

# CRS Report for Congress

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## Persistent Organic Pollutants (POPs): Fact Sheet on Three International Agreements

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### Summary

Persistent organic pollutants (POPs) are chemicals that do not break down easily in the environment, tend to accumulate as they move up the food chain, and may be harmful to people and wildlife. Between 1998 and 2001, the United States signed two international treaties and one executive agreement to reduce the production and use of POPs and to regulate the trade and disposal of them. The President has signed and submitted the two treaties to the Senate for advice and consent. If the Senate consents by a two-thirds majority, and if Congress passes legislation needed to implement the treaties and the executive agreement in the United States, then the treaties can be ratified and the agreements would become binding U.S. law. Legislation has been introduced into the 109<sup>th</sup> Congress that would allow implementation of the agreements. H.R. 4591 and H.R. 4800 would amend the Toxic Substances Control Act, which governs industrial uses of chemicals; H.R. 3849 and S. 2042 would amend the Federal Insecticide, Fungicide, and Rodenticide Act, which regulates the sale and use of pesticides. Prospects for passage are not yet clear. This report will be updated as warranted.

Persistent organic pollutants (POPs) are chemicals that can harm human health and wildlife, do not break down easily in the environment, and tend to accumulate as they move up the food chain. Many POPs are transported in the air and water across international boundaries. Most POPs are synthetic, industrial chemicals or pesticides, but a few are unintentional byproducts of processes such as combustion.

Between 1998 and 2001, the United States participated in the negotiation of three United Nations-sponsored international agreements to address global problems associated with POPs. Two are treaties: the 2001 Stockholm Convention on Persistent Organic Pollutants (POPs Convention) and the 1998 Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade (PIC Convention). The 1998 Aarhus Protocol on Persistent Organic Pollutants (POPs Protocol) is an amendment to an executive agreement, the 1979 Geneva Convention on Long-Range Transboundary Air Pollution (LRTAP).

The Stockholm POPs Convention would ban or severely restrict the production, use, trade, and disposal of 12 POPs, including polychlorinated biphenyls (PCBs), polychlorinated dibenzo-p-dioxins, the polychlorinated dibenzo-p-furans, and 9 pesticides, all of which are strictly regulated in the United States. Specific exemptions to the prohibitions are allowed (e.g., the use of DDT to control mosquitos that may carry malaria). The agreement was signed by 151 nations in May 2001. It has been ratified by 117 nations, and it entered into force on May 17, 2004.<sup>1</sup>

The Rotterdam PIC Convention was opened for signature in 1998, has been ratified by 101 nations, and was entered into force February 24, 2004.<sup>2</sup> It aims to ensure that importing nations know about and agree to imports of chemicals that are banned or severely restricted in the exporting country or that are severely hazardous pesticide formulations. Many POPs fall into these categories.

The Aarhus POPs Protocol was concluded in 1998, ratified by 25 of the 55 States in the United Nations Economic Commission for Europe (UNECE), and entered into force in October 2003.<sup>3</sup> The Protocol aims to eliminate or restrict production and use, ensure environmentally sound disposal, and restrict emissions for many of the same POPs that are covered by the Stockholm POPs Convention. Most are heavily restricted in the United States.

The President has signed and submitted the two treaties to the Senate for advice and consent. If the Senate consents by a two-thirds majority, and if the United States enacts legislation needed to implement the treaties and the executive agreement in the United States, then the treaties can be ratified and the agreements would become binding U.S. law. The POPs Protocol does not require Senate approval; however, legislation is needed to resolve inconsistencies between provisions of all three agreements and two U.S. laws: the Toxic Substances Control Act (TSCA), which governs industrial uses of chemicals, and the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), which regulates pesticide sale and use.<sup>4</sup>

Bills in the 109<sup>th</sup> Congress would authorize the U.S. Environmental Protection Agency to implement the agreements. H.R. 4591 and H.R. 4800 would amend TSCA, whereas H.R. 3849 and S. 2042 would amend FIFRA. Prospects for passage are not yet clear. Stakeholders appear united in their support for legislation authorizing regulation of the pesticides and other chemicals listed in annexes to the agreements. However, views diverge when changes to TSCA and FIFRA are perceived to either simplify or complicate existing regulatory procedures or standards under those laws, either for the listed POPs or for other chemicals that might be added in the future through amendments to the

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<sup>1</sup> The latest information on the Stockholm Convention is available at [<http://www.pops.int/>].

<sup>2</sup> The latest information on the PIC Convention is available at [<http://www.pic.int/>].

<sup>3</sup> The UNECE countries are mainly European, former Soviet Union countries, the United States, and Canada. The latest information on the POPs Protocol may be found at [[http://www.unece.org/env/lrtap/pops\\_h1.htm](http://www.unece.org/env/lrtap/pops_h1.htm)].

<sup>4</sup> For summaries of these laws, see CRS Report RL31905, *The Toxic Substances Control Act: A Summary of the Act and Its Major Requirements*, and CRS Report RL31921, *Pesticide Law: A Summary of the Statutes*, both by Linda-Jo Schierow.

agreements. Some believe that having agreed to international actions, the United States should expedite them. Others are more concerned with protecting the power of Congress to decide how and when to regulate particular chemicals.