

(3) Complementary access

The term “complementary access” means the exercise of the IAEA’s access rights as set forth in Articles 4 to 6 of the Additional Protocol.

(4) Executive agency

The term “executive agency” has the meaning given such term in section 105 of title 5.

(5) Facility

The term “facility” has the meaning set forth in Article 18i. of the Additional Protocol.

(6) IAEA

The term “IAEA” means the International Atomic Energy Agency.

(7) Judge of the United States

The term “judge of the United States” means a United States district judge, or a United States magistrate judge appointed under the authority of chapter 43 of title 28.

(8) Location

The term “location” means any geographic point or area declared or identified by the United States or specified by the International Atomic Energy Agency.

(9) Nuclear Non-Proliferation Treaty

The term “Nuclear Non-Proliferation Treaty” means the Treaty on the Non-Proliferation of Nuclear Weapons, done at Washington, London, and Moscow July 1, 1968, and entered into force March 5, 1970 (21 UST 483).

(10) Nuclear-weapon State Party and non-nuclear-weapon State Party

The terms “nuclear-weapon State Party” and “non-nuclear-weapon State Party” have the meanings given such terms in the Nuclear Non-Proliferation Treaty.

(11) Person

The term “person”, except as otherwise provided, means any individual, corporation, partnership, firm, association, trust, estate, public or private institution, any State or any political subdivision thereof, or any political entity within a State, any foreign government or nation or any agency, instrumentality, or political subdivision of any such government or nation, or other entity located in the United States.

(12) Site

The term “site” has the meaning set forth in Article 18b. of the Additional Protocol.

(13) United States

The term “United States”, when used as a geographic reference, means the several States of the United States, the District of Columbia, and the commonwealths, territories, and possessions of the United States and includes all places under the jurisdiction or control of the United States, including—

(A) the territorial sea and the overlying airspace;

(B) any civil aircraft of the United States or public aircraft, as such terms are defined in paragraphs (17) and (41), respectively, of section 40102(a) of title 49; and

(C) any vessel of the United States, as such term is defined in section 70502(b) of title 46.

(14) Wide-area environmental sampling

The term “wide-area environmental sampling” has the meaning set forth in Article 18g. of the Additional Protocol.

(Pub. L. 109–401, title II, §203, Dec. 18, 2006, 120 Stat. 2742.)

CODIFICATION

In par. (13)(C), “section 70502(b) of title 46” substituted for “section 3(b) of the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1903(b))” on authority of Pub. L. 109–304, §18(c), Oct. 6, 2006, 120 Stat. 1709, which Act enacted section 70502 of Title 46, Shipping.

CHANGE OF NAME

Committee on International Relations of House of Representatives changed to Committee on Foreign Affairs of House of Representatives and Committee on Science of House of Representatives changed to Committee on Science and Technology of House of Representatives by House Resolution No. 6, One Hundred Tenth Congress, Jan. 5, 2007. Committee on Science and Technology of House of Representatives changed to Committee on Science, Space, and Technology of House of Representatives by House Resolution No. 5, One Hundred Twelfth Congress, Jan. 5, 2011.

§ 8103. Severability

If any provision of this chapter, or the application of such provision to any person or circumstance, is held invalid, the remainder of this chapter, or the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.

(Pub. L. 109–401, title II, §204, Dec. 18, 2006, 120 Stat. 2743.)

SUBCHAPTER I—GENERAL PROVISIONS

§ 8111. Authority**(a) In general**

The President is authorized to implement and carry out the provisions of this chapter and the Additional Protocol and shall designate through Executive order which executive agency or agencies of the United States, which may include but are not limited to the Department of State, the Department of Defense, the Department of Justice, the Department of Commerce, the Department of Energy, and the Nuclear Regulatory Commission, shall issue or amend and enforce regulations in order to implement this chapter and the provisions of the Additional Protocol.

(b) Included authority

For any executive agency designated under subsection (a) that does not currently possess the authority to conduct site vulnerability assessments and related activities, the authority provided in subsection (a) includes such authority.

(c) Exception

The authority described in subsection (b) does not supersede or otherwise modify any existing authority of any Federal department or agency already having such authority.

(Pub. L. 109–401, title II, §211, Dec. 18, 2006, 120 Stat. 2743.)

SUBCHAPTER II—COMPLEMENTARY
ACCESS

§ 8121. Requirement for authority to conduct complementary access

(a) Prohibition

No complementary access to any location in the United States shall take place pursuant to the Additional Protocol without the authorization of the United States Government in accordance with the requirements of this chapter.

(b) Authority

(1) In general

Complementary access to any location in the United States subject to access under the Additional Protocol is authorized in accordance with this chapter.

(2) United States representatives

(A) Restrictions

In the event of complementary access to a privately owned or operated location, no employee of the Environmental Protection Agency or of the Mine Safety and Health Administration or the Occupational Safety and Health Administration of the Department of Labor may participate in the access.

(B) Number

The number of designated United States representatives accompanying IAEA inspectors shall be kept to the minimum necessary.

(Pub. L. 109–401, title II, §221, Dec. 18, 2006, 120 Stat. 2744.)

§ 8122. Procedures for complementary access

(a) In general

Each instance of complementary access to a location in the United States under the Additional Protocol shall be conducted in accordance with this subchapter.

(b) Notice

(1) In general

Complementary access referred to in subsection (a) may occur only upon the issuance of an actual written notice by the United States Government to the owner, operator, occupant, or agent in charge of the location to be subject to complementary access.

(2) Time of notification

The notice under paragraph (1) shall be submitted to such owner, operator, occupant, or agent as soon as possible after the United States Government has received notification that the IAEA seeks complementary access. Notices may be posted prominently at the location if the United States Government is unable to provide actual written notice to such owner, operator, occupant, or agent.

(3) Content of notice

(A)¹ In general

The notice required by paragraph (1) shall specify—

(i) the purpose for the complementary access;

(ii) the basis for the selection of the facility, site, or other location for the complementary access sought;

(iii) the activities that will be carried out during the complementary access;

(iv) the time and date that the complementary access is expected to begin, and the anticipated period covered by the complementary access; and

(v) the names and titles of the inspectors.

(4) Separate notices required

A separate notice shall be provided each time that complementary access is sought by the IAEA.

(c) Credentials

The complementary access team of the IAEA and representatives or designees of the United States Government shall display appropriate identifying credentials to the owner, operator, occupant, or agent in charge of the location before gaining entry in connection with complementary access.

(d) Scope

(1) In general

Except as provided in a warrant issued under section 8123 of this title, and subject to the rights of the United States Government under the Additional Protocol to limit complementary access, complementary access to a location pursuant to this chapter may extend to all activities specifically permitted for such locations under Article 6 of the Additional Protocol.

(2) Exception

Unless required by the Additional Protocol, no inspection under this chapter shall extend to—

(A) financial data (other than production data);

(B) sales and marketing data (other than shipment data);

(C) pricing data;

(D) personnel data;

(E) patent data;

(F) data maintained for compliance with environmental or occupational health and safety regulations; or

(G) research data.

(e) Environment, health, safety, and security

In carrying out their activities, members of the IAEA complementary access team and representatives or designees of the United States Government shall observe applicable environmental, health, safety, and security regulations established at the location subject to complementary access, including those for protection of controlled environments within a facility and for personal safety.

(Pub. L. 109–401, title II, §222, Dec. 18, 2006, 120 Stat. 2744.)

¹ So in original. No subpar. (B) has been enacted.