

109TH CONGRESS
1ST SESSION

H. R. 4591

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

DECEMBER 16, 2005

Mr. GILLMOR introduced the following bill; which was referred to the
Committee on Energy and Commerce

A BILL

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,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Stockholm and Rot-
5 terdam Toxics Treaty Act of 2005”.

1 **SEC. 2. IMPLEMENTATION OF INTERNATIONAL AGREE-**
2 **MENTS.**

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

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

7 **“SEC. 501. DEFINITIONS.**

8 “In this title:

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

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

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

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

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

3 “(5) LRTAP CONVENTION.—The term
4 ‘LRTAP Convention’ means the Convention on
5 Long-Range Transboundary Air Pollution, done at
6 Geneva on November 13, 1979 (TIAS 10541), and
7 any subsequent amendment to which the United
8 States consents to be bound.

9 “(6) 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, as defined in section 3:

13 “(A) Aldrin.

14 “(B) Chlordane.

15 “(C) Chlordecone.

16 “(D) Dichlorodiphenyltrichloroethane
17 (DDT).

18 “(E) Dieldrin.

19 “(F) Endrin.

20 “(G) Hexachlorocyclohexane (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 “(7) LRTAP POPS PROTOCOL.—The term
6 ‘LRTAP POPs Protocol’ means the Protocol on Per-
7 sistent Organic Pollutants to the LRTAP Conven-
8 tion, done at Aarhus on June 24, 1998, and any
9 subsequent amendment to which the United States
10 consents to be bound.

11 “(8) PIC CONVENTION.—The term ‘PIC Con-
12 vention’ means the Rotterdam Convention on the
13 Prior Informed Consent Procedure for Certain Haz-
14 ardous Chemicals and Pesticides in International
15 Trade, done at Rotterdam on September 10, 1998,
16 and any subsequent amendment to which the United
17 States consents to be bound.

18 “(9) POPS CHEMICAL SUBSTANCE OR MIX-
19 TURE.—The term ‘POPs chemical substance or mix-
20 ture’ means one of the following chemical substances
21 or mixtures, as defined in section 3:

22 “(A) Aldrin.

23 “(B) Chlordane.

24 “(C) Dichlorodiphenyltrichloroethane
25 (DDT).

1 “(D) Dieldrin.

2 “(E) Endrin.

3 “(F) Heptachlor.

4 “(G) Hexachlorobenzene.

5 “(H) Mirex.

6 “(I) Polychlorinated biphenyls (PCBs).

7 “(J) Toxaphene.

8 “(K) Any other chemical substance or mix-
9 ture that is listed in Annex A or B to the POPs
10 Convention.

11 “(10) POPs CONVENTION.—The term ‘POPs
12 Convention’ means the Stockholm Convention on
13 Persistent Organic Pollutants, done at Stockholm on
14 May 22, 2001, and any subsequent amendment to
15 which the United States consents to be bound.

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

21 **“SEC. 502. IMPLEMENTATION OF POPs CONVENTION AND**
22 **LRTAP POPs PROTOCOL.**

23 “(a) PROHIBITION.—Except as otherwise provided in
24 this title, no person may manufacture, process, distribute
25 in commerce for export, use, or dispose of a POPs chem-

1 ical substance or mixture listed in section 501(9) (A), (B),
2 (C), (D), (E), (F), (G), (H), or (J), or a LRTAP POPs
3 chemical substance or mixture listed in section 501(6)(A),
4 (B), (C), (D), (E), (F), (G), (H), (I), (J), (K), or (M).

5 “(b) EXCEPTIONS.—The Administrator may by rule
6 provide for exceptions to the prohibition under subsection
7 (a) where such exceptions are not inconsistent with the
8 obligations of the United States under the POPs Conven-
9 tion or the LRTAP POPs Protocol.

10 “(c) PCBs.—The Administrator may issue or amend
11 rules for the purpose of United States compliance with the
12 provisions of the POPs Convention or the LRTAP POPs
13 Protocol related to polychlorinated biphenyls through rules
14 duly promulgated through notice and comment rule-
15 making under section 6(e) or other applicable Federal law.

16 **“SEC. 503. NOTICE, INFORMATION, RULEMAKING, AND EX-**
17 **EMPTIONS.**

18 “(a) NOTICE THAT SCREENING CRITERIA ARE MET
19 OR AFTER RISK PROFILE SUBMITTED.—

20 “(1) APPLICABILITY.—This subsection applies
21 if—

22 “(A) the POPs Review Committee decides
23 under paragraph 4(a) of Article 8 of the POPs
24 Convention, that a proposal for listing a chem-
25 ical substance or mixture in Annex A, B, or C

1 to the POPs Convention fulfills the screening
2 criteria specified in Annex D to the POPs Con-
3 vention;

4 “(B) the Conference decides under para-
5 graph 5 of Article 8 of the POPs Convention,
6 that such a proposal shall proceed; or

7 “(C) if a party to the LRTAP POPs Pro-
8 tocol submits to the Executive Body a risk pro-
9 file in support of a proposal to list a chemical
10 substance or mixture in Annex I, II, or III to
11 the LRTAP POPs Protocol.

12 “(2) REQUIREMENT.—Not later than 60 days
13 after the date of an action described in paragraph
14 (1), the Administrator shall—

15 “(A) publish in the Federal Register a no-
16 tice of the action; and

17 “(B) provide opportunity for public com-
18 ment on the proposal or risk profile described
19 in paragraph (1).

20 “(3) REQUIRED ELEMENTS OF NOTICE.—A no-
21 tice under paragraph (2) shall include—

22 “(A) the identity of the chemical substance
23 or mixture that is the subject of the proposal or
24 risk profile described in paragraph (1);

1 “(B) a summary of the process, under the
2 POPs Convention or the LRTAP POPs Pro-
3 tocol, for the consideration of the action that
4 was taken, including criteria applied in that
5 process;

6 “(C) a summary of the POPs Review Com-
7 mittee or Conference decisions to date on the
8 proposed listing and the basis for the decisions;
9 and

10 “(D) a summary of how the chemical sub-
11 stance or mixture that is the subject of the ac-
12 tion is currently regulated under the laws of the
13 United States.

14 “(b) NOTICE THAT FURTHER CONSIDERATION OF
15 CHEMICAL SUBSTANCE OR MIXTURE IS WARRANTED.—

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

18 “(A) the POPs Review Committee decides,
19 under paragraph 7(a) of Article 8 of the POPs
20 Convention, that global action is warranted with
21 respect to a chemical substance or mixture that
22 is the subject of a proposal to list under an
23 Annex to the POPs Convention;

1 “(B) the Conference decides, under para-
2 graph 8 of that Article, that such a proposal
3 shall proceed; or

4 “(C) the Executive Body determines pur-
5 suant to paragraph 2 of Executive Body Deci-
6 sion 1998/2 that further consideration of a
7 chemical substance or mixture is warranted,
8 and therefore requires one or more technical re-
9 views of the proposal.

10 “(2) NOTICE.—Not later than 60 days after the
11 date on which a decision or determination is made
12 under paragraph (1), the Administrator shall—

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

15 “(B) provide opportunity for public com-
16 ment on the decision or determination.

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

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

21 “(B) include a summary of—

22 “(i) the POPs Review Committee or
23 Conference decision, and the basis for the
24 decision, in the case of a decision described
25 in paragraph (1)(A) or (B);

1 “(ii) the Executive Body determina-
2 tion, and basis for the determination, in
3 the case of a determination described in
4 paragraph (1)(C); and

5 “(iii) the comments received by the
6 Administrator in response to the Federal
7 Register notice published pursuant to sub-
8 section (a)(2)(A); and

9 “(C) request, for a chemical substance or
10 mixture proposed for listing on Annex A or B
11 of the POPs Convention or Annex 1 or 2 of the
12 LRTAP POPs Protocol, information and public
13 comment on any present or anticipated produc-
14 tion or use of the chemical substance or mix-
15 ture, including any explanation or documenta-
16 tion of items relating thereto that the United
17 States may use to—

18 “(i) seek an exemption or acceptable
19 purpose under the POPs Convention; or

20 “(ii) allow a restricted use or condi-
21 tion under the LRTAP POPs Protocol.

22 “(c) NOTICE OF CONFERENCE RECOMMENDATION
23 CONCERNING A LISTING OR COMPLETION OF A TECH-
24 NICAL REVIEW.—

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

3 “(A) if the POPs Review Committee rec-
4 ommends, under paragraph 9 of Article 8 of the
5 POPs Convention, that the Conference consider
6 making a Conference listing decision with re-
7 spect to a chemical substance or mixture in ac-
8 cordance with a proposal; or

9 “(B) after completion of a technical review
10 of the proposal to list a chemical substance or
11 mixture on an Annex of the LRTAP POPs Pro-
12 tocol.

13 “(2) NOTICE.—Not later than 60 days after the
14 date on which a recommendation under paragraph
15 (1)(A) is made or a technical review described in
16 paragraph (1)(B) is completed, the Administrator
17 shall—

18 “(A) publish in the Federal Register a no-
19 tice of the recommendation or completion of the
20 technical review; and

21 “(B) provide opportunity for public com-
22 ment on the recommendation or the technical
23 review.

24 “(3) REQUIRED ELEMENTS.—A notice under
25 paragraph (2) shall include a summary of—

1 “(A) the POPs Review Committee rec-
2 ommendation, and the basis for the rec-
3 ommendation, or of the technical review;

4 “(B) any control measures for the chemical
5 substance or mixture that are proposed by the
6 POPs Review Committee or in the technical re-
7 view;

8 “(C) any control measures for the chemical
9 substance or mixture that exist under the laws
10 of the United States; and

11 “(D) any public comments received by the
12 Administrator in response to the Federal Reg-
13 ister notice published pursuant to subsection
14 (b)(2).

15 “(d) PROVISION OF INFORMATION.—

16 “(1) UNDER POPS CONVENTION.—The Admin-
17 istrator, where relevant, by general order issued in
18 the Federal Register may require any person, or ap-
19 propriate categories of persons, that manufactures,
20 processes, distributes in commerce for export, or dis-
21 poses of a chemical substance or mixture that is the
22 subject of a notice under subsection (a), (b), or (c)
23 to provide information, to the extent such informa-
24 tion is known or readily obtainable, on—

1 “(A) the annual quantity of the chemical
2 substance or mixture that the person manufac-
3 tures and the locations of the manufacture;

4 “(B) the uses of the chemical substance or
5 mixture;

6 “(C) the approximate annual quantity of
7 the chemical substance or mixture that the per-
8 son releases into the environment; and

9 “(D) other information or monitoring data
10 relating to the chemical substance or mixture
11 that is consistent with the information specified
12 in—

13 “(i) paragraph 1 of Annex D;

14 “(ii) subsections (b) through (e) of
15 Annex E; and

16 “(iii) Annex F,
17 to the POPs Convention.

18 “(2) UNDER LRTAP POPS PROTOCOL.—The Ad-
19 ministrator, where relevant, by general order issued
20 in the Federal Register, may require any person, or
21 appropriate categories of persons, that manufac-
22 tures, processes, distributes in commerce for export,
23 or disposes of a chemical substance or mixture that
24 is the subject of a notice under subsection (a), (b),

1 or (c) to provide information, to the extent such in-
2 formation is known or readily obtainable, on—

3 “(A) the annual quantity of the chemical
4 substance or mixture that the person manufac-
5 tures and the locations of the manufacture;

6 “(B) the uses of the chemical substance or
7 mixture;

8 “(C) the approximate annual quantity of
9 the chemical substance or mixture that the per-
10 son releases into the environment;

11 “(D) environmental monitoring data relat-
12 ing to the chemical substance or mixture (in
13 areas distant from sources);

14 “(E) information on alternatives to the
15 uses of the chemical substance or mixture and
16 the efficacy of each alternative;

17 “(F) information on any known adverse
18 environmental or human health effects associ-
19 ated with each such alternative; and

20 “(G) other information or monitoring data
21 relating to the chemical substance or mixture
22 that is consistent with information specified in
23 Executive Body Decision 1998/2 for inclusion in
24 the risk profile or technical review.

25 “(3) UPDATING OF INFORMATION.—

1 “(A) VOLUNTARY UPDATES.—Any person
2 who submits information under paragraph (1)
3 or (2) may voluntarily update the information
4 at any time.

5 “(B) REQUIRED UPDATES.—If the Admin-
6 istrator determines, with the concurrence of the
7 Secretary of State, that an update of informa-
8 tion submitted under paragraph (1) or (2) is
9 necessary, the Administrator may, through a
10 general order published in the Federal Register,
11 require all persons that are required to submit
12 the information to update the information.

13 “(C) NEW INFORMATION.—As part of a
14 general order published under subparagraph
15 (B), the Administrator may require any person
16 who, after the date specified in the general
17 order issued pursuant to paragraph (1) or (2)
18 by which persons are required to submit infor-
19 mation, commences manufacturing, processing,
20 distributing in commerce for export, or dis-
21 posing of a chemical substance or mixture sub-
22 ject to the requirements in paragraph (1) or
23 (2), to submit the information required to be
24 submitted in the general order issued pursuant
25 to paragraph (1) or (2).

1 “(e) ACTION BY THE ADMINISTRATOR UPON NEW
2 LISTING OR OTHER CHANGES.—

3 “(1) RULEMAKING.—

4 “(A) AUTHORITY.—If either—

5 “(i) the Conference decides to amend
6 Annex A or B of the POPs Convention to
7 list an additional chemical substance or
8 mixture; or

9 “(ii) the parties to the LRTAP POPs
10 Protocol decide to amend Annex I or II to
11 the LRTAP POPs Protocol to list an addi-
12 tional chemical substance or mixture,

13 the Administrator may issue rules to prohibit or
14 restrict the manufacture, processing, distribu-
15 tion in commerce for export, use, or disposal of
16 the additional chemical substance or mixture to
17 the extent necessary to protect human health
18 and the environment in a manner that achieves
19 a reasonable balance of social, environmental,
20 and economic costs and benefits. The Adminis-
21 trator may modify rules issued under this para-
22 graph, consistent with the requirements of this
23 paragraph.

24 “(B) SCOPE OF RULEMAKING.—The Ad-
25 ministrator may issue rules under subparagraph

1 (A) only to meet, in whole or in part, the obli-
2 gations of the United States under the POPs
3 Convention or LRTAP POPs Protocol if the
4 United States were to consent to be bound for
5 that applicable amendment referred to in sub-
6 paragraph (A).

7 “(C) EFFECTIVE DATE FOR RULES.—No
8 rule issued under this paragraph shall take ef-
9 fect until the United States has consented to be
10 bound by the amendment agreed to by a deci-
11 sion under subparagraph (A)(i) or (ii).

12 “(2) CONSIDERATIONS.—In taking an action
13 under paragraph (1), the Administrator shall con-
14 sider—

15 “(A) a scientific assessment of the effects
16 of such chemical substance or mixture on health
17 and the magnitude and impact of the exposure
18 of human beings to such chemical substance or
19 mixture;

20 “(B) a scientific assessment of the effects
21 of such chemical substance or mixture on the
22 environment and the magnitude and impact of
23 the exposure of the environment to such chem-
24 ical substance or mixture;

1 “(C) the benefits of such chemical sub-
2 stance or mixture for various uses and the
3 availability, risks, and economic consequences of
4 substitutes for such uses, considering factors
5 described in subparagraph (D);

6 “(D) the reasonably ascertainable economic
7 consequences of the proposed prohibition or
8 other regulation, after consideration of the ef-
9 fect on the national economy, small business,
10 technological innovation, the environment, and
11 public health, including the degree to which the
12 manufacture, processing, distribution in com-
13 merce for export, use, or disposal of the chem-
14 ical substance or mixture is necessary to pre-
15 vent significant harm to an important sector of
16 the economy; and

17 “(E) national and international con-
18 sequences that are likely to arise as a result of
19 domestic regulatory action (including the pos-
20 sible consequences of using alternative products
21 or processes).

22 “(3) ADDITIONAL CONSIDERATIONS.—The Ad-
23 ministrator may also consider—

1 “(A) with regard to chemical substances or
2 mixtures listed in Annex A or B of the POPs
3 Convention—

4 “(i) recommendations of the POPs
5 Review Committee under paragraph 9 of
6 Article 8 of the POPs Convention;

7 “(ii) the Conference listing decision;
8 and

9 “(iii) any information that the United
10 States submits to the POPs Review Com-
11 mittee or to the Conference pursuant to
12 Article 8 of the POPs Convention; and

13 “(B) with regard to chemical substances or
14 mixtures listed in Annex I or II of the LRTAP
15 POPs Protocol—

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

19 “(ii) the LRTAP POPs Protocol list-
20 ing decision; and

21 “(iii) any information that the United
22 States submitted to the Executive Body, or
23 a subsidiary of the Executive Body, in re-
24 lation to such a technical review or listing
25 decision.

1 “(4) ASSESSMENT OF RISKS OR EFFECTS.—In
2 assessing risks and effects, the Administrator shall
3 use sound and objective scientific practices, and
4 shall determine the weight of the scientific evidence
5 concerning such risks or effects based on the best
6 available scientific information, including peer-re-
7 viewed studies, in the rulemaking record.

8 “(5) COMMENTS AND INFORMATION PART OF
9 RECORD.—The comments and information received
10 in response to notices or orders published pursuant
11 to subsections (a), (b), (c), and (d) shall be part of
12 the record for a rule promulgated pursuant to this
13 subsection.

14 “(f) EXEMPTIONS UNDER POPs CONVENTION.—

15 “(1) USE-SPECIFIC OR ACCEPTABLE PURPOSE
16 EXEMPTIONS.—Prohibitions or restrictions included
17 in rules issued under subsection (e)(1), and the pro-
18 hibitions described in section 502(a), shall not apply
19 to any manufacture, processing, distribution in com-
20 merce for export, use, or disposal of a POPs chem-
21 ical substance or mixture that the Administrator de-
22 termines, through final rules promulgated under
23 subsection (e)(1), with the concurrence of the Sec-
24 retary of State—

25 “(A) is consistent with—

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

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

8 “(B) would, as a result, not prevent the
9 United States from complying with obligations
10 or potential obligations of the United States
11 with respect to that chemical substance or mix-
12 ture under the POPs Convention.

13 “(2) UNINTENTIONAL TRACE CONTAMI-
14 NANTS.—Prohibitions or restrictions included in
15 rules issued under subsection (e)(1), and the prohi-
16 bitions described in section 502(a), shall not apply
17 to any quantity of a POPs chemical substance or
18 mixture that occurs as an unintentional trace con-
19 taminant in a product or article.

20 “(3) RESEARCH.—Prohibitions or restrictions
21 included in rules issued under subsection (e)(1), and
22 the prohibitions described in section 502(a), shall
23 not apply to any quantity of a POPs chemical sub-
24 stance or mixture that is used for laboratory scale
25 research or as a reference standard.

1 “(4) CONSTITUENT OF ARTICLE IN USE BE-
2 FORE PROHIBITION APPLIED.—Prohibitions or re-
3 strictions included in rules issued under subsection
4 (e)(1), and the prohibitions described in section
5 502(a), shall not apply to any quantity of a POPs
6 chemical substance or mixture that occurs as a con-
7 stituent of an article, if—

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

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

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

18 “(A) IN GENERAL.—Subject to subpara-
19 graph (B), prohibitions or restrictions included
20 in rules issued under subsection (e)(1), and the
21 prohibitions described in section 502(a), shall
22 not apply to any quantity of a POPs chemical
23 substance or mixture that is manufactured and
24 used as a closed-system site-limited inter-
25 mediate that is chemically transformed in the

1 manufacture of other chemicals that do not ex-
2 hibit the characteristics of persistent organic
3 pollutants.

4 “(B) CONDITIONS.—Subparagraph (A) ap-
5 plies if, before the commencement of the manu-
6 facture or use under the POPs Convention, and
7 before each 10-year period thereafter—

8 “(i) any person that desires to invoke
9 the exemption provides to the Adminis-
10 trator information concerning—

11 “(I) the annual total quantity of
12 the POPs chemical substance or mix-
13 ture anticipated to be manufactured
14 or used, or a reasonable estimate of
15 the quantity; and

16 “(II) the nature of the closed
17 system site-limited process, including
18 the quantity of any nontransformed
19 and unintentional trace contamination
20 by the POPs chemical substance or
21 mixture that remains in the final
22 product; and

23 “(ii) notwithstanding any other provi-
24 sion of law, the Administrator—

1 “(I) determines, with the concur-
2 rence of the Secretary of State, that
3 the information provided under clause
4 (i) is complete and sufficient; and

5 “(II) transmits the information
6 to the Secretariat of the POPs Con-
7 vention.

8 “(C) TERMINATION OF EXEMPTION.—If,
9 at the termination of any exemption under sub-
10 paragraph (A), a particular closed-system site-
11 limited intermediate exemption is no longer au-
12 thorized for the United States under the POPs
13 Convention, no further exemption shall be avail-
14 able under subparagraph (A).

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

18 “(A) IN GENERAL.—Prohibitions or re-
19 strictions included in rules issued under sub-
20 section (e)(1), and the prohibitions described in
21 section 502(a), shall not apply to any distribu-
22 tion in commerce for export of any POPs chem-
23 ical substance or mixture for which a produc-
24 tion or use specific exemption under Annex A to
25 the POPs Convention available to the United

1 States is in effect, or for which a production or
2 use specific exemption or acceptable purpose
3 under Annex B to the POPs Convention avail-
4 able to the United States is in effect, unless—

5 “(i) if the export is for purposes of
6 disposal, the export does not comply with
7 an export condition described in subpara-
8 graph (B), as determined by the Adminis-
9 trator in consultation with the heads of
10 other interested Federal agencies; or

11 “(ii) the export does not comply with
12 an export condition described in subpara-
13 graph (C), or (D), as applicable, as deter-
14 mined by the Administrator in consultation
15 with the heads of other interested Federal
16 agencies and with the concurrence of the
17 Secretary of State and the United States
18 Trade Representative.

19 “(B) EXPORT FOR ENVIRONMENTALLY
20 SOUND DISPOSAL.—An export condition re-
21 ferred to in subparagraph (A)(i) is that the
22 POPs chemical substance or mixture is ex-
23 ported for the purpose of environmentally sound
24 disposal.

1 “(C) EXPORT TO PARTY WITH PERMISSION
2 TO USE.—An export condition referred to in
3 subparagraph (A)(ii) 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)(ii) 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 described in clause (ii) to
20 the Administrator.

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

1 or mixture and state that, with respect to
2 the POPs chemical substance or mixture,
3 the importing nonparty is committed to—

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

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

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

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

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

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

3 “(E) INFORMATION RELEVANT TO EX-
4 PORTS.—The Administrator, with the concur-
5 rence of the Secretary of State, shall make
6 available to the public, and keep current, a list
7 of—

8 “(i) parties to the POPs Convention;

9 “(ii) production and use specific ex-
10 emptions available to the United States;

11 “(iii) parties to the POPs Convention
12 that are permitted to use each POPs
13 chemical substance or mixture under
14 Annex A or B of the POPs Convention;
15 and

16 “(iv) chemical substances and mix-
17 tures for which no production or use spe-
18 cific exemptions are in effect for any party
19 to the POPs Convention.

20 “(7) EXPORT FOR ENVIRONMENTALLY SOUND
21 DISPOSAL IF NO PRODUCTION OR USE SPECIFIC EX-
22 EMPTION IN EFFECT.—Prohibitions or restrictions
23 included in rules issued under subsection (e)(1), and
24 the prohibitions described in section 502(a), shall
25 not apply to any distribution in commerce for export

1 for the purpose of environmentally sound disposal of
2 a POPs chemical substance or mixture listed in
3 Annex A to the POPs Convention for which no pro-
4 duction or use specific exemption is in effect for any
5 party to the POPs Convention.

6 “(8) IMPORTS FOR ENVIRONMENTALLY SOUND
7 DISPOSAL.—Prohibitions or restrictions included in
8 rules issued under subsection (e)(1), and the prohi-
9 bitions described in section 502(a), shall not apply
10 to a POPs chemical substance or mixture that is im-
11 ported for the purpose of environmentally sound dis-
12 posal.

13 “(9) WASTE.—Prohibitions or restrictions in-
14 cluded in rules issued under subsection (e)(1), and
15 the prohibitions described in section 502(a), shall
16 not apply to any quantity of a POPs chemical sub-
17 stance or mixture, including any article that consists
18 of, contains, or is contaminated with a POPs chem-
19 ical substance or mixture, that has become waste
20 that is otherwise regulated under Federal law.

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

1 or mixture that is prohibited under any other Act or
2 any other title of this Act.

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

5 “(1) IN GENERAL.—Prohibitions or restrictions
6 included in rules issued under subsection (e)(1), and
7 the prohibitions described in section 502(a), shall
8 not apply to—

9 “(A) any manufacture, processing, dis-
10 tribution in commerce for export, use, or dis-
11 posal of a LRTAP POPs chemical substance or
12 mixture that—

13 “(i) the Administrator determines,
14 through final rules promulgated under sub-
15 section (e)(1), with the concurrence of the
16 Secretary of State, is consistent with an al-
17 lowed restricted use or condition available
18 to the United States under Annex I or II
19 to the LRTAP POPs Protocol; and

20 “(ii) the Administrator determines,
21 through final rules promulgated under sub-
22 section (e)(1), with the concurrence of the
23 Secretary of State, would, as a result, not
24 prevent the United States from complying
25 with obligations or potential obligations of

1 the United States with respect to that
2 chemical substance or mixture under the
3 LRTAP POPs Protocol;

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

8 “(C) any quantity of a LRTAP POPs
9 chemical substance or mixture that occurs as a
10 contaminant in a product;

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

14 “(i) the implementation date for the
15 United States of any applicable obligation
16 under the LRTAP POPs Protocol; or

17 “(ii) in the case of any LRTAP POPs
18 chemical substance or mixture added to
19 any applicable Annex after the implemen-
20 tation date for the United States of the ap-
21 plicable obligation of the LRTAP POPs
22 Protocol, the implementation date in the
23 amendment to the LRTAP POPs Protocol
24 that makes the addition;

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

6 “(F) the production of HCH, the use of
7 technical HCH (i.e., HCH mixed isomers) as an
8 intermediate in chemical manufacturing, and
9 the use of products in which 99 percent of the
10 HCH isomer is in the gamma form (i.e. lin-
11 dane, CAS:58–89–9) so long as such use is re-
12 stricted to—

13 “(i) seed treatment; and

14 “(ii) public health,

15 unless the Administrator, by rule, restricts the
16 application of this subparagraph consistent with
17 an amendment to the LRTAP POPs Protocol
18 specifically addressing HCH;

19 “(G) any quantity of a LRTAP POPs
20 chemical substance or mixture that has become
21 waste that is otherwise regulated under Federal
22 law;

23 “(H) any distribution in commerce for ex-
24 port of a LRTAP POPs chemical substance or
25 mixture if the distribution in commerce for ex-

1 port is conducted in an environmentally sound
2 manner; or

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

6 “(2) EXEMPTIONS BY ADMINISTRATOR.—The
7 Administrator may grant an exemption from prohi-
8 bitions or restrictions included in rules issued under
9 subsection (e)(1), and the prohibitions described in
10 section 502(a), that the Administrator, in concur-
11 rence with the Secretary of State, determines is con-
12 sistent with the exemptions authorized under para-
13 graph 2 of Article 4 of the LRTAP POPs Protocol.

14 “(3) EXEMPTIONS BY PETITION.—

15 “(A) PETITIONS.—A person may petition
16 the Administrator for an exemption from prohi-
17 bitions or restrictions included in rules issued
18 under subsection (e)(1), and the prohibitions
19 described in section 502(a).

20 “(B) GRANT OR DENIAL OF PETITION.—
21 The Administrator, with the concurrence of the
22 Secretary of State, shall—

23 “(i) if the petition is authorized for
24 the United States under, and is otherwise
25 consistent with, the LRTAP POPs Pro-

1 tocol, grant the petition with such condi-
2 tions or limitations as are necessary to
3 meet any requirement of the LRTAP
4 POPs Protocol or any other provision of
5 law; or

6 “(ii) deny the petition.

7 “(4) PROVISION OF INFORMATION TO SECRE-
8 TARIAT.—If the Administrator grants an exemption
9 under paragraph (2) or (3), the Administrator, not
10 later than 90 days after the date on which the ex-
11 emption is granted, shall provide the Secretariat of
12 the LRTAP POPs Protocol with the information
13 specified in paragraph 3 of Article 4 of the LRTAP
14 POPs Protocol.

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

17 “(A) IN GENERAL.—If, after an exemption
18 has been granted under paragraph (2) or (3),
19 the exemption is no longer consistent with the
20 requirements of paragraph (2) or (3), the Ad-
21 ministrators shall withdraw the grant of such ex-
22 emption.

23 “(B) PUBLICATION OF NOTICE IN FED-
24 ERAL REGISTER.—The Administrator shall pub-
25 lish in the Federal Register a notice announcing

1 the withdrawal under subparagraph (A) of any
2 exemption.

3 “(6) NO EFFECT ON OTHER PROHIBITIONS.—
4 Nothing in this subsection authorizes any manufac-
5 ture, processing, distribution in commerce for ex-
6 port, use, or disposal of a LRTAP POPs chemical
7 substance or mixture that is prohibited under any
8 other Act or any other title of this Act.

9 “(h) HARMONIZATION OF POPS CONVENTION AND
10 LRTAP POPs PROTOCOL.—

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

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

1 LRTAP POPs Protocol with respect to the chemical
2 substance or mixture.

3 “(i) ACTION BY THE ADMINISTRATOR UPON ADDI-
4 TION OF SOURCE CATEGORIES.—

5 “(1) APPLICABILITY.—If the Conference de-
6 cides to amend Annex C of the POPs Convention to
7 add to Part II new source categories not already
8 listed under section 112(c) of the Clean Air Act (42
9 U.S.C. 7412(c)) as major source categories, such de-
10 cision shall be published in the Federal Register.

11 “(2) CONFERENCE DECISION NOTICE.—A no-
12 tice of a Conference decision published in the Fed-
13 eral Register pursuant to paragraph (1) of this sub-
14 section shall identify the source category or cat-
15 egories that are the subject of the decision. The no-
16 tice shall include a summary of the Conference deci-
17 sion and request information and public comment.

18 “(j) ACTION PLANS.—

19 “(1) APPLICABILITY.—This subsection applies
20 if the United States—

21 “(A) develops an action plan under Article
22 5(a) of the POPs Convention;

23 “(B) undertakes a review of a submitted
24 action plan under Article 5(a)(v) of the POPs
25 Convention;

1 “(C) requires, under Article 5(c) of the
2 POPs Convention, substitute or modified mate-
3 rials, products, or processes; or

4 “(D) requires, under Article 5(d) of the
5 POPs Convention, the use of best available
6 techniques.

7 “(2) REQUIREMENT.—Not later than 90 days
8 after the date of an action described in paragraph
9 (1), the Administrator shall—

10 “(A) publish in the Federal Register a no-
11 tice of such action; and

12 “(B) provide opportunity for public com-
13 ment on any action plan, review of an action
14 plan, or requirement to be established pursuant
15 to Article 5(c) or (d) of the POPs Convention.

16 “(3) AUTHORITY TO IMPLEMENT ACTION
17 PLAN.—An action to implement an action plan de-
18 veloped under Article 5(a) of the POPs Convention
19 may be taken only to the extent that such action is
20 authorized under the statutes of the United States.

21 **“SEC. 504. AMENDMENTS AND CONSULTATION.**

22 “(a) CONSENT TO BE BOUND.—It is the sense of the
23 Congress that the United States shall consent to be bound
24 by an amendment to Annex A, B, or C of the POPs Con-
25 vention only after, pursuant to paragraph (4) of Article

1 25 of the POPs Convention, the United States has de-
2 clared that such amendment shall enter into force upon
3 ratification, acceptance, approval, or accession of the
4 United States to such amendment.

5 “(b) CONSULTATION.—

6 “(1) IN GENERAL.—The President shall, as ap-
7 propriate, consult with Congress before consenting
8 to bind the United States to an amendment to
9 Annex A, B, or C of the POPs Convention.

10 “(2) REPORTING.—The President shall provide
11 such other information relating to an amendment
12 described in paragraph (1) as the Congress may re-
13 quest in the fulfillment of its constitutional respon-
14 sibilities with respect to the protection of public
15 health and the environment.

16 “(3) CONGRESSIONAL OVERSIGHT.—Informa-
17 tion provided pursuant to paragraph (2) shall be
18 transmitted to the Committee on Energy and Com-
19 merce of the House of Representatives and to the
20 Committee on Environment and Public Works of the
21 Senate for appropriate action.

1 **“SEC. 505. INTERNATIONAL COOPERATION AND NOTICE OF**
2 **MEETINGS.**

3 “In cooperation with the Secretary of State and the
4 head of any other appropriate Federal agency, the Admin-
5 istrator shall—

6 “(1) participate and cooperate in any inter-
7 national efforts to develop improved research and
8 regulations on chemical substances and mixtures;

9 “(2) participate in technical cooperation and ca-
10 pacity building activities designed to support imple-
11 mentation of—

12 “(A) the POPs Convention;

13 “(B) the LRTAP POPs Protocol; and

14 “(C) the PIC Convention; and

15 “(3) publish in the Federal Register timely ad-
16 vance notice of the known schedule and agenda of
17 meetings on the POPs Convention, PIC Convention,
18 and LRTAP POPs Protocol, and their subsidiary
19 bodies, at which the United States will be rep-
20 resented.

21 **“SEC. 506. EFFECT OF REQUIREMENTS.**

22 “Any provision of this Act that establishes a require-
23 ment to comply with, or that is based on, a provision of
24 the POPs Convention, the LRTAP POPs Protocol, or the
25 PIC Convention shall be effective only to the extent that

1 the United States has consented to be bound by that provi-
2 sion.”.

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

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

6 (1) by adding at the end of paragraph (2) the
7 following new subparagraph:

8 “(D) The Administrator may not, after the date of
9 enactment of this subparagraph, issue a rule authorizing
10 activities, that were not previously authorized, under sub-
11 paragraph (B) unless the activities authorized are covered
12 under the exemptions described in section 503(f) or (g),
13 subject to section 503(h).”;

14 (2) by adding at the end of paragraph (3) the
15 following new subparagraph:

16 “(D) The Administrator may not, after the date of
17 enactment of this subparagraph, grant an exemption
18 under subparagraph (B) unless the manufacturing, proc-
19 essing, or distribution in commerce with respect to which
20 such exemption applies is covered under the exemptions
21 described in section 503(f) or (g), subject to section
22 503(h).”; and

23 (3) by adding at the end the following new
24 paragraph:

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

10 **SEC. 4. JUDICIAL REVIEW.**

11 Section 19 of the Toxic Substances Control Act (15
12 U.S.C. 2618) is amended—

13 (1) in subsection (a)(1)(A), by striking “or IV”
14 and inserting “, IV, or V”;

15 (2) in subsection (a)(3)(B), by striking “title
16 IV, the finding” and inserting “title IV or V, the
17 findings”;

18 (3) by striking “and” at the end of subpara-
19 graph (D) of subsection (a)(3);

20 (4) by redesignating subparagraph (E) of sub-
21 section (a)(3) as subparagraph (F);

22 (5) by inserting after subparagraph (D) of sub-
23 section (a)(3) the following new subparagraph:

24 “(E) for rules promulgated under section
25 503(e), any written submission or other information

1 the Administrator receives pursuant to subsection
2 (a), (b), (c), or (d) of section 503; and”;

3 (6) in subsection (b), by inserting “(except a
4 rule promulgated pursuant to section 503)” after
5 “this section to review a rule”; and

6 (7) in subsection (c)(1)(B)(i), by striking “or
7 6(e)” and inserting “6(e), or 503(e)(1)”.

8 **SEC. 5. EXPORTS.**

9 Section 12 of the Toxic Substances Control Act (15
10 U.S.C. 2611) is amended—

11 (1) in subsection (a)(1), by striking “subsection
12 (b), this Act (other than section 8)” and inserting
13 “subsections (b) and (c), this Act (other than section
14 8 and title V)”; and

15 (2) by adding at the end the following new sub-
16 section:

17 “(c) EXPORTS UNDER THE PIC CONVENTION AND
18 POPs CONVENTION.—

19 “(1) EXPORT CONDITIONS OR RESTRICTIONS.—

20 In the case of a chemical substance or mixture iden-
21 tified by the Administrator as listed on Annex III of
22 the PIC Convention in a notice issued under para-
23 graph (4)(C), any person that distributes in com-
24 merce for export the chemical substance or mixture

1 shall comply with any export conditions or restric-
2 tions identified by the Administrator in the notice.

3 “(2) PRE-EXPORT NOTICES.—

4 “(A) IN GENERAL.—

5 “(i) REQUIREMENT.—In the case of—

6 “(I) a chemical substance or mix-
7 ture that the Administrator deter-
8 mines to be banned or severely re-
9 stricted under paragraph (4)(A);

10 “(II) a chemical substance or
11 mixture identified by the Adminis-
12 trator in a notice issued under para-
13 graph (4)(C); or

14 “(III) a POPs chemical sub-
15 stance or mixture (for which a listing
16 under Annex A or Annex B of the
17 POPs Convention has entered into
18 force for the United States), the ex-
19 port of which is not prohibited by sec-
20 tion 502(a) or rules promulgated pur-
21 suant to section 503(e),

22 the exporter of the chemical substance or
23 mixture shall provide to the Administrator
24 notice of the intent of the exporter to ex-
25 port the chemical substance or mixture.

1 “(ii) TIMING OF NOTICE FOR CHEM-
2 ICAL SUBSTANCES OR MIXTURES THAT ARE
3 BANNED OR SEVERELY RESTRICTED.—

4 “(I) FIRST EXPORT.—In the case
5 of a first export that an exporter
6 makes from the United States to each
7 importing foreign state after the Ad-
8 ministrator issues a notice under
9 paragraph (4)(A), the exporter shall
10 provide the notice required under
11 clause (i) so that the Administrator
12 receives the notice not earlier than 45
13 nor later than 15 calendar days before
14 the date of export.

15 “(II) SUBSEQUENT EXPORTS.—
16 In the case of subsequent exports to
17 the importing foreign state in cal-
18 endar years subsequent to the notifi-
19 cation provided under subclause (I),
20 the exporter shall provide the notice
21 so that the Administrator receives the
22 notice not earlier than 45 nor later
23 than 15 calendar days before the date
24 of the first export in such calendar
25 year.

1 “(iii) TIMING OF NOTICE FOR CHEM-
2 ICAL SUBSTANCES OR MIXTURES LISTED
3 UNDER THE PIC CONVENTION.—

4 “(I) FIRST EXPORT.—In the case
5 of a first export that an exporter
6 makes from the United States to each
7 importing foreign state after the Ad-
8 ministrator issues a notice under
9 paragraph (4)(C), the exporter shall
10 provide the notice required under
11 clause (i) so that the Administrator
12 receives the notice not earlier than 45
13 nor later than 15 calendar days before
14 the date of export.

15 “(II) SUBSEQUENT EXPORTS.—
16 In the case of subsequent exports by
17 the exporter to the importing foreign
18 state in calendar years subsequent to
19 the notification provided under sub-
20 clause (I), the exporter shall provide
21 the notice so that the Administrator
22 receives the notice not earlier than 45
23 nor later than 15 calendar days before
24 the date of the first such export.

1 “(III) CHANGED CIRCUMSTANCES
2 MERITING NEW NOTICE.—If condi-
3 tions or restrictions imposed by the
4 importing foreign state change and
5 the Administrator notifies the public
6 of the change under paragraph
7 (4)(C), or if circumstances described
8 by the exporter in an earlier pre-ex-
9 port notice have substantially
10 changed, the exporter shall provide an
11 additional notice under this subpara-
12 graph so that the Administrator re-
13 ceives the notice not earlier than 45
14 nor later than 15 calendar days before
15 the date of export.

16 “(iv) TIMING OF PRE-EXPORT NOTICE
17 FOR THE EXPORT OF POPS CHEMICAL SUB-
18 STANCES OR MIXTURES WHICH ARE NOT
19 PROHIBITED UNDER THE POPS CONVEN-
20 TION.—

21 “(I) FIRST EXPORT.—In the case
22 of the first export that an exporter
23 makes from the United States to each
24 importing foreign state of a chemical
25 substance or mixture not prohibited

1 from being exported by the prohibition
2 in section 502(a) or rules promulgated
3 pursuant to section 503(e), the ex-
4 porter shall provide the notice under
5 this subparagraph so that the Admin-
6 istrator receives the notice not earlier
7 than 45 nor later than 15 calendar
8 days before the date of the first ex-
9 port.

10 “(II) SUBSEQUENT EXPORTS.—

11 In the case of subsequent exports by
12 the exporter to the importing foreign
13 state in calendar years subsequent to
14 the notification provided under sub-
15 clause (I), the exporter shall provide
16 the notice so that the Administrator
17 receives the notice not earlier than 45
18 nor later than 15 calendar days before
19 the date of the first such subsequent
20 export in such calendar year.

21 “(III) CHANGED CIRCUMSTANCES

22 MERITING NEW NOTICE.—If the cir-
23 cumstances described by the exporter
24 in an earlier pre-export notice have
25 substantially changed, the exporter

1 shall provide an additional notice
2 under this subparagraph so that the
3 Administrator receives the notice not
4 earlier than 45 nor later than 15 cal-
5 endar days before the date of export.

6 “(B) ALTERNATE TIME FRAME FOR NO-
7 TICES.—

8 “(i) DISCRETIONARY ALTERNATE
9 TIME FRAMES.—Notwithstanding clauses
10 (ii) and (iii) of subparagraph (A), the Ad-
11 ministrator may set an alternate time
12 frame for providing notices under this sub-
13 paragraph if the Administrator determines
14 that such alternate time frame is appro-
15 priate and the Administrator is able, with-
16 in such alternate time frame, to administer
17 notice activities in accordance with the PIC
18 Convention and comply with the POPs
19 Convention.

20 “(ii) MANDATORY REVIEW OF STATU-
21 TORY TIME FRAMES AND PROCESSES.—
22 Not later than 18 months after entry into
23 force for the United States of the PIC
24 Convention, and not later than 18 months
25 after entry into force for the United States

1 of the POPs Convention, the Adminis-
2 trator shall review the statutory time
3 frames for receipt of pre-export notices
4 under this subparagraph and the Adminis-
5 trator's processing of such notices. In such
6 review, the Administrator, with the concur-
7 rence of the Secretary of State, shall con-
8 sider whether amendments to the time
9 frames and modifications to the processes
10 would be appropriate to administer notice
11 activities in accordance with the PIC Con-
12 vention and to comply with the POPs Con-
13 vention.

14 “(C) CONTENT OF PRE-EXPORT NO-
15 TICES.—

16 “(i) NOTICES FOR BANNED OR SE-
17 VERELY RESTRICTED CHEMICAL SUB-
18 STANCE OR MIXTURE.—A notice under
19 subparagraph (A)(ii) with respect to a
20 chemical substance or mixture that is
21 banned or severely restricted shall include
22 for each export anticipated during that cal-
23 endar year—

24 “(I) the name and address of the
25 exporter;

1 “(II) the name and address of
2 the appropriate designated national
3 authority of the United States;

4 “(III) the name and address of
5 the appropriate designated national
6 authority of the importing foreign
7 state, if available;

8 “(IV) the name and address of
9 the importer;

10 “(V) the name of the chemical
11 substance or mixture for which the
12 notice is required;

13 “(VI) the expected date of ex-
14 port;

15 “(VII) information relating to
16 the foreseen uses of the chemical sub-
17 stance or mixture, if known, in the
18 importing foreign state;

19 “(VIII) information on pre-
20 cautionary measures, consistent with
21 the ban or severe restriction applica-
22 ble to the United States under the
23 PIC Convention, to reduce exposure
24 to, and emission of, the chemical sub-
25 stance or mixture;

1 “(IX) information relating to the
2 concentration of the chemical sub-
3 stance or mixture; and

4 “(X) any other information that
5 the Administrator determines, in a
6 general order published in the Federal
7 Register, is required by Annex V of
8 the PIC Convention to be included in
9 such a notice.

10 “(ii) NOTICES FOR CHEMICAL SUB-
11 STANCES OR MIXTURES LISTED ON ANNEX
12 III OF THE PIC CONVENTION.—A notice
13 under subparagraph (A)(ii) with respect to
14 a chemical substance or mixture listed on
15 Annex III of the PIC Convention shall in-
16 clude for each export anticipated during
17 that calendar year—

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

20 “(II) any information relating to
21 export conditions or restrictions iden-
22 tified by the Administrator in the no-
23 tice issued under paragraph (4)(C)
24 with respect to the chemical substance
25 or mixture;

1 “(III) a general description of
2 the manner in which the export com-
3 plies with those conditions; and

4 “(IV) any other information that
5 the Administrator determines by gen-
6 eral order published in the Federal
7 Register to be necessary for effective
8 enforcement of the export conditions
9 or restrictions applicable to the chem-
10 ical substance or mixture.

11 “(iii) NOTICES FOR CHEMICAL SUB-
12 STANCE OR MIXTURE THE EXPORT OF
13 WHICH IS NOT PROHIBITED UNDER THE
14 POPS CONVENTION.—A notice submitted to
15 the Administrator under subparagraph
16 (A)(iii) shall include—

17 “(I) the name and address of the
18 exporter;

19 “(II) the name and address of
20 the importer;

21 “(III) a name of the POPs chem-
22 ical substance or mixture;

23 “(IV) a general description of
24 how the export is in accordance with

1 the provisions related to export in sec-
2 tion 503(f)(6) or (7); and

3 “(V) such other information as
4 the Administrator determines by gen-
5 eral order published in the Federal
6 Register to be necessary for enforce-
7 ment of the export-related obligations
8 of the POPs Convention applicable to
9 the United States for that chemical
10 substance or mixture.

11 “(D) PRE-EXPORT NOTICES ACCOM-
12 PANYING EACH EXPORT.—An exporter shall en-
13 sure that a copy of the most recent applicable
14 pre-export notice provided to the Administrator
15 under this subsection accompanies each ship-
16 ment for export and is available for inspection
17 upon export for—

18 “(i) any chemical substance or mix-
19 ture that the Administrator has identified
20 under paragraph (4)(C) as being listed on
21 Annex III of the PIC Convention; or

22 “(ii) any POPs chemical substance or
23 mixture that is exported.

24 “(E) RETENTION OF PRE-EXPORT NO-
25 TICES.—An exporter required to provide a no-

1 tice under subparagraph (A) shall maintain a
2 copy of the notice and other documents used to
3 generate the notice and have it readily available
4 for a period of no less than 3 years beginning
5 on the date on which the notice is provided.

6 “(3) LABELING AND DOCUMENT REQUIRE-
7 MENTS.—

8 “(A) IN GENERAL.—In the case of any
9 chemical substance or mixture that is the sub-
10 ject of a notice issued under subparagraph (A)
11 or (C) of paragraph (4) and that is manufac-
12 tured, processed, or distributed in commerce,
13 the chemical substance or mixture shall, as re-
14 quired by the PIC Convention—

15 “(i) bear labeling information relating
16 to risks or hazards to human health or the
17 environment; and

18 “(ii) be accompanied by shipping doc-
19 uments that include any relevant safety
20 data sheets on the chemical substance or
21 mixture.

22 “(B) CUSTOM CODES.—A chemical sub-
23 stance or mixture that is the subject of a notice
24 issued under paragraph (4)(C) and that is dis-
25 tributed or sold for export shall be accompanied

1 by shipping documents that bear, at a min-
2 imum, any appropriate harmonized system cus-
3 toms codes assigned by the World Customs Or-
4 ganization.

5 “(4) NOTICE REQUIREMENTS AND EXEMP-
6 TION.—

7 “(A) DETERMINATION WHETHER CHEM-
8 ICAL SUBSTANCE OR MIXTURE IS BANNED OR
9 SEVERELY RESTRICTED.—

10 “(i) IN GENERAL.—The Adminis-
11 trator, with the concurrence of the Sec-
12 retary of State, shall determine whether a
13 chemical substance or mixture is banned or
14 severely restricted within the United States
15 (as those terms are defined by the PIC
16 Convention).

17 “(ii) NOTICE OF DETERMINATIONS.—
18 Notwithstanding any other provision of
19 law, the Administrator shall issue to the
20 Secretariat of the PIC Convention and the
21 public a notice of each determination
22 under clause (i) that includes—

23 “(I) in the case of a notice to the
24 Secretariat of the PIC Convention,

1 the information specified in Annex I
2 to the PIC Convention; and

3 “(II) in the case of a notice to
4 the public, at a minimum, a summary
5 of that information.

6 “(B) NOTICE TO FOREIGN COUNTRIES.—

7 “(i) IN GENERAL.—Notwithstanding
8 any other provision of law, on receipt of a
9 notice of intent to export a chemical sub-
10 stance or mixture that is banned or se-
11 verely restricted under paragraph
12 (2)(A)(ii), the Administrator shall provide
13 a copy of the notice to the designated na-
14 tional authority of the importing foreign
15 state.

16 “(ii) NONIDENTIFIED DESIGNATED
17 NATIONAL AUTHORITY.—In a case in
18 which a designated national authority has
19 not been identified, the Administrator shall
20 provide the notice of intent to export to
21 any other appropriate official of the im-
22 porting foreign state, as identified by the
23 Administrator.

24 “(C) NOTICE TO PUBLIC.—

1 “(i) IN GENERAL.—The Adminis-
2 trator, with the concurrence of the Sec-
3 retary of State, shall issue a notice to in-
4 form the public of—

5 “(I) any chemical substance or
6 mixture that is listed on Annex III to
7 the PIC Convention and the condi-
8 tions and restrictions applicable there-
9 to; and

10 “(II) any condition or restriction
11 of an importing foreign state that is
12 applicable to the import, in accord-
13 ance with the PIC Convention, of the
14 chemical substance or mixture.

15 “(ii) TIMING.—A notice required
16 under clause (i) shall be issued not later
17 than 90 days after, and any conditions or
18 restrictions described in clause (i)(II) shall
19 take effect not later than 180 days after,
20 the date of receipt of a notice, from the
21 Secretariat of the PIC Convention, that—

22 “(I) transmits import decisions of
23 the parties to the PIC Convention; or

1 “(II) provides notice of the fail-
2 ure of the parties to provide import
3 decisions.

4 “(iii) TREATMENT OF CONDITIONS
5 AND RESTRICTIONS.—A condition or re-
6 striction identified by a notice required
7 under clause (i) shall be considered to be
8 an export condition or restriction for the
9 purpose of paragraph (1).

10 “(D) NOTICE OF EXEMPTION.—The Ad-
11 ministrators may issue a notice exempting any
12 chemical substance or mixture, or any par-
13 ticular use of a chemical substance or mixture,
14 from the requirements of paragraphs (1)
15 through (3) if the Administrator determines,
16 with the concurrence of the Secretary of State,
17 that the exemption would be consistent with the
18 PIC Convention or POPs Convention.

19 “(5) CONSOLIDATION OF NOTICES.—With re-
20 spect to any pre-export notice requirement under
21 this subsection, the Administrator shall allow any
22 such requirement, and any pre-export notice require-
23 ment in other provisions of this Act, to be satisfied
24 by a single notice.

1 “(6) TRACE CONCENTRATIONS.—The Adminis-
2 trator shall allow the export of trace concentrations
3 of otherwise restricted or banned chemicals without
4 notification if the Administrator finds that the ex-
5 port of such concentrations without notification does
6 not pose a significant threat to human health or the
7 environment and is not inconsistent with the PIC
8 Convention, the POPs Convention, and the LRTAP
9 POPs Protocol.”.

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

11 (a) The table of contents in section 1 of the Toxic
12 Substances Control Act is amended by adding at the end
13 the following:

 “TITLE V—IMPLEMENTATION OF INTERNATIONAL AGREEMENTS

 “Sec. 501. Definitions.

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

 “Sec. 503. Notice, information, rulemaking, and exemptions.

 “Sec. 504. Amendments and consultation.

 “Sec. 505. International cooperation and notice of meetings.

 “Sec. 506. Effect of requirements.”.

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

18 (c) Section 15 of the Toxic Substances Control Act
19 (15 U.S.C. 2614) is amended—

20 (1) in paragraph (1), by inserting “or any re-
21 quirement prescribed under title V or rule or order

1 promulgated or issued under title V” after “under
2 title II”; and

3 (2) in paragraph (2), by inserting “, or any re-
4 quirement prescribed under title V or rule or order
5 promulgated or issued under title V” after “under
6 section 5 or 7”.

7 (d) Section 17 of the Toxic Substances Control Act
8 (15 U.S.C. 2616) is amended—

9 (1) in subsection (a)(1)—

10 (A) by striking subparagraph (B) and in-
11 serting the following:

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

16 (B) in subparagraphs (A) and (C), by
17 striking the comma at the end and inserting a
18 semicolon; and

19 (C) in subparagraph (D)—

20 (i) by striking “title IV manufac-
21 tured” and inserting “title IV or V manu-
22 factured”; and

23 (ii) by striking “section 5, 6, or title
24 IV” each place it appears and inserting
25 “section 5 or 6, or title IV or V”; and

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

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

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

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

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

10 “(C) no State or political subdivision may es-
11 tablish or continue in effect any requirement that is
12 applicable to a POPs chemical substance or mixture
13 or LRTAP POPs chemical substance or mixture (as
14 defined in title V) for which a listing under Annex
15 A or B of the POPs Convention or Annex I or II
16 of the LRTAP POPs Protocol has entered into force
17 for the United States (except as permitted in section
18 116 of the Clean Air Act).”.

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