

107TH CONGRESS
2^D SESSION

H. R. 4935

To amend the Toxic Substances Control Act and the Federal Insecticide,
Fungicide, and Rodenticide Act.

IN THE HOUSE OF REPRESENTATIVES

JUNE 13, 2002

Mr. GILLMOR (for himself and Mr. GOODLATTE) (both by request) introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committee on Agriculture, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To amend the Toxic Substances Control Act and the Federal
Insecticide, Fungicide, and Rodenticide Act.

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. AMENDMENT TO THE TOXIC SUBSTANCES CON-**
4 **TROL ACT.**

5 (a) AMENDMENT OF SECTION 3.—Section 3 of the
6 Toxic Substances Control Act (15 U.S.C. 2602) is amend-
7 ed by adding at the end the following paragraphs:

1 “(15) The term ‘POPs Convention’ means the Stock-
2 holm Convention on Persistent Organic Pollutants to
3 which the United States is a Party.

4 “(16) The terms ‘Annex A’ means Annex A to the
5 POPs Convention.

6 “(17) The terms ‘Annex B’ means Annex B to the
7 POPs Convention.

8 “(18) The terms ‘Annex C’ means Annex C to the
9 POPs Convention.

10 “(19) The terms ‘Annex D’ means Annex D to the
11 POPs Convention.

12 “(20) The terms ‘Annex E’ means Annex E to the
13 POPs Convention.

14 “(21) The terms ‘Annex F’ means Annex F to the
15 POPs Convention.

16 “(22) The term ‘POPs Chemical Substance or Mix-
17 ture’ means any chemical substance or mixture that is list-
18 ed on Annex A or Annex B for which any applicable provi-
19 sion of the POPs Convention has entered into force for
20 the United States pursuant to Article 22, paragraph 4 of
21 the POPs Convention.

22 “(23) The term ‘POPRC’ means the Persistent Or-
23 ganic Pollutant Review Committee established pursuant to
24 Article 19, paragraph 6 of the POPs Convention.

1 “(24) The term ‘COP’ means the Conference of the
2 Parties established by Article 19, paragraph 1 of the
3 POPs Convention.

4 “(25) The term ‘LRTAP POPs Protocol’ means the
5 Protocol to the 1979 Convention on Long-Range
6 Transboundary Air Pollution on Persistent Organic Pol-
7 lutants to which the United States is a Party.

8 “(26) The term ‘Annex I’ means Annex I to the
9 LRTAP POPs Protocol.

10 “(27) The term ‘Annex II’ means Annex II to the
11 LRTAP POPs Protocol.

12 “(28) The term ‘Annex III’ means Annex III to the
13 LRTAP POPs Protocol.

14 “(29) The term ‘LRTAP POPs Chemical Substance
15 or Mixture’ means any chemical substance or mixture that
16 is listed on Annex I or Annex II for which any applicable
17 provision in the LRTAP POPs Protocol has entered into
18 force for the United States pursuant to Article 14, para-
19 graph 3 of the LRTAP POPs Protocol.

20 “(30) The term ‘Executive Body’ means the Execu-
21 tive Body established by Article X of the 1979 Convention
22 on Long-Range Transboundary Air Pollution.

23 “(31) The term ‘PIC Convention’ means the Conven-
24 tion on the Prior Informed Consent Procedure for Certain

1 Hazardous Chemicals and Pesticides in International
2 Trade to which the United States is a Party.

3 “(32) The term ‘designated national authority’
4 means the authority or authorities that a government has
5 designated in a notification to the PIC Convention Secre-
6 tariat in accordance with the PIC Convention.”.

7 (b) AMENDMENT OF SECTION 6.—Section 6 of the
8 Toxic Substances Control Act (15 U.S.C. 2605) is amend-
9 ed by adding at the end the following subsections:

10 “(f) POPS CONVENTION.—

11 “(1) PROHIBITIONS.—Notwithstanding any
12 other provision of law, except as provided in para-
13 graph (2) of this subsection and subsection (h) of
14 this section and consistent with the POPs Conven-
15 tion, all manufacture, processing, distribution in
16 commerce, use, or disposal of the following POPs
17 Chemical Substances or Mixtures is prohibited:
18 Aldrin, Chlordane, Dieldrin, Endrin, Heptachlor,
19 Hexachlorobenzene, Mirex, Toxaphene, poly-
20 chlorinated biphenyls (PCBs), and DDT.

21 “(2) EXEMPTIONS.—To the extent consistent
22 with the POPs Convention, the prohibitions in para-
23 graph (1) of this subsection shall not apply to any
24 of the following:

1 “(A) Any quantities of a POPs Chemical
2 Substance or Mixture occurring as uninten-
3 tional trace contaminants in products and arti-
4 cles.

5 “(B) Any quantities of a POPs Chemical
6 Substance or Mixture to be used for laboratory
7 scale research or as a reference standard.

8 “(C) Any quantities of a POPs Chemical
9 Substance or Mixture occurring as constituents
10 of articles (except to PCB articles, which can
11 continue to be used in accordance with Annex
12 A and Article 3, paragraph 6 of the POPs Con-
13 vention), provided that (i) the articles were
14 manufactured or already in use before or on the
15 date of entry into force of the obligation rel-
16 evant to that chemical substance or mixture,
17 and (ii) the Administrator has met any applica-
18 ble requirements of the POPs Convention to no-
19 tify the Secretariat of the POPs Convention re-
20 garding such articles.

21 “(D) Any quantities of a POPs Chemical
22 Substance or Mixture manufactured and used
23 as a closed-system site-limited intermediate if,
24 prior to the initiation of such manufacture or

1 use under the POPs Convention, and every 10
2 years thereafter—

3 “(i) any person wishing to invoke the
4 exemption has provided the Administrator
5 (I) information on the annual total quan-
6 tities of the POPs Chemical Substances or
7 Mixture anticipated to be manufactured or
8 used or a reasonable estimate of such
9 quantities, and (II) information regarding
10 the nature of the closed-system site-limited
11 process, including the amount of any non-
12 transformed and unintentional trace con-
13 tamination of the POPs Chemical Sub-
14 stance or Mixture starting material in the
15 final product; and

16 “(ii) notwithstanding any other provi-
17 sion of law, the Administrator has deter-
18 mined, with the concurrence of the Sec-
19 retary of State, that the provided informa-
20 tion is complete and sufficient and has
21 transmitted such information to the Secre-
22 tariat of the POPs Convention.

23 If, at the termination of any 10-year exemption
24 period, the United States is no longer allowed
25 to take advantage of the closed-system site-lim-

1 ited intermediate exemption for a POPs Chem-
2 ical Substance or Mixture under the POPs Con-
3 vention, it shall be unlawful for any person to
4 continue to manufacture or use the POPs
5 Chemical Substance or Mixture as a closed-sys-
6 tem site limited intermediate.

7 “(E) Any PCB materials as described in
8 Part II of Annex A so long as such PCB mate-
9 rials are handled in accordance with the POPs
10 Convention and in particular with Annex A.

11 “(F) Any distribution in commerce for ex-
12 port of any POPs Chemical Substance or Mix-
13 ture with an Annex A production or use specific
14 exemption in effect or with an Annex B produc-
15 tion or use specific exemption or acceptable
16 purpose in effect, provided that the chemical
17 substance or mixture complies with one of the
18 following export conditions:

19 “(i) The chemical substance or mix-
20 ture is exported for the purpose of environ-
21 mentally sound disposal as set forth in
22 paragraph 1(d) of Article 6 of the POPs
23 Convention.

24 “(ii) The chemical substance or mix-
25 ture is exported to a Party to the POPs

1 Convention that is permitted to use that
2 chemical substance or mixture under
3 Annex A or Annex B.

4 “(iii) The chemical substance or mix-
5 ture is exported to an importing foreign
6 state that is not a party to the POPs Con-
7 vention for that chemical substance or mix-
8 ture and that has provided an annual cer-
9 tification to the Administrator. This an-
10 nual certification, consistent with Article 3,
11 paragraph 2(b)(iii) of the POPs Conven-
12 tion, shall specify the intended use of the
13 chemical substance or mixture and state
14 that, with respect to that chemical sub-
15 stance or mixture, the importing foreign
16 state that is not a party is committed to:
17 (I) protecting human health and the envi-
18 ronment by taking the necessary measures
19 to minimize or prevent releases; (II) com-
20 plying with provisions of paragraph 1 of
21 Article 6 of the POPs Convention; and
22 (III) complying, where appropriate, with
23 the provisions of paragraph 2 of Part II of
24 Annex B. The Administrator shall submit
25 a copy of each such annual certification to

1 the Secretariat of the POPs Convention
2 within 60 days of receiving it.

3 Any determination by the Administrator that
4 one or more of the conditions set forth in this
5 subparagraph is not met shall be made in co-
6 operation with other interested Federal agen-
7 cies.

8 “(G) Any distribution in commerce for ex-
9 port only for the purpose of environmentally
10 sound disposal as set forth in paragraph 1(d) of
11 Article 6 of the POPs Convention, of a POPs
12 Chemical Substance or Mixture listed on Annex
13 A for which no production or use specific ex-
14 emptions remain in effect for any Party to the
15 POPs Convention.

16 “(H) Any distribution in commerce of
17 quantities of a POPs Chemical Substance or
18 Mixture imported for the purpose of environ-
19 mentally sound disposal as set forth in para-
20 graph 1(d) of Article 6 of the POPs Conven-
21 tion.

22 “(I) Any quantities of a POPs Chemical
23 Substance or Mixture, including products or ar-
24 ticles consisting of, containing or contaminated
25 with a POPs Chemical Substance or Mixture,

1 that have become wastes and, upon becoming
2 wastes, are managed in a manner consistent
3 with the Article 6 of the POPs Convention.

4 Nothing in this paragraph shall allow manufacture,
5 processing, distribution in commerce, use, or dis-
6 posal of a POPs Chemical Substance or Mixture
7 that is not otherwise allowed under domestic law.

8 “(3) CERTIFICATION STATEMENT ACCOM-
9 PANYING POPS CHEMICAL SUBSTANCES OR MIX-
10 TURES.—POPs Chemical Substances or Mixtures
11 shall be accompanied by a Certification Statement
12 when distributed in commerce under paragraph
13 (2)(B), (2)(E), (2)(F), (2)(G), (2)(H) or (2)(I) of
14 this subsection or any combination of the foregoing.
15 This Certification Statement must be prepared by
16 the manufacturer or processor of the substance or
17 mixture. If there is no Certification Statement ac-
18 companying the substance or mixture, a Certifi-
19 cation Statement meeting the requirements of this
20 paragraph shall be prepared by the person who dis-
21 tributes the substance or mixture in commerce and
22 shall accompany the substance or mixture when it is
23 distributed in commerce. Such Certification State-
24 ment shall include the amount and identity of the
25 chemical substance or mixture, the basis for applica-

1 tion of the enumerated provision(s), and any other
2 information the Administrator determines, pursuant
3 to notice and comment rulemaking, is necessary for
4 effective enforcement of this provision. Any person
5 who distributes in commerce the substance or mix-
6 ture shall ensure that the Certification Statement
7 accompanies the substance or mixture when it is dis-
8 tributed in commerce, and that the distribution in
9 commerce is consistent with the Certification State-
10 ment. A copy of the Certification Statement shall be
11 maintained by the person preparing such Certifi-
12 cation Statement for 3 years from the date the Cer-
13 tification Statement is prepared. The Administrator
14 may promulgate such rules, as necessary, to facili-
15 tate implementation of this provision, to harmonize
16 this certification requirement with other certification
17 requirements in this Act so as to avoid multiple cer-
18 tification statements accompanying the same chem-
19 ical, and to ensure compliance with the POPs Con-
20 vention.

21 “(g) LRTAP POPs PROTOCOL.—

22 “(1) PROHIBITIONS.—Notwithstanding any
23 other provision of law, except as provided in sub-
24 section (g)(2) or subsection (h) of this section and
25 consistent with the LRTAP POPs Protocol, all man-

1 manufacture, processing, distribution in commerce and
2 use of the following LRTAP POPs Chemical Sub-
3 stances or Mixtures is prohibited: Aldrin, Chlordane,
4 Dieldrin, Endrin, Heptachlor, Hexachlorobenzene,
5 Mirex, Toxaphene, DDT, PCBs, Chlordecone,
6 Hexabromobiphenyl, and HCH.

7 “(2) EXEMPTIONS.—(A) To the extent con-
8 sistent with the LRTAP POPs Protocol, the manu-
9 facture, processing, distribution in commerce or use
10 prohibitions in paragraph (1) of this subsection shall
11 not apply to any of the following:

12 “(i) Quantities of a LRTAP POPs Chem-
13 ical Substance or Mixture to be used for labora-
14 tory scale research or as a reference standard.

15 “(ii) Quantities of a LRTAP POPs Chem-
16 ical Substance or Mixture occurring as contami-
17 nants in products.

18 “(iii) Quantities of a LRTAP POPs Chem-
19 ical Substance or Mixture in an article manu-
20 factured or in use on or before the entry into
21 force of any obligation in the LRTAP POPs
22 Protocol relevant to that LRTAP POPs Chem-
23 ical Substance or Mixture.

24 “(iv) Quantities of a LRTAP POPs Chem-
25 ical Substance or Mixture when occurring as

1 site limited chemical intermediates in the manu-
2 facture of one or more different substances and
3 that are thus chemically transformed.

4 “(v) Quantities of HCH so long as any
5 production and use complies with the restric-
6 tions and conditions specified for HCH in
7 Annex II of the LRTAP POPs Protocol.

8 “(vi) Quantities of a LRTAP POPs Chem-
9 ical Substance or Mixture that have become
10 wastes and that, upon becoming wastes, are dis-
11 posed of in an environmentally sound manner in
12 accordance with paragraph 1(b) of the LRTAP
13 POPs Protocol.

14 “(vii) Any PCB materials as described in
15 Annex II so long as such PCB materials are
16 handled in accordance with the LRTAP POPs
17 Protocol and in particular with Annex II.

18 “(B) The Administrator, with the concurrence
19 of the Secretary of State, may grant an exemption
20 from the prohibitions in paragraph (1) that is con-
21 sistent with exemptions allowed under Article 4,
22 paragraph 2 of the LRTAP POPs Protocol. In addi-
23 tion, any person may petition the Administrator for
24 an exemption from the prohibitions in paragraph (1)
25 that is consistent with exemptions allowed under Ar-

1 title 4, paragraph 2 of the LRTAP POPs. Any such
2 petition shall, at a minimum, contain information re-
3 lated to each finding, if any, that the Administrator
4 shall make according to the terms of the LRTAP
5 POPs Protocol before granting the exemption, and
6 any additional information, if any, that the Adminis-
7 trator is required to provide to the Secretariat of the
8 LRTAP POPs Protocol regarding a granted exemp-
9 tion. The Administrator, with the concurrence of the
10 Secretary of State, shall grant the petition with con-
11 ditions or limitations necessary to meet any require-
12 ment of the LRTAP POPs Protocol or any other
13 provision of law, or deny the petition. The Adminis-
14 trator may grant an exemption only to the extent
15 that it is allowed for the United States under, and
16 is otherwise consistent with, the terms of the
17 LRTAP POPs Protocol. Notwithstanding any other
18 provision of law, if the Administrator grants such an
19 exemption, the Administrator, within 90 days of
20 granting the exemption, shall provide the Secretariat
21 of the LRTAP POPs Protocol with the information
22 specified in paragraph 3 of Article 4 of the LRTAP
23 POPs Protocol. If, after an exemption has been
24 granted under this subparagraph, the exemption is
25 no longer allowed for the United States under the

1 LRTAP POPs Protocol, it shall be unlawful for any
2 person to continue to distribute, sell, produce, or
3 use, a LRTAP POPs Chemical Substance or Mix-
4 ture in the manner allowed by the exemption.

5 Nothing in this paragraph shall allow manufacture,
6 processing, distribution in commerce or use of a
7 LRTAP POPs Chemical Substance or Mixture that
8 is not otherwise allowed under domestic law.

9 “(3) CERTIFICATION STATEMENT ACCOM-
10 PANYING LRTAP POPS CHEMICAL SUBSTANCES OR
11 MIXTURES.—LRTAP POPs Chemical Substances or
12 Mixtures shall be accompanied by a Certification
13 Statement when distributed in commerce under sub-
14 paragraph (A)(i), (A)(vi), (A)(vii) or (B) of para-
15 graph (2) of this subsection. This Certification
16 Statement shall be prepared by the manufacturer or
17 processor of the substance or mixture. If there is no
18 Certification Statement accompanying the substance
19 or mixture, a Certification Statement meeting the
20 requirements of this paragraph shall be prepared by
21 any person who distributes the substance or mixture
22 in commerce and shall accompany the substance or
23 mixture when it is distributed in commerce. Such
24 Certification Statement shall include the amount
25 and identity of the chemical substance or mixture,

1 the basis for application of the enumerated provi-
2 sion(s), and any other information the Administrator
3 determines, pursuant to notice and comment rule-
4 making, is necessary for effective enforcement of
5 this provision. Any person who distributes in com-
6 merce the substance or mixture shall ensure that the
7 Certification Statement accompanies the substance
8 or mixture when it is distributed in commerce, and
9 that the distribution in commerce is consistent with
10 the Certification Statement. A copy of the Certifi-
11 cation Statement shall be maintained by the person
12 preparing such Certification Statement for 3 years
13 from the date the Certification Statement is pre-
14 pared. The Administrator may promulgate such
15 rules, as necessary, to facilitate implementation of
16 this provision, to harmonize this certification re-
17 quirement with other certification requirements in
18 this Act so as to avoid multiple certification state-
19 ments accompanying the same chemical, and to en-
20 sure compliance with the LRTAP POPs Protocol.

21 “(h) HARMONIZATION OF SUBSECTIONS (f) AND
22 (g).—If a chemical substance or mixture is both a POPs
23 Chemical Substance or Mixture and a LRTAP POPs
24 Chemical Substance or Mixture, the provisions in both
25 subsection (f) and subsection (g) of this section shall apply

1 to that chemical substance or mixture. In the case of con-
2 flict between the provisions in subsection (f) and sub-
3 section (g) for that chemical substance or mixture, the
4 more stringent provision shall govern. In any case, these
5 provisions shall be interpreted in a manner such that the
6 United States is in compliance with both the POPs Con-
7 vention and the LRTAP POPs Protocol for that chemical
8 substance or mixture.

9 “(i) NOTICE AND RECORD OF PROHIBITIONS, EX-
10 EMPTIONS, AND OTHER INFORMATION.—The Adminis-
11 trator, in cooperation with the Secretary of State, shall
12 publish in the Federal Register timely notice regarding—

13 “(1) the POPs Chemical Substances and Mix-
14 tures subject to the prohibitions in this section, any
15 exemptions from the prohibitions allowed under this
16 section, including disallowances for any exemptions,
17 and a list of importing foreign states that are not
18 party to the POPs Convention from which it has re-
19 ceived annual certifications pursuant to section
20 6(f)(2)(G)(iii) of this Act; and

21 “(2) LRTAP POPs Chemical Substances and
22 Mixtures subject to the prohibitions in this section,
23 any exemptions from the prohibitions allowed under
24 this section, including disallowances for any exemp-
25 tions.

1 The Administrator may include in this notice any other
2 information that the Administrator deems necessary for
3 ensuring adequate notice of the requirements of this sec-
4 tion, the POPs Convention, or the LRTAP POPs Pro-
5 tocol. The Administrator shall maintain a record that inte-
6 grates the information in such notice with any information
7 published under section 17(e) of Federal Insecticide, Fun-
8 gicide and Rodenticide Act, update such record as needed,
9 and make such record publically available.”.

10 (c) AMENDMENT OF SECTION 8.—Section 8 of the
11 Toxic Substances Control Act (15 U.S.C. 2607) is amend-
12 ed by adding at the end the following subsection:

13 “(g) INFORMATION COLLECTION UNDER THE POPs
14 CONVENTION.—(1) Upon a determination by the POPRC
15 that a proposal for listing a chemical substance or mixture
16 on Annex A, Annex B or Annex C meets the screening
17 criteria specified in Annex D, the Administrator may pub-
18 lish a notice in the Federal Register identifying the chem-
19 ical substance or mixture and summarizing the POPRC’s
20 determination. Within 60 days after publication of any
21 such Federal Register notice, any person manufacturing,
22 processing, or distributing in commerce a chemical sub-
23 stance or mixture that is the subject of such notice shall,
24 or any other interested person may, provide to the Admin-
25 istrator the following existing information, known to or

1 reasonably ascertainable to such person, on the chemical
2 substance or mixture: (A) annual quantity manufactured
3 and at which locations; (B) uses; (C) annual quantity en-
4 tering each environmental medium; and (D) other infor-
5 mation consistent with the information specified in Annex
6 D, paragraph 1, and Annex E, paragraphs (b) through
7 (e) of the POPs Convention. Any person manufacturing,
8 processing, or distributing in commerce a chemical sub-
9 stance or mixture that is the subject of such notice shall
10 update such information on an annual basis thereafter
11 until such time as the COP decides not to list the chemical
12 substance or mixture on any Annex to the POPs Conven-
13 tion or the Administrator, with the concurrence of the Sec-
14 retary of State, determines that such reporting is no
15 longer necessary. In addition, within 60 days after publi-
16 cation of the Federal Register notice, any interested per-
17 son also may provide the Administrator any arguments or
18 information associated with the risks or benefits of use
19 of the chemical substance or mixture that, in the opinion
20 of the interested person, support a determination either
21 that the determination by the POPRC is correct or incor-
22 rect or that some or all manufacture, processing, distribu-
23 tion in commerce, use, or disposal of the chemical sub-
24 stance or mixture in the United States does or does not
25 present an unreasonable risk of injury to health or the

1 environment. Based upon information received under this
2 paragraph and on any other relevant information available
3 to the Administrator, the Administrator shall, within 180
4 days after publication of the Federal Register notice, sub-
5 mit to the Secretary of State a report that contains, at
6 a minimum, information on the production and uses in
7 the United States of the chemical substance or mixture
8 and an assessment of the benefits and risks associated
9 with the production and uses in the United States of the
10 chemical substance or mixture.

11 “(2) Following a decision by the POPRC pursuant
12 to Article 8.7 of the POPs Convention that a chemical
13 substance or mixture shall proceed in the POPs Conven-
14 tion listing process, the Administrator may publish a no-
15 tice in the Federal Register identifying the chemical sub-
16 stance or mixture and summarizing the POPRC’s deci-
17 sion. Within 60 days after publication of any such Federal
18 Register notice, any person manufacturing, processing, or
19 distributing in commerce a chemical substance or mixture
20 that is the subject of such notice shall, and any other in-
21 terested person may, provide, consistent with the informa-
22 tion needs in Annex F, any information which the person
23 believes is relevant to the risk management evaluation in
24 Article 8.7 of the POPs Convention, a decision by the COP
25 in Article 8.9 of the POPs Convention, or a determination

1 that some or all of the manufacturing, processing, dis-
2 tribution in commerce, use, or disposal of the chemical
3 substance or mixture in the United States does or does
4 not present an unreasonable risk of injury to health or
5 the environment. At this time, any person manufacturing,
6 processing, or distributing in commerce a chemical sub-
7 stance or mixture that is the subject of such notice shall
8 also provide information on articles in use consisting of,
9 containing, or contaminated with the chemical substance,
10 or mixture.

11 “(3) Any information requirements imposed under
12 this subsection shall not apply to any person who has ac-
13 tual knowledge that the Administrator has been ade-
14 quately informed of any of the required information. If
15 a particular argument or piece of information is not sub-
16 mitted in a timely manner following publication of a notice
17 in accordance with this subsection, no person may raise
18 such argument or submit such information to be part of
19 the record of any subsequent rulemaking under section 6
20 of this Act to regulate the chemical substance or mixture
21 unless the person seeking to raise the argument or submit
22 the information demonstrates that the argument or infor-
23 mation could not reasonably have been made available to
24 the Administrator earlier in accordance with the times set
25 forth in this subsection.

1 “(h) INFORMATION COLLECTION UNDER THE
2 LRTAP POPs PROTOCOL.—(1) Upon a submission of a
3 risk profile to the Executive Body in support of a proposed
4 amendment to list a chemical substance or mixture in
5 Annex I, Annex II, or Annex III, the Administrator may
6 publish a notice in the Federal Register identifying the
7 chemical substance or mixture and summarizing the risk
8 profile. Within 60 days after publication of any such Fed-
9 eral Register notice, any person manufacturing, proc-
10 essing, or distributing in commerce a chemical substance
11 or mixture that is the subject of such notice shall, and
12 any other interested person may, provide to the Adminis-
13 trator, the following existing information, known to or rea-
14 sonably ascertainable to such person, on the chemical sub-
15 stance or mixture: (A) potential for long-range
16 transboundary atmospheric transport; (B) toxicity; (C)
17 persistence, including biotic degradation processes and
18 rates and degradation products; (D) bioaccumulation, in-
19 cluding bioavailability; (E) annual quantity manufactured
20 and at which locations; (F) uses; (G) annual quantity en-
21 tering each environmental medium; (H) environmental
22 monitoring data; (I) information on alternatives to the ex-
23 isting uses for the chemical substance or mixture and the
24 alternatives’ efficacy; (J) information on any known ad-
25 verse environmental or human health effects associated

1 with the alternatives; (K) information on process changes,
2 control technologies, operating practices and other pollu-
3 tion prevention techniques which can be used to reduce
4 the emissions of the chemical substance or mixture, and
5 their applicability and effectiveness; and (L) information
6 on non-monetary costs and benefits as well as the quantifi-
7 able costs and benefits associated with the use of these
8 alternatives and/or techniques. Any person manufacturing,
9 processing, or distributing in commerce a chemical sub-
10 stance or mixture that is the subject of such notice shall
11 update such information on an annual basis thereafter
12 until such time as the Parties to the LRTAP POPs Pro-
13 tocol decide not to list the chemical substance or mixture
14 on any Annex to the LRTAP POPs Protocol or the Ad-
15 ministrator, with the concurrence of the Secretary of
16 State, determines that such reporting is no longer nec-
17 essary. In addition, within 60 days after publication of the
18 federal register notice, any interested person also may pro-
19 vide the Administrator any arguments or information as-
20 sociated with the risks or benefits of use of the chemical
21 substance or mixture that, in the opinion of the interested
22 person, support a determination either that the risk profile
23 is correct or incorrect or that some or all manufacturing,
24 processing, distribution in commerce, use, or disposal of
25 the chemical substance or mixture in the United States

1 does or does not present an unreasonable risk of injury
2 to health or the environment. Based upon information re-
3 ceived under this paragraph and on any other relevant in-
4 formation available to the Administrator, the Adminis-
5 trator shall, within 180 days after publication of the Fed-
6 eral Register notice, submit to the Secretary of State a
7 report that contains, at a minimum, information on the
8 production and uses in the United States of the chemical
9 substance or mixture and an assessment of the benefits
10 and risks associated with the production and uses in the
11 United States of the chemical substance or mixture.

12 “(2) Any information requirements imposed under
13 this subsection shall not apply to any person who has ac-
14 tual knowledge that the Administrator has been ade-
15 quately informed of any of the information required by
16 this subsection. If a particular argument or piece of infor-
17 mation is not submitted in a timely manner following pub-
18 lication of a notice in accordance with this subsection, no
19 person may raise such argument or submit such informa-
20 tion to be part of the record of any subsequent rulemaking
21 under section 6 of this Act to regulate the chemical sub-
22 stance or mixture unless the person seeking to raise the
23 argument or submit the information demonstrates that the
24 information could not reasonably have been made available

1 to the Administrator earlier in accordance with the times
2 set forth in this subsection.”.

3 (d) AMENDMENT OF SECTION 9.—Section 9 of the
4 Toxic Substances Control Act (15 U.S.C. 2608) is amend-
5 ed by adding at the end the following subsection:

6 “(e) INTERNATIONAL COOPERATION.—The Adminis-
7 trator shall, in cooperation with the Department of State
8 and any other appropriate Federal agency, participate and
9 cooperate in any international efforts to develop improved
10 research and regulations on chemical substances and mix-
11 tures, and should pursue opportunities to participate in
12 technical cooperation and capacity building activities de-
13 signed to support implementation of the POPs Conven-
14 tion, the LRTAP POPs Protocol, and the PIC Conven-
15 tion.”.

16 (e) AMENDMENT OF SECTION 12.—Section 12 of the
17 Toxic Substances Control Act (15 U.S.C. 2611) is
18 amended—

19 (1) in subsection (a)(1), in the matter pre-
20 ceding subparagraph (A), by striking “Except” and
21 all that follows through “shall not apply” and insert-
22 ing the following: “Except as provided in paragraph
23 (2) and subsections (b), (c), (d), (e), (f), and (g) of
24 this section, this Act (other than sections 6(f), 6(g)
25 and 8 of this title) shall not apply”; and

1 (2) by adding at the end the following sub-
2 sections:

3 “(c) PROHIBITION.—No person may manufacture,
4 process or distribute in commerce, for export from the
5 United States, any chemical substance or mixture identi-
6 fied by Administrator in a notice issued under section
7 12(f)(3) if such chemical substance or mixture fails to
8 comply with applicable export conditions or restrictions as
9 identified by Administrator in such notice. Any person
10 who manufactures, processes or distributes in commerce,
11 for export from the United States, a chemical substance
12 or mixture that is the subject of a notice issued under
13 section 12(f)(3) shall certify that such chemical substance
14 or mixture complies with the applicable export conditions
15 or restrictions. Such certification statement shall include
16 identification of such chemical substance or mixture man-
17 ufactured, processed or distributed in commerce, for ex-
18 port from the United States, the foreign state to which
19 such chemical substance or mixture is intended for export,
20 the export conditions or restrictions identified by the Ad-
21 ministrator in its notice, a description of how the chemical
22 substance or mixture complies with such conditions or re-
23 strictions, and any other information deemed necessary by
24 the Administrator for effective enforcement of the export
25 conditions or restrictions applicable to such chemical sub-

1 stance or mixture. The certification statement shall be in-
2 cluded among the shipping documents for such chemical
3 substance or mixture and shall accompany such chemical
4 substance or mixture. A copy of such certification shall
5 be retained for 3 years by any person required to certify
6 compliance with such export conditions or restrictions.
7 The Administrator may promulgate such rules, as nec-
8 essary, to facilitate implementation of this subsection, to
9 harmonize this certification requirement with other certifi-
10 cation requirements in this Act so as to avoid multiple cer-
11 tification statements accompanying the same chemical,
12 and to ensure compliance with the PIC Convention.

13 “(d) EXPORT NOTICE.—If any person intends to ex-
14 port any chemical substance or mixture determined by the
15 Administrator to be banned or severely restricted under
16 subsection (f)(1), such person shall notify the Adminis-
17 trator of its intent to export such chemical substance or
18 mixture. Notice of intent to export shall be received by
19 the Administrator at least 15 days prior to the first export
20 (but no earlier than 30 days prior to the first export) from
21 the territory of the United States to each importing for-
22 eign state occurring after the Administrator issues a no-
23 tice of its determination under subsection (f)(1) and,
24 thereafter, prior to the first such export to each importing
25 foreign state in each calendar year. Notwithstanding the

1 foregoing, the Administrator may require that notices of
2 intent to export be received less than 15 days prior to the
3 first export and/or thereafter prior to the first export in
4 each calendar year if it determines, based on its experience
5 with this notification program, that it can operate the no-
6 tification program consistent with the PIC Convention
7 with a shorter notice period. Notices of intent to export
8 shall include: the name and address of the exporter; the
9 name and address of the relevant designated national au-
10 thority of the United States; the name and address of the
11 relevant designated national authority of the importing
12 foreign state, where available; the name and address of
13 the importer; the name of the chemical substance or mix-
14 ture; the expected date of export; the foreseen uses as a
15 chemical substance or mixture, if known, in the importing
16 foreign state; any information on precautionary measures
17 to reduce exposure to, and emission of, the chemical sub-
18 stance or mixture; the concentration of the chemical sub-
19 stance or mixture; and any other information otherwise
20 specified in Annex V of the PIC Convention.

21 “(e) LABELS.—Any chemical substance or mixture
22 that is the subject of a notice issued under subsections
23 (f)(1) or (f)(3) and that is manufactured, processed or dis-
24 tributed in commerce, for export from the United States,
25 shall, consistent with the provisions of the PIC Conven-

1 tion, bear labeling information on any significant risks
2 and/or hazards to human health or the environment and
3 be accompanied by shipping documents that include any
4 relevant safety data sheets on the chemical substance or
5 mixture. In addition, any chemical substance or mixture
6 that is the subject of a notice issued under subsection
7 (f)(3) and that is exported or intended for export, shall
8 be accompanied by shipping documents that, at a min-
9 imum, bear any relevant harmonized system customs
10 codes assigned by the World Customs Organization.

11 “(f) NOTICE REQUIREMENTS AND EXEMPTIONS.—

12 (1) The Administrator shall, with the concurrence of the
13 Secretary of State, determine whether a chemical sub-
14 stance or mixture is banned or severely restricted within
15 the United States as those terms are defined by the PIC
16 Convention. Notwithstanding any other provision of law,
17 the Administrator shall issue a notice to the Secretariat
18 of the PIC Convention and to the public of these deter-
19 minations. Notice to the Secretariat shall include the in-
20 formation specified in Annex I of the PIC Convention and
21 notice to the public shall include, at a minimum, a sum-
22 mary of the same information.

23 “(2) Notwithstanding any other provision of law, the
24 Administrator shall, upon receipt, provide each notice of
25 intent to export received under subsection (d) to the des-

1 designated national authority of the importing foreign state.
2 Where a designated national authority has not been identi-
3 fied, the Administrator shall provide such notice of intent
4 to export to any other appropriate official of the importing
5 foreign state as identified by the Administrator.

6 “(3) The Administrator shall, with the concurrence
7 of the Secretary of State, issue a notice informing the pub-
8 lic of chemical substances or mixtures that are listed on
9 Annex III of the PIC Convention and of any importing
10 foreign state’s conditions or restrictions applicable to the
11 import of each chemical substance or mixture consistent
12 with the PIC Convention. The conditions or restrictions
13 identified by the Administrator in such notice constitute
14 export conditions or restrictions for purposes of section
15 12(c). Such notice(s) shall be issued within 3 months of,
16 and the conditions or restrictions made effective no later
17 than 6 months from, receipt of notice(s) from the Secre-
18 tariat of the PIC Convention who transmits Parties’ im-
19 port decisions or failure to provide import decisions.

20 “(4) The Administrator may issue a notice exempting
21 any chemical substance or mixture from requirements of
22 subsections (c), (d), (e) or (f) if the Administrator deter-
23 mines, with the concurrence of the Secretary of State, that
24 such exemption would be consistent with the PIC Conven-
25 tion.

1 “(5) To the extent appropriate, the Administrator
2 shall integrate the information contained in any notice
3 issued under this section into the notice published pursu-
4 ant to section 6(i) of this Act and sections 17(d)(5) and
5 of the Federal Insecticide, Fungicide, and Rodenticide
6 Act.

7 “(g) HARMONIZATION WITH SECTION 6(f).—If ex-
8 port of a chemical substance or mixture is addressed or
9 restricted under both sections 6(f) and this section, the
10 provisions in both section 6(f) and this section shall apply
11 to that chemical substance or mixture. In the case of a
12 conflict between provisions in section 6(f) and this section
13 for that chemical substance or mixture, the more stringent
14 provision shall govern. In any case, these provisions shall
15 be interpreted in a manner such that the United States
16 is in compliance with both the POPs Convention and the
17 PIC Convention for that chemical substance or mixture.”.

18 (f) AMENDMENT OF SECTION 15.—Section 15 of the
19 Toxic Substances Control Act (15 U.S.C. 2614) is amend-
20 ed by striking paragraph (1) and inserting the following:

21 “(1) fail or refuse to comply with (A) any rule
22 promulgated or order issued under section 4 of this
23 title, (B) any requirement prescribed by section 5 or
24 6 of this title, (C) any rule promulgated or order
25 issued under section 5 or 6 of this title, (D) any re-

1 “(vv) ANNEX F.—The term ‘Annex F’ means Annex
2 F to the POPs Convention.

3 “(ww) POPs PESTICIDE.—The term ‘POPs Pes-
4 ticide’ means any pesticide or active ingredient used in
5 producing a pesticide that is listed on Annex A or Annex
6 B for which any applicable provision of the POPs Conven-
7 tion has entered into force for the United States pursuant
8 to Article 22, paragraph 4 of the POPs Convention.

9 “(xx) POPRC.—The term ‘POPRC’ means the Per-
10 sistent Organic Pollutant Review Committee established
11 pursuant to Article 19, paragraph 6 of the POPs Conven-
12 tion.

13 “(yy) COP.—The term ‘COP’ means the Conference
14 of the Parties established by Article 19, paragraph 1 of
15 the POPs Convention.

16 “(zz) LRTAP POPs PROTOCOL.—The term ‘LRTAP
17 POPs Protocol’ means the Protocol to the 1979 Conven-
18 tion on Long-Range Transboundary Air Pollution on Per-
19 sistent Organic Pollutants to which the United States is
20 a Party.

21 “(aaa) ANNEX I.—The term ‘Annex I’ means Annex
22 I to the LRTAP POPs Protocol.

23 “(bbb) ANNEX II.—The term ‘Annex II’ means
24 Annex II to the LRTAP POPs Protocol.

1 “(ccc) ANNEX III.—The term ‘Annex III’ means
2 Annex III to the LRTAP POPs Protocol.

3 “(ddd) LRTAP POPs PESTICIDE.—The term
4 ‘LRTAP POPs Pesticide’ means any pesticide or active
5 ingredient used in producing a pesticide that is listed on
6 Annex I or Annex II for which any applicable provision
7 of the LRTAP POPs Protocol has entered into force for
8 the United States pursuant to Article 14, paragraph 3 of
9 the LRTAP POPs Protocol.

10 “(eee) EXECUTIVE BODY.—The term ‘Executive
11 Body’ means the Executive Body established by Article 10
12 of the 1979 Convention on Long-Range Transboundary
13 Air Pollution.

14 “(fff) PIC CONVENTION.—The term ‘PIC Conven-
15 tion’ means the Convention on the Prior Informed Consent
16 Procedure for Certain Hazardous Chemicals and Pes-
17 ticides in International Trade to which the United States
18 is a Party.

19 “(ggg) DESIGNATED NATIONAL AUTHORITY.—The
20 term ‘designated national authority’ means the authority
21 or authorities that a government has designated in a noti-
22 fication to the PIC Convention Secretariat in accordance
23 with the PIC Convention.”.

24 (b) AMENDMENT OF SECTION 3.—Section 3(b) of the
25 Federal Insecticide, Fungicide, and Rodenticide Act (7

1 U.S.C. 136a(b)) is amended in the matter preceding para-
2 graph (1) by striking “A pesticide which is not registered”
3 and inserting the following: “Any pesticide, other than a
4 POPs Pesticide or a LRTAP POPs Pesticide (unless the
5 POPs Pesticide or LRTAP POPs pesticide is permitted
6 to be transferred pursuant to any applicable exemption in
7 section 17(d)(2)(B) or 17(d)(3)(B) of this Act), which is
8 not registered”.

9 (c) AMENDMENT OF SECTION 12.—Section 12(a)(2)
10 of the Federal Insecticide, Fungicide, and Rodenticide Act
11 (7 U.S.C. 136j(a)(2)) is amended—

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

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

16 (3) by adding at the end the following subpara-
17 graph:

18 “(T) to violate any provision of section 17
19 or any regulation promulgated thereunder.”.

20 (d) AMENDMENT OF SECTION 17.—Section 17 of the
21 Federal Insecticide, Fungicide, and Rodenticide Act (7
22 U.S.C. 136o) is amended in the heading for the section
23 by striking “**IMPORTS AND EXPORTS**” and inserting
24 “**IMPORTS, EXPORTS, AND INTERNATIONAL CON-**
25 **VENTIONS**”.

1 (e) AMENDMENT OF SECTION 17(a).—Section 17(a)
2 of the Federal Insecticide, Fungicide, and Rodenticide Act
3 (7 U.S.C. 136o(a)) is amended—

4 (1) in the matter preceding paragraph (1), by
5 striking “violation of this Act—” and inserting “vio-
6 lation of this Act, provided that—”;

7 (2) in paragraph (1)—

8 (A) by striking “when prepared” and in-
9 serting the following: “the pesticide or device or
10 active ingredient used in producing a pesticide
11 is prepared”; and

12 (B) by striking “and” after the semicolon
13 at the end;

14 (3) in paragraph (2)—

15 (A) by striking “if,”; and

16 (B) by striking the period at the end and
17 inserting “; and”; and

18 (4) by inserting after paragraph (2) the fol-
19 lowing paragraph:

20 “(3) such export is in compliance with all of the
21 applicable provisions of this section.”.

22 (f) AMENDMENT OF SECTION 17(c).—Section 17(c)
23 of the Federal Insecticide, Fungicide, and Rodenticide Act
24 (7 U.S.C. 136o(c)) is amended by adding at the end the
25 following: “Nothing in this subsection shall permit the im-

1 port of any POPs Pesticide or LRTAP POPs Pesticide
2 that otherwise is prohibited under subsection (d) of this
3 section.”.

4 (g) AMENDMENT OF SECTION 17(d).—Section 17(d)
5 of the Federal Insecticide, Fungicide, and Rodenticide Act
6 (7 U.S.C. 136o(d)) is amended to read as follows:

7 “(d) INTERNATIONAL CONVENTIONS AND COOPERA-
8 TION IN INTERNATIONAL EFFORTS.—

9 “(1) IN GENERAL.—The Administrator shall, in
10 cooperation with the Department of State and any
11 other appropriate Federal agency, participate and
12 cooperate in any international efforts to develop im-
13 proved pesticide research and regulations., and
14 should pursue opportunities to participate in tech-
15 nical cooperation and capacity building activities de-
16 signed to support implementation of the POPs Con-
17 vention, the LRTAP POPs Protocol, and the PIC
18 Convention.

19 “(2) POPS CONVENTION.—

20 “(A) PROHIBITIONS.—Notwithstanding
21 any other provision of law, except as provided
22 in paragraph (2)(B) and paragraph (4) of this
23 subsection and consistent with the POPs Con-
24 vention, all sale, distribution, use, and produc-
25 tion, or any disposal operation that may lead to

1 recovery, recycling, reclamation, reuse, or alter-
2 native uses, of the following POPs Pesticides is
3 prohibited: Aldrin, Chlordane, Dieldrin, Endrin,
4 Heptachlor, Hexachlorobenzene, Mirex,
5 Toxaphene, and DDT.

6 “(B) EXEMPTIONS.—To the extent con-
7 sistent with the POPs Convention, the prohibi-
8 tions in subparagraph (A) shall not apply to:

9 “(i) Any quantities of a POPs Pes-
10 ticide occurring as unintentional trace con-
11 taminants in products and articles.

12 “(ii) Any quantities of a POPs Pes-
13 ticide to be used for laboratory scale re-
14 search or as a reference standard.

15 “(iii) Any quantities of a POPs Pes-
16 ticide occurring as constituents of articles,
17 provided that (I) such articles were manu-
18 factured or already in use before or on the
19 date of entry into force of the obligation
20 relevant to that POPs Pesticide, and (II)
21 the Administrator has met any applicable
22 requirements of the POPs Convention to
23 notify the Secretariat of the POPs Conven-
24 tion regarding such articles.

1 “(iv) Any distribution for export of
2 any quantities of a POPs Pesticide with an
3 Annex A production or use specific exemp-
4 tion in effect or with an Annex B produc-
5 tion or use specific exemption or acceptable
6 purpose in effect, provided that the pes-
7 ticide complies with one of the following
8 export conditions:

9 “(I) The pesticide is exported for
10 the purpose of environmentally sound
11 disposal as set forth in paragraph
12 1(d) of Article 6 of the POPs Conven-
13 tion.

14 “(II) The pesticide is exported to
15 a Party to the POPs Convention that
16 is permitted to use that pesticide
17 under Annex A or Annex B.

18 “(III) The pesticide is exported
19 to an importing foreign state that is
20 not a party to the POPs Convention
21 for that pesticide and that has pro-
22 vided an annual certification to the
23 Administrator This annual certifi-
24 cation, consistent with Article 3, para-
25 graph 2(b)(iii) of the POPs Conven-

1 tion, shall specify the intended use of
2 the pesticide and state that, with re-
3 spect to that pesticide, the importing
4 foreign state that is not a party is
5 committed to: (aa) protecting human
6 health and the environment by taking
7 necessary measures to minimize or
8 prevent releases; (bb) complying with
9 provisions of paragraph 1 of Article 6
10 of the POPs Convention; and (cc)
11 complying, when appropriate, with the
12 provisions of paragraph 2 of Part II
13 of Annex B. The Administrator shall
14 submit a copy of each annual certifi-
15 cation to the Secretariat of the POPs
16 Convention within sixty days of receiv-
17 ing it.

18 Any determination by the Administrator
19 that one or more of these conditions are
20 not met shall be made in cooperation with
21 other interested federal agencies.

22 “(v) Any distribution for export only
23 for the purpose of environmentally sound
24 disposal as set forth in paragraph 1(d) of
25 Article 6 of the POPs Convention, of a

1 POPs Pesticide listed on Annex A for
2 which no production or use specific exemp-
3 tions remain in effect for any Party to the
4 POPs Convention.

5 “(vi) Any quantities of a POPs Pes-
6 ticide imported for the purpose of environ-
7 mentally sound disposal as set forth in
8 paragraph 1(d) of Article 6 of the POPs
9 Convention.

10 Nothing in this subparagraph shall allow sale,
11 distribution, use, and production, or any dis-
12 posal operation that may lead to recovery, recy-
13 cling, reclamation, reuse, or alternative uses, of
14 any POPs Pesticide that is not otherwise al-
15 lowed under any other provision of law.

16 “(C) CERTIFICATION STATEMENT ACCOM-
17 PANYING POPS PESTICIDES.—POPs Pesticides
18 must be accompanied by a Certification State-
19 ment when sold or distributed under subpara-
20 graph (B)(ii), (B)(iv), (B)(v), and/or (B)(vi) of
21 this paragraph. This Certification Statement
22 must be prepared by the producer of the pes-
23 ticide. If there is no Certification Statement ac-
24 companying the pesticide, a Certification State-
25 ment meeting the requirements of this subpara-

1 graph must be prepared by the seller or dis-
2 tributor of the pesticide and must accompany
3 the pesticide when it is sold or distributed.
4 Such Certification Statement shall include the
5 amount and identity of the pesticide, the basis
6 for application of the enumerated provision(s),
7 and any other information the Administrator
8 determines, pursuant to notice and comment
9 rulemaking, is necessary for effective enforce-
10 ment of this provision. Any person who distrib-
11 utes or sells the pesticide must ensure that the
12 Certification Statement accompanies the pes-
13 ticide when it is distributed or sold, and that
14 the distribution or sale is consistent with the
15 Certification Statement. A copy of the Certifi-
16 cation Statement shall be maintained by the
17 person preparing such Certification Statement
18 for 3 years from the date the Certification
19 Statement is prepared. The Administrator may
20 promulgate such rules, as necessary, to facili-
21 tate implementation of this subsection, to har-
22 monize this certification requirement with other
23 certification requirements in this Act so as to
24 avoid multiple certification statements accom-

1 panying the same pesticide, and to ensure com-
2 pliance with the POPs Convention.

3 “(D) SUBMISSION OF INFORMATION.—(i)

4 Upon a determination by the POPRC that a
5 proposal for listing a pesticide on Annex A,
6 Annex B, or Annex C fulfills the screening cri-
7 teria specified in Annex D, the Administrator
8 may publish a notice in the Federal Register
9 identifying the pesticide and summarizing the
10 POPRC’s determination. Within 60 days after
11 publication of any such Federal Register notice,
12 any registrant of the pesticide or other inter-
13 ested person that might support or object to
14 any listing of the pesticide on Annex A, Annex
15 B, or Annex C may provide to the Adminis-
16 trator any arguments or information associated
17 with the risks or benefits of use of the pesticide
18 that, in the opinion of the registrant or inter-
19 ested person, support a determination either
20 that the determination by the POPRC is cor-
21 rect or is incorrect or that some or all uses of
22 the pesticide in the United States cause or do
23 not cause unreasonable adverse effects on the
24 environment. Such information may include in-
25 formation specified in Annex D or Annex E.

1 Additional information not available to the reg-
2 istrant or person within 60 days after publica-
3 tion of the Federal Register notice, and argu-
4 ments based upon such additional information,
5 may be submitted within 60 days of the acquisi-
6 tion by the registrant or person of such addi-
7 tional information. Based upon information re-
8 ceived under this paragraph and on any other
9 relevant information available to the Adminis-
10 trator, the Administrator shall, within 180 days
11 after publication of the Federal Register notice,
12 submit to the Secretary of State a report that
13 contains, at a minimum, information on the
14 registered uses in the United States of the pes-
15 ticide and an assessment of the benefits and
16 risks associated with the uses in the United
17 States of the pesticide.

18 “(ii) Following a decision by the POPRC
19 in Article 8.7 of the POPs Convention that a
20 pesticide shall proceed in the POPs Convention
21 listing process, the Administrator may publish a
22 notice in the Federal Register identifying the
23 pesticide and summarizing the POPRC’s deci-
24 sion. Within 60 days after publication of any
25 such Federal Register notice, any person inter-

1 ested in a pesticide that is the subject of such
2 notice may provide, consistent with the informa-
3 tion needs in Annex F, any information which
4 the person believes is relevant to the risk man-
5 agement evaluation in Article 8.7 of the POPs
6 Convention, a decision by the COP in Article
7 8.9 of the POPs Convention, or a determination
8 that some or all of the uses of the pesticide do
9 or do not cause unreasonable adverse effects on
10 the environment. At this time, any such person
11 may also provide information on articles in use
12 consisting of, containing, or contaminated with
13 the pesticide.

14 “(iii) If a particular argument or piece of
15 information is not submitted in a timely man-
16 ner following publication of a notice in accord-
17 ance with clause (i) or (ii), no person may raise
18 such argument or submit such information in
19 any subsequent cancellation proceeding initiated
20 by the Administrator under section 6 of this
21 Act unless the person seeking to raise the argu-
22 ment or submit the information demonstrates
23 that the argument or information could not rea-
24 sonably have been made available to the Admin-

1 istrator earlier in accordance with the times set
2 forth in this subparagraph.

3 “(3) LRTAP POPS PROTOCOL.—

4 “(A) PROHIBITIONS.—Notwithstanding
5 any other provision of law, except as provided
6 in paragraph (3)(B) or paragraph (4) of this
7 subsection and consistent with the LRTAP
8 POPs Protocol, all sale, distribution, use, and
9 production of the following LRTAP POPS Pes-
10 ticides is prohibited: Aldrin, Chlordane,
11 Dieldrin, Endrin, Heptachlor,
12 Hexachlorobenzene, Mirex, Toxaphene, DDT,
13 Chlordecone, Hexabromobiphenyl, and HCH.

14 “(B) EXEMPTIONS.—(i) To the extent con-
15 sistent with the LRTAP POPS Protocol, the
16 prohibitions in subparagraph (A) shall not
17 apply to:

18 “(I) Quantities of a LRTAP POPS
19 Pesticide to be used for laboratory scale re-
20 search or as a reference standard.

21 “(II) Quantities of a LRTAP POPS
22 Pesticide occurring as contaminants in
23 products.

24 “(III) Quantities of a LRTAP POPS
25 Pesticide in an article manufactured or in

1 use on or before the date of entry into
2 force of any obligation in the LRTAP
3 POPs Protocol relevant to that LRTAP
4 POPs Pesticide.

5 “(IV) Quantities of HCH so long as
6 any production and use complies with the
7 restrictions and conditions specified for
8 HCH in Annex II of the LRTAP POPs
9 Protocol.

10 “(ii) The Administrator, with the concur-
11 rence of the Secretary of State, may grant an
12 exemption from the prohibitions in subpara-
13 graph (A) of this paragraph that is consistent
14 with exemptions allowed under Article 4, para-
15 graph 2 of the LRTAP POPs Protocol. In addi-
16 tion, any person may petition the Administrator
17 for an exemption from the prohibitions in sub-
18 paragraph A of this paragraph that is con-
19 sistent with exemptions allowed under Article 4,
20 paragraph 2 of the LRTAP POPs Protocol.
21 Any such petition must, at a minimum, contain
22 information related to each finding, if any, that
23 the Administrator must make according to the
24 terms of the LRTAP POPs Protocol before
25 granting the exemption, and any additional in-

1 formation, if any, that the Administrator is re-
2 quired to provide to the Secretariat of the
3 LRTAP POPs Protocol regarding a granted ex-
4 emption. The Administrator, with the concur-
5 rence of the Secretary of State shall, grant the
6 petition with conditions or limitations necessary
7 to meet any requirement of the LRTAP POPs
8 Protocol or any other provision of law, or deny
9 the petition. The Administrator may grant an
10 exemption only to the extent that it is allowed
11 for the United States under, and is otherwise
12 consistent with, the terms of the LRTAP POPs
13 Protocol. Notwithstanding any other provision
14 of law, if the Administrator grants such an ex-
15 emption, the Administrator, within 90 days of
16 granting the exemption, shall provide the Secre-
17 tariat of the LRTAP POPs Protocol with the
18 information specified in paragraph 3 of Article
19 4 of the LRTAP POPs Protocol. If, after an
20 exemption has been granted under this clause,
21 the exemption is no longer allowed for the
22 United States under the LRTAP POPs Pro-
23 tocol, it shall be unlawful for any person to con-
24 tinue to distribute, sell, produce, or use, a

1 LRTAP POPs Pesticide in the manner allowed
2 by the exemption.

3 Nothing in this subparagraph shall allow sale,
4 distribution, use, or production of any LRTAP
5 POPs Pesticide that is not otherwise allowed
6 under any other provision of law.

7 “(C) CERTIFICATION STATEMENT ACCOM-
8 PANYING LRTAP POPS PESTICIDES.—LRTAP
9 POPs Pesticides must be accompanied by a
10 Certification Statement when sold or distrib-
11 uted under subparagraph (B)(i)(I) and/or
12 (B)(ii) of this paragraph. This Certification
13 Statement must be prepared by the producer of
14 the pesticide. If there is no Certification State-
15 ment accompanying the pesticide, a Certifi-
16 cation Statement meeting the requirements of
17 this subparagraph must be prepared by the sell-
18 er or distributor of the pesticide and must ac-
19 company the pesticide when it is distributed or
20 sold. Such Certification Statement shall include
21 the amount and identity of the pesticide, the
22 basis for application of the enumerated provi-
23 sion(s), and any other information the Adminis-
24 trator determines, pursuant to notice and com-
25 ment rulemaking, is necessary for effective en-

1 enforcement of this provision. Any person who
2 distributes or sells the pesticide must ensure
3 that the Certification Statement accompanies
4 the pesticide when it is distributed or sold, and
5 that the distribution or sale is consistent with
6 the Certification Statement. A copy of the Cer-
7 tification Statement shall be maintained by the
8 person preparing such Certification Statement
9 for 3 years from the date the Certification
10 Statement is prepared. The Administrator may
11 promulgate such rules, as necessary, to facili-
12 tate implementation of this provision, to har-
13 monize this certification requirement with other
14 certification requirements in this Act so as to
15 avoid multiple certification statements accom-
16 panying the same chemical, and to ensure com-
17 pliance with the LRTAP POPs Protocol.

18 “(D) SUBMISSION OF INFORMATION.—(i)

19 Upon a submission of a risk profile to the Exec-
20 utive Body in support of a proposed amendment
21 to list a pesticide on Annex I, Annex II, or
22 Annex III, the Administrator may publish a no-
23 tice in the Federal Register identifying the pes-
24 ticide and summarizing the risk profile. Within
25 60 days after publication of any such Federal

1 Register notice, any registrant of the pesticide
2 or other interested person that might support
3 or object to any listing of the pesticide on
4 Annex I, Annex II, or Annex III may provide
5 to the Administrator any arguments or infor-
6 mation associated with the risks or benefits of
7 use of the pesticide that, in the opinion of the
8 registrant or other interested person, support a
9 determination either that the risk profile is cor-
10 rect or is incorrect or that some or all uses of
11 the pesticide in the United States cause or do
12 not cause unreasonable adverse effects on the
13 environment. Additional information not avail-
14 able to the registrant or person within 60 days
15 after publication of the Federal Register notice,
16 and arguments based upon such additional in-
17 formation, may be submitted within 60 days of
18 the acquisition by the registrant or person of
19 such additional information. Based upon infor-
20 mation received under this paragraph and on
21 any other relevant information available to the
22 Administrator, the Administrator shall, within
23 180 days after publication of the Federal Reg-
24 ister notice, submit to the Secretary of State
25 a report that contains, at a minimum, informa-

1 tion on the registered uses in the United States
2 of the pesticide and an assessment of the bene-
3 fits and risks associated with the uses in the
4 United States of the pesticide.

5 “(ii) If a particular argument or piece of
6 information is not submitted in a timely man-
7 ner following publication of a notice in accord-
8 ance with clause (i), no person may raise such
9 argument or submit such information in any
10 subsequent cancellation proceeding initiated by
11 the Administrator under section 6 of this Act
12 unless the person seeking to raise the argument
13 or submit the information demonstrates that
14 the argument or information could not reason-
15 ably have been made available to the Adminis-
16 trator earlier in accordance with the times set
17 forth in this subparagraph.

18 “(4) HARMONIZATION OF PARAGRAPHS (2) AND
19 (3).—If a pesticide is both a POPs Pesticide and a
20 LRTAP POPs Pesticide, the provisions in both
21 paragraph (2) and paragraph (3) of this subsection
22 shall apply to that pesticide. In the case of a conflict
23 between provisions in paragraph (2) and paragraph
24 (3) for that pesticide, the more stringent provision
25 shall govern. In any case, these provisions shall be

1 interpreted in a manner such that the United States
2 is in compliance with both the POPs Convention and
3 the LRTAP POPs Protocol for that pesticide.

4 “(5) NOTICE AND RECORD OF PROHIBITIONS,
5 EXEMPTIONS, AND OTHER INFORMATION.—The Ad-
6 ministrator, in cooperation with the Secretary of
7 State, shall publish in the Federal Register timely
8 notice regarding (1) the POPs Pesticides subject to
9 the prohibitions in this section, any exemptions from
10 the prohibitions allowed under this section, including
11 any disallowances for any exemptions, and a list of
12 importing foreign states that are not parties to the
13 POPs Convention from which it has received annual
14 certifications pursuant to section 17(d)(2)(B)(v)(III)
15 of this Act; and (2) the LRTAP POPs Pesticides
16 subject to the prohibitions in this section and any
17 exemptions from the prohibitions allowed under this
18 section, including any disallowances for any exemp-
19 tions. The Administrator may include in this notice
20 any other information that the Administrator deems
21 necessary for ensuring adequate notice of the re-
22 quirements of this section, the POPs Convention, or
23 the LRTAP POPs Protocol. The Administrator shall
24 maintain a record that integrates the information in
25 such notice with the information published under

1 section 6(i) of the Toxic Substance Control Act, up-
2 date such record as needed, and make such record
3 publicly available.

4 “(6) PIC CONVENTION.—

5 “(A) REQUIREMENTS ON EXPORTS.—(i) In
6 the case of a pesticide or active ingredient used
7 in producing a pesticide identified by EPA in a
8 notice issued under section 17(d)(6)(B)(iii), any
9 person who distributes or sells for export such
10 pesticide or active ingredient shall comply with
11 export conditions or restrictions identified by
12 EPA in such notice and certify that such pes-
13 ticide or active ingredient complies with such
14 conditions or restrictions. The certification
15 statement shall include identification of such
16 pesticide or active ingredient, the foreign state
17 to which such pesticide or active ingredient is
18 intended for export, the export conditions or re-
19 strictions identified by EPA in its notice, a de-
20 scription of how the pesticide or active ingre-
21 dient complies with such conditions or restric-
22 tions, and any other information deemed nec-
23 essary by the Administrator for effective en-
24 forcement of the export conditions or restric-
25 tions applicable to such pesticide or active in-

1 ingredient. The certification statement shall be
2 included among the shipping documents for
3 such pesticide or active ingredient and shall ac-
4 company such pesticide or active ingredient. A
5 copy of such certification shall be maintained
6 for 3 years by any person required to certify
7 compliance with such export conditions or re-
8 strictions. The Administrator may promulgate
9 such rules, as necessary, to facilitate implemen-
10 tation of this subsection, to harmonize this cer-
11 tification requirement with other certification
12 requirements in this Act so as to avoid multiple
13 certification statements accompanying the same
14 pesticide, and to ensure compliance with the
15 PIC Convention;

16 “(ii) In the case of a pesticide or active in-
17 gredient used in producing a pesticide that is
18 determined by EPA to be banned or severely re-
19 stricted under section 17(d)(6)(B)(i), the ex-
20 porter shall notify EPA of its intent to export
21 such pesticide or active ingredient. Notice of in-
22 tent to export must be received by EPA at least
23 15 days prior to the first export (but no more
24 than 30 days prior to the first export) from the
25 territory of the United States to each importing

1 foreign state occurring after EPA issues a no-
2 tice of its determination under section
3 17(d)(6)(B)(i) and, thereafter, prior to the first
4 such export to each importing foreign state in
5 each calendar year. Notwithstanding the fore-
6 going, EPA may require that notices of intent
7 to export be received less than 15 days prior
8 to the first export and/or thereafter prior to the
9 first export in each calendar year if it deter-
10 mines, based on its experience with this notifi-
11 cation program, that it can operate the notifica-
12 tion program consistent with the PIC Conven-
13 tion with a shorter notice period. Notices of in-
14 tent to export shall include: the name and ad-
15 dress of the exporter; the name and address of
16 the relevant designated national authority of
17 the United States; the name and address of the
18 relevant designated national authority of the
19 importing foreign state, where available; the
20 name and address of the importer; the name of
21 the pesticide or active ingredient used in pro-
22 ducing a pesticide; the expected date of export;
23 the foreseen uses as a pesticide or active ingre-
24 dient used in producing a pesticide, if known,
25 in the importing foreign state; any information

1 on precautionary measures to reduce exposure
2 to, and emission of, the pesticide or active in-
3 gredient used in producing a pesticide; the con-
4 centration of the pesticide or active ingredient
5 used in producing a pesticide; and any other in-
6 formation otherwise specified in Annex V of the
7 PIC Convention.

8 “(iii) In the case of any pesticide or active
9 ingredient used in producing a pesticide that is
10 the subject of a notice issued under sections
11 17(d)(6)(B)(i) or 17(d)(6)(B)(iii) and that is
12 distributed or sold for export, such pesticide or
13 active ingredient, shall, consistent with the PIC
14 Convention, bear labeling information on any
15 significant risks and/or hazards to human
16 health or the environment and be accompanied
17 by shipping documents that include any rel-
18 evant safety data sheets on such pesticide or ac-
19 tive ingredient. In addition, in the case of any
20 pesticide or active ingredient used in producing
21 a pesticide that is the subject of a notice issued
22 under section 17(d)(6)(B)(iii) and that is dis-
23 tributed or sold for export, such pesticide or ac-
24 tive ingredient must be accompanied by ship-
25 ping documents that bear, at a minimum, any

1 relevant harmonized system customs codes as-
2 signed by the World Customs Organization.

3 “(B) NOTIFICATION REQUIREMENTS AND
4 EXEMPTIONS.—(i) The Administrator shall,
5 with the concurrence of the Secretary of State,
6 determine whether a pesticide or active ingre-
7 dient used in producing a pesticide is banned or
8 severely restricted within the United States as
9 those terms are defined by the PIC Convention.
10 Notwithstanding any other provision of law, the
11 Administrator shall issue a notice to the Secre-
12 tariat of the PIC Convention and to the public
13 of these determinations. Notice to the Secre-
14 tariat shall include the information specified in
15 Annex I of the PIC Convention and notice to
16 the public shall include, at a minimum, a sum-
17 mary of the same information.

18 “(ii) Notwithstanding any other provision
19 of law, the Administrator shall, upon receipt,
20 provide each notice of intent to export received
21 under section 17(d)(6)(A)(ii) to the designated
22 national authority of the importing foreign
23 state. Where a designated national authority
24 has not been identified, the Administrator shall
25 provide such notice of intent to export to any

1 other appropriate official of the importing for-
2 eign state as identified by EPA.

3 “(iii) The Administrator shall, with the
4 concurrence of the Secretary of State, issue a
5 notice informing the public of pesticides or ac-
6 tive ingredients used in producing a pesticide
7 that are listed on Annex III of the PIC Conven-
8 tion and of any importing foreign state’s condi-
9 tions or restrictions applicable to the import of
10 such pesticides or active ingredients consistent
11 with the PIC Convention. The conditions or re-
12 strictions identified by such notice(s) constitute
13 export conditions or restrictions for purposes of
14 section 17(d)(6)(A)(i). Such notice(s) shall be
15 issued within 3 months of, and the conditions
16 or restrictions made effective no later than 6
17 months from, receipt of notice(s) from the Sec-
18 retariat of the PIC Convention who transmits
19 Parties’ import decisions or their failure to pro-
20 vide import decisions.

21 “(iv) The Administrator may issue a notice
22 exempting any pesticide or active ingredient
23 used in producing a pesticide from requirements
24 of sections 17(d)(6)(A)(i), (ii), or (iii) or section
25 17(d)(6)(B) if the Administrator determines,

1 with the concurrence of the Secretary of State,
2 that such exemption would be consistent with
3 the PIC Convention.

4 “(v) To the extent appropriate, the Admin-
5 istrator shall integrate the information con-
6 tained in any notice issued under this para-
7 graph into the notice published pursuant to sec-
8 tion 17(d)(5) of this Act and section 6(i) of the
9 Toxic Substances Control Act.

10 “(C) HARMONIZATION OF PARAGRAPHS (2)
11 AND (6) OF THIS SUBSECTION.—If distribution
12 or sale for export of a pesticide or active ingre-
13 dient used in producing a pesticide is addressed
14 or restricted under both paragraphs (2) and (6)
15 of this subsection, the provisions in both para-
16 graph (2) and paragraph (6) of this subsection
17 shall apply to that pesticide or active ingredient
18 used in producing a pesticide. In the case of a
19 conflict between provisions in paragraph (2)
20 and paragraph (6) for that pesticide or active
21 ingredient used in producing a pesticide, the
22 more stringent provision shall govern. In any
23 case, these provisions shall be interpreted in a
24 manner such that the United States is in com-
25 pliance with both the POPs Convention and the

1 PIC Convention for that pesticide or active in-
2 gredient used in producing a pesticide.”.

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