



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

Linda-Jo Schierow
Specialist in Environmental Policy

June 15, 2010

Congressional Research Service

7-5700

www.crs.gov

RS22379

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. President Bush 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 that would be needed to implement the treaties and the executive agreement in the United States, then the treaties could be ratified and the agreements would become binding U.S. law. Two U.S. statutes are inconsistent with the agreements: the Toxic Substances Control Act (TSCA), which governs production and use of chemicals in U.S. commerce, and the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), which regulates the sale and use of pesticides within the United States. Proposals to amend these statutes were considered but not enacted in the 107th, 108th, and 109th Congresses. In the 111th Congress, S. 519 would amend pesticide law to permit implementation of the agreement, while S. 3209 would amend TSCA. A House draft bill that is posted on the website of the Committee on Energy and Commerce, the Toxic Chemicals Safety Act, also would amend TSCA. Both TSCA bills would comprehensively revise current law, well beyond what might be necessary to allow treaty implementation.

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 two United Nations-sponsored international agreements to address global problems associated with POPs, and a third agreement that addresses hazardous chemicals in international commerce, including some POPs. Two are treaties that cannot come into force for the United States unless the U.S. Senate provides its advice and consent: 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 third agreement, the 1998 Aarhus Protocol on Persistent Organic Pollutants (POPs Protocol), does not require the advice and consent of the Senate because it is an amendment to an executive agreement, the 1979 Geneva Convention on Long-Range Transboundary Air Pollution (LRTAP).

The Stockholm POPs Convention bans or severely restricts the production, use, trade, and disposal of 12 POPs, including polychlorinated biphenyls (PCBs), polychlorinated dibenzo-p-dioxins, the polychlorinated dibenzo-p-furans, and nine pesticides, all of which are strictly regulated in the United States. Limited exemptions to some of the prohibitions would be allowed (e.g., the use of DDT to control mosquitoes that may carry malaria). The agreement has been ratified by 169 nations. It entered into force on May 17, 2004.¹ Nine chemicals were added to the treaty when the Conference of the Parties adopted amendments to the treaty annexes May 9, 2009.² Restrictions on these chemicals will take effect August 26, 2010, for those nations that have ratified the treaty and, if necessary, accepted the amendments.

The Rotterdam PIC Convention was opened for signature in 1998, has been ratified by 131 nations, and entered into force February 24, 2004.³ 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, has been ratified by 29 of the 55 States in the United Nations Economic Commission for Europe (UNECE), and entered into force October 23, 2003.⁴ 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.

President Bush signed and submitted the Stockholm and Rotterdam 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

¹ The latest information on the Stockholm Convention is available at <http://chm.pops.int/>.

² Stockholm Convention on Persistent Organic Pollutants, March 24, 2010, <http://chm.pops.int/Convention/tabid/54/language/en-US/Default.aspx#convtext>.

³ The latest information on the PIC Convention is available at <http://www.pic.int/home.php?type=t&id=63&sid=17>.

⁴ 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/status/98pop_st.htm.

States, then the treaties could 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 production and use of chemicals in U.S. commerce, and the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), which regulates pesticide sale and use within the United States.⁵ Although Congress has not granted implementing authority specific to the international agreements, the U.S. Environmental Protection Agency (EPA) has developed and implemented various programs to address risks of POPs using its existing legal authorities for regulating chemicals in U.S. commerce.⁶

Bills in the 107th, 108th, and 109th Congresses would have authorized EPA to implement the agreements, but no proposal was enacted. No implementing legislation was proposed in the 110th Congress. In the 111th Congress, S. 519 would amend FIFRA to permit implementation of these agreements with respect to pesticides, while S. 3209 would amend TSCA. A House draft bill that is posted on the website of the Committee on Energy and Commerce, the Toxic Chemicals Safety Act, also would amend TSCA. However, both TSCA bills would comprehensively revise current law, well beyond what might be necessary to allow treaty implementation.

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 about the extent to which procedures used to regulate chemicals under TSCA or FIFRA should be tailored for the listed POPs or for other chemicals that might be added in the future through amendments to the agreements. Some believe that having agreed to international actions, the United States should expedite them. Others are more concerned about preserving U.S. autonomy (or a congressional role) in decisions about how and when to regulate particular chemicals.

Author Contact Information

Linda-Jo Schierow
Specialist in Environmental Policy
lschierow@crs.loc.gov, 7-7279

⁵ For summaries of these laws, see CRS Report RL31905, *The Toxic Substances Control Act (TSCA): 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.

⁶ EPA, *Persistent Organic Pollutants: A Global Issue, A Global Response*, <http://www.epa.gov/oia/toxics/pop.html#domestic>, June 15, 2010.