

lines for Transfers of Nuclear-Related Dual-Use Equipment, Materials, Software, and Related Technology (currently IAEA INFCIRC/254/Rev.7/Part 2).

(10) The terms “nuclear weapon” and “nuclear explosive device” mean any device designed to produce an instantaneous release of an amount of nuclear energy from special nuclear material that is greater than the amount of energy that would be released from the detonation of one pound of trinitrotoluene (TNT).

(11) The term “process” includes the term “reprocess”.

(12) The terms “reprocessing” and “reprocess” refer to the separation of irradiated nuclear materials and fission products from spent nuclear fuel.

(13) The term “sensitive nuclear technology” means any information, including information incorporated in a production or utilization facility or important component part thereof, that is not available to the public and which is important to the design, construction, fabrication, operation, or maintenance of a uranium enrichment or nuclear fuel reprocessing facility or a facility for the production of heavy water.

(14) The term “source material” has the meaning given the term in section 2014(z) of title 42.

(15) The term “special nuclear material” has the meaning given the term in section 2014(aa) of title 42.

(16) The term “unsafeguarded nuclear fuel-cycle activity” means research on, or development, design, manufacture, construction, operation, or maintenance of—

(A) any existing or future reactor, critical facility, conversion plant, fabrication plant, reprocessing plant, plant for the separation of isotopes of source or special fissionable material, or separate storage installation with respect to which there is no obligation to accept IAEA safeguards at the relevant reactor, facility, plant, or installation that contains source or special fissionable material; or

(B) any existing or future heavy water production plant with respect to which there is no obligation to accept IAEA safeguards on any nuclear material produced by or used in connection with any heavy water produced therefrom.

(Pub. L. 109-401, title I, § 110, Dec. 18, 2006, 120 Stat. 2739.)

#### REFERENCES IN TEXT

This chapter, referred to in text, was in the original “this title”, meaning title I of Pub. L. 109-401, Dec. 18, 2006, 120 Stat. 2726, which is classified principally to this chapter. For complete classification of title I to the Code, see Short Title note set out under section 8001 of this title and Tables.

#### CHANGE OF NAME

Committee on International Relations of House of Representatives changed to Committee on Foreign Affairs of House of Representatives by House Resolution No. 6, One Hundred Tenth Congress, Jan. 5, 2007.

## CHAPTER 88—NUCLEAR NON-PROLIFERATION TREATY—UNITED STATES ADDITIONAL PROTOCOL IMPLEMENTATION

- Sec.  
8101. Findings.  
8102. Definitions.  
8103. Severability.

### SUBCHAPTER I—GENERAL PROVISIONS

8111. Authority.

### SUBCHAPTER II—COMPLEMENTARY ACCESS

8121. Requirement for authority to conduct complementary access.  
8122. Procedures for complementary access.  
8123. Consents, warrants, and complementary access.  
8124. Prohibited acts relating to complementary access.

### SUBCHAPTER III—CONFIDENTIALITY OF INFORMATION

8131. Protection of confidentiality of information.

### SUBCHAPTER IV—ENFORCEMENT

8141. Recordkeeping violations.  
8142. Penalties.  
8143. Specific enforcement.

### SUBCHAPTER V—ENVIRONMENTAL SAMPLING

8151. Notification to Congress of IAEA Board approval of wide-area environmental sampling.  
8152. Application of national security exclusion to wide-area environmental sampling.  
8153. Application of national security exclusion to location-specific environmental sampling.  
8154. Rule of construction.

### SUBCHAPTER VI—PROTECTION OF NATIONAL SECURITY INFORMATION AND ACTIVITIES

8161. Protection of certain information.  
8162. IAEA inspections and visits.

### SUBCHAPTER VII—REPORTS

8171. Report on initial United States declaration.  
8172. Report on revisions to initial United States declaration.  
8173. Content of reports on United States declarations.  
8174. Report on efforts to promote the implementation of additional protocols.  
8175. Notice of IAEA notifications.

### SUBCHAPTER VIII—AUTHORIZATION OF APPROPRIATIONS

8181. Authorization of appropriations.

## § 8101. Findings

Congress makes the following findings:

(1) The proliferation of nuclear weapons and other nuclear explosive devices poses a grave threat to the national security of the United States and its vital national interests.

(2) The Nuclear Non-Proliferation Treaty has proven critical to limiting such proliferation.

(3) For the Nuclear Non-Proliferation Treaty to be effective, each of the non-nuclear-weapon State Parties must conclude a comprehensive safeguards agreement with the IAEA, and such agreements must be honored and enforced.

(4) Recent events emphasize the urgency of strengthening the effectiveness and improving the efficiency of the safeguards system. This

can best be accomplished by providing IAEA inspectors with more information about, and broader access to, nuclear activities within the territory of non-nuclear-weapon State Parties.

(5) The proposed scope of such expanded information and access has been negotiated by the member states of the IAEA in the form of a Model Additional Protocol to its existing safeguards agreements, and universal acceptance of Additional Protocols by non-nuclear weapons states is essential to enhancing the effectiveness of the Nuclear Non-Proliferation Treaty.

(6) On June 12, 1998, the United States, as a nuclear-weapon State Party, signed an Additional Protocol that is based on the Model Additional Protocol, but which also contains measures, consistent with its existing safeguards agreements with its members, that protect the right of the United States to exclude the application of IAEA safeguards to locations and activities with direct national security significance or to locations or information associated with such activities.

(7) Implementation of the Additional Protocol in the United States in a manner consistent with United States obligations under the Nuclear Non-Proliferation Treaty may encourage other parties to the Nuclear Non-Proliferation Treaty, especially non-nuclear-weapon State Parties, to conclude Additional Protocols and thereby strengthen the Nuclear Non-Proliferation Treaty safeguards system and help reduce the threat of nuclear proliferation, which is of direct and substantial benefit to the United States.

(8) Implementation of the Additional Protocol by the United States is not required and is completely voluntary given its status as a nuclear-weapon State Party, but the United States has acceded to the Additional Protocol to demonstrate its commitment to the nuclear nonproliferation regime and to make United States civil nuclear activities available to the same IAEA inspections as are applied in the case of non-nuclear-weapon State Parties.

(9) In accordance with the national security exclusion contained in Article 1.b of its Additional Protocol, the United States will not allow any inspection activities, nor make any declaration of any information with respect to, locations, information, and activities of direct national security significance to the United States.

(10) Implementation of the Additional Protocol will conform to the principles set forth in the letter of April 30, 2002, from the United States Permanent Representative to the International Atomic Energy Agency and the Vienna Office of the United Nations to the Director General of the International Atomic Energy Agency.

(Pub. L. 109-401, title II, §202, Dec. 18, 2006, 120 Stat. 2741.)

#### SHORT TITLE

Pub. L. 109-401, title II, §201, Dec. 18, 2006, 120 Stat. 2741, provided that: "This title [enacting this chapter] may be cited as the 'United States Additional Protocol Implementation Act'."

EX. ORD. NO. 13458. IMPLEMENTATION OF THE PROTOCOL ADDITIONAL TO THE AGREEMENT BETWEEN THE UNITED STATES AND THE INTERNATIONAL ATOMIC ENERGY AGENCY FOR THE APPLICATION OF SAFEGUARDS IN THE UNITED STATES OF AMERICA

Ex. Ord. No. 13458, Feb. 4, 2008, 73 F.R. 7181, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the United States Additional Protocol Implementation Act (the "Act") (Public Law 109-401[, title II]) and section 301 of title 3, United States Code, and in order to facilitate implementation of the Act and the Protocol Additional to the Agreement between the United States and the International Atomic Energy Agency for the Application of Safeguards in the United States of America (the "Additional Protocol"), it is hereby ordered as follows:

SECTION 1. The Secretaries of State, Defense, Commerce, and Energy, the Attorney General, the Nuclear Regulatory Commission, and heads of such other agencies as appropriate, each shall issue, amend, or revise, and enforce such regulations, orders, directives, instructions, or procedures as are necessary to implement the Act and United States obligations under the Additional Protocol.

SEC. 2. The Secretary of Commerce, with the assistance, as necessary, of the Attorney General, is authorized to obtain and to execute warrants pursuant to section 223 of the Act for the purpose of gaining complementary access to locations subject to regulations issued by the Department of Commerce pursuant to section 1 of this order.

SEC. 3. The Secretaries of State, Defense, Commerce, and Energy, the Attorney General, the Nuclear Regulatory Commission, and heads of such other departments and agencies as appropriate, are authorized to carry out, consistent with the Act and in accordance with subsequent directives, appropriate functions that are not otherwise assigned in the Act and are necessary to implement the Act and United States obligations under the Additional Protocol. The Secretary of State shall perform the function of providing notifications or information to the Congress when required by the Act.

SEC. 4. This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

SEC. 5. This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity, by any party against the United States, its departments, agencies, instrumentalities, or entities, its officers, employees, or agents, or any other person.

GEORGE W. BUSH.

#### § 8102. Definitions

In this chapter:

##### (1) Additional protocol

The term "Additional Protocol", when used in the singular form, means the Protocol Additional to the Agreement between the United States of America and the International Atomic Energy Agency for the Application of Safeguards in the United States of America, with Annexes, signed at Vienna June 12, 1998 (T. Doc. 107-7).

##### (2) Appropriate congressional committees

The term "appropriate congressional committees" means the Committee on Armed Services, the Committee on Foreign Relations, and the Committee on Appropriations of the Senate and the Committee on Armed Services, the Committee on International Relations, the Committee on Science, and the Committee on Appropriations of the House of Representatives.