

109TH CONGRESS
2^D SESSION

H. R. 4800

To amend the Toxic Substances Control 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 HOUSE OF REPRESENTATIVES

FEBRUARY 16, 2006

Ms. SOLIS (for herself, Mr. PALLONE, Mrs. CAPPs, Mr. TOWNS, Ms. SCHAKOWSKY, Mr. WYNN, Mr. WAXMAN, Mr. DINGELL, Mr. ALLEN, Mr. BROWN of Ohio, and Ms. DEGETTE) introduced the following bill; which was referred to the Committee on Energy and Commerce

A BILL

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

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

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

2 (a) SHORT TITLE.—This Act may be cited as the
3 “POPs, LRTAP POPs, and PIC Implementation Act of
4 2006”.

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

- Sec. 1. Short title; table of contents.
- Sec. 2. Implementation of international agreements.
- Sec. 3. Exports.
- Sec. 4. Prohibited acts.
- Sec. 5. Conforming amendments.

7 **SEC. 2. IMPLEMENTATION OF INTERNATIONAL AGREE-**
8 **MENTS.**

9 The Toxic Substances Control Act (15 U.S.C. 2601
10 et seq.) is amended—

11 (1) in section 1, by adding at the end of the
12 table of contents the following:

“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. Rules of construction.
- “Sec. 507. Applicability.”;

13 and

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

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

17 **“SEC. 501. DEFINITIONS.**

18 “In this title:

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

4 “(2) CONFERENCE LISTING DECISION.—The
5 term ‘Conference listing decision’ means a decision
6 by the Conference to approve an amendment to list
7 a chemical substance or mixture in Annex A or B
8 to the POPs Convention.

9 “(3) DESIGNATED NATIONAL AUTHORITY.—The
10 term ‘designated national authority’ means the 1 or
11 more authorities that a government has designated
12 in a notification to the Secretariat of the PIC Con-
13 vention in accordance with Article 4 of the PIC Con-
14 vention.

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

18 “(5) EXECUTIVE BODY DECISION 1998/2.—The
19 term ‘Executive Body Decision 1998/2’ means the
20 decision of the Executive Body titled ‘Executive
21 Body Decision 1998/2 on Information to Be Sub-
22 mitted and the Procedure for Adding Substances to
23 Annexes I, II, or III to the Protocol on Persistent
24 Organic Pollutants’ including any amendments

1 thereto, as provided in Article 14 of the LRTAP
2 POPs Protocol.

3 “(6) HCH.—The term ‘HCH’ means
4 hexachlorocyclohexane, including lindane.

5 “(7) LRTAP CONVENTION.—The term
6 ‘LRTAP Convention’ means the Convention on
7 Long-Range Transboundary Air Pollution, done at
8 Geneva on November 13, 1979 (TIAS 10541).

9 “(8) LRTAP POPs CHEMICAL SUBSTANCE OR
10 MIXTURE.—The term ‘LRTAP POPs chemical sub-
11 stance or mixture’ means one of the following chem-
12 ical substances or mixtures:

13 “(A) Aldrin.

14 “(B) Chlordane.

15 “(C) Chlordecone.

16 “(D) Dichlorodiphenyltrichloroethane
17 (DDT).

18 “(E) Dieldrin.

19 “(F) Endrin.

20 “(G) HCH.

21 “(H) Heptachlor.

22 “(I) Hexachlorobenzene.

23 “(J) Hexabromobiphenyl.

24 “(K) Mirex.

25 “(L) Polychlorinated biphenyls (PCBs).

1 “(M) Toxaphene.

2 “(N) Any chemical substance or mixture
3 that is listed on Annex I or Annex II of the
4 LRTAP POPs Protocol.

5 “(9) LRTAP POPS LISTING DECISION.—The
6 term ‘LRTAP POPs listing decision’ means a deci-
7 sion by the parties to the LRTAP POPs Protocol to
8 approve an amendment to list a chemical substance
9 or mixture in Annex I or II to the LRTAP POPs
10 Protocol.

11 “(10) LRTAP POPS PROTOCOL.—The term
12 ‘LRTAP POPs Protocol’ means the Protocol on Per-
13 sistent Organic Pollutants to the LRTAP Conven-
14 tion, done at Aarhus on June 24, 1998, and any
15 subsequent amendment to which the United States
16 consents to be bound.

17 “(11) PCB.—The term ‘PCB’ means a poly-
18 chlorinated biphenyl.

19 “(12) PIC CONVENTION.—The term ‘PIC Con-
20 vention’ means the Rotterdam Convention on the
21 Prior Informed Consent Procedure for Certain Haz-
22 ardous Chemicals and Pesticides in International
23 Trade, done at Rotterdam on September 10, 1998,
24 and any subsequent amendment to which the United
25 States consents to be bound .

1 “(13) POPS CHEMICAL SUBSTANCE OR MIX-
2 TURE.—The term ‘POPs chemical substance or mix-
3 ture’ means—

4 “(A) aldrin;

5 “(B) chlordanes;

6 “(C) dichlorodiphenyltrichloroethane

7 (DDT);

8 “(D) dieldrin;

9 “(E) endrin;

10 “(F) heptachlor;

11 “(G) hexachlorobenzene;

12 “(H) mirex;

13 “(I) PCBs;

14 “(J) toxaphene; and

15 “(K) any other chemical substance or mix-

16 ture that is listed in Annex A or B to the POPS

17 Convention.

18 “(14) POPS CONVENTION.—The term ‘POPs
19 Convention’ means the Stockholm Convention on
20 Persistent Organic Pollutants, done at Stockholm on
21 May 22, 2001, and any subsequent amendment to
22 which the United States consents to be bound.

23 “(15) POPS REVIEW COMMITTEE.—The term
24 ‘POPs Review Committee’ means the Persistent Or-
25 ganic Pollutants Review Committee established

1 under paragraph 6 of Article 19 of the POPs Con-
2 vention.

3 **“SEC. 502. IMPLEMENTATION OF POPS CONVENTION AND**
4 **LRTAP POPS PROTOCOL.**

5 “(a) PROHIBITION ON SPECIFIED POPS CHEMICAL
6 SUBSTANCES AND MIXTURES AND LRTAP POPS CHEM-
7 ICAL SUBSTANCES AND MIXTURES.—Subject to sub-
8 sections (c), (d), and (i) and the relevant provisions of the
9 POPs Convention and the LRTAP POPs Protocol, not-
10 withstanding any other provision of law, a person shall
11 not manufacture, process, distribute in commerce for ex-
12 port, use, or dispose of any of the following:

13 “(1) A POPs chemical substance or mixture
14 specified in any of subparagraphs (A) through (H)
15 and (J) of section 501(13).

16 “(2) A LRTAP POPs chemical substance or
17 mixture specified in any of subparagraphs (A)
18 through (K) and (M) of section 501(8).

19 “(b) PROHIBITION ON OTHER POPS CHEMICAL SUB-
20 STANCES AND MIXTURES AND LRTAP POPS CHEMICAL
21 SUBSTANCES AND MIXTURES.—Subject to subsections
22 (c), (d), and (i), notwithstanding any other provision of
23 law, a person shall not manufacture, process, distribute
24 in commerce for export, use, or dispose of a POPs chem-
25 ical substance or mixture described in section 501(13)(K),

1 or a LRTAP POPs chemical substance or mixture de-
2 scribed in 501(8)(N), in a manner that is inconsistent
3 with regulations promulgated under subsection (h).

4 “(c) EXEMPTIONS UNDER POPs CONVENTION.—

5 “(1) IN GENERAL.—The prohibitions specified
6 in subsection (b) shall not apply to any manufacture,
7 processing, distribution in commerce for export, use,
8 or disposal of a POPs chemical substance or mixture
9 that the Administrator (in consultation with the Sec-
10 retary of State) determines, through final regula-
11 tions promulgated under subsection (h)—

12 “(A) is consistent with—

13 “(i) a production or use specific ex-
14 emption applicable to the United States
15 under Annex A or B to the POPs Conven-
16 tion; or

17 “(ii) an acceptable purpose applicable
18 to the United States under Annex B to the
19 POPs Convention; and

20 “(B) would, as a result, not prevent the
21 United States from complying with the obliga-
22 tions of the United States under the POPs
23 Convention.

24 “(2) UNINTENTIONAL TRACE CONTAMI-
25 NANTS.—To the extent consistent with the POPs

1 Convention, the prohibitions specified in subsections
2 (a) and (b) shall not apply to any quantity of a
3 POPs chemical substance or mixture that occurs as
4 an unintentional trace contaminant in a product or
5 article.

6 “(3) RESEARCH.—To the extent consistent with
7 the POPs Convention, the prohibitions specified in
8 subsections (a) and (b) shall not apply to any quan-
9 tity of a POPs chemical substance or mixture that
10 is used for laboratory scale research or as a ref-
11 erence standard.

12 “(4) CONSTITUENT OF ARTICLE IN USE BE-
13 FORE PROHIBITION APPLIED.—To the extent con-
14 sistent with the POPs Convention, the prohibitions
15 specified in subsections (a) and (b) shall not apply
16 to any quantity of a POPs chemical substance or
17 mixture that occurs as a constituent of an article,
18 if—

19 “(A) the article is manufactured or in use
20 on or before the date of entry into force of the
21 obligation applicable to the POPs chemical sub-
22 stance or mixture; and

23 “(B) the United States has met any appli-
24 cable requirement of the POPs Convention to

1 notify the Secretariat of the POPs Convention
2 concerning the article.

3 “(5) CLOSED-SYSTEM SITE-LIMITED INTER-
4 MEDIATE.—

5 “(A) EXEMPTION.—

6 “(i) IN GENERAL.—Subject to clause
7 (ii), to the extent consistent with the POPs
8 Convention, the prohibitions specified in
9 subsections (a) and (b) shall not apply to
10 any quantity of a POPs chemical sub-
11 stance or mixture that is—

12 “(I) manufactured and used as a
13 closed-system site-limited inter-
14 mediate; and

15 “(II) chemically transformed in
16 the manufacture of other chemicals
17 that do not exhibit the characteristics
18 of persistent organic pollutants (tak-
19 ing into consideration the criteria in
20 paragraph 1 of Annex D of the POPs
21 Convention).

22 “(ii) CONDITIONS.—Clause (i) applies
23 if, before the commencement of the manu-
24 facture or use of the POPs chemical sub-
25 stance or mixture, and before the com-

1 mencement of each 10-year period there-
2 after—

3 “(I) any person that desires to
4 invoke the exemption provides to the
5 Administrator information con-
6 cerning—

7 “(aa) the annual total quan-
8 tity of the POPs chemical sub-
9 stance or mixture anticipated to
10 be manufactured or used or a
11 reasonable estimate of the quan-
12 tity; and

13 “(bb) the nature of the
14 closed system site-limited proc-
15 ess, including the quantity of any
16 nontransformed and uninten-
17 tional trace contamination by the
18 POPs chemical substance or mix-
19 ture that remains in the final
20 product; and

21 “(II) notwithstanding any other
22 provision of law, the Administrator—

23 “(aa) determines, in con-
24 sultation with the Secretary of
25 State, that the information pro-

1 vided under subclause (I) is com-
2 plete and sufficient; and

3 “(bb) transmits the informa-
4 tion to the Secretariat of the
5 POPs Convention.

6 “(B) TERMINATION OF EXEMPTION.—If,
7 at the termination of any 10-year exemption pe-
8 riod under subparagraph (A), a particular
9 closed-system site-limited intermediate exemp-
10 tion is no longer authorized for the United
11 States under the POPs Convention, it shall be
12 unlawful for any person to continue to manu-
13 facture or use any such POPs chemical sub-
14 stance or mixture as a closed-system site-lim-
15 ited intermediate.

16 “(6) DISTRIBUTION IN COMMERCE FOR EXPORT
17 IF PRODUCTION OR USE SPECIFIC EXEMPTION OR
18 ACCEPTABLE PURPOSE IS IN EFFECT.—

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

1 tion applicable to the United States is in effect,
2 or for which a production or use specific exemp-
3 tion or acceptable purpose under Annex B to
4 the POPs Convention applicable to the United
5 States is in effect, unless the POPs chemical
6 substance or mixture does not comply with an
7 export condition described in—

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

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

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

1 “(C) EXPORT TO PARTY WITH PERMISSION
2 TO USE.—An export condition referred to in
3 subparagraph (A) is that the POPs chemical
4 substance or mixture is exported to a party to
5 the POPs Convention that is permitted to use
6 the POPs chemical substance or mixture under
7 Annex A or B to the POPs Convention.

8 “(D) EXPORT TO NONPARTY THAT HAS
9 PROVIDED NONPARTY CERTIFICATION.—

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

15 “(I) is not a party to the POPs
16 Convention with respect to the POPs
17 chemical substance or mixture; and

18 “(II) has provided an annual cer-
19 tification to the Administrator.

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

1 the POPs chemical substance or mixture,
2 the importing nonparty is committed to—

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

7 “(II) complying with paragraph
8 1(d) of Article 6 of the POPs Conven-
9 tion; and

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

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

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

1 cation to the Secretariat of the POPs Con-
2 vention.

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

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

22 “(9) WASTE.—To the extent consistent with the
23 POPs Convention, the prohibitions specified in sub-
24 sections (a) and (b) shall not apply to any quantity
25 of a POPs chemical substance or mixture, including

1 any article that consists of, contains, or is contami-
2 nated with a POPs chemical substance or mixture,
3 that has become waste and that is managed in a
4 manner consistent with Article 6 of the POPs Con-
5 vention.

6 “(10) NO EFFECT ON OTHER PROHIBITIONS.—
7 Nothing in this subsection authorizes any manufac-
8 ture, processing, distribution in commerce for ex-
9 port, use, or disposal of a POPs chemical substance
10 or mixture that is prohibited under any other provi-
11 sion of law.

12 “(d) EXEMPTIONS UNDER LRTAP POPs PRO-
13 TOCOL.—

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

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

1 “(i) is consistent with an allowed re-
2 stricted use or condition applicable to the
3 United States under Annex I or II to the
4 LRTAP POPs Protocol; and

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

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

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

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

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

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

1 the LRTAP POPs Protocol, the implemen-
2 tation date in the amendment to the
3 LRTAP POPs Protocol that makes the ad-
4 dition;

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

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

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

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

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

4 “(2) EXEMPTIONS BY ADMINISTRATOR.—The
5 Administrator, in consultation with the Secretary of
6 State, may grant an exemption from the prohibitions
7 applicable to LRTAP POPs chemical substances or
8 mixtures specified in subsection (a) or (b) that the
9 Administrator determines are consistent with the ex-
10 emptions authorized under paragraph 2 of Article 4
11 of the LRTAP POPs Protocol.

12 “(3) EXEMPTIONS BY PETITION.—

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

20 “(B) REQUIRED ELEMENTS OF PETI-
21 TIONS.—Any petition under subparagraph (A)
22 shall, at a minimum, contain—

23 “(i) information relating to each find-
24 ing, if any, that the Administrator is re-
25 quired to make under the LRTAP POPs

1 Protocol before granting the exemption;
2 and

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

8 “(C) GRANT OR DENIAL OF PETITION.—
9 The Administrator, in consultation with the
10 Secretary of State, shall—

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

19 “(ii) deny the petition.

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

1 POPs Protocol with the information specified in
2 paragraph 3 of Article 4 of the LRTAP POPs Pro-
3 tocol.

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

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

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

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

1 “(e) NOTICE AFTER DECISION THAT SCREENING
2 CRITERIA ARE MET UNDER POPs CONVENTION OR
3 AFTER RISK PROFILE SUBMITTED UNDER LRTAP POPs
4 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; and

16 “(G) request information and comment
17 on—

18 “(i) information relevant to the risk
19 profile of the POPs Review Committee cov-
20 ered under Annex E to the POPs Conven-
21 tion; and

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

25 “(4) PROVISION OF INFORMATION.—

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

14 “(i) the annual quantity of the chem-
15 ical substance or mixture that the person
16 manufactures and the locations of the
17 manufacture;

18 “(ii) the uses of the chemical sub-
19 stance or mixture;

20 “(iii) the approximate annual quantity
21 of the chemical substance or mixture that
22 the person releases into the environment;
23 and

24 “(iv) other information or monitoring
25 data relating to the chemical substance or

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

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

18 “(i) the potential for long-range
19 transboundary atmospheric transport of
20 the chemical substance or mixture;

21 “(ii) the toxicity of the chemical sub-
22 stance or mixture;

23 “(iii) the persistence of the chemical
24 substance or mixture, including biotic deg-

1 radation processes and rates and degrada-
2 tion products;

3 ““(iv) the bioaccumulation of the chem-
4 ical substance or mixture, including bio-
5 availability;

6 ““(v) the annual quantity of the chem-
7 ical substance or mixture that the person
8 manufactures and the locations of the
9 manufacture;

10 ““(vi) the uses of the chemical sub-
11 stance or mixture;

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

16 ““(viii) environmental monitoring data
17 relating to the chemical substance or mix-
18 ture (in areas distant from sources);

19 ““(ix)(I) information on alternatives to
20 the uses of the chemical substance or mix-
21 ture and the efficacy of each alternative;
22 and

23 ““(II) information on any known ad-
24 verse environmental or human health ef-
25 fects associated with each alternative;

1 “(x) information on—

2 “(I) process changes, control
3 technologies, operating practices, and
4 other pollution prevention techniques
5 that can be used to reduce the emis-
6 sions of the chemical substance or
7 mixture; and

8 “(II) the applicability and effec-
9 tiveness of each technique described in
10 subclause (I); and

11 “(xi) information on the nonmonetary
12 costs and benefits and the quantifiable
13 costs and benefits associated with the use
14 of each alternative described in clause (ix)
15 or technique described in clause (x)(I).

16 “(C) UPDATING OF INFORMATION.—

17 “(i) VOLUNTARY UPDATES.—Any per-
18 son that submits information under sub-
19 paragraph (A) or (B) may voluntarily up-
20 date the information at any time.

21 “(ii) REQUIRED UPDATES.—If the Ad-
22 ministrator determines, in consultation
23 with the Secretary of State, that an update
24 of information submitted under subpara-
25 graph (A) or (B) is necessary, the Admin-

1 istrator may, through a notice published in
2 the Federal Register, require 1 or more
3 persons that are required to submit the in-
4 formation to update the information.

5 “(iii) NEW INFORMATION.—The Ad-
6 ministrators may require, by general order
7 published in the Federal Register or other-
8 wise, any person that (after the date under
9 subparagraphs (A) and (B) by which per-
10 sons are required to submit information)
11 commences manufacturing, processing, dis-
12 tributing in commerce for export, or dis-
13 posing of a chemical substance or mixture
14 subject to the requirements in subpara-
15 graph (A) or (B), to submit the informa-
16 tion required to be submitted under sub-
17 paragraph (A) or (B).

18 “(f) NOTICE AFTER DECISION THAT GLOBAL AC-
19 TION WARRANTED UNDER POPs CONVENTION OR THAT
20 FURTHER CONSIDERATION OF CHEMICAL SUBSTANCE OR
21 MIXTURE WARRANTED UNDER LRTAP POPs PRO-
22 TOCOL.—

23 “(1) APPLICABILITY.—This subsection applies
24 if—

1 “(A) the POPs Review Committee decides,
2 under paragraph 7(a) of Article 8 of the POPs
3 Convention, that global action is warranted with
4 respect to the chemical substance or mixture
5 that is the subject of the proposal, or the Con-
6 ference decides, under paragraph 8 of that Arti-
7 cle, that the proposal shall proceed; or

8 “(B) the Executive Body determines pur-
9 suant to paragraph 2 of Executive Body Deci-
10 sion 1998/2 that further consideration of the
11 chemical substance or mixture is warranted,
12 and therefore requires 1 or more technical re-
13 views of the proposal.

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

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

19 “(B) provide opportunity for comment on
20 the decision or determination.

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

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

25 “(B) include a summary of—

1 “(i) the POPs Review Committee or
2 Conference decision and the basis for the
3 decision; or

4 “(ii) the Executive Body determina-
5 tion and basis for the determination;

6 “(C) request information and comment
7 on—

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

11 “(I) information on socio-
12 economic considerations covered under
13 Annex F to the POPs Convention;
14 and

15 “(II) information on socio-
16 economic considerations covered under
17 Annex F to the POPs Convention ap-
18 plicable to the range of possible prohi-
19 bitions described in subparagraph (E),
20 including the impact of the chemical
21 substance or mixture on minority and
22 low-income populations; and

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

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

3 “(I) any additional measures not
4 described in the notice published
5 under subparagraph (E) that may
6 exist to reduce the risks of adverse ef-
7 fects on human health or the environ-
8 ment that 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 (E);

16 “(D) request information on any current
17 or 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 condi-
24 tion under the LRTAP POPs Protocol;

1 “(E) describe a broad range of possible
2 prohibitions or restrictions that the United
3 States could impose on the manufacture, proc-
4 essing, distribution in commerce for export, use,
5 or disposal of the chemical substance or mix-
6 ture to address any risks that the chemical sub-
7 stance or mixture may pose; and

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

14 “(4) PROVISION OF INFORMATION.—Not later
15 than 60 days after the date of publication of the no-
16 tice under paragraph (2), any person that manufac-
17 tures, processes, distributes in commerce for export,
18 or disposes of a chemical substance or mixture that
19 is the subject of the notice shall provide (and any
20 other interested party may provide) to the Adminis-
21 trator—

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

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

4 “(ii) a decision by the Conference
5 under paragraph 9 of Article 8 of the
6 POPs Convention;

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

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

17 “(g) NOTICE AFTER RECOMMENDATION THAT CON-
18 FERENCE CONSIDER LISTING OR AFTER COMPLETION OF
19 TECHNICAL REVIEW.—

20 “(1) APPLICABILITY.—This subsection ap-
21 plies—

22 “(A) if the POPs Review Committee rec-
23 ommends, under paragraph 9 of Article 8 of the
24 POPs Convention, that the Conference consider
25 making a Conference listing decision with re-

1 spect to the chemical substance or mixture in
2 accordance with the proposal; or

3 “(B) after completion of a technical review
4 of a proposal to list a chemical substance or
5 mixture on an Annex of the LRTAP POPs Pro-
6 tocol.

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

11 “(A) publish in the Federal Register a no-
12 tice of the recommendation or completion of the
13 technical review; and

14 “(B) provide opportunity for comment on
15 the recommendation or the technical review.

16 “(3) REQUIRED ELEMENTS.—A notice under
17 paragraph (2) shall—

18 “(A) include a summary of the POPs Re-
19 view Committee recommendation and the basis
20 for the recommendation or a summary of the
21 technical review; and

22 “(B) summarize any control measures for
23 the chemical substance or mixture that are
24 identified by the POPs Review Committee or in
25 the technical review.

1 “(h) CHEMICAL SUBSTANCE OR MIXTURE SUBSE-
2 QUENTLY LISTED UNDER POPs CONVENTION OR
3 LRTAP POPs PROTOCOL.—

4 “(1) REGULATIONS.—If the Conference decides
5 to list a chemical substance or mixture in Annex A
6 or B to the POPs Convention, or if the parties to
7 the LRTAP POPs Protocol decide to list a chemical
8 substance or mixture in Annex I or II to the
9 LRTAP POPs Protocol, the Administrator shall—

10 “(A) not more than 1 year after the date
11 of such decision, publish in the Federal Reg-
12 ister—

13 “(i) a proposed rule, to prohibit or re-
14 strict the domestic manufacture, proc-
15 essing, distribution in commerce for ex-
16 port, use, or disposal of the additional
17 chemical substance or mixture, that pro-
18 tects against significant adverse human
19 health and environmental effects from such
20 domestic manufacture, processing, dis-
21 tribution in commerce for export, use, or
22 disposal associated with the chemical sub-
23 stance or mixture (including, as the Ad-
24 ministrator considers appropriate, effects
25 from long-range environmental transport),

1 which at a minimum implements the con-
2 trol measures specified for the chemical
3 substance or mixture in Annex A and B of
4 the POPs Convention and Annex I and II
5 to the LRTAP POPs Protocol;

6 “(ii) a statement that—

7 “(I) a proposed rule has been
8 issued under other Federal law to pro-
9 hibit or restrict the domestic manu-
10 facture, processing, distribution in
11 commerce for export, use, or disposal
12 of the additional chemical substance
13 or mixture, which at a minimum im-
14 plements the control measures speci-
15 fied for the chemical substance or
16 mixture in Annex A and B of the
17 POPs Convention and Annex I and II
18 to the LRTAP POPs Protocol; and

19 “(II) a final rule pursuant to
20 that proposed rule will be issued not
21 more than 2 years after the date of
22 the publication of the proposed rule;

23 “(iii) a statement that additional reg-
24 ulation is not necessary because the addi-
25 tional chemical substance or mixture is al-

1 ready regulated in the United States in a
2 manner that at a minimum implements the
3 control measures specified for the chemical
4 substance or mixture in Annex A and B of
5 the POPs Convention and Annex I and II
6 to the LRTAP POPs Protocol; or

7 “(iv) a proposed decision not to pro-
8 hibit or restrict the domestic manufacture,
9 processing, distribution in commerce for
10 export, use, or disposal of the additional
11 chemical substance or mixture because the
12 chemical substance or mixture is not likely
13 to lead to significant adverse human health
14 or environmental effects from such domes-
15 tic manufacture, processing, distribution in
16 commerce for export, use, or disposal (in-
17 cluding, as the Administrator considers ap-
18 propriate, effects from long-range environ-
19 mental transport); and

20 “(B) not more than 2 years after the date
21 of a proposed rule or decision under subpara-
22 graph (A), publish in the Federal Register—

23 “(i) a final rule, to prohibit or restrict
24 the domestic manufacture, processing, dis-
25 tribution in commerce for export, use, or

1 disposal of the additional chemical sub-
2 stance or mixture, that protects against
3 significant adverse human health and envi-
4 ronmental effects from such domestic man-
5 ufacture, processing, distribution in com-
6 merce for export, use, or disposal associ-
7 ated with the chemical substance or mix-
8 ture (including, as the Administrator con-
9 siders appropriate, effects from long-range
10 environmental transport), which at a min-
11 imum implements the control measures
12 specified for the chemical substance or
13 mixture in Annex A and B of the POPs
14 Convention and Annex I and II to the
15 LRTAP POPs Protocol;

16 “(ii) a final rule, issued under other
17 Federal law, to prohibit or restrict the do-
18 mestic manufacture, processing, distribu-
19 tion in commerce for export, use, or dis-
20 posal of the additional chemical substance
21 or mixture, which at a minimum imple-
22 ments the control measures specified for
23 the chemical substance or mixture in
24 Annex A and B of the POPs Convention

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

3 “(iii) a final decision not to prohibit
4 or restrict the domestic manufacture, proc-
5 essing, distribution in commerce for ex-
6 port, use, or disposal of the additional
7 chemical substance or mixture because the
8 chemical substance or mixture is not likely
9 to lead to significant adverse human health
10 or environmental effects from such domes-
11 tic manufacture, processing, distribution in
12 commerce for export, use, or disposal (in-
13 cluding, as the Administrator considers ap-
14 propriate, effects from long-range environ-
15 mental transport).

16 A decision made under subparagraph (B)(ii) shall
17 not prohibit the Administrator from issuing at a
18 later date a final rule described in subparagraph
19 (B)(i) with respect to the chemical substance or mix-
20 ture. A final rule described in subparagraph (B)(i)
21 or (ii) shall not take effect unless the United States
22 has consented to be bound by the listing of the
23 chemical substance or mixture with respect to which
24 the final rule applies.

25 “(2) JUDICIAL REVIEW.—

1 “(A) IN GENERAL.—Not later than 60
2 days after the date of publication of a final rule
3 or decision under paragraph (1)(B), any person
4 may file a petition for judicial review of the rule
5 or decision with—

6 “(i) the United States Court of Ap-
7 peals for the District of Columbia; or

8 “(ii) the United States court of ap-
9 peals for the circuit in which the person re-
10 sides or maintains a principal place of
11 business.

12 “(B) JURISDICTION.—The United States
13 courts of appeals shall have exclusive jurisdic-
14 tion of any action to obtain judicial review
15 (other than in an enforcement proceeding) of a
16 rule or decision under this subsection if any
17 United States district court would have had ju-
18 risdiction of the action but for this paragraph.

19 “(C) COPIES.—The clerk of the court with
20 which a petition is filed under this paragraph
21 shall submit to the Administrator and the At-
22 torney General copies of the petition.

23 “(D) RULEMAKING PROCEEDINGS.—With
24 respect to an action to obtain judicial review

1 under this paragraph, section 2112 of title 28,
2 United States Code, shall apply to—

3 “(i) the filing of the record of pro-
4 ceedings for a rulemaking on which the
5 Administrator based the regulation; and

6 “(ii) any transfer of proceedings be-
7 tween United States courts of appeals.

8 “(E) STANDARD OF REVIEW.—Section 706
9 of title 5, United States Code, shall apply to the
10 review of a rule or decision under this para-
11 graph.

12 “(F) FEES AND COSTS.—The decision of
13 the court in an action commenced under this
14 paragraph, or of the Supreme Court of the
15 United States on review of such a decision, may
16 include an award of costs relating to the action
17 (including reasonable fees for attorneys and ex-
18 pert witnesses) if the court determines that
19 such an award is appropriate.

20 “(G) OTHER REMEDIES.—The remedies
21 provided under this paragraph shall be in addi-
22 tion to and not in lieu of remedies provided
23 under any other provision of law.

24 “(3) SOLE PROCEDURE.—

1 “(A) IN GENERAL.—No other rulemaking
2 procedure under this Act shall apply to rules
3 promulgated under this section.

4 “(B) RULEMAKING.—Regulations promul-
5 gated by the Administrator under this section
6 shall comply with section 553 of title 5, United
7 States Code (without regard to any reference in
8 that section to sections 556 and 557 of that
9 title).

10 “(i) HARMONIZATION OF POPs CONVENTION AND
11 LRTAP POPs PROTOCOL.—

12 “(1) IN GENERAL.—If a chemical substance or
13 mixture is both a POPs chemical substance or mix-
14 ture and a LRTAP POPs chemical substance or
15 mixture, in the case of a conflict between a provision
16 of this section applicable to a POPs chemical sub-
17 stance or mixture and a provision of this section ap-
18 plicable to a LRTAP POPs chemical substance or
19 mixture, the more stringent provision shall apply, as
20 determined by the Administrator in consultation
21 with the Secretary of State.

22 “(2) APPLICATION.—In the case of chemical
23 substance or mixture described in paragraph (1),
24 this section shall be applied in such a manner as to
25 ensure that the United States is in compliance with

1 the POPs Convention and the LRTAP POPs Pro-
2 tocol with respect to the chemical substance or mix-
3 ture.

4 “(j) AUTHORITY TO ISSUE REGULATIONS.—The Ad-
5 ministrator may issue regulations as necessary to imple-
6 ment this section.

7 **“SEC. 503. NOTICE AND RECORD OF PROHIBITIONS, EXEMP-**
8 **TIONS, DISALLOWANCES, AND OTHER INFOR-**
9 **MATION.**

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

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

13 “(A) the POPs chemical substances and
14 mixtures, or the LRTAP POPs chemical sub-
15 stances and mixtures, subject to the prohibi-
16 tions specified in section 502;

17 “(B) any exemptions from the prohibitions
18 authorized under section 502, including the
19 date on which the exemptions are no longer au-
20 thorized;

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

24 “(D) in the case of a POPs chemical sub-
25 stance or mixture, a list of any importing for-

1 eign states from which the Administrator has
2 received a nonparty certification under section
3 502(c)(6)(D); and

4 “(2) may include in the notice any other infor-
5 mation that the Administrator determines to be nec-
6 essary to ensure adequate notice of the requirements
7 of—

8 “(A) this title;

9 “(B) the POPs Convention; or

10 “(C) the LRTAP POPs Protocol.

11 “(b) UPDATING AND AVAILABILITY OF RECORD.—

12 The Administrator shall—

13 “(1) update the record as necessary; and

14 “(2) make the record publicly available.

15 “(c) DISCLOSURE OF DATA.—Any information pro-
16 vided to or otherwise obtained by the Administrator (or
17 any representative of the Administrator) under this title
18 shall be subject to section 14 of this Act.

19 **“SEC. 504. INTERNATIONAL CONVENTIONS AND COOPERA-**
20 **TION IN INTERNATIONAL EFFORTS.**

21 “In cooperation with the Secretary of State and the
22 head of any other appropriate Federal agency, the Admin-
23 istrator shall—

24 “(1) participate and cooperate in any inter-
25 national efforts to develop improved research and

1 regulations on chemical substances and mixtures;
2 and

3 “(2) participate in technical cooperation and ca-
4 pacity building activities designed to support imple-
5 mentation of—

6 “(A) the LRTAP POPs Protocol;

7 “(B) the PIC Convention; and

8 “(C) the POPs Convention.

9 **“SEC. 505. EXPORTS.**

10 “(a) REQUIREMENTS FOR EXPORTS.—In the case of
11 a chemical substance or mixture identified by the Adminis-
12 trator as listed on Annex III of the PIC Convention in
13 a notice issued under subsection (d)(3), any person that
14 distributes in commerce the chemical substance or mixture
15 for export shall comply with any export conditions or re-
16 strictions identified by the Administrator in the notice.

17 “(b) PRE-EXPORT NOTICES.—

18 “(1) IN GENERAL.—

19 “(A) REQUIREMENT.—In the case of—

20 “(i) a chemical substance or mixture
21 that the Administrator determines under
22 subsection (d)(1) to be banned or severely
23 restricted;

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

4 “(iii) a POPs chemical substance or
5 mixture allowed to be exported under para-
6 graph (6) or (7) of section 502(c);

7 the exporter of the chemical substance or mix-
8 ture shall provide to the Administrator notice of
9 the intent of the exporter to export the chemical
10 substance or mixture.

11 “(B) TIMING OF NOTICE FOR BANNED OR
12 SEVERELY RESTRICTED CHEMICAL SUBSTANCES
13 OR MIXTURES.—

14 “(i) FIRST EXPORT.—In the case of a
15 first export that an exporter makes from
16 the territory of the United States to each
17 importing foreign state after the Adminis-
18 trator issues a notice under subsection
19 (d)(1), the exporter shall provide the notice
20 so that the Administrator receives the no-
21 tice not earlier than 30 nor later than 15
22 calendar days before the date of export.

23 “(ii) SUBSEQUENT EXPORTS.—In the
24 case of subsequent exports to the import-
25 ing foreign state in the calendar year sub-

1 sequent to the notification provided under
2 clause (i), the exporter shall provide the
3 notice so that the Administrator receives
4 the notice not earlier than 30 nor later
5 than 15 calendar days before the date of
6 the first export in each calendar year.

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

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

19 “(ii) SUBSEQUENT EXPORTS.—In the
20 case of subsequent exports by the exporter
21 to the importing foreign state in a calendar
22 year subsequent to the notification pro-
23 vided under clause (i), the exporter shall
24 provide the notice so that the Adminis-
25 trator receives the notice not earlier than

1 30 nor later than 15 calendar days before
2 the date of the first such subsequent ex-
3 port in each calendar year.

4 “(iii) CHANGED CIRCUMSTANCES MER-
5 ITING NEW NOTICE.—If conditions or re-
6 strictions imposed by the importing foreign
7 state change and the Administrator noti-
8 fies the public of the change under sub-
9 section (d)(3), or if an earlier pre-export
10 notice no longer applies, the exporter shall
11 provide the notice so that the Adminis-
12 trator receives the notice not earlier than
13 30 nor later than 15 calendar days before
14 the date of export.

15 “(D) TIMING OF PRE-EXPORT NOTICE FOR
16 CHEMICAL SUBSTANCES OR MIXTURES AL-
17 LOWED TO BE EXPORTED UNDER PARAGRAPH
18 (6) OR (7) OF SECTION 502(c).—

19 “(i) FIRST EXPORT OF THE CAL-
20 ENDAR YEAR.—In the case of the first ex-
21 port that an exporter makes from the ter-
22 ritory of the United States to each import-
23 ing foreign state of a chemical substance
24 or mixture exported under paragraph (6)
25 or (7) of section 502(c), the exporter shall

1 provide the notice so that the Adminis-
2 trator receives the notice not earlier than
3 30 nor later than 15 calendar days before
4 the date of the first export.

5 “(ii) SUBSEQUENT EXPORTS.—In the
6 case of subsequent exports by the exporter
7 to the importing foreign state in a calendar
8 year subsequent to the notification pro-
9 vided under clause (i) to the importing for-
10 eign state, the exporter shall provide the
11 notice so that the Administrator receives
12 the notice not earlier than 30 nor later
13 than 15 calendar days before the date of
14 the first such subsequent export in each
15 calendar year.

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

24 “(2) ALTERNATE TIMEFRAME FOR NOTICES.—
25 Notwithstanding subparagraphs (B), (C), and (D) of

1 paragraph (1), the Administrator may set an alter-
2 nate timeframe for providing notices under para-
3 graph (1) if the Administrator determines that such
4 alternate timeframe is appropriate and the Adminis-
5 trator is able, within such alternate timeframe, to
6 administer notice activities in accordance with the
7 PIC Convention and comply with the POPs Conven-
8 tion.

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

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

13 “(i) the name and address of the ex-
14 porter;

15 “(ii) the name and address of the ap-
16 propriate designated national authority of
17 the United States;

18 “(iii) the name and address of the ap-
19 propriate designated national authority of
20 the importing foreign state, if available;

21 “(iv) the name and address of the im-
22 porter;

23 “(v) the name of the chemical sub-
24 stance or mixture for which the notice is
25 required;

1 “(vi) the expected date of export;

2 “(vii) any information relating to the
3 foreseen uses of the chemical substance or
4 mixture, if known, in the importing foreign
5 state;

6 “(viii) any information on pre-
7 cautionary measures to reduce exposure to,
8 and emission of, the chemical substance or
9 mixture;

10 “(ix) any information relating to the
11 concentration of the chemical substance or
12 mixture; and

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

15 “(B) NOTICES UNDER PARAGRAPH
16 (1)(C).—A notice under paragraph (1)(C) shall
17 include—

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

20 “(ii) any information relating to ex-
21 port conditions or restrictions identified by
22 the Administrator in the notice issued
23 under subsection (d)(3) with respect to the
24 chemical substance or mixture;

1 “(iii) a general description of the
2 manner in which the export complies with
3 those conditions; and

4 “(iv) any other information that the
5 Administrator determines to be necessary
6 for effective enforcement of the export con-
7 ditions or restrictions applicable to the
8 chemical substance or mixture.

9 “(C) NOTICES UNDER PARAGRAPH
10 (1)(D).—A notice submitted to the Adminis-
11 trator under paragraph (1)(D) shall include—

12 “(i) the name and address of the ex-
13 porter;

14 “(ii) the name and address of the im-
15 porter;

16 “(iii) a specification of the identity of
17 the POPs chemical substance or mixture;

18 “(iv) a general description of how the
19 export complies with the conditions under
20 paragraph (6) or (7) of section 502(e); and

21 “(v) such other information as the
22 Administrator determines to be necessary
23 for enforcement of the export-related obli-
24 gations of the POPs Convention applicable
25 to the chemical substance or mixture.

1 “(4) PRE-EXPORT NOTICES ACCOMPANYING
2 EACH EXPORT.—An exporter shall ensure that a
3 copy of the most recent applicable pre-export notice
4 accompanies each shipment for export and is avail-
5 able for inspection upon export from the United
6 States of—

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

11 “(B) any POPs chemical substance or mix-
12 ture that is exported under paragraph (6) or
13 (7) of section 502(e).

14 “(5) RETENTION OF PRE-EXPORT NOTICES.—
15 An exporter required to provide a notice under sub-
16 paragraph (C) or (D) of paragraph (1) shall main-
17 tain a copy of the notice and other documents used
18 to generate the notice and have it readily available
19 for a period of not less than 3 years beginning on
20 the date on which the notice is provided.

21 “(c) LABELING REQUIREMENTS.—

22 “(1) IN GENERAL.—In the case of any chemical
23 substance or mixture that is the subject of a notice
24 issued under paragraph (1) or (3) of subsection (d)
25 and that is manufactured, processed, or distributed

1 in commerce for export, the chemical substance or
2 mixture shall, in accordance with the PIC Conven-
3 tion—

4 “(A) bear labeling information relating to
5 risks or hazards to human health or the envi-
6 ronment; and

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

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

17 “(d) NOTICE REQUIREMENTS AND EXEMPTION.—

18 “(1) DETERMINATION WHETHER CHEMICAL
19 SUBSTANCE OR MIXTURE IS BANNED OR SEVERELY
20 RESTRICTED.—

21 “(A) IN GENERAL.—The Administrator, in
22 consultation with the Secretary of State, shall
23 determine whether a chemical substance or mix-
24 ture is banned or severely restricted within the

1 United States (as those terms are defined by
2 the PIC Convention).

3 “(B) NOTICE OF DETERMINATIONS.—Not-
4 withstanding any other provision of law, the
5 Administrator shall issue to the Secretariat of
6 the PIC Convention and the public a notice of
7 each determination under subparagraph (A)
8 that includes—

9 “(i) in the case of a notice to the Sec-
10 retariat of the PIC Convention, the infor-
11 mation specified in Annex I to the PIC
12 Convention; and

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

16 “(2) NOTICE TO FOREIGN COUNTRIES.—

17 “(A) IN GENERAL.—Notwithstanding any
18 other provision of law, on receipt of a notice of
19 intent to export under subsection (b)(1)(B), the
20 Administrator shall provide a copy of the notice
21 to the designated national authority of the im-
22 porting foreign state.

23 “(B) NONIDENTIFIED DESIGNATED NA-
24 TIONAL AUTHORITY.—In a case in which a des-
25 ignated national authority has not been identi-

1 fied, the Administrator shall provide the notice
2 of intent to export to any other appropriate of-
3 ficial of the importing foreign state, as identi-
4 fied by the Administrator.

5 “(3) NOTICE TO PUBLIC.—

6 “(A) IN GENERAL.—The Administrator, in
7 consultation with the Secretary of State, shall
8 issue a notice to inform the public of—

9 “(i) any chemical substance or mix-
10 ture that is listed on Annex III to the PIC
11 Convention; and

12 “(ii) any condition or restriction of an
13 importing foreign state that is applicable
14 to the import, in accordance with the PIC
15 Convention, of the chemical substance or
16 mixture.

17 “(B) TIMING.—A notice required under
18 subparagraph (A) shall be issued not later than
19 90 days after, and any conditions or restrictions
20 described in subparagraph (A)(ii) shall take ef-
21 fect not later than 180 days after, the date of
22 receipt of a notice from the Secretariat of the
23 PIC Convention who—

24 “(i) transmits import decisions of the
25 parties to the PIC Convention; or

1 “(ii) provides notice of the failure of
2 the parties to provide import decisions.

3 “(C) TREATMENT OF CONDITIONS AND RE-
4 STRICTIONS.—A condition or restriction identi-
5 fied by a notice required under subparagraph
6 (A) shall be considered to be an export condi-
7 tion or restriction for the purpose of subsection
8 (a).

9 “(4) NOTICE OF EXEMPTION.—The Adminis-
10 trator may issue a notice exempting any chemical
11 substance or mixture from the requirements of sub-
12 sections (a) through (c) and this subsection if the
13 Administrator determines, in consultation with the
14 Secretary of State, that the exemption would be con-
15 sistent with the PIC Convention.

16 “(5) INTEGRATION WITH OTHER NOTICES.—To
17 the maximum extent practicable, the Administrator
18 shall integrate the information contained in any no-
19 tice issued under this subsection into any notice
20 published under—

21 “(A) section 12(b); or

22 “(B) section 502.

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

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

2 “(2) to ensure compliance with the PIC Con-
3 vention; 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 the POPS
23 Convention and the PIC Convention with respect to
24 the chemical substance or mixture.

1 **“SEC. 506. RULES OF CONSTRUCTION.**

2 “Nothing in this title—

3 “(1) shall be construed to require the United
4 States to register for any specific exemption avail-
5 able to the United States under Annex A or B to the
6 POPs Convention or any acceptable purpose avail-
7 able to the United States under Annex B to the
8 POPs Convention; or

9 “(2) affects the authority of the Administrator
10 to regulate a chemical substance or mixture under
11 any other law or any other provision of this Act.

12 **“SEC. 507. APPLICABILITY.**

13 “A requirement of this title that relates to the
14 LRTAP POPs Protocol, the POPs Convention, or the PIC
15 Convention shall be effective only if the United States is
16 a party to such Protocol or Convention.”.

17 **SEC. 3. POLYCHLORINATED BIPHENYLS (PCBS).**

18 Section 6(e) of the Toxic Substance Control Act (15
19 U.S.C. 2605(e)) is amended—

20 (1) by adding at the end of paragraph (3) the
21 following new subparagraph:

22 “(D) The Administrator may not, after the date of
23 enactment of this subparagraph, grant an exemption
24 under subparagraph (B) unless the manufacturing, proc-
25 essing, or distribution in commerce with respect to which

1 such exemption applies is authorized under section 503(f)
2 or (g), subject to section 503(h).”; and

3 (2) by adding at the end the following new
4 paragraph:

5 “(6) Notwithstanding any other provision of this sub-
6 section, no person may distribute in commerce for export
7 equipment (including transformers, capacitors, and other
8 receptacles) containing greater than 0.05 liters of liquid
9 stock that contains greater than 0.005 percent poly-
10 chlorinated biphenyls, except for the purpose of environ-
11 mentally sound waste management to the extent that such
12 distribution in commerce for export is authorized by Fed-
13 eral law.”.

14 **SEC. 4. 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
17 than section 8)” and inserting “(other than section 8 or
18 title V)”.

19 **SEC. 5. PROHIBITED ACTS.**

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

22 **“SEC. 15. PROHIBITED ACTS.**

23 “It shall be unlawful for any person to—

24 “(1) fail or refuse to comply with—

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

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

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

7 “(D) any requirement of title II;

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

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

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

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

16 “(A) section 5 or 6;

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

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

21 “(3) use for commercial purposes a chemical
22 substance or mixture that the person knew or had
23 reason to know was manufactured, processed, dis-
24 tributed in commerce for export, used, or disposed of
25 in violation of—

1 “(A) title V; or

2 “(B) a rule promulgated under title V;

3 “(4) fail or refuse to establish or maintain
4 records, submit reports, notices, or other informa-
5 tion, or permit access to or copying of records as re-
6 quired by this Act (including regulations promul-
7 gated under this Act); or

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

10 **SEC. 6. CONFORMING AMENDMENTS.**

11 (a) Section 11 of the Toxic Substances Control Act
12 (15 U.S.C. 2610) is amended in subsections (a) and (b)
13 by striking “title IV” each place it appears and inserting
14 “title IV or V”.

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

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

19 “(i) section 5 or 6;

20 “(ii) title IV or V;

21 “(iii) a rule or order issued under section
22 5 or 6 or title IV or V; or

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

1 (c) Section 16 of the Toxic Substances Control Act
2 (15 U.S.C. 2615) is amended by striking “section 15 or
3 409” each place it appears and inserting “section 15, sec-
4 tion 409, or title V”.

5 (d) Section 17 of the Toxic Substances Control Act
6 (15 U.S.C. 2616) is amended—

7 (1) in subsection (a)—

8 (A) in paragraph (1)—

9 (i) in subparagraph (A), by striking
10 “section 15 or 409,” and inserting “section
11 15, section 409, or title V;”;

12 (ii) by striking subparagraph (B) and
13 inserting the following:

14 “(B) restrain any person from taking any ac-
15 tion prohibited by section 5 or 6, or title IV or V
16 (or a rule or order issued under any of those sec-
17 tions or titles);”;

18 (iii) in subparagraph (C), by striking
19 “, or” and inserting “; or”; and

20 (iv) in subparagraph (D)—

21 (I) by striking “title IV manufac-
22 tured” and inserting “title IV or V
23 manufactured”; and

24 (II) by striking “section 5, 6, or
25 title IV” each place it appears and in-

1 serting “section 5 or 6, or title IV or
2 V”; and

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

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

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

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

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

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

14 “(C) no State or political subdivision may es-
15 tablish or continue in effect any requirement that is
16 applicable to a POPs chemical substance or mixture
17 or LRTAP POPs chemical substance or mixture (as
18 defined in title V) for which a listing under Annex
19 A or B of the POPs Convention or Annex I or II
20 of the LRTAP POPs Protocol has entered into force
21 for the United States, if such requirement is less
22 stringent than control measures and other require-
23 ments adopted by the United States under section
24 502(h) with respect to the chemical substance or
25 mixture.”.

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

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