substance or mixture, the
13 Administrator shall promulgate prohibitions or
14 restrictions to protect against hazards, includ-
15 ing exposure, to human health and the environ-
16 ment associated with the chemical substance or
17 mixture.

18 “(B) CRITERIA.—In determining the ap-
19 propriate manner of regulation, the Adminis-
20 trator shall take into account public health, en-
21 vironmental, and socioeconomic factors and
22 shall—

23 “(i) consider—

24 “(I) the record compiled under
25 subsections (e), (f), and (g);

1 “(II) national and international
2 consequences that are likely to arise
3 as a result of domestic regulatory ac-
4 tion (including the possible con-
5 sequences of using alternative prod-
6 ucts or processes);

7 “(III) alternatives to the prohibi-
8 tions or restrictions adopted by the
9 Conference or the Executive Body for
10 the newly-listed chemical substance or
11 mixture that are feasible and protec-
12 tive of human health and the environ-
13 ment; and

14 “(IV) all scientific information—

15 “(aa) compiled in the record
16 under subsections (e), (f), and
17 (g);

18 “(bb) submitted to the
19 POPs Review Committee or Con-
20 ference by the United States or
21 any other entity; and

22 “(cc) submitted to the Exec-
23 utive Body, or a subsidiary of the
24 Executive Body, under the
25 LRTAP POPs Protocol;

1 taking due account of the scientific in-
2 formation that is consistent with gen-
3 erally accepted scientific principles;

4 “(ii) in the case of a chemical sub-
5 stance or mixture listed on Annex A or B
6 of the POPs Convention, give substantial
7 weight to—

8 “(I) the POPs Review Committee
9 recommendation under paragraph 9 of
10 Article 8 of the POPs Convention;

11 “(II) the Conference listing deci-
12 sion;

13 “(III) the reports that the Ad-
14 ministrators are required to issue pursu-
15 ant to subsections (e)(4) and (f)(5),
16 including any version of the reports
17 revised to reflect information received
18 through public comment; and

19 “(IV) any information that the
20 United States submits to the POPs
21 Review Committee or to the Con-
22 ference pursuant to Article 8 of the
23 POPs Convention; and

24 “(iii) in the case of a chemical sub-
25 stance or mixture listed on Annex I or II

1 of the LRTAP POPs Protocol, give sub-
2 stantial weight to—

3 “(I) any technical review con-
4 ducted pursuant to paragraph 2 of
5 Executive Body Decision 1998/2;

6 “(II) the LRTAP POPs Protocol
7 listing decision;

8 “(III) the reports that the Ad-
9 ministrator is required to issue pursu-
10 ant to subsections (e)(4) and (f)(5);
11 including any version of the reports
12 revised to reflect information received
13 through public comment; and

14 “(IV) any information that the
15 United States submits to the Execu-
16 tive Body, or a subsidiary of the Ex-
17 ecutive Body, in relation to a technical
18 review or listing decision.

19 “(3) CITIZEN’S PETITION.—

20 “(A) IN GENERAL.—Beginning 1 year
21 after the date on which the Conference listing
22 decision or the LRTAP POPs Protocol listing
23 decision is made, any person may petition the
24 Administrator to commence a rulemaking, if a
25 rulemaking has not commenced as of that date;

1 to prohibit or restrict the manufacture, proc-
2 essing, distribution in commerce for export, use,
3 or disposal of the chemical substance or mix-
4 ture that the Conference decides to list in
5 Annex A or B of the POPs Convention, or that
6 the parties to the LRTAP POPs Protocol de-
7 cide to list in Annex I or II of the LRTAP
8 POPs Protocol.

9 “(B) PROCEDURE.—

10 “(i) IN GENERAL.—A petition under
11 subparagraph (A) shall describe the facts
12 that the petitioner believes make it nec-
13 essary for the Administrator to commence
14 a rulemaking under paragraph (2).

15 “(ii) PROCEEDINGS.—

16 “(I) AVAILABILITY.—The Admin-
17 istrator shall publish in the Federal
18 Register, and make available elec-
19 tronically, a summary of each petition
20 received, including the name of the
21 petitioner.

22 “(II) HEARINGS OR PRO-
23 CEEDINGS.—The Administrator may
24 hold a public hearing, or conduct any
25 investigation or proceeding that the

1 Administrator considers appropriate,
2 to determine whether or not a rule-
3 making should be commenced.

4 “(iii) DECISION BY THE ADMINIS-
5 TRATOR.—

6 “(I) IN GENERAL.—Not later
7 than 90 days after the date of filing
8 of a petition under subparagraph (A),
9 the Administrator shall grant or deny
10 the petition.

11 “(II) GRANT.—If the Adminis-
12 trator grants the petition, the Admin-
13 istrator shall promptly commence a
14 rulemaking and proceed in accordance
15 with paragraph (2).

16 “(III) DENIAL.—If the Adminis-
17 trator denies the petition, the Admin-
18 istrator shall publish in the Federal
19 Register a statement of the reasons
20 for the denial.

21 “(C) CIVIL ACTION TO COMPEL RULE-
22 MAKING.—

23 “(i) IN GENERAL.—If the Adminis-
24 trator denies a petition under subpara-
25 graph (A) (or if the Administrator fails to

1 grant or deny the petition within the 90-
2 day period specified in subparagraph
3 (B)(iii); the petitioner may bring a civil
4 action in United States district court to
5 compel the Administrator to commence a
6 rulemaking as requested in the petition.

7 “(ii) TIMING.—A civil action under
8 clause (i) shall be brought—

9 “(I) not later than 60 days after
10 the date of denial of the petition; or

11 “(II) if the Administrator fails to
12 grant or deny the petition within the
13 90-day period specified in subpara-
14 graph (B)(iii), not later than 60 days
15 after the expiration of the 90-day pe-
16 riod.

17 “(iii) SCOPE OF REVIEW.—In a civil
18 action under clause (i), the court shall con-
19 sider the petition de novo.

20 “(iv) MATTERS FOR CONSIDER-
21 ATION.—If the Administrator denies a pe-
22 tition, the court shall take into account
23 public health, environmental, and socio-
24 economic factors and shall—

25 “(I) consider—

1 “(aa) the record compiled
2 under subsections (e), (f), and
3 (g);

4 “(bb) national and inter-
5 national consequences that are
6 likely to arise as a result of do-
7 mestic regulatory action (includ-
8 ing the possible consequences of
9 using alternative products or
10 processes);

11 “(cc) alternatives to the pro-
12 hibitions or restrictions adopted
13 by the Conference or the Execu-
14 tive Body for the newly-listed
15 chemical substance or mixture
16 that are feasible and protective of
17 human health and the environ-
18 ment; and

19 “(dd) all scientific informa-
20 tion—

21 “(AA) compiled in the
22 record under subsections (e),
23 (f), and (g);

24 “(BB) submitted to the
25 POPs Review Committee or

1 Conference by the United
2 States or any other entity;
3 and

4 “(CC) submitted to the
5 Executive Body, or a sub-
6 sidiary of the Executive
7 Body, under the LRTAP
8 POPs Protocol;

9 taking due account of the sci-
10 entific information that is con-
11 sistent with generally accepted
12 scientific principles;

13 “(H) in the case of a chemical
14 substance or mixture listed on Annex
15 A or B of the POPs Convention, give
16 substantial weight to—

17 “(aa) the POPs Review
18 Committee recommendation
19 under paragraph 9 of Article 8 of
20 the POPs Convention;

21 “(bb) the Conference listing
22 decision;

23 “(cc) the reports that the
24 Administrator is required to issue
25 pursuant to subsections (e)(4)

1 and (f)(5), including any version
2 of the reports revised to reflect
3 information received through
4 public comment; and

5 “(dd) any information that
6 the United States submits to the
7 POPs Review Committee or to
8 the Conference pursuant to Arti-
9 cle 8 of the POPs Convention;
10 and

11 “(III) in the case of a chemical
12 substance or mixture listed on Annex
13 I or II of the LRTAP POPs Protocol,
14 give substantial weight to—

15 “(aa) any technical review
16 conducted pursuant to paragraph
17 2 of Executive Body Decision
18 1998/2;

19 “(bb) the LRTAP POPs
20 Protocol listing decision;

21 “(cc) the reports that the
22 Administrator is required to issue
23 pursuant to subsections (e)(4)
24 and (f)(5), including any version
25 of the reports revised to reflect

1 information received through
2 public comment; and

3 “(dd) any information that
4 the United States submits to the
5 Executive Body, or a subsidiary
6 of the Executive Body, in relation
7 to a technical review or listing
8 decision.

9 “(v) ORDER TO COMMENCE RULE-
10 MAKING.—The court shall order the Ad-
11 ministrator to commence a rulemaking in
12 accordance with paragraph (2) if the court
13 determines that—

14 “(I) regulatory action to control
15 the manufacture, processing, distribu-
16 tion in commerce for export, use, or
17 disposal of a chemical substance or
18 mixture listed in Annex A or B of the
19 POPs Convention or Annex I or II of
20 the LRTAP POPs Protocol is nec-
21 essary to protect against hazards, in-
22 cluding exposure, to human health
23 and the environment associated with
24 the chemical substance or mixture;
25 and

1 “(H) the Administrator has not
2 taken action in accordance with para-
3 graph (2).

4 “(vi) COSTS.—In issuing any final
5 order in a civil action under clause (i), the
6 court may award costs of suit and reason-
7 able fees for attorneys and expert wit-
8 nesses if the court determines that such an
9 award is appropriate.

10 “(vii) SAVINGS CLAUSE.—The rem-
11 edies under this section shall be in addition
12 to, and not in lieu of, other remedies pro-
13 vided by law.

14 “(4) DEADLINE FOR REGULATIONS.—

15 “(A) IN GENERAL.—Not later than 18
16 months after commencing a rulemaking under
17 this subsection, the Administrator shall—

18 “(i) promulgate final regulations pro-
19 hibiting or restricting the manufacture,
20 processing, distribution in commerce for
21 export, use, or disposal of the chemical
22 substance or mixture to be listed in Annex
23 A or B to the POPs Convention or Annex
24 I or II of the LRTAP POPs Protocol; or

1 “(ii) decide not to promulgate a final
2 rule.

3 “(B) DECISION NOT TO PROMULGATE.—If
4 the Administrator decides not to commence or
5 promulgate a final rule, the Administrator shall
6 publish within 30 days a statement in the Fed-
7 eral Register explaining the reasons for not pro-
8 mulgating or commencing the final rule.

9 “(5) SOLE PROCEDURE.—

10 “(A) IN GENERAL.—No other rulemaking
11 procedure under this Act shall apply to regula-
12 tions promulgated under this section.

13 “(B) RULEMAKING.—Regulations promul-
14 gated by the Administrator under this title shall
15 comply with section 553 of title 5, United
16 States Code (without regard to any reference in
17 that section to sections 556 and 557 of that
18 title).

19 “(6) NO EFFECT ON OTHER AUTHORITY.—
20 Nothing in this subsection affects the authority of
21 the Administrator to regulate a chemical substance
22 or mixture under any other law or any other provi-
23 sion of this Act.

24 “(7) INTERIM STATEMENT.—

1 “(A) APPLICABILITY.—This paragraph ap-
2 plies if the Administrator has not commenced a
3 rulemaking under paragraph (2) by the date
4 that is 1 year after the date on which—

5 “(i) a decision is made by the Con-
6 ference to list a chemical substance or mix-
7 ture in Annex A or B of the POPs Conven-
8 tion; or

9 “(ii) a decision is made by the parties
10 to the LRTAP POPs Protocol to list a
11 chemical substance or mixture in Annex I
12 or II to the LRTAP POPs Protocol.

13 “(B) STATEMENT.—If the Administrator
14 has not commenced a rulemaking as described
15 in subparagraph (A), the Administrator shall
16 publish annually in the Federal Register a
17 statement that—

18 “(i) describes the actions taken by the
19 Administrator with respect to the listing
20 decision; and

21 “(ii) characterizes actions likely to be
22 taken by the Administrator with respect to
23 the commencement of a rulemaking under
24 paragraph (2).

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

3 “(1) IN GENERAL.—If a chemical substance or
4 mixture is both a POPs chemical substance or mix-
5 ture and a LRTAP POPs chemical substance or
6 mixture, in the case of a conflict between a provision
7 of this section applicable to a POPs chemical sub-
8 stance or mixture and a provision of this section ap-
9 plicable to a LRTAP POPs chemical substance or
10 mixture, the more stringent provision shall apply, as
11 determined by the Administrator with the concur-
12 rence of the Secretary of State.

13 “(2) APPLICATION.—In the case of chemical
14 substance or mixture described in paragraph (1),
15 this section shall be applied in such a manner as to
16 ensure that the United States is in compliance with
17 the POPs Convention and the LRTAP POPs Pro-
18 tocol with respect to the chemical substance or mix-
19 ture.

20 **“SEC. 503. NOTICE AND RECORD OF PROHIBITIONS, EXEMP-**
21 **TIONS, DISALLOWANCES, AND OTHER INFOR-**
22 **MATION.**

23 “(a) IN GENERAL.—The Administrator—

24 “(1) shall publish in the Federal Register time-
25 ly notice concerning—

1 “(A) the POPs chemical substances and
2 mixtures or the LRTAP POPs chemical sub-
3 stances and mixtures, subject to the prohibi-
4 tions specified in section 502;

5 “(B) any exemptions from the prohibitions
6 authorized under section 502, including the ef-
7 fective date on which the exemptions are no
8 longer authorized;

9 “(C) in the case of a LRTAP POPs chem-
10 ical substance or mixture, any disallowances of
11 exemptions under section 502(d)(5); and

12 “(D) in the case of a POPs chemical sub-
13 stance or mixture, a list of any importing for-
14 eign states from which the Administrator has
15 received a nonparty certification under section
16 502(e)(7)(D); and

17 “(2) may include in the notice any other infor-
18 mation that the Administrator determines to be nec-
19 essary to ensure adequate notice of the requirements
20 of—

21 “(A) this section;

22 “(B) the POPs Convention; or

23 “(C) the LRTAP POPs Protocol.

24 “(b) INTEGRATION WITH FIFRA INFORMATION.—

25 The Administrator shall—

1 “(1) maintain a record that integrates the in-
 2 formation in the notice published under subsection
 3 (a) with any information published under section
 4 17(g) of the Federal Insecticide, Fungicide and
 5 Rodenticide Act (7 U.S.C. 136o(e));

6 “(2) update the record as necessary; and

7 “(3) make the record publicly available.

8 “(e) DISCLOSURE OF DATA.—Any information pro-
 9 vided to or otherwise obtained by the Administrator (or
 10 any representative of the Administrator) under this title
 11 shall be subject to section 14 of this Act.”.

12 **“SEC. 504. INTERNATIONAL CONVENTIONS AND COOPERA-**
 13 **TION IN INTERNATIONAL EFFORTS.**

14 “In cooperation with the Secretary of State and the
 15 head of any other appropriate Federal agency, the Admin-
 16 istrator shall—

17 “(1) participate and cooperate in any inter-
 18 national efforts to develop improved research and
 19 regulations on chemical substances and mixtures;
 20 and

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

24 “(A) the LRTAP POPs Protocol;

25 “(B) the PIC Convention; and

1 “(C) the POPs Convention.

2 **“SEC. 505. EXPORTS.**

3 “(a) **REQUIREMENTS FOR EXPORTS.**—In the case of
4 a chemical substance or mixture identified by the Adminis-
5 trator as listed on Annex III of the PIC Convention in
6 a notice issued under subsection (d)(3), any person that
7 distributes in commerce the chemical substance or mixture
8 for export shall comply with any export conditions or re-
9 strictions identified by the Administrator in the notice.

10 “(b) **PRE-EXPORT NOTICES.**—

11 “(1) **IN GENERAL.**—

12 “(A) **REQUIREMENT.**—In the case of—

13 “(i) a chemical substance or mixture
14 that the Administrator determines to be
15 banned or severely restricted under sub-
16 section (d)(1);

17 “(ii) a chemical substance or mixture
18 identified by the Administrator in a notice
19 issued under subsection (d)(3); or

20 “(iii) a POPs chemical substance or
21 mixture allowed to be exported under para-
22 graph (7) or (8) of section 502(e);

23 the exporter of the chemical substance or mix-
24 ture shall provide to the Administrator notice of

1 the intent of the exporter to export the chemical
2 substance or mixture.

3 “(B) TIMING OF NOTICE FOR BANNED OR
4 SEVERELY RESTRICTED CHEMICAL SUBSTANCES
5 OR MIXTURES.—

6 “(i) FIRST EXPORT.—In the case of a
7 first export that an exporter makes from
8 the territory of the United States to each
9 importing foreign state after the Adminis-
10 trator issues a notice under subsection
11 (d)(1), the exporter shall provide the notice
12 so that the Administrator receives the no-
13 tice not earlier than 30 nor later than 15
14 calendar days before the date of export.

15 “(ii) SUBSEQUENT EXPORTS.—In the
16 case of subsequent exports to the import-
17 ing foreign state in the calendar year sub-
18 sequent to the notification provided under
19 clause (ii), the exporter shall provide the
20 notice so that the Administrator receives
21 the notice not earlier than 30 nor later
22 than 15 calendar days before the date of
23 the first export in each calendar year.

1 “(C) TIMING OF PRE-EXPORT NOTICE FOR
2 CHEMICAL SUBSTANCES OR MIXTURES LISTED
3 ON ANNEX III OF THE PIC CONVENTION.—

4 “(i) FIRST EXPORT.—In the case of a
5 first export that an exporter makes from
6 the territory of the United States to each
7 importing foreign state after the Adminis-
8 trator notifies the public under subsection
9 (d)(3), the exporter shall provide the notice
10 so that the Administrator receives the no-
11 tice not earlier than 30 nor later than 15
12 calendar days before the date of export.

13 “(ii) SUBSEQUENT EXPORTS.—In the
14 case of subsequent exports by the exporter
15 to the importing foreign state in a calendar
16 year subsequent to the notification pro-
17 vided under clause (i), the exporter shall
18 provide the notice so that the Adminis-
19 trator receives the notice not earlier than
20 30 nor later than 15 calendar days before
21 the date of the first such subsequent ex-
22 port in each calendar year.

23 “(iii) CHANGED CIRCUMSTANCES MER-
24 ITING NEW NOTICE.—If conditions or re-
25 strictions imposed by the importing foreign

1 state change and the Administrator noti-
2 fies the public of the change under sub-
3 section (d)(3), or if an earlier pre-export
4 notice no longer applies, the exporter shall
5 provide the notice so that the Adminis-
6 trator receives the notice not earlier than
7 30 nor later than 15 calendar days before
8 the date of export.

9 “(D) TIMING OF PRE-EXPORT NOTICE FOR
10 CHEMICAL SUBSTANCES OR MIXTURES AL-
11 LOWED TO BE EXPORTED UNDER PARAGRAPH
12 (7) OR (8) OF SECTION 502(c).—

13 “(i) FIRST EXPORT OF THE CAL-
14 ENDAR YEAR.—In the case of the first ex-
15 port that an exporter makes from the ter-
16 ritory of the United States to each import-
17 ing foreign state of a chemical substance
18 or mixture exported under paragraph (7)
19 or (8) of section 502(c), the exporter shall
20 provide the notice so that the Adminis-
21 trator receives the notice not earlier than
22 30 nor later than 15 calendar days before
23 the date of the first export.

24 “(ii) SUBSEQUENT EXPORTS.—In the
25 case of subsequent exports by the exporter

1 to the importing foreign state in a calendar
2 year subsequent to the notification pro-
3 vided under clause (i) to the importing for-
4 eign state; the exporter shall provide the
5 notice so that the Administrator receives
6 the notice not earlier than 30 nor later
7 than 15 calendar days before the date of
8 the first such subsequent export in each
9 calendar year.

10 ~~“(iii) CHANGED CIRCUMSTANCES MER-~~
11 ~~ITING NEW NOTICE.—~~If the information
12 provided in an earlier pre-export notice is
13 no longer accurate, the exporter shall pro-
14 vide the notice so that the Administrator
15 receives the notice not earlier than 30 nor
16 later than 15 calendar days before the date
17 of export.

18 ~~“(2) LATER NOTICES.—~~Notwithstanding sub-
19 paragraphs (B), (C), and (D) of paragraph (1), the
20 Administrator may permit an exporter to provide a
21 notice under paragraph (1) so that the Adminis-
22 trator receives the notice less than 15 days before
23 the date of an export if the Administrator deter-
24 mines, based on the experience of the Administrator
25 with the notification program, that the Adminis-

1 trator is able to administer notice activities in ac-
2 cordance with the PIC Convention despite the short-
3 ened notice period.

4 ~~“(3) CONTENT OF PRE-EXPORT NOTICES.—~~

5 ~~“(A) NOTICES UNDER PARAGRAPH~~
6 ~~(1)(B).—A notice under paragraph (1)(B) shall~~
7 ~~include—~~

8 ~~“(i) the name and address of the ex-~~
9 ~~porter;~~

10 ~~“(ii) the name and address of the ap-~~
11 ~~propriate designated national authority of~~
12 ~~the United States;~~

13 ~~“(iii) the name and address of the ap-~~
14 ~~propriate designated national authority of~~
15 ~~the importing foreign state, if available;~~

16 ~~“(iv) the name and address of the im-~~
17 ~~porter;~~

18 ~~“(v) the name of the chemical sub-~~
19 ~~stance or mixture for which the notice is~~
20 ~~required;~~

21 ~~“(vi) the expected date of export;~~

22 ~~“(vii) any information relating to the~~
23 ~~foreseen uses of the chemical substance or~~
24 ~~mixture, if known, in the importing foreign~~
25 ~~state;~~

1 ~~“(viii) any information on pre-~~
2 ~~cautionary measures to reduce exposure to,~~
3 ~~and emission of, the chemical substance or~~
4 ~~mixture;~~

5 ~~“(ix) any information relating to the~~
6 ~~concentration of the chemical substance or~~
7 ~~mixture; and~~

8 ~~“(x) any other information specified~~
9 ~~in Annex V to the PIC Convention.~~

10 ~~“(B) NOTICES UNDER PARAGRAPH~~
11 ~~(1)(C).—A notice under paragraph (1)(C) shall~~
12 ~~include—~~

13 ~~“(i) all of the information required to~~
14 ~~be included under subparagraph (A);~~

15 ~~“(ii) any information relating to ex-~~
16 ~~port conditions or restrictions identified by~~
17 ~~the Administrator in the notice issued~~
18 ~~under subsection (d)(3) with respect to the~~
19 ~~chemical substance or mixture;~~

20 ~~“(iii) a general description of the~~
21 ~~manner in which the export complies with~~
22 ~~those conditions; and~~

23 ~~“(iv) any other information that the~~
24 ~~Administrator determines to be necessary~~
25 ~~for effective enforcement of the export con-~~

1 ditions or restrictions applicable to the
2 chemical substance or mixture.

3 “(C) NOTICES UNDER PARAGRAPH
4 (1)(D).—A notice submitted to the Adminis-
5 trator under paragraph (1)(D) shall include—

6 “(i) the name and address of the ex-
7 porter;

8 “(ii) the name and address of the im-
9 porter;

10 “(iii) a specification of the identity of
11 the POPs chemical substance or mixture;

12 “(iv) a general description of how the
13 export complies with the conditions under
14 paragraph (7) or (8) of section 502(e); and

15 “(v) such other information as the
16 Administrator determines to be necessary
17 for enforcement of the export-related obli-
18 gations of the POPs Agreement applicable
19 to the chemical substance or mixture.

20 “(4) PRE-EXPORT NOTICES ACCOMPANYING
21 EACH EXPORT.—An exporter shall ensure that a
22 copy of the most recent applicable pre-export notice
23 accompanies each shipment for export and is avail-
24 able for inspection at the border of—

1 “(A) any chemical substance or mixture
2 that the Administrator has identified under
3 subsection (d)(3) as being listed on Annex III
4 of the PIC Convention; or

5 “(B) any POPs chemical substance or mix-
6 ture that is exported under paragraph (7) or
7 (8) of section 502(c).

8 “(5) RETENTION OF PRE-EXPORT NOTICES.—

9 An exporter required to provide a notice under sub-
10 paragraph (C) or (D) of paragraph (1) shall main-
11 tain a copy of the notice and other documents used
12 to generate the notice on site and readily available
13 for a period of not less than 3 years beginning on
14 the date on which the notice is provided.

15 “(c) LABELING REQUIREMENTS.—

16 “(1) IN GENERAL.—In the case of any chemical
17 substance or mixture that is the subject of a notice
18 issued under paragraph (1) or (3) of subsection (d)
19 and that is manufactured, processed, or distributed
20 in commerce for export, the chemical substance or
21 mixture shall, in accordance with the PIC Conven-
22 tion—

23 “(A) bear labeling information relating to
24 risks or hazards to human health or the envi-
25 ronment; and

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

4 “(2) CUSTOM CODES.—A chemical substance or
5 mixture that is the subject of a notice issued under
6 subsection (d)(3) and that is distributed or sold for
7 export shall be accompanied by shipping documents
8 that bear, at a minimum, any appropriate har-
9 monized system customs codes assigned by the
10 World Customs Organization.

11 “(d) NOTICE REQUIREMENTS AND EXEMPTION.—

12 “(1) DETERMINATION WHETHER CHEMICAL
13 SUBSTANCE OR MIXTURE IS BANNED OR SEVERELY
14 RESTRICTED.—

15 “(A) IN GENERAL.—The Administrator,
16 with the concurrence of the Secretary of State,
17 shall determine whether a chemical substance
18 or mixture is banned or severely restricted with-
19 in the United States (as those terms are de-
20 fined by the PIC Convention).

21 “(B) NOTICE OF DETERMINATIONS.—Not-
22 withstanding any other provision of law, the
23 Administrator shall issue to the Secretariat of
24 the PIC Convention and the public a notice of

1 each determination under subparagraph (A)
2 that includes—

3 “(i) in the case of a notice to the Sec-
4 retariat of the PIC Convention, the infor-
5 mation specified in Annex I to the PIC
6 Convention; and

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

10 “(2) NOTICE TO FOREIGN COUNTRIES.—

11 “(A) IN GENERAL.—Notwithstanding any
12 other provision of law, on receipt of a notice of
13 intent to export under subsection (b)(1)(B), the
14 Administrator shall provide a copy of the notice
15 to the designated national authority of the im-
16 porting foreign state.

17 “(B) NONIDENTIFIED DESIGNATED NA-
18 TIONAL AUTHORITY.—In a case in which a des-
19 ignated national authority has not been identi-
20 fied, the Administrator shall provide the notice
21 of intent to export to any other appropriate of-
22 ficial of the importing foreign state, as identi-
23 fied by the Administrator.

24 “(3) NOTICE TO PUBLIC.—

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

4 “(i) any chemical substance or mix-
5 ture that is listed on Annex III to the PIC
6 Convention; and

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

12 “(B) TIMING.—A notice required under
13 subparagraph (A) shall be issued not later than
14 90 days after, and any conditions or restrictions
15 described in subparagraph (A)(ii) shall take ef-
16 fect not later than 180 days after, the date of
17 receipt of a notice from the Secretariat of the
18 PIC Convention who—

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

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

23 “(C) TREATMENT OF CONDITIONS AND RE-
24 STRICTIONS.—A condition or restriction identi-
25 fied by a notice required under subparagraph

1 (A) shall be considered to be an export condi-
 2 tion or restriction for the purpose of subsection
 3 (a).

4 “(4) NOTICE OF EXEMPTION.—The Adminis-
 5 trator may issue a notice exempting any chemical
 6 substance or mixture from the requirements of sub-
 7 sections (a) through (c) and this subsection if the
 8 Administrator determines, with the concurrence of
 9 the Secretary of State, that the exemption would be
 10 consistent with the PIC Convention.

11 “(5) INTEGRATION WITH OTHER NOTICES.—To
 12 the maximum extent practicable, the Administrator
 13 shall integrate the information contained in any no-
 14 tice issued under this subsection into any notice
 15 published under—

16 “(A) section 12(b);

17 “(B) section 502; or

18 “(C) section 17(g) of the Federal Insecti-
 19 cide, Fungicide, and Rodenticide Act (7 U.S.C.
 20 136o(g)).

21 “(e) REGULATIONS.—The Administrator may pro-
 22 mulgate such regulations as the Administrator determines
 23 to be necessary—

24 “(1) to facilitate implementation of this section;

1 ~~“(2) to ensure compliance with the PIC Con-~~
2 ~~vention, the POPs Convention, and the LRTAP~~
3 ~~POPs Protocol; and~~

4 ~~“(3) to allow the pre-export notice requirement~~
5 ~~under this section and any pre-export notice require-~~
6 ~~ment in other provisions of this Act or in any other~~
7 ~~Federal law to be satisfied by a single notice.~~

8 ~~“(f) HARMONIZATION OF POPs CONVENTION AND~~
9 ~~PIC CONVENTION.—~~

10 ~~“(1) IN GENERAL.—If the export of a chemical~~
11 ~~substance or mixture is addressed or restricted~~
12 ~~under both section 502 and this section, that section~~
13 ~~and this section shall apply to the chemical sub-~~
14 ~~stance or mixture.~~

15 ~~“(2) CONFLICT.—In the case of a conflict be-~~
16 ~~tween section 502 and this section with respect to a~~
17 ~~chemical substance or mixture, the more stringent~~
18 ~~provision shall govern.~~

19 ~~“(3) APPLICATION.—With respect to a chemical~~
20 ~~substance or mixture, section 502 and this section~~
21 ~~shall be applied in such a manner as to ensure that~~
22 ~~the United States is in compliance with both the~~
23 ~~POPs Convention and the PIC Convention with re-~~
24 ~~spect to the chemical substance or mixture.~~

1 **“SEC. 506. JUDICIAL REVIEW.**

2 “(a) **DEFINITION OF RULEMAKING RECORD.**—In this
3 section, the term ‘rulemaking record’ means—

4 “(1) a regulation reviewed under this section;

5 “(2) any determination required under section
6 502(h);

7 “(3) any written submission of interested par-
8 ties relating to the promulgation of a regulation
9 under section 502(h);

10 “(4)(A) in the case of a POPs chemical sub-
11 stance or mixture, the international listing process
12 and Conference listing decision; or

13 “(B) in the case of a LRTAP POPs chemical
14 substance or mixture, the LRTAP POPs listing deci-
15 sion;

16 “(5) comments on the proposed regulation; and

17 “(6) any other information that the Adminis-
18 trator—

19 “(A) determines to be relevant to the regu-
20 lation; and

21 “(B) identifies on or before the date of
22 promulgation of the regulation.

23 “(b) **JUDICIAL REVIEW.**—

24 “(1) **IN GENERAL.**—Not later than 60 days
25 after the date of promulgation of a regulation under

1 this title, any person may file a petition for judicial
2 review of the regulation with—

3 “(A) the United States Court of Appeals
4 for the District of Columbia; or

5 “(B) the United States court of appeals
6 for the circuit in which the person resides or
7 maintains a principal place of business.

8 “(2) JURISDICTION.—The United States courts
9 of appeals shall have exclusive jurisdiction of any ac-
10 tion to obtain judicial review (other than in an en-
11 forcement proceeding) of a regulation promulgated
12 under this title if any United States district court
13 would have had jurisdiction of the action but for this
14 paragraph.

15 “(3) COPIES.—The clerk of the court with
16 which a petition is filed under this subsection shall
17 submit to the Administrator and the Attorney Gen-
18 eral copies of the petition.

19 “(4) RULEMAKING PROCEEDINGS.—With re-
20 spect to an action to obtain judicial review under
21 this subsection, section 2112 of title 28, United
22 States Code, shall apply to—

23 “(A) the filing of the record of proceedings
24 for a rulemaking on which the Administrator
25 based the regulation; and

1 “(B) any transfer of proceedings between
2 United States courts of appeals.

3 “(c) STANDARD OF REVIEW.—Section 706 of title 5,
4 United States Code, shall apply to the review of a regula-
5 tion under this section.

6 “(d) FEES AND COSTS.—The decision of the court
7 in an action commenced under subsection (b), or of the
8 Supreme Court of the United States on review of such
9 a decision, may include an award of costs relating to the
10 action (including reasonable fees for attorneys and expert
11 witnesses) if the court determines that such an award is
12 appropriate.

13 “(e) OTHER REMEDIES.—The remedies provided
14 under this section shall be in addition to and not in lieu
15 of remedies provided under any other provision of law.”.

16 **SEC. 102. EXPORTS.**

17 Section 12(a)(1) of the Toxic Substances Control Act
18 (15 U.S.C. 2611(a)(1)) is amended by striking “(other
19 than section 8)” and inserting “(other than section 8 or
20 title V)”.

21 **SEC. 103. PROHIBITED ACTS.**

22 Section 15 of the Toxic Substances Control Act (15
23 U.S.C. 2614) is amended to read as follows:

24 **“SEC. 15. PROHIBITED ACTS.**

25 “‘It shall be unlawful for any person to—

1 “(1) fail or refuse to comply with—

2 “(A) any rule promulgated or order issued
3 under section 4;

4 “(B) any requirement prescribed by section
5 5 or 6;

6 “(C) any rule promulgated or order issued
7 under section 5 or 6;

8 “(D) any requirement of title II;

9 “(E) any rule promulgated or order issued
10 under title II;

11 “(F) any requirement of title V; or

12 “(G) any rule promulgated under title V;

13 “(2) use for commercial purposes a chemical
14 substance or mixture that the person knew or had
15 reason to know was manufactured, processed, or dis-
16 tributed in commerce for export in violation of—

17 “(A) section 5 or 6;

18 “(B) a rule promulgated or order issued
19 under section 5 or 6;

20 “(C) an order issued in a civil action
21 brought under section 5 or 7;

22 “(D) title V; or

23 “(E) a rule promulgated under title V;

24 “(3) fail or refuse to establish or maintain
25 records, submit reports, notices, or other informa-

1 tion, or permit access to or copying of records as re-
 2 quired by this Act (including regulations promul-
 3 gated under this Act); or

4 “(4) fail or refuse to permit entry or inspection
 5 as required under section 11.”.

6 **SEC. 104. CONFORMING AMENDMENTS.**

7 (a) Section 11 of the Toxic Substances Control Act
 8 (15 U.S.C. 2610) is amended in subsections (a) and (b)
 9 by striking “title IV” each place it appears and inserting
 10 “title IV or V”.

11 (b) Section 13(a)(1) of the Toxic Substances Control
 12 Act (15 U.S.C. 2612(a)(1)) is amended by striking sub-
 13 paragraph (B) and inserting the following:

14 “(B) it is offered for entry in violation
 15 of—

16 “(i) section 5 or 6;

17 “(ii) title IV or V;

18 “(iii) a rule or order issued under sec-
 19 tion 5 or 6 or title IV or V; or

20 “(iv) an order issued in a civil action
 21 brought under section 5 or 6 or title IV.”.

22 (c) Section 16 of the Toxic Substances Control Act
 23 (15 U.S.C. 2615) is amended by striking “section 15 or
 24 409” each place it appears and inserting “section 15, sec-
 25 tion 409, or title V”.

1 (d) Section 17 of the Toxic Substances Control Act
2 (~~15 U.S.C. 2616~~) is amended—

3 ~~(1)~~ in subsection (a)—

4 (A) in paragraph ~~(1)~~—

5 (i) in subparagraph (A), by striking
6 “~~section 15 or 409,~~” and inserting “~~section~~
7 ~~15, section 409, or title V,~~”;

8 (ii) by striking subparagraph (B) and
9 inserting the following:

10 “(B) restrain any person from taking any
11 action prohibited by ~~section 5 or 6,~~ or title IV
12 or V (or a rule or order issued under any of
13 those sections or titles);”;

14 (iii) in subparagraph (C), by striking
15 the comma at the end and inserting a
16 semicolon; and

17 (iv) in subparagraph (D)—

18 (I) by striking “~~title IV manufac-~~
19 ~~tured~~” and inserting “~~title IV or V~~
20 ~~manufactured~~”; and

21 (II) by striking “~~section 5, 6, or~~
22 ~~title IV~~” each place it appears and in-
23 scribing “~~section 5 or 6, or title IV or~~
24 ~~V~~”; and

1 (B) in paragraph (2), by inserting “or title
2 V” after “section 15”; and

3 (2) in the first sentence of subsection (b), by in-
4 serting “or V” after “title IV”.

5 (e) Section 18(a)(2) of the Toxic Substances Control
6 Act (15 U.S.C. 2617(a)(2)) is amended—

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

9 (2) in subparagraph (B), by striking the period
10 at the end and inserting “; and”; and

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

12 “(C) no State or political subdivision may
13 establish or continue in effect any requirement
14 that is applicable to—

15 “(i) a POPs Chemical substance or
16 mixture or LRTAP POPs chemical sub-
17 stance or mixture (as defined in title V); or

18 “(ii) a chemical substance or mixture
19 that the Administrator regulates under
20 section 502(h).”.

21 (f) Section 20(a)(1) of the Toxic Substances Control
22 Act (15 U.S.C. 2619(a)(1)) is amended by striking “title
23 H or IV” each place it appears and inserting “title H,
24 IV, or V”.

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 ingre-
13 dient—

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(e) of the Federal Insecticide, Fungicide, and
8 Rodenticide Act (7 U.S.C. 1360(e)) 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. 1360) 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 “(H) 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 im-
 2 ported—

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 DISTRIBUTU-
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 nec-
9 essary—

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 “(H) 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 Adminis-
2 trator—

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 Conven-
 6 tion—

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 (c).

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)(H)—

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 “(H) 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 “(H) 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 ciling, 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 nec-
23 essary—
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 “(H) 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.”.

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

2 (a) *SHORT TITLE.*—*This Act may be cited as the*
 3 *“POPs, LRTAP POPs, and PIC Implementation Act of*
 4 *2003”.*

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

Sec. 1. Short title; table of contents.

TITLE I—IMPLEMENTATION OF INTERNATIONAL AGREEMENTS

Sec. 101. Implementation of international agreements.

“TITLE V—IMPLEMENTATION OF INTERNATIONAL AGREEMENTS

“Sec. 501. Definitions.

“Sec. 502. Implementation of POPs Convention and LRTAP POPs Protocol.

“Sec. 503. Notice and record of prohibitions, exemptions, disallowances, and other information.

“Sec. 504. International conventions and cooperation in international efforts.

“Sec. 505. Exports.

“Sec. 506. Judicial review.”.

Sec. 102. Exports.

Sec. 103. Prohibited acts.

Sec. 104. Conforming amendments.

1 **TITLE I—IMPLEMENTATION OF**
2 **INTERNATIONAL AGREEMENTS**

3 **SEC. 101. IMPLEMENTATION OF INTERNATIONAL AGREE-**
4 **MENTS.**

5 *The Toxic Substances Control Act (15 U.S.C. 2601 et*
6 *seq.) is amended by adding at the end the following:*

7 **“TITLE V—IMPLEMENTATION OF**
8 **INTERNATIONAL AGREEMENTS**

9 **“SEC. 501. DEFINITIONS.**

10 *“In this title:*

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

14 *“(2) CONFERENCE LISTING DECISION.—The term*
15 *‘Conference listing decision’ means a decision by the*
16 *Conference to approve an amendment to list a chem-*
17 *ical substance or mixture in Annex A or B to the*
18 *POPs Convention.*

19 *“(3) DESIGNATED NATIONAL AUTHORITY.—The*
20 *term ‘designated national authority’ means the 1 or*
21 *more authorities that a government has designated in*
22 *a notification to the Secretariat of the PIC Conven-*
23 *tion in accordance with Article 4 of the PIC Conven-*
24 *tion.*

1 “(4) *EXECUTIVE BODY*.—The term ‘*Executive*
2 *Body*’ means the *Executive Body* established by *Arti-*
3 *cle 10 of the LRTAP Convention*.

4 “(5) *HCH*.—The term ‘*HCH*’ means
5 *hexachlorocyclohexane*.

6 “(6) *LRTAP CONVENTION*.—The term ‘*LRTAP*
7 *Convention*’ means the *Convention on Long-Range*
8 *Transboundary Air Pollution, done at Geneva on No-*
9 *vember 13, 1979 (TIAS 10541), if the United States*
10 *is a party*.

11 “(7) *LRTAP POPS CHEMICAL SUBSTANCE OR*
12 *MIXTURE*.—The term ‘*LRTAP POPS chemical sub-*
13 *stance or mixture*’ means—

14 “(A) *chlordecone*;

15 “(B) *hexabromobiphenyl*;

16 “(C) *HCH*; and

17 “(D) *any other chemical substance or mix-*
18 *ture that is listed in Annex I or II to the*
19 *LRTAP POPS Protocol*.

20 “(8) *LRTAP POPS LISTING DECISION*.—The term
21 ‘*LRTAP POPS listing decision*’ means a decision by
22 *the parties to the LRTAP POPS Protocol to approve*
23 *an amendment to list a chemical substance or mix-*
24 *ture in Annex I or II to the LRTAP POPS Protocol*.

1 “(9) *LRTAP POPS PROTOCOL*.—*The term*
 2 ‘*LRTAP POPs Protocol*’ *means the Protocol on Per-*
 3 *sistent Organic Pollutants to the LRTAP Convention,*
 4 *done at Aarhus on June 24, 1998, if the United*
 5 *States is a party.*

6 “(10) *PCB*.—*The term ‘PCB’ means a poly-*
 7 *chlorinated biphenyl.*

8 “(11) *PIC CONVENTION*.—*The term ‘PIC Con-*
 9 *vention’ means the Rotterdam Convention on the*
 10 *Prior Informed Consent Procedure for Certain Haz-*
 11 *ardous Chemicals and Pesticides in International*
 12 *Trade, done at Rotterdam on September 10, 1998, if*
 13 *the United States is a party.*

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

17 “(A) *aldrin;*

18 “(B) *chlordane;*

19 “(C) *dichlorodiphenyltrichloroethane*
 20 *(DDT);*

21 “(D) *dieldrin;*

22 “(E) *endrin;*

23 “(F) *heptachlor;*

24 “(G) *hexachlorobenzene;*

25 “(H) *mirex;*

1 “(1) A POPs chemical substance or mixture
2 specified in any of subparagraphs (A) through (J) of
3 section 501(12).

4 “(2) A LRTAP POPs chemical substance or mix-
5 ture specified in any of subparagraphs (A) through
6 (C) of section 501(7).

7 “(b) PROHIBITION ON OTHER POPs CHEMICAL SUB-
8 STANCES AND MIXTURES AND LRTAP POPs CHEMICAL
9 SUBSTANCES AND MIXTURES.—Subject to subsections (c),
10 (d), and (i), notwithstanding any other provision of law,
11 a person shall not manufacture, process, distribute in com-
12 merce for export, use, or dispose of a POPs chemical sub-
13 stance or mixture described in section 501(12)(K), or a
14 LRTAP POPs chemical substance or mixture described in
15 501(7)(D), in a manner that is inconsistent with regula-
16 tions promulgated under subsection (h).

17 “(c) EXEMPTIONS UNDER POPs CONVENTION.—

18 “(1) IN GENERAL.—The prohibitions specified in
19 subsection (b) shall not apply to any manufacture,
20 processing, distribution in commerce for export, use,
21 or disposal of a POPs chemical substance or mixture
22 that the Administrator (with the concurrence of the
23 Secretary of State) determines, through final regula-
24 tions promulgated under subsection (h)—

25 “(A) is consistent with—

1 “(i) a production or use specific ex-
2 emption available to the United States
3 under Annex A or B to the POPs Conven-
4 tion; or

5 “(ii) an acceptable purpose applicable
6 to the United States under Annex B to the
7 POPs Convention; and

8 “(B) would, as a result, not prevent the
9 United States from complying with the obliga-
10 tions of the United States under the POPs Con-
11 vention.

12 “(2) UNINTENTIONAL TRACE CONTAMINANTS.—
13 To the extent consistent with the POPs Convention,
14 the prohibitions specified in subsections (a) and (b)
15 shall not apply to any quantity of a POPs chemical
16 substance or mixture that occurs as an unintentional
17 trace contaminant in a product or article.

18 “(3) RESEARCH.—To the extent consistent with
19 the POPs Convention, the prohibitions specified in
20 subsections (a) and (b) shall not apply to any quan-
21 tity of a POPs chemical substance or mixture that is
22 used for laboratory scale research or as a reference
23 standard.

24 “(4) CONSTITUENT OF ARTICLE IN USE BEFORE
25 PROHIBITION APPLIED.—To the extent consistent with

1 *the POPs Convention, the prohibitions specified in*
2 *subsections (a) and (b) shall not apply to any quan-*
3 *tity of a POPs chemical substance or mixture that oc-*
4 *currs as a constituent of an article, if—*

5 *“(A) the article is manufactured or in use*
6 *on or before the date of entry into force of the ob-*
7 *ligation applicable to the POPs chemical sub-*
8 *stance or mixture; and*

9 *“(B) the United States has met any appli-*
10 *cable requirement of the POPs Convention to no-*
11 *tify the Secretariat of the POPs Convention con-*
12 *cerning the article.*

13 *“(5) CLOSED-SYSTEM SITE-LIMITED INTER-*
14 *MEDIATE.—*

15 *“(A) EXEMPTION.—*

16 *“(i) IN GENERAL.—Subject to clause*
17 *(ii), to the extent consistent with the POPs*
18 *Convention, the prohibitions specified in*
19 *subsections (a) and (b) shall not apply to*
20 *any quantity of a POPs chemical substance*
21 *or mixture that is—*

22 *“(I) manufactured and used as a*
23 *closed-system site-limited intermediate;*
24 *and*

1 “(II) *chemically transformed in*
2 *the manufacture of other chemicals*
3 *that do not exhibit the characteristics*
4 *of persistent organic pollutants (taking*
5 *into consideration the criteria in para-*
6 *graph 1 of Annex D of the POPs Con-*
7 *vention).*

8 “(ii) *CONDITIONS.—Clause (i) applies*
9 *if, before the commencement of the manufac-*
10 *ture or use under the POPs Convention,*
11 *and each 10-year period thereafter—*

12 “(I) *any person that desires to in-*
13 *voke the exemption provides to the Ad-*
14 *ministrator information concerning—*

15 “(aa) *the annual total quan-*
16 *ntity of the POPs chemical sub-*
17 *stance or mixture anticipated to*
18 *be manufactured or used or a rea-*
19 *sonable estimate of the quantity;*
20 *and*

21 “(bb) *the nature of the closed*
22 *system site-limited process, in-*
23 *cluding the quantity of any non-*
24 *transformed and unintentional*
25 *trace contamination by the POPs*

1 *chemical substance or mixture*
2 *that remains in the final product;*
3 *and*

4 “(II) notwithstanding any other
5 provision of law, the Administrator—

6 “(aa) determines, with the
7 concurrence of the Secretary of
8 State, that the information pro-
9 vided under subclause (I) is com-
10 plete and sufficient; and

11 “(bb) transmits the informa-
12 tion to the Secretariat of the
13 POPs Convention.

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

23 “(6) *PCB MATERIALS.*—Any person that man-
24 ages PCBs in compliance with the rules promulgated
25 under section 6(e) shall be—

1 “(A) considered to be in compliance with
2 this title; and

3 “(B) presumed to be consistent with the
4 POPs Convention, unless the Administrator de-
5 termines that the applicable rule promulgated
6 under section 6(e) is inconsistent with the POPs
7 Convention.

8 “(7) *DISTRIBUTION IN COMMERCE FOR EXPORT*
9 *IF PRODUCTION OR USE SPECIFIC EXEMPTION OR AC-*
10 *CEPTABLE PURPOSE IS IN EFFECT.—*

11 “(A) *IN GENERAL.—To the extent consistent*
12 *with the POPs Convention, the prohibitions spec-*
13 *ified in subsections (a) and (b) shall not apply*
14 *to any distribution in commerce for export of*
15 *any POPs chemical substance or mixture for*
16 *which a production or use specific exemption*
17 *under Annex A to the POPs Convention avail-*
18 *able to the United States is in effect, or for which*
19 *a production or use specific exemption or accept-*
20 *able purpose under Annex B to the POPs Con-*
21 *vention available to the United States is in ef-*
22 *fect, unless the POPs chemical substance or mix-*
23 *ture does not comply with an export condition*
24 *described in—*

1 “(i) subparagraph (B), as determined
2 by the Administrator in consultation with
3 the heads of other interested Federal agen-
4 cies; or

5 “(ii) subparagraph (C) or (D), as de-
6 termined by the Administrator in consulta-
7 tion with the heads of other interested Fed-
8 eral agencies and with the concurrence of
9 the Secretary of State and the United States
10 Trade Representative.

11 “(B) EXPORT FOR ENVIRONMENTALLY
12 SOUND DISPOSAL.—An export condition referred
13 to in subparagraph (A) is that the POPs chem-
14 ical substance or mixture is exported for the pur-
15 pose of environmentally sound disposal in ac-
16 cordance with paragraph 1(d) of Article 6 of the
17 POPs Convention.

18 “(C) EXPORT TO PARTY WITH PERMISSION
19 TO USE.—An export condition referred to in sub-
20 paragraph (A) is that the POPs chemical sub-
21 stance or mixture is exported to a party to the
22 POPs Convention that is permitted to use the
23 POPs chemical substance or mixture under
24 Annex A or B to the POPs Convention.

1 “(D) *EXPORT TO NONPARTY THAT HAS PRO-*
2 *VIDED NONPARTY CERTIFICATION.—*

3 “(i) *IN GENERAL.—An export condi-*
4 *tion referred to in subparagraph (A) is that*
5 *the POPs chemical substance or mixture is*
6 *exported to an importing foreign state*
7 *that—*

8 “(I) *is not a party to the POPs*
9 *Convention with respect to the POPs*
10 *chemical substance or mixture; and*

11 “(II) *has provided an annual cer-*
12 *tification to the Administrator.*

13 “(ii) *COMMITMENTS BY IMPORTING*
14 *NONPARTY.—Consistent with the POPs Con-*
15 *vention, an annual nonparty certification*
16 *under clause (i) shall specify the intended*
17 *use of the POPs chemical substance or mix-*
18 *ture and state that, with respect to the*
19 *POPs chemical substance or mixture, the*
20 *importing nonparty is committed to—*

21 “(I) *protecting human health and*
22 *the environment by taking necessary*
23 *measures to minimize or prevent re-*
24 *leases;*

1 “(II) *complying with paragraph*
2 *1(d) of Article 6 of the POPs Conven-*
3 *tion; and*

4 “(III) *complying, to the extent*
5 *appropriate, with paragraph 2 of Part*
6 *II of Annex B to the POPs Convention.*

7 “(iii) *SUPPORTING DOCUMENTATION.—*
8 *Each nonparty certification shall include*
9 *any appropriate supporting documentation,*
10 *such as legislation, regulatory instruments,*
11 *and administrative or policy guidelines.*

12 “(iv) *SUBMISSION TO SECRETARIAT OF*
13 *POPS CONVENTION.—Not later than 60 days*
14 *after the date of receipt of a complete*
15 *nonparty certification, the Administrator*
16 *shall submit a copy of the nonparty certifi-*
17 *cation to the Secretariat of the POPs Con-*
18 *vention.*

19 “(8) *EXPORT FOR ENVIRONMENTALLY SOUND*
20 *DISPOSAL IF NO PRODUCTION OR USE SPECIFIC EX-*
21 *EMPTION IN EFFECT.—To the extent consistent with*
22 *the POPs Convention, the prohibitions specified in*
23 *subsections (a) and (b) shall not apply to any dis-*
24 *tribution in commerce for export for the purpose of*
25 *environmentally sound disposal, in accordance with*

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

6 “(9) IMPORTS FOR SPECIFIED PURPOSES.—To
7 the extent consistent with the POPs Convention, the
8 prohibitions specified in subsections (a) and (b) shall
9 not apply to a POPs chemical substance or mixture
10 that is imported for the purpose of environmentally
11 sound disposal in accordance with paragraph 1(d) of
12 Article 6 of the POPs Convention.

13 “(10) WASTE.—To the extent consistent with the
14 POPs Convention, the prohibitions specified in sub-
15 sections (a) and (b) shall not apply to any quantity
16 of a POPs chemical substance or mixture, including
17 any article that consists of, contains, or is contami-
18 nated with a POPs chemical substance or mixture,
19 that has become waste and that is managed in a
20 manner consistent with Article 6 of the POPs Conven-
21 tion.

22 “(11) NO EFFECT ON OTHER PROHIBITIONS.—
23 Nothing in this subsection authorizes any manufac-
24 ture, processing, distribution in commerce for export,
25 use, or disposal of a POPs chemical substance or mix-

1 *ture that is prohibited under any other provision of*
2 *law.*

3 “(d) *EXEMPTIONS UNDER LRTAP POPs PRO-*
4 *TOCOL.—*

5 “(1) *IN GENERAL.—To the extent consistent with*
6 *the LRTAP POPs Protocol, the prohibitions on man-*
7 *ufacture, processing, distribution in commerce for ex-*
8 *port, or use specified in subsections (a) and (b) shall*
9 *not apply to—*

10 “(A) *any manufacture, processing, distribu-*
11 *tion in commerce for export, or use of a LRTAP*
12 *POPs chemical substance or mixture that the*
13 *Administrator determines (with the concurrence*
14 *of the Secretary of State), through final regula-*
15 *tions promulgated in accordance with subsection*
16 *(h)—*

17 “(i) *is consistent with an allowed re-*
18 *stricted use or condition available to the*
19 *United States under Annex I or II to the*
20 *LRTAP POPs Protocol; and*

21 “(ii) *would, as a result, not prevent the*
22 *United States from complying with the obli-*
23 *gations of the United States under the*
24 *LRTAP POPs Protocol;*

1 “(B) any quantity of a LRTAP POPs
2 chemical substance or mixture that is used for
3 laboratory scale research or as a reference stand-
4 ard;

5 “(C) any quantity of a LRTAP POPs
6 chemical substance or mixture that occurs as a
7 contaminant in a product;

8 “(D) any quantity of a LRTAP POPs
9 chemical substance or mixture that is in an arti-
10 cle manufactured or in use on or before—

11 “(i) the implementation date of any
12 applicable obligation of the LRTAP POPs
13 Protocol; or

14 “(ii) in the case of any LRTAP POPs
15 chemical substance or mixture added to any
16 applicable Annex after the implementation
17 date of the applicable obligation of the
18 LRTAP POPs Protocol, the implementation
19 date in the amendment to the LRTAP
20 POPs Protocol that makes the addition;

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

1 “(F) the production or use of any quantity
2 of HCH that complies with the restrictions and
3 conditions specified for HCH in Annex II to the
4 LRTAP POPs Protocol;

5 “(G) any quantity of a LRTAP POPs
6 chemical substance or mixture that has become
7 waste and that is disposed of in an environ-
8 mentally sound manner in accordance with
9 paragraph 1(b) of Article 3 of the LRTAP POPs
10 Protocol;

11 “(H) any distribution in commerce for ex-
12 port of a LRTAP POPs chemical substance or
13 mixture if the distribution in commerce for ex-
14 port is conducted in an environmentally sound
15 manner; or

16 “(I) any import of a LRTAP POPs chem-
17 ical substance or mixture if the import is con-
18 ducted in an environmentally sound manner.

19 “(2) EXEMPTIONS BY ADMINISTRATOR.—The Ad-
20 ministrator, with the concurrence of the Secretary of
21 State, may grant an exemption from the prohibitions
22 applicable to LRTAP POPs chemical substances or
23 mixtures specified in subsection (a) or (b) that the
24 Administrator determines are consistent with the ex-

1 *emptions authorized under paragraph 2 of Article 4*
2 *of the LRTAP POPs Protocol.*

3 “(3) *EXEMPTIONS BY PETITION.—*

4 “(A) *PETITIONS.—A person may petition*
5 *the Administrator for an exemption from a pro-*
6 *hibition applicable to LRTAP POPs chemical*
7 *substances or mixtures specified in subsection (a)*
8 *or (b) that is consistent with the exemptions au-*
9 *thorized under paragraph 2 of Article 4 of the*
10 *LRTAP POPs Protocol.*

11 “(B) *REQUIRED ELEMENTS OF PETI-*
12 *TIONS.—Any petition under subparagraph (A)*
13 *shall, at a minimum, contain—*

14 “(i) *information relating to each find-*
15 *ing, if any, that the Administrator is re-*
16 *quired to make under the LRTAP POPs*
17 *Protocol before granting the exemption; and*

18 “(ii) *any additional information, if*
19 *any, that the Administrator is required to*
20 *provide to the Secretariat of the LRTAP*
21 *POPs Protocol concerning a granted exemp-*
22 *tion.*

23 “(C) *GRANT OR DENIAL OF PETITION.—The*
24 *Administrator, with the concurrence of the Sec-*
25 *retary of State, shall—*

1 “(i) if the petition is authorized for the
2 United States under, and is otherwise con-
3 sistent with, the LRTAP POPs Protocol,
4 grant the petition with such conditions or
5 limitations as are necessary to meet any re-
6 quirement of the LRTAP POPs Protocol or
7 any other provision of law; or

8 “(ii) deny the petition.

9 “(4) *PROVISION OF INFORMATION TO SECRE-*
10 *TARIAT.—Notwithstanding any other provision of*
11 *law, if the Administrator grants an exemption under*
12 *this subsection, the Administrator, not later than 90*
13 *days after the date on which the exemption is grant-*
14 *ed, shall provide the Secretariat of the LRTAP POPs*
15 *Protocol with the information specified in paragraph*
16 *3 of Article 4 of the LRTAP POPs Protocol.*

17 “(5) *DISALLOWANCE OF EXEMPTION BY LRTAP*
18 *POPS PROTOCOL.—*

19 “(A) *IN GENERAL.—If, after an exemption*
20 *has been granted under this subsection, the ex-*
21 *emption is no longer authorized by the United*
22 *States under the LRTAP POPs Protocol, it shall*
23 *be unlawful for any person to manufacture,*
24 *process, distribute in commerce for export, or use*

1 *a LRTAP POPs chemical substance or mixture*
2 *in the manner authorized by the exemption.*

3 “(B) *PUBLICATION OF NOTICE IN FEDERAL*
4 *REGISTER.—The Administrator shall publish in*
5 *the Federal Register a notice announcing the dis-*
6 *allowance of any exemption under subparagraph*
7 *(A).*

8 “(6) *NO EFFECT ON OTHER PROHIBITIONS.—*
9 *Nothing in this subsection authorizes any manufac-*
10 *ture, processing, distribution in commerce for export,*
11 *or use of a LRTAP POPs chemical substance or mix-*
12 *ture that is prohibited under any other provision of*
13 *law.*

14 “(e) *NOTICE AND REPORT AFTER DECISION THAT*
15 *SCREENING CRITERIA ARE MET UNDER POPs CONVEN-*
16 *TION OR AFTER RISK PROFILE SUBMITTED UNDER*
17 *LRTAP POPs PROTOCOL.—*

18 “(1) *APPLICABILITY.—This subsection applies*
19 *if—*

20 “(A) *the POPs Review Committee or Con-*
21 *ference decides—*

22 “(i) *under paragraph 4(a) of Article 8*
23 *of the POPs Convention, that a proposal for*
24 *listing a chemical substance or mixture in*
25 *Annex A, B, or C to the POPs Convention*

1 *fulfills the screening criteria specified in*
2 *Annex D to the POPs Convention; or*

3 “(ii) under paragraph 5 of Article 8 of
4 *the POPs Convention, that such a proposal*
5 *shall proceed; or*

6 “(B) if a party to the LRTAP POPs Pro-
7 *TOCOL submits to the Executive Body a risk profile*
8 *in support of a proposal to list a chemical sub-*
9 *stance or mixture in Annex I, II, or III to the*
10 *LRTAP POPs Protocol.*

11 “(2) *REQUIREMENT.*—*Not later than 45 days*
12 *after the date of the POPs Review Committee or Con-*
13 *ference decision on a proposal or the submission of a*
14 *risk profile in support of a proposal under the*
15 *LRTAP POPs Protocol described in subparagraph*
16 *(A) or (B) of paragraph (1), respectively, the Admin-*
17 *istrator shall—*

18 “(A) *publish in the Federal Register a no-*
19 *tice of the proposal; and*

20 “(B) *provide opportunity for comment on*
21 *the proposal.*

22 “(3) *REQUIRED ELEMENTS OF NOTICE.*—*A no-*
23 *tice under paragraph (2) shall—*

24 “(A) *identify the chemical substance or*
25 *mixture that is the subject of the proposal;*

1 “(B) include a summary of the process
2 under the POPs Convention or the LRTAP
3 POPs Protocol for submission of a proposal and
4 listing of a chemical substance or mixture that
5 is the subject of a proposal (including criteria
6 applied in that process);

7 “(C) include a summary of the POPs Re-
8 view Committee or Conference decision and the
9 basis for the decision;

10 “(D) request information relevant to and
11 comment on—

12 “(i) in the case of a chemical substance
13 or mixture proposed for listing in an Annex
14 to the POPs Convention, the information re-
15 quirements and screening criteria elements
16 covered under Annex D to the POPs Con-
17 vention; and

18 “(ii) in the case of a chemical sub-
19 stance or mixture proposed for listing in an
20 Annex to the LRTAP POPs Protocol, the
21 information referenced in paragraph 6(a) of
22 Article 14 of the LRTAP POPs Protocol;

23 “(E) request the information required under
24 paragraph (4);

1 “(F) include any other information that the
2 Administrator considers to be relevant to the
3 proposal;

4 “(G) include a statement that any informa-
5 tion submitted will be part of the record used as
6 the basis for rulemaking that the Administrator
7 may undertake under this title; and

8 “(H) request information and comment
9 on—

10 “(i) information relevant to the risk
11 profile of the POPs Review Committee cov-
12 ered under Annex E to the POPs Conven-
13 tion; and

14 “(ii) information relevant to any tech-
15 nical review conducted under paragraph 2
16 of Executive Body decision 1998/2.

17 “(4) PROVISION OF INFORMATION.—

18 “(A) PROVISION OF INFORMATION UNDER
19 POPS CONVENTION.—Not later than 60 days after
20 the date of publication of the notice under para-
21 graph (2) regarding a proposal to list a chemical
22 substance or mixture on an Annex of the POPs
23 Convention, any person that manufactures, proc-
24 esses, distributes in commerce for export, or dis-
25 poses of a chemical substance or mixture that is

1 *the subject of the notice shall provide (and any*
2 *other interested person may provide) to the Ad-*
3 *ministrator information (to the extent the infor-*
4 *mation is known or readily obtainable to the*
5 *person) on—*

6 *“(i) the annual quantity of the chem-*
7 *ical substance or mixture that the person*
8 *manufactures and the locations of the man-*
9 *ufacture;*

10 *“(ii) the uses of the chemical substance*
11 *or mixture;*

12 *“(iii) the approximate annual quan-*
13 *tity of the chemical substance or mixture*
14 *that the person releases into the environ-*
15 *ment; and*

16 *“(iv) other information or monitoring*
17 *data relating to the chemical substance or*
18 *mixture that is consistent with the informa-*
19 *tion specified in paragraph 1 of Annex D,*
20 *and subsections (b) through (e) of Annex E,*
21 *to the POPs Convention.*

22 *“(B) PROVISION OF INFORMATION UNDER*
23 *LRTAP POPS PROTOCOL.—Not later than 60 days*
24 *after the date of publication of the notice under*
25 *paragraph (2) regarding a proposal to list a*

1 *chemical substance or mixture on an Annex of*
2 *the LRTAP POPs Protocol, any person that*
3 *manufactures, processes, distributes in commerce*
4 *for export, or disposes of a chemical substance or*
5 *mixture that is the subject of the notice shall pro-*
6 *vide (and any other interested person may pro-*
7 *vide) to the Administrator information (to the*
8 *extent the information is known or readily ob-*
9 *tainable to the person) on—*

10 “(i) *the potential for long-range*
11 *transboundary atmospheric transport of the*
12 *chemical substance or mixture;*

13 “(ii) *the toxicity of the chemical sub-*
14 *stance or mixture;*

15 “(iii) *the persistence of the chemical*
16 *substance or mixture, including biotic deg-*
17 *radation processes and rates and degrada-*
18 *tion products;*

19 “(iv) *the bioaccumulation of the chem-*
20 *ical substance or mixture, including bio-*
21 *availability;*

22 “(v) *the annual quantity of the chem-*
23 *ical substance or mixture that the person*
24 *manufactures and the locations of the man-*
25 *ufacture;*

1 “(vi) the uses of the chemical substance
2 or mixture;

3 “(vii) the approximate annual quan-
4 tity of the chemical substance or mixture
5 that the person releases into the environ-
6 ment;

7 “(viii) environmental monitoring data
8 relating to the chemical substance or mix-
9 ture (in areas distant from sources);

10 “(ix)(I) information on alternatives to
11 the uses of the chemical substance or mix-
12 ture and the efficacy of each alternative;
13 and

14 “(II) information on any known ad-
15 verse environmental or human health effects
16 associated with each alternative;

17 “(x) information on—

18 “(I) process changes, control tech-
19 nologies, operating practices, and other
20 pollution prevention techniques that
21 can be used to reduce the emissions of
22 the chemical substance or mixture; and

23 “(II) the applicability and effec-
24 tiveness of each technique described in
25 subclause (I); and

1 “(xi) information on the nonmonetary
2 costs and benefits and the quantifiable costs
3 and benefits associated with the use of each
4 alternative described in clause (ix) or tech-
5 nique described in clause (x)(I).

6 “(C) *UPDATING OF INFORMATION.*—

7 “(i) *VOLUNTARY UPDATES.*—Any per-
8 son that submits information under sub-
9 paragraph (A) or (B) may voluntarily up-
10 date the information at any time.

11 “(ii) *REQUIRED UPDATES.*—If the Ad-
12 ministrator determines, with the concu-
13 rence of the Secretary of State, that an up-
14 date of information submitted under sub-
15 paragraph (A) or (B) is necessary, the Ad-
16 ministrator may, through a notice published
17 in the Federal Register, require 1 or more
18 persons that are required to submit the in-
19 formation to update the information.

20 “(iii) *NEW INFORMATION.*—The Ad-
21 ministrator may require any person that
22 (after the date under subparagraphs (A)
23 and (B) by which persons are required to
24 submit information) commences manufac-
25 turing, processing, distributing in commerce

1 *for export, or disposing of a chemical sub-*
2 *stance or mixture subject to the require-*
3 *ments in subparagraph (A) or (B), to sub-*
4 *mit the information required to be sub-*
5 *mitted under subparagraph (A) or (B).*

6 “(D) *REPORT.*—*Based on information re-*
7 *ceived under this section and any other relevant*
8 *information available to the Administrator, the*
9 *Administrator, not later than 240 days after the*
10 *date of publication of the notice under this para-*
11 *graph, shall issue for public comment a report*
12 *that contains, at a minimum—*

13 “(i) *information on the production and*
14 *uses in the United States of the chemical*
15 *substance or mixture; and*

16 “(ii) *a review of the benefits and risks*
17 *in the United States and internationally*
18 *associated with the production and uses in*
19 *the United States and internationally of the*
20 *chemical substance or mixture.*

21 “(f) *NOTICE AFTER DECISION THAT GLOBAL ACTION*
22 *WARRANTED UNDER POPS CONVENTION OR THAT FUR-*
23 *THER CONSIDERATION OF CHEMICAL SUBSTANCE OR MIX-*
24 *TURE WARRANTED UNDER LRTAP POPS PROTOCOL.*—

1 “(1) *APPLICABILITY.*—*This subsection applies*
2 *if—*

3 “(A) *the POPs Review Committee decides,*
4 *under paragraph 7(a) of Article 8 of the POPs*
5 *Convention, that global action is warranted with*
6 *respect to the chemical substance or mixture that*
7 *is the subject of the proposal, or the Conference*
8 *decides, under paragraph 8 of that Article, that*
9 *the proposal shall proceed; or*

10 “(B) *the Executive Body determines pursu-*
11 *ant to paragraph 2 of Executive Body Decision*
12 *1998/2 that further consideration of the chemical*
13 *substance or mixture is warranted, and therefore*
14 *requires 1 or more technical reviews of the pro-*
15 *posal.*

16 “(2) *NOTICE.*—*Not later than 45 days after the*
17 *date on which a decision or determination is made*
18 *under paragraph (1), the Administrator shall—*

19 “(A) *publish in the Federal Register a no-*
20 *tice of the decision or determination; and*

21 “(B) *provide opportunity for comment on*
22 *the decision or determination.*

23 “(3) *REQUIRED ELEMENTS OF NOTICE.*—*A no-*
24 *tice under paragraph (1) shall—*

1 “(A) identify the chemical substance or
2 mixture that is the subject of the proposal;

3 “(B) include a summary of—

4 “(i) the POPs Review Committee or
5 Conference decision and the basis for the de-
6 cision; or

7 “(ii) the Executive Body determination
8 and basis for the determination;

9 “(C) request information and comment
10 on—

11 “(i) in the case of a chemical substance
12 or mixture proposed for addition to an
13 Annex of the POPs Convention—

14 “(I) information on socioeconomic
15 considerations covered under Annex F
16 to the POPs Convention; and

17 “(II) information on socio-
18 economic considerations covered under
19 Annex F to the POPs Convention ap-
20 plicable to the range of possible prohi-
21 bitions described in subparagraph (F);
22 and

23 “(ii) in the case of a chemical sub-
24 stance or mixture proposed for listing on an

1 *Annex to the LRTAP POPs Protocol, information on—*
2

3 “(I) any additional measures not
4 described in the notice published under
5 subparagraph (F) that may exist to re-
6 duce the risks of adverse effects on
7 human health or the environment that
8 result from the long-range
9 transboundary atmospheric transport
10 of the chemical substance or mixture;
11 and

12 “(II) the feasibility of any of the
13 additional measures or the measures
14 outlined in the notice published pursu-
15 ant to subparagraph (F);

16 “(D) request information on any current or
17 anticipated production or use of the chemical
18 substance or mixture that is the subject of the
19 proposal for which the United States may wish
20 to—

21 “(i) seek an exemption or acceptable
22 purpose under the POPs Convention; or

23 “(ii) allow a restricted use or condition
24 under the LRTAP POPs Protocol;

1 “(E) request the information required under
2 paragraph (4);

3 “(F) describe a broad range of possible pro-
4 hibitions or restrictions that the United States
5 could impose on the manufacture, processing,
6 distribution in commerce for export, use, or dis-
7 posal of the chemical substance or mixture to ad-
8 dress any risks that the chemical substance or
9 mixture may pose;

10 “(G) specify what changes, if any, to the
11 regulatory requirements and risk management
12 measures applicable to the chemical substance or
13 mixture in the United States have been made
14 since the date of publication of the notice under
15 subsection (e); and

16 “(H) include a statement that any informa-
17 tion submitted will be part of the record used as
18 the basis for a rulemaking that the Adminis-
19 trator may undertake under this title.

20 “(4) PROVISION OF INFORMATION.—Not later
21 than 60 days after the date of publication of the no-
22 tice under paragraph (1), any person that manufac-
23 tures, processes, distributes in commerce for export, or
24 disposes of a chemical substance or mixture that is

1 *the subject of the notice shall provide (and any other*
2 *interested party may provide) to the Administrator—*

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

7 *“(i) a risk management evaluation*
8 *carried out under paragraph 7 of Article 8*
9 *of the POPs Convention; or*

10 *“(ii) a decision by the Conference*
11 *under paragraph 9 of Article 8 of the POPs*
12 *Convention;*

13 *“(B) consistent with the information needs*
14 *for the technical review described in paragraph*
15 *2 of Executive Body Decision 1998/2, any infor-*
16 *mation the person believes is relevant to the tech-*
17 *nical review or to an Executive Body decision*
18 *made under paragraph 3 of Article 14 of the*
19 *LRTAP POPs Protocol;*

20 *“(C) any information that the person be-*
21 *lieves is relevant to an action under this section;*
22 *and*

23 *“(D) information on any article in use that*
24 *consists of, contains, or is contaminated with the*
25 *chemical substance or mixture.*

1 “(5) *REPORT BY ADMINISTRATOR.*—Not later
2 than 240 days after the date of publication of the no-
3 tice under this paragraph, based on information re-
4 ceived under this subsection and any other informa-
5 tion available to the Administrator, the Adminis-
6 trator shall issue a report for public comment that
7 contains, at a minimum, information relating to the
8 feasibility of possible prohibitions or restrictions that
9 could be placed on the manufacture, processing, dis-
10 tribution in commerce for export, use, or disposal of
11 the chemical substance or mixture (including the pos-
12 sible consequences of using alternative products or
13 processes).

14 “(g) *NOTICE AFTER RECOMMENDATION THAT CON-*
15 *FERENCE CONSIDER LISTING OR AFTER COMPLETION OF*
16 *TECHNICAL REVIEW.*—

17 “(1) *APPLICABILITY.*—This subsection applies—
18 “(A) if the POPs Review Committee rec-
19 ommends, under paragraph 9 of Article 8 of the
20 POPs Convention, that the Conference consider
21 making a Conference listing decision with re-
22 spect to the chemical substance or mixture in ac-
23 cordance with the proposal; or

1 “(B) after completion of a technical review
2 of a proposal to list a chemical substance or mix-
3 ture on an Annex of the LRTAP POPs Protocol.

4 “(2) NOTICE.—Not later than 45 days after the
5 date on which a recommendation under paragraph
6 (1) is made or a technical review described in para-
7 graph (1) is completed, the Administrator shall—

8 “(A) publish in the Federal Register a no-
9 tice of the recommendation or completion of the
10 technical review; and

11 “(B) provide opportunity for comment on
12 the recommendation or the technical review.

13 “(3) REQUIRED ELEMENTS.—A notice under
14 paragraph (1) shall—

15 “(A) include a summary of the POPs Re-
16 view Committee recommendation and the basis
17 for the recommendation or a summary of the
18 technical review;

19 “(B) summarize any control measures for
20 the chemical substance or mixture that are iden-
21 tified by the POPs Review Committee or in the
22 technical review; and

23 “(C) include a statement that any informa-
24 tion submitted will be part of the record used as

1 *the basis for a rulemaking that the Adminis-*
2 *trator may undertake under this title.*

3 “(h) *REGULATIONS BY THE ADMINISTRATOR.*—

4 “(1) *CHEMICAL SUBSTANCE OR MIXTURE LISTED*
5 *UNDER POPS CONVENTION OR LRTAP POPS PRO-*
6 *TOCOL.—If the Conference decides to list a chemical*
7 *substance or mixture in Annex A or B of the POPs*
8 *Convention, or if the parties to the LRTAP POPs*
9 *Protocol decide to list a chemical substance or mix-*
10 *ture in Annex I or II to the LRTAP POPs Protocol,*
11 *the Administrator may commence a rulemaking to*
12 *prohibit or restrict the manufacture, processing, dis-*
13 *tribution in commerce for export, use, or disposal of*
14 *the chemical substance or mixture.*

15 “(2) *CRITERIA FOR REGULATIONS.*—

16 “(A) *IN GENERAL.*—*If the Administrator*
17 *decides to commence a rulemaking to prohibit or*
18 *restrict the manufacture, processing, distribution*
19 *in commerce for export, use, or disposal of the*
20 *chemical substance or mixture, the Adminis-*
21 *trator shall promulgate prohibitions or restric-*
22 *tions to protect against hazards, including expo-*
23 *sure, to human health and the environment asso-*
24 *ciated with the chemical substance or mixture.*

1 “(B) *CRITERIA.*—*In determining the appro-*
2 *priate manner of regulation, the Administrator*
3 *shall take into account public health, environ-*
4 *mental, and socioeconomic factors and shall—*

5 “(i) *consider—*

6 “(I) *the record compiled under*
7 *subsections (e), (f), and (g);*

8 “(II) *national and international*
9 *consequences that are likely to arise as*
10 *a result of domestic regulatory action*
11 *(including the possible consequences of*
12 *using alternative products or proc-*
13 *esses);*

14 “(III) *alternatives to the prohibi-*
15 *tions or restrictions adopted by the*
16 *Conference or the Executive Body for*
17 *the newly-listed chemical substance or*
18 *mixture that are feasible and protective*
19 *of human health and the environment;*
20 *and*

21 “(IV) *all scientific information—*

22 “(aa) *compiled in the record*
23 *under subsections (e), (f), and (g);*

24 “(bb) *submitted to the POPs*
25 *Review Committee or Conference*

1 by the United States or any other
2 entity; and

3 “(cc) submitted to the Execu-
4 tive Body, or a subsidiary of the
5 Executive Body, under the
6 LRTAP POPs Protocol;

7 taking due account of the scientific in-
8 formation that is consistent with gen-
9 erally accepted scientific principles;

10 “(ii) in the case of a chemical sub-
11 stance or mixture listed on Annex A or B
12 of the POPs Convention, give substantial
13 weight to—

14 “(I) the POPs Review Committee
15 recommendation under paragraph 9 of
16 Article 8 of the POPs Convention;

17 “(II) the Conference listing deci-
18 sion;

19 “(III) the reports that the Admin-
20 istrator is required to issue pursuant
21 to subsections (e)(4) and (f)(5), includ-
22 ing any version of the reports revised
23 to reflect information received through
24 public comment; and

1 “(IV) any information that the
2 United States submits to the POPs Re-
3 view Committee or to the Conference
4 pursuant to Article 8 of the POPs Con-
5 vention; and

6 “(iii) in the case of a chemical sub-
7 stance or mixture listed on Annex I or II of
8 the LRTAP POPs Protocol, give substantial
9 weight to—

10 “(I) any technical review con-
11 ducted pursuant to paragraph 2 of Ex-
12 ecutive Body Decision 1998/2;

13 “(II) the LRTAP POPs Protocol
14 listing decision;

15 “(III) the reports that the Admin-
16 istrator is required to issue pursuant
17 to subsections (e)(4) and (f)(5), includ-
18 ing any version of the reports revised
19 to reflect information received through
20 public comment; and

21 “(IV) any information that the
22 United States submits to the Executive
23 Body, or a subsidiary of the Executive
24 Body, in relation to a technical review
25 or listing decision.

1 “(3) *CITIZEN’S PETITION.*—

2 “(A) *IN GENERAL.*—*Beginning 1 year after*
3 *the date on which the Conference listing decision*
4 *or the LRTAP POPs Protocol listing decision is*
5 *made, any person may petition the Adminis-*
6 *trator to commence a rulemaking, if a rule-*
7 *making has not commenced as of that date, to*
8 *prohibit or restrict the manufacture, processing,*
9 *distribution in commerce for export, use, or dis-*
10 *posal of the chemical substance or mixture that*
11 *the Conference decides to list in Annex A or B*
12 *of the POPs Convention, or that the parties to*
13 *the LRTAP POPs Protocol decide to list in*
14 *Annex I or II of the LRTAP POPs Protocol.*

15 “(B) *PROCEDURE.*—

16 “(i) *IN GENERAL.*—*A petition under*
17 *subparagraph (A) shall describe the facts*
18 *that the petitioner believes make it nec-*
19 *essary for the Administrator to commence a*
20 *rulemaking under paragraph (2).*

21 “(ii) *PROCEEDINGS.*—

22 “(I) *AVAILABILITY.*—*The Admin-*
23 *istrator shall publish in the Federal*
24 *Register, and make available electroni-*
25 *cally, a summary of each petition re-*

1 *ceived, including the name of the peti-*
2 *tioner.*

3 “(II) *HEARINGS OR PRO-*
4 *CEEDINGS.—The Administrator may*
5 *hold a public hearing, or conduct any*
6 *investigation or proceeding that the*
7 *Administrator considers appropriate,*
8 *to determine whether or not a rule-*
9 *making should be commenced.*

10 “(iii) *DECISION BY THE ADMINIS-*
11 *TRATOR.—*

12 “(I) *IN GENERAL.—Not later than*
13 *90 days after the date of filing of a pe-*
14 *tition under subparagraph (A), the Ad-*
15 *ministrator shall grant or deny the pe-*
16 *tition.*

17 “(II) *GRANT.—If the Adminis-*
18 *trator grants the petition, the Adminis-*
19 *trator shall promptly commence a rule-*
20 *making and proceed in accordance*
21 *with paragraph (2).*

22 “(III) *DENIAL.—If the Adminis-*
23 *trator denies the petition, the Adminis-*
24 *trator shall publish in the Federal Reg-*

1 *ister a statement of the reasons for the*
2 *denial.*

3 “(C) *CIVIL ACTION TO COMPEL RULE-*
4 *MAKING.—*

5 “(i) *IN GENERAL.—If the Adminis-*
6 *trator denies a petition under subparagraph*
7 *(A) (or if the Administrator fails to grant*
8 *or deny the petition within the 90-day pe-*
9 *riod specified in subparagraph (B)(iii)), the*
10 *petitioner may bring a civil action in*
11 *United States district court to compel the*
12 *Administrator to commence a rulemaking*
13 *as requested in the petition.*

14 “(ii) *TIMING.—A civil action under*
15 *clause (i) shall be brought—*

16 “(I) *not later than 60 days after*
17 *the date of denial of the petition; or*

18 “(II) *if the Administrator fails to*
19 *grant or deny the petition within the*
20 *90-day period specified in subpara-*
21 *graph (B)(iii), not later than 60 days*
22 *after the expiration of the 90-day pe-*
23 *riod.*

1 “(iii) *SCOPE OF REVIEW.*—*In a civil*
2 *action under clause (i), the court shall con-*
3 *sider the petition de novo.*

4 “(iv) *MATTERS FOR CONSIDERATION.*—
5 *If the Administrator denies a petition, the*
6 *court shall take into account public health,*
7 *environmental, and socioeconomic factors*
8 *and shall—*

9 “(I) *consider—*

10 “(aa) *the record compiled*
11 *under subsections (e), (f), and (g);*

12 “(bb) *national and inter-*
13 *national consequences that are*
14 *likely to arise as a result of do-*
15 *mestic regulatory action (includ-*
16 *ing the possible consequences of*
17 *using alternative products or*
18 *processes);*

19 “(cc) *alternatives to the pro-*
20 *hibitions or restrictions adopted*
21 *by the Conference or the Executive*
22 *Body for the newly-listed chemical*
23 *substance or mixture that are fea-*
24 *sible and protective of human*
25 *health and the environment; and*

1 “(dd) all scientific informa-
2 tion—

3 “(AA) compiled in the
4 record under subsections (e),
5 (f), and (g);

6 “(BB) submitted to the
7 POPs Review Committee or
8 Conference by the United
9 States or any other entity;
10 and

11 “(CC) submitted to the
12 Executive Body, or a sub-
13 sidiary of the Executive
14 Body, under the LRTAP
15 POPs Protocol;

16 taking due account of the sci-
17 entific information that is con-
18 sistent with generally accepted
19 scientific principles;

20 “(II) in the case of a chemical
21 substance or mixture listed on Annex A
22 or B of the POPs Convention, give sub-
23 stantial weight to—

24 “(aa) the POPs Review Com-
25 mittee recommendation under

1 paragraph 9 of Article 8 of the
2 POPs Convention;

3 “(bb) the Conference listing
4 decision;

5 “(cc) the reports that the Ad-
6 ministrators are required to issue
7 pursuant to subsections (e)(4) and
8 (f)(5), including any version of
9 the reports revised to reflect infor-
10 mation received through public
11 comment; and

12 “(dd) any information that
13 the United States submits to the
14 POPs Review Committee or to the
15 Conference pursuant to Article 8
16 of the POPs Convention; and

17 “(III) in the case of a chemical
18 substance or mixture listed on Annex I
19 or II of the LRTAP POPs Protocol,
20 give substantial weight to—

21 “(aa) any technical review
22 conducted pursuant to paragraph
23 2 of Executive Body Decision
24 1998/2;

1 “(bb) the LRTAP POPs Pro-
2 tocol listing decision;

3 “(cc) the reports that the Ad-
4 ministrators is required to issue
5 pursuant to subsections (e)(4) and
6 (f)(5), including any version of
7 the reports revised to reflect infor-
8 mation received through public
9 comment; and

10 “(dd) any information that
11 the United States submits to the
12 Executive Body, or a subsidiary
13 of the Executive Body, in relation
14 to a technical review or listing de-
15 cision.

16 “(v) ORDER TO COMMENCE RULE-
17 MAKING.—The court shall order the Admin-
18 istrator to commence a rulemaking in ac-
19 cordance with paragraph (2) if the court de-
20 termines that—

21 “(I) regulatory action to control
22 the manufacture, processing, distribu-
23 tion in commerce for export, use, or
24 disposal of a chemical substance or
25 mixture listed in Annex A or B of the

1 *POPs Convention or Annex I or II of*
2 *the LRTAP POPs Protocol is necessary*
3 *to protect against hazards, including*
4 *exposure, to human health and the en-*
5 *vironment associated with the chemical*
6 *substance or mixture; and*

7 “(II) *the Administrator has not*
8 *taken action in accordance with para-*
9 *graph (2).*

10 “(vi) *COSTS.—In issuing any final*
11 *order in a civil action under clause (i), the*
12 *court may award costs of suit and reason-*
13 *able fees for attorneys and expert witnesses*
14 *if the court determines that such an award*
15 *is appropriate.*

16 “(vii) *SAVINGS CLAUSE.—The remedies*
17 *under this section shall be in addition to,*
18 *and not in lieu of, other remedies provided*
19 *by law.*

20 “(4) *DEADLINE FOR REGULATIONS.—*

21 “(A) *IN GENERAL.—Not later than 18*
22 *months after commencing a rulemaking under*
23 *this subsection, the Administrator shall—*

24 “(i) *promulgate final regulations pro-*
25 *hibiting or restricting the manufacture,*

1 *processing, distribution in commerce for ex-*
2 *port, use, or disposal of the chemical sub-*
3 *stance or mixture to be listed in Annex A*
4 *or B to the POPs Convention or Annex I or*
5 *II of the LRTAP POPs Protocol; or*

6 “(ii) *decide not to promulgate a final*
7 *rule.*

8 “(B) *DECISION NOT TO PROMULGATE.—If*
9 *the Administrator decides not to commence or*
10 *promulgate a final rule, the Administrator shall*
11 *publish within 30 days a statement in the Fed-*
12 *eral Register explaining the reasons for not pro-*
13 *mulgating or commencing the final rule.*

14 “(5) *SOLE PROCEDURE.—*

15 “(A) *IN GENERAL.—No other rulemaking*
16 *procedure under this Act shall apply to regula-*
17 *tions promulgated under this section.*

18 “(B) *RULEMAKING.—Regulations promul-*
19 *gated by the Administrator under this title shall*
20 *comply with section 553 of title 5, United States*
21 *Code (without regard to any reference in that*
22 *section to sections 556 and 557 of that title).*

23 “(6) *NO EFFECT ON OTHER AUTHORITY.—Noth-*
24 *ing in this subsection affects the authority of the Ad-*
25 *ministrator to regulate a chemical substance or mix-*

1 *ture under any other law or any other provision of*
2 *this Act.*

3 “(7) *INTERIM STATEMENT.*—

4 “(A) *APPLICABILITY.*—*This paragraph ap-*
5 *plies if the Administrator has not commenced a*
6 *rulemaking under paragraph (2) by the date*
7 *that is 1 year after the date on which—*

8 “(i) *a decision is made by the Con-*
9 *ference to list a chemical substance or mix-*
10 *ture in Annex A or B of the POPs Conven-*
11 *tion; or*

12 “(ii) *a decision is made by the parties*
13 *to the LRTAP POPs Protocol to list a*
14 *chemical substance or mixture in Annex I*
15 *or II to the LRTAP POPs Protocol.*

16 “(B) *STATEMENT.*—*If the Administrator*
17 *has not commenced a rulemaking as described in*
18 *subparagraph (A), the Administrator shall pub-*
19 *lish annually in the Federal Register a statement*
20 *that—*

21 “(i) *describes the actions taken by the*
22 *Administrator with respect to the listing de-*
23 *cision; and*

24 “(ii) *characterizes actions likely to be*
25 *taken by the Administrator with respect to*

1 *the commencement of a rulemaking under*
2 *paragraph (2).*

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

5 “(1) *IN GENERAL.—If a chemical substance or*
6 *mixture is both a POPS chemical substance or mix-*
7 *ture and a LRTAP POPS chemical substance or mix-*
8 *ture, in the case of a conflict between a provision of*
9 *this section applicable to a POPS chemical substance*
10 *or mixture and a provision of this section applicable*
11 *to a LRTAP POPS chemical substance or mixture, the*
12 *more stringent provision shall apply, as determined*
13 *by the Administrator with the concurrence of the Sec-*
14 *retary of State.*

15 “(2) *APPLICATION.—In the case of chemical sub-*
16 *stance or mixture described in paragraph (1), this*
17 *section shall be applied in such a manner as to en-*
18 *sure that the United States is in compliance with the*
19 *POPs Convention and the LRTAP POPS Protocol*
20 *with respect to the chemical substance or mixture.*

21 **“SEC. 503. NOTICE AND RECORD OF PROHIBITIONS, EXEMP-**
22 **TIONS, DISALLOWANCES, AND OTHER INFOR-**
23 **MATION.**

24 “(a) *IN GENERAL.—The Administrator—*

1 “(1) shall publish in the *Federal Register* timely
2 notice concerning—

3 “(A) the POPs chemical substances and
4 mixtures or the LRTAP POPs chemical sub-
5 stances and mixtures, subject to the prohibitions
6 specified in section 502;

7 “(B) any exemptions from the prohibitions
8 authorized under section 502, including the effec-
9 tive date on which the exemptions are no longer
10 authorized;

11 “(C) in the case of a LRTAP POPs chem-
12 ical substance or mixture, any disallowances of
13 exemptions under section 502(d)(5); and

14 “(D) in the case of a POPs chemical sub-
15 stance or mixture, a list of any importing for-
16 eign states from which the Administrator has re-
17 ceived a nonparty certification under section
18 502(c)(7)(D); and

19 “(2) may include in the notice any other infor-
20 mation that the Administrator determines to be nec-
21 essary to ensure adequate notice of the requirements
22 of—

23 “(A) this section;

24 “(B) the POPs Convention; or

25 “(C) the LRTAP POPs Protocol.

1 “(b) *INTEGRATION WITH FIFRA INFORMATION.*—The
2 Administrator shall—

3 “(1) *maintain a record that integrates the infor-*
4 *mation in the notice published under subsection (a)*
5 *with any information published under section 17(g)*
6 *of the Federal Insecticide, Fungicide and Rodenticide*
7 *Act (7 U.S.C. 1360(e));*

8 “(2) *update the record as necessary; and*

9 “(3) *make the record publicly available.*

10 “(c) *DISCLOSURE OF DATA.*—Any information pro-
11 vided to or otherwise obtained by the Administrator (or any
12 representative of the Administrator) under this title shall
13 be subject to section 14 of this Act.

14 “**SEC. 504. INTERNATIONAL CONVENTIONS AND COOPERA-**
15 **TION IN INTERNATIONAL EFFORTS.**

16 “*In cooperation with the Secretary of State and the*
17 *head of any other appropriate Federal agency, the Adminis-*
18 *trator shall—*

19 “(1) *participate and cooperate in any inter-*
20 *national efforts to develop improved research and reg-*
21 *ulations on chemical substances and mixtures; and*

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

25 “(A) *the LRTAP POPs Protocol;*

1 “(B) the PIC Convention; and

2 “(C) the POPs Convention.

3 **“SEC. 505. EXPORTS.**

4 “(a) *REQUIREMENTS FOR EXPORTS.*—*In the case of*
5 *a chemical substance or mixture identified by the Adminis-*
6 *trator as listed on Annex III of the PIC Convention in a*
7 *notice issued under subsection (d)(3), any person that dis-*
8 *tributes in commerce the chemical substance or mixture for*
9 *export shall comply with any export conditions or restric-*
10 *tions identified by the Administrator in the notice.*

11 “(b) *PRE-EXPORT NOTICES.*—

12 “(1) *IN GENERAL.*—

13 “(A) *REQUIREMENT.*—*In the case of—*

14 “(i) *a chemical substance or mixture*
15 *that the Administrator determines to be*
16 *banned or severely restricted under sub-*
17 *section (d)(1);*

18 “(ii) *a chemical substance or mixture*
19 *identified by the Administrator in a notice*
20 *issued under subsection (d)(3); or*

21 “(iii) *a POPs chemical substance or*
22 *mixture allowed to be exported under para-*
23 *graph (7) or (8) of section 502(c);*

24 *the exporter of the chemical substance or mixture*
25 *shall provide to the Administrator notice of the*

1 *intent of the exporter to export the chemical sub-*
2 *stance or mixture.*

3 “(B) *TIMING OF NOTICE FOR BANNED OR*
4 *SEVERELY RESTRICTED CHEMICAL SUBSTANCES*
5 *OR MIXTURES.—*

6 “(i) *FIRST EXPORT.—In the case of a*
7 *first export that an exporter makes from the*
8 *territory of the United States to each im-*
9 *porting foreign state after the Adminis-*
10 *trator issues a notice under subsection*
11 *(d)(1), the exporter shall provide the notice*
12 *so that the Administrator receives the notice*
13 *not earlier than 30 nor later than 15 cal-*
14 *endar days before the date of export.*

15 “(ii) *SUBSEQUENT EXPORTS.—In the*
16 *case of subsequent exports to the importing*
17 *foreign state in the calendar year subse-*
18 *quent to the notification provided under*
19 *clause (ii), the exporter shall provide the no-*
20 *tice so that the Administrator receives the*
21 *notice not earlier than 30 nor later than 15*
22 *calendar days before the date of the first ex-*
23 *port in each calendar year.*

1 “(C) *TIMING OF PRE-EXPORT NOTICE FOR*
2 *CHEMICAL SUBSTANCES OR MIXTURES LISTED ON*
3 *ANNEX III OF THE PIC CONVENTION.*—

4 “(i) *FIRST EXPORT.*—*In the case of a*
5 *first export that an exporter makes from the*
6 *territory of the United States to each im-*
7 *porting foreign state after the Adminis-*
8 *trator notifies the public under subsection*
9 *(d)(3), the exporter shall provide the notice*
10 *so that the Administrator receives the notice*
11 *not earlier than 30 nor later than 15 cal-*
12 *endar days before the date of export.*

13 “(ii) *SUBSEQUENT EXPORTS.*—*In the*
14 *case of subsequent exports by the exporter to*
15 *the importing foreign state in a calendar*
16 *year subsequent to the notification provided*
17 *under clause (i), the exporter shall provide*
18 *the notice so that the Administrator receives*
19 *the notice not earlier than 30 nor later than*
20 *15 calendar days before the date of the first*
21 *such subsequent export in each calendar*
22 *year.*

23 “(iii) *CHANGED CIRCUMSTANCES MER-*
24 *ITING NEW NOTICE.*—*If conditions or re-*
25 *strictions imposed by the importing foreign*

1 *state change and the Administrator notifies*
2 *the public of the change under subsection*
3 *(d)(3), or if an earlier pre-export notice no*
4 *longer applies, the exporter shall provide the*
5 *notice so that the Administrator receives the*
6 *notice not earlier than 30 nor later than 15*
7 *calendar days before the date of export.*

8 “(D) *TIMING OF PRE-EXPORT NOTICE FOR*
9 *CHEMICAL SUBSTANCES OR MIXTURES ALLOWED*
10 *TO BE EXPORTED UNDER PARAGRAPH (7) OR (8)*
11 *OF SECTION 502(c).—*

12 “(i) *FIRST EXPORT OF THE CALENDAR*
13 *YEAR.—In the case of the first export that*
14 *an exporter makes from the territory of the*
15 *United States to each importing foreign*
16 *state of a chemical substance or mixture ex-*
17 *ported under paragraph (7) or (8) of section*
18 *502(c), the exporter shall provide the notice*
19 *so that the Administrator receives the notice*
20 *not earlier than 30 nor later than 15 cal-*
21 *endar days before the date of the first ex-*
22 *port.*

23 “(ii) *SUBSEQUENT EXPORTS.—In the*
24 *case of subsequent exports by the exporter to*
25 *the importing foreign state in a calendar*

1 *year subsequent to the notification provided*
2 *under clause (i) to the importing foreign*
3 *state, the exporter shall provide the notice so*
4 *that the Administrator receives the notice*
5 *not earlier than 30 nor later than 15 cal-*
6 *endar days before the date of the first such*
7 *subsequent export in each calendar year.*

8 “(iii) *CHANGED CIRCUMSTANCES MER-*
9 *ITING NEW NOTICE.—If the information*
10 *provided in an earlier pre-export notice is*
11 *no longer accurate, the exporter shall pro-*
12 *vide the notice so that the Administrator re-*
13 *ceives the notice not earlier than 30 nor*
14 *later than 15 calendar days before the date*
15 *of export.*

16 “(2) *LATER NOTICES.—Notwithstanding sub-*
17 *paragraphs (B), (C), and (D) of paragraph (1), the*
18 *Administrator may permit an exporter to provide a*
19 *notice under paragraph (1) so that the Administrator*
20 *receives the notice less than 15 days before the date*
21 *of an export if the Administrator determines, based*
22 *on the experience of the Administrator with the notifi-*
23 *cation program, that the Administrator is able to ad-*
24 *minister notice activities in accordance with the PIC*
25 *Convention despite the shortened notice period.*

1 “(3) *CONTENT OF PRE-EXPORT NOTICES.*—

2 “(A) *NOTICES UNDER PARAGRAPH (1)(B).*—

3 *A notice under paragraph (1)(B) shall include—*

4 “(i) *the name and address of the ex-*
5 *porter;*

6 “(ii) *the name and address of the ap-*
7 *propriate designated national authority of*
8 *the United States;*

9 “(iii) *the name and address of the ap-*
10 *propriate designated national authority of*
11 *the importing foreign state, if available;*

12 “(iv) *the name and address of the im-*
13 *porter;*

14 “(v) *the name of the chemical sub-*
15 *stance or mixture for which the notice is re-*
16 *quired;*

17 “(vi) *the expected date of export;*

18 “(vii) *any information relating to the*
19 *foreseen uses of the chemical substance or*
20 *mixture, if known, in the importing foreign*
21 *state;*

22 “(viii) *any information on pre-*
23 *cautionary measures to reduce exposure to,*
24 *and emission of, the chemical substance or*
25 *mixture;*

1 “(ix) any information relating to the
2 concentration of the chemical substance or
3 mixture; and

4 “(x) any other information specified in
5 Annex V to the PIC Convention.

6 “(B) NOTICES UNDER PARAGRAPH (1)(C).—
7 A notice under paragraph (1)(C) shall include—

8 “(i) all of the information required to
9 be included under subparagraph (A);

10 “(ii) any information relating to ex-
11 port conditions or restrictions identified by
12 the Administrator in the notice issued
13 under subsection (d)(3) with respect to the
14 chemical substance or mixture;

15 “(iii) a general description of the man-
16 ner in which the export complies with those
17 conditions; and

18 “(iv) any other information that the
19 Administrator determines to be necessary
20 for effective enforcement of the export condi-
21 tions or restrictions applicable to the chem-
22 ical substance or mixture.

23 “(C) NOTICES UNDER PARAGRAPH (1)(D).—
24 A notice submitted to the Administrator under

25 paragraph (1)(D) shall include—

1 “(i) the name and address of the ex-
2 porter;

3 “(ii) the name and address of the im-
4 porter;

5 “(iii) a specification of the identity of
6 the POPs chemical substance or mixture;

7 “(iv) a general description of how the
8 export complies with the conditions under
9 paragraph (7) or (8) of section 502(c); and

10 “(v) such other information as the Ad-
11 ministrators determines to be necessary for
12 enforcement of the export-related obligations
13 of the POPs Agreement applicable to the
14 chemical substance or mixture.

15 “(4) *PRE-EXPORT NOTICES ACCOMPANYING EACH*
16 *EXPORT.*—An exporter shall ensure that a copy of the
17 most recent applicable pre-export notice accompanies
18 each shipment for export and is available for inspec-
19 tion at the border of—

20 “(A) any chemical substance or mixture
21 that the Administrator has identified under sub-
22 section (d)(3) as being listed on Annex III of the
23 PIC Convention; or

1 “(B) any POPs chemical substance or mix-
2 ture that is exported under paragraph (7) or (8)
3 of section 502(c).

4 “(5) *RETENTION OF PRE-EXPORT NOTICES.*—An
5 exporter required to provide a notice under subpara-
6 graph (C) or (D) of paragraph (1) shall maintain a
7 copy of the notice and other documents used to gen-
8 erate the notice on site and readily available for a pe-
9 riod of not less than 3 years beginning on the date
10 on which the notice is provided.

11 “(c) *LABELING REQUIREMENTS.*—

12 “(1) *IN GENERAL.*—In the case of any chemical
13 substance or mixture that is the subject of a notice
14 issued under paragraph (1) or (3) of subsection (d)
15 and that is manufactured, processed, or distributed in
16 commerce for export, the chemical substance or mix-
17 ture shall, in accordance with the PIC Convention—

18 “(A) bear labeling information relating to
19 risks or hazards to human health or the environ-
20 ment; and

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

24 “(2) *CUSTOM CODES.*—A chemical substance or
25 mixture that is the subject of a notice issued under

1 *subsection (d)(3) and that is distributed or sold for*
2 *export shall be accompanied by shipping documents*
3 *that bear, at a minimum, any appropriate har-*
4 *monized system customs codes assigned by the World*
5 *Customs Organization.*

6 *“(d) NOTICE REQUIREMENTS AND EXEMPTION.—*

7 *“(1) DETERMINATION WHETHER CHEMICAL SUB-*
8 *STANCE OR MIXTURE IS BANNED OR SEVERELY RE-*
9 *STRICTED.—*

10 *“(A) IN GENERAL.—The Administrator,*
11 *with the concurrence of the Secretary of State,*
12 *shall determine whether a chemical substance or*
13 *mixture is banned or severely restricted within*
14 *the United States (as those terms are defined by*
15 *the PIC Convention).*

16 *“(B) NOTICE OF DETERMINATIONS.—Not-*
17 *withstanding any other provision of law, the Ad-*
18 *ministrator shall issue to the Secretariat of the*
19 *PIC Convention and the public a notice of each*
20 *determination under subparagraph (A) that in-*
21 *cludes—*

22 *“(i) in the case of a notice to the Secre-*
23 *tariat of the PIC Convention, the informa-*
24 *tion specified in Annex I to the PIC Con-*
25 *vention; and*

1 “(ii) in the case of a notice to the pub-
2 lic, at a minimum, a summary of that in-
3 formation.

4 “(2) NOTICE TO FOREIGN COUNTRIES.—

5 “(A) IN GENERAL.—Notwithstanding any
6 other provision of law, on receipt of a notice of
7 intent to export under subsection (b)(1)(B), the
8 Administrator shall provide a copy of the notice
9 to the designated national authority of the im-
10 porting foreign state.

11 “(B) NONIDENTIFIED DESIGNATED NA-
12 TIONAL AUTHORITY.—In a case in which a des-
13 ignated national authority has not been identi-
14 fied, the Administrator shall provide the notice
15 of intent to export to any other appropriate offi-
16 cial of the importing foreign state, as identified
17 by the Administrator.

18 “(3) NOTICE TO PUBLIC.—

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

22 “(i) any chemical substance or mixture
23 that is listed on Annex III to the PIC Con-
24 vention; and

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

6 “(B) *TIMING.*—A notice required under sub-
7 paragraph (A) shall be issued not later than 90
8 days after, and any conditions or restrictions de-
9 scribed in subparagraph (A)(ii) shall take effect
10 not later than 180 days after, the date of receipt
11 of a notice from the Secretariat of the PIC Con-
12 vention who—

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

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

17 “(C) *TREATMENT OF CONDITIONS AND RE-*
18 *STRICTIONS.*—A condition or restriction identi-
19 fied by a notice required under subparagraph
20 (A) shall be considered to be an export condition
21 or restriction for the purpose of subsection (a).

22 “(4) *NOTICE OF EXEMPTION.*—The Adminis-
23 trator may issue a notice exempting any chemical
24 substance or mixture from the requirements of sub-
25 sections (a) through (c) and this subsection if the Ad-

1 *administrator determines, with the concurrence of the*
2 *Secretary of State, that the exemption would be con-*
3 *sistent with the PIC Convention.*

4 “(5) *INTEGRATION WITH OTHER NOTICES.—To*
5 *the maximum extent practicable, the Administrator*
6 *shall integrate the information contained in any no-*
7 *tice issued under this subsection into any notice pub-*
8 *lished under—*

9 “(A) *section 12(b);*

10 “(B) *section 502; or*

11 “(C) *section 17(g) of the Federal Insecticide,*
12 *Fungicide, and Rodenticide Act (7 U.S.C.*
13 *1360(g)).*

14 “(e) *REGULATIONS.—The Administrator may promul-*
15 *gate such regulations as the Administrator determines to*
16 *be necessary—*

17 “(1) *to facilitate implementation of this section;*

18 “(2) *to ensure compliance with the PIC Conven-*
19 *tion, the POPs Convention, and the LRTAP POPs*
20 *Protocol; and*

21 “(3) *to allow the pre-export notice requirement*
22 *under this section and any pre-export notice require-*
23 *ment in other provisions of this Act or in any other*
24 *Federal law to be satisfied by a single notice.*

1 “(f) *HARMONIZATION OF POPS CONVENTION AND PIC*
2 *CONVENTION.*—

3 “(1) *IN GENERAL.*—*If the export of a chemical*
4 *substance or mixture is addressed or restricted under*
5 *both section 502 and this section, that section and*
6 *this section shall apply to the chemical substance or*
7 *mixture.*

8 “(2) *CONFLICT.*—*In the case of a conflict be-*
9 *tween section 502 and this section with respect to a*
10 *chemical substance or mixture, the more stringent*
11 *provision shall govern.*

12 “(3) *APPLICATION.*—*With respect to a chemical*
13 *substance or mixture, section 502 and this section*
14 *shall be applied in such a manner as to ensure that*
15 *the United States is in compliance with both the*
16 *POPs Convention and the PIC Convention with re-*
17 *spect to the chemical substance or mixture.*

18 **“SEC. 506. JUDICIAL REVIEW.**

19 “(a) *DEFINITION OF RULEMAKING RECORD.*—*In this*
20 *section, the term ‘rulemaking record’ means—*

21 “(1) *a regulation reviewed under this section;*

22 “(2) *any determination required under section*
23 *502(h);*

1 “(3) any written submission of interested parties
2 relating to the promulgation of a regulation under
3 section 502(h);

4 “(4)(A) in the case of a POPs chemical substance
5 or mixture, the international listing process and Con-
6 ference listing decision; or

7 “(B) in the case of a LRTAP POPs chemical
8 substance or mixture, the LRTAP POPs listing deci-
9 sion;

10 “(5) comments on the proposed regulation; and

11 “(6) any other information that the Adminis-
12 trator—

13 “(A) determines to be relevant to the regula-
14 tion; and

15 “(B) identifies on or before the date of pro-
16 mulgation of the regulation.

17 “(b) JUDICIAL REVIEW.—

18 “(1) IN GENERAL.—Not later than 60 days after
19 the date of promulgation of a regulation under this
20 title, any person may file a petition for judicial re-
21 view of the regulation with—

22 “(A) the United States Court of Appeals for
23 the District of Columbia; or

1 “(B) *the United States court of appeals for*
2 *the circuit in which the person resides or main-*
3 *tains a principal place of business.*

4 “(2) *JURISDICTION.*—*The United States courts*
5 *of appeals shall have exclusive jurisdiction of any ac-*
6 *tion to obtain judicial review (other than in an en-*
7 *forcement proceeding) of a regulation promulgated*
8 *under this title if any United States district court*
9 *would have had jurisdiction of the action but for this*
10 *paragraph.*

11 “(3) *COPIES.*—*The clerk of the court with which*
12 *a petition is filed under this subsection shall submit*
13 *to the Administrator and the Attorney General copies*
14 *of the petition.*

15 “(4) *RULEMAKING PROCEEDINGS.*—*With respect*
16 *to an action to obtain judicial review under this sub-*
17 *section, section 2112 of title 28, United States Code,*
18 *shall apply to—*

19 “(A) *the filing of the record of proceedings*
20 *for a rulemaking on which the Administrator*
21 *based the regulation; and*

22 “(B) *any transfer of proceedings between*
23 *United States courts of appeals.*

1 “(c) *STANDARD OF REVIEW.*—Section 706 of title 5,
2 *United States Code, shall apply to the review of a regula-*
3 *tion under this section.*

4 “(d) *FEEES AND COSTS.*—*The decision of the court in*
5 *an action commenced under subsection (b), or of the Su-*
6 *preme Court of the United States on review of such a deci-*
7 *sion, may include an award of costs relating to the action*
8 *(including reasonable fees for attorneys and expert wit-*
9 *nesses) if the court determines that such an award is appro-*
10 *priate.*

11 “(e) *OTHER REMEDIES.*—*The remedies provided*
12 *under this section shall be in addition to and not in lieu*
13 *of remedies provided under any other provision of law.”.*

14 **SEC. 102. EXPORTS.**

15 *Section 12(a)(1) of the Toxic Substances Control Act*
16 *(15 U.S.C. 2611(a)(1)) is amended by striking “(other than*
17 *section 8)” and inserting “(other than section 8 or title V)”.*

18 **SEC. 103. PROHIBITED ACTS.**

19 *Section 15 of the Toxic Substances Control Act (15*
20 *U.S.C. 2614) is amended to read as follows:*

21 **“SEC. 15. PROHIBITED ACTS.**

22 *“It shall be unlawful for any person to—*

23 *“(1) fail or refuse to comply with—*

24 *“(A) any rule promulgated or order issued*
25 *under section 4;*

1 “(B) any requirement prescribed by section
2 5 or 6;

3 “(C) any rule promulgated or order issued
4 under section 5 or 6;

5 “(D) any requirement of title II;

6 “(E) any rule promulgated or order issued
7 under title II;

8 “(F) any requirement of title V; or

9 “(G) any rule promulgated under title V;

10 “(2) use for commercial purposes a chemical sub-
11 stance or mixture that the person knew or had reason
12 to know was manufactured, processed, or distributed
13 in commerce for export in violation of—

14 “(A) section 5 or 6;

15 “(B) a rule promulgated or order issued
16 under section 5 or 6;

17 “(C) an order issued in a civil action
18 brought under section 5 or 7;

19 “(D) title V; or

20 “(E) a rule promulgated under title V;

21 “(3) fail or refuse to establish or maintain
22 records, submit reports, notices, or other information,
23 or permit access to or copying of records as required
24 by this Act (including regulations promulgated under
25 this Act); or

1 “(4) fail or refuse to permit entry or inspection
2 as required under section 11.”.

3 **SEC. 104. CONFORMING AMENDMENTS.**

4 (a) Section 11 of the Toxic Substances Control Act (15
5 U.S.C. 2610) is amended in subsections (a) and (b) by
6 striking “title IV” each place it appears and inserting “title
7 IV or V”.

8 (b) Section 13(a)(1) of the Toxic Substances Control
9 Act (15 U.S.C. 2612(a)(1)) is amended by striking subpara-
10 graph (B) and inserting the following:

11 “(B) it is offered for entry in violation of—

12 “(i) section 5 or 6;

13 “(ii) title IV or V;

14 “(iii) a rule or order issued under sec-
15 tion 5 or 6 or title IV or V; or

16 “(iv) an order issued in a civil action
17 brought under section 5 or 6 or title IV.”.

18 (c) Section 16 of the Toxic Substances Control Act (15
19 U.S.C. 2615) is amended by striking “section 15 or 409”
20 each place it appears and inserting “section 15, section 409,
21 or title V”.

22 (d) Section 17 of the Toxic Substances Control Act (15
23 U.S.C. 2616) is amended—

24 (1) in subsection (a)—

25 (A) in paragraph (1)—

1 (i) in subparagraph (A), by striking
2 “section 15 or 409,” and inserting “section
3 15, section 409, or title V;”;

4 (ii) by striking subparagraph (B) and
5 inserting the following:

6 “(B) restrain any person from taking any
7 action prohibited by section 5 or 6, or title IV
8 or V (or a rule or order issued under any of
9 those sections or titles);”;

10 (iii) in subparagraph (C), by striking
11 the comma at the end and inserting a semi-
12 colon; and

13 (iv) in subparagraph (D)—

14 (I) by striking “title IV manufac-
15 tured” and inserting “title IV or V
16 manufactured”; and

17 (II) by striking “section 5, 6, or
18 title IV” each place it appears and in-
19 serting “section 5 or 6, or title IV or
20 V”; and

21 (B) in paragraph (2), by inserting “or title
22 V” after “section 15”; and

23 (2) in the first sentence of subsection (b), by in-
24 serting “or V” after “title IV”.

1 (e) Section 18(a)(2) of the Toxic Substances Control
2 Act (15 U.S.C. 2617(a)(2)) is amended—

3 (1) in subparagraph (A), by striking “and” at
4 the end;

5 (2) in subparagraph (B), by striking the period
6 at the end and inserting “; and”; and

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

8 “(C) no State or political subdivision may
9 establish or continue in effect any requirement
10 that is applicable to—

11 “(i) a POPs Chemical substance or
12 mixture or LRTAP POPs chemical sub-
13 stance or mixture (as defined in title V); or

14 “(ii) a chemical substance or mixture
15 that the Administrator regulates under sec-
16 tion 502(h).”.

17 (f) Section 20(a)(1) of the Toxic Substances Control
18 Act (15 U.S.C. 2619(a)(1)) is amended by striking “title
19 II or IV” each place it appears and inserting “title II, IV,
20 or V”.

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108TH CONGRESS
2D SESSION

S. 1486

[Report No. 108-256]

A BILL

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

APRIL 29, 2004

Reported with an amendment