

## **S. 3709 [109th]: United States Additional Protocol Implementation Act**

An original bill to exempt from certain requirements of the Atomic Energy Act of 1954 United States exports of nuclear materials, equipment, and technology to India, and to implement the United States Additional Protocol.

### **Title II - United States Additional Protocol Implementation**

United States Additional Protocol Implementation Act -

Section 202 -

Defines "Additional Protocol" (when used in the singular form) as 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 on June 12, 1998.

Subtitle A - General Provisions

Section 211 -

Authorizes the President to carry out the provisions of this title and the Additional Protocol, and directs the President to designate the enforcing executive agency or agencies. States that such authority does not supersede or otherwise modify any existing authority of any federal department or agency already having such authority.

Subtitle B - Complementary Access

Section 221 -

States that: (1) no complementary access to any U.S. location shall take place pursuant to the Additional Protocol without U.S. government authorization and authorizes such access; and (2) in the event of complementary access to a privately owned or operated location, no employee of the Environmental Protection Agency (EPA) or of the Mine Safety and Health Administration or the Occupational Safety and Health Administration (OSHA) of the Department of Labor may participate in the access.

Section 222 -

Sets forth complementary access procedures respecting: (1) notice; (2) credentials; (3) scope of access; and (4) environment, health, safety, and security observance.

Section 223 -

Sets forth provisions respecting: (1) consent; (2) administrative search warrants in the absence of consent; (3) expedited access; and (4) administrative search warrants for complimentary access.

Section 224 -

Makes it unlawful for any person willfully to fail or refuse to permit, or to disrupt or otherwise impede, a complementary access authorized by this subtitle or an entry in connection with such access.

#### Subtitle C - Confidentiality of Information

##### Section 231 -

Exempts information acquired by the U.S. government under this title or under the Additional Protocol from specified disclosure provisions.

#### Subtitle D - Enforcement

##### Section 241 -

Makes it unlawful to willfully fail or refuse to: (1) establish or maintain any record required under this title; (2) submit any report, notice, or other information to the U.S. government in accordance with any regulation prescribed under this title; or (3) permit access to or copying of any record by the U.S. government in accordance with any regulation prescribed under this title.

##### Section 242 -

Establishes civil and criminal penalties for complimentary access and recordkeeping violations.

Sets forth administrative appellate and judicial review provisions.

##### Section 243 -

States that U.S. district courts shall have jurisdiction over civil actions brought by the head of an executive agency to: (1) restrain complimentary access and recordkeeping violations; or (2) to compel the taking of any action required by this title or the Additional Protocol.

#### Subtitle E - Environmental Sampling

##### Section 251 -

Directs the President to notify the appropriate congressional committees if the IAEA Board of Governors approves wide-area environmental sampling for use as a safeguards verification tool. Requires such notification to contain: (1) a description of the specific methods and sampling techniques; and (2) a statement whether or not such sampling may be conducted in the United States under the Additional Protocol.

##### Section 252 -

Prohibits IAEA-proposed wide-area environmental sampling at a specified U.S. location under the Additional Protocol unless the President reports to the appropriate congressional committees that: (1) such sampling is necessary to increase IAEA's capability to detect undeclared nuclear activities in the territory of a non-nuclear-weapon state party; (2) such sampling will not result in IAEA access to locations, activities, or information of direct national security significance; and (3) the United States has been provided sufficient opportunity for consultation with the IAEA or has requested that the IAEA engage in such access and sampling.

Section 253 -

Prohibits the United States from permitting any location-specific environmental sampling in the United States unless the President reports to the appropriate congressional committees that: (1) the proposed use of location-specific environmental sampling will not result in IAEA access to locations, activities, or information of direct national security significance; and (2) the United States has been provided sufficient opportunity for consultation with the IAEA or has requested that the IAEA engage in such access and sampling.

Subtitle F - Authorization of Appropriations

Section 261 -

Authorizes appropriations.