

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.)

**Editorial Notes**

**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.

**Statutory Notes and Related Subsidiaries**

**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)<sup>1</sup> 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 rep-

resentatives 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.)

**§ 8123. Consents, warrants, and complementary access**

**(a) In general**

**(1) Procedure**

**(A) Consent**

Except as provided in paragraph (2), an appropriate official of the United States Government shall seek or have the consent of the owner, operator, occupant, or agent in charge of a location prior to entering that location in connection with complementary access pursuant to sections 8121 and 8122 of this title. The owner, operator, occupant, or agent in charge of the location may withhold consent for any reason or no reason.

**(B) Administrative search warrant**

In the absence of consent, the United States Government may seek an administrative search warrant from a judge of the United States under subsection (b). Proceedings regarding the issuance of an administrative search warrant shall be conducted ex parte, unless otherwise requested by the United States Government.

**(2) Expedited access**

For purposes of obtaining access to a location pursuant to Article 4b.(ii) of the Additional Protocol in order to satisfy United States obligations under the Additional Protocol when notice of two hours or less is required, the United States Government may gain entry to such location in connection with complementary access, to the extent such access is consistent with the Fourth Amendment to the United States Constitution, without obtaining either a warrant or consent.

**(b) Administrative search warrants for complementary access**

**(1) Obtaining administrative search warrants**

For complementary access conducted in the United States pursuant to the Additional Protocol, and for which the acquisition of a warrant is required, the United States Government shall first obtain an administrative search warrant from a judge of the United States. The United States Government shall provide to such judge all appropriate information regarding the basis for the selection of the facility, site, or other location to which complementary access is sought.

**(2) Content of affidavits for administrative search warrants**

A judge of the United States shall promptly issue an administrative search warrant authorizing the requested complementary access upon an affidavit submitted by the United States Government—

<sup>1</sup> So in original. No subpar. (B) has been enacted.