

1 formation concerning any United States person ac-
2 quired from such acquisition shall subsequently be
3 used or disclosed in any other manner by Federal of-
4 ficers or employees without the consent of such per-
5 son, except with the approval of the Attorney Gen-
6 eral if the information indicates a threat of death or
7 serious bodily harm to any person.

8 “(e) APPEAL.—

9 “(1) APPEAL TO THE COURT OF REVIEW.—The
10 Government may file an appeal with the Foreign In-
11 telligence Surveillance Court of Review for review of
12 an order issued pursuant to subsection (e). The
13 Court of Review shall have jurisdiction to consider
14 such appeal and shall provide a written statement
15 for the record of the reasons for a decision under
16 this paragraph.

17 “(2) CERTIORARI TO THE SUPREME COURT.—
18 The Government may file a petition for a writ of
19 certiorari for review of a decision of the Court of Re-
20 view issued under paragraph (1). The record for
21 such review shall be transmitted under seal to the
22 Supreme Court of the United States, which shall
23 have jurisdiction to review such decision.”

1 **“SEC. 705. JOINT APPLICATIONS AND CONCURRENT AU-**
2 **THORIZATIONS.**

3 “(a) **JOINT APPLICATIONS AND ORDERS.**—If an ac-
4 quisition targeting a United States person under section
5 703 or section 704 is proposed to be conducted both inside
6 and outside the United States, a judge having jurisdiction
7 under section 703(a)(1) or section 704(a)(1) may issue si-
8 multaneously, upon the request of the Government in a
9 joint application complying with the requirements of sec-
10 tion 703(b) and section 704(b), orders under section
11 703(c) and section 704(c), as appropriate.

12 “(b) **CONCURRENT AUTHORIZATION.**—If an order
13 authorizing electronic surveillance or physical search has
14 been obtained under section 105 or section 304 and that
15 order is still in effect, during the effective period of that
16 order, the Attorney General may authorize, without an
17 order under section 703 or section 704, the targeting of
18 that United States person for the purpose of acquiring for-
19 eign intelligence information while such person is reason-
20 ably believed to be located outside the United States.

21 **“SEC. 706. USE OF INFORMATION ACQUIRED UNDER TITLE**
22 **VII.**

23 “(a) **INFORMATION ACQUIRED UNDER SECTION**
24 **702.**—Information acquired from an acquisition con-
25 ducted under section 702 shall be deemed to be informa-
26 tion acquired from an electronic surveillance pursuant to

1 title I for purposes of section 106, except for the purposes
2 of subsection (j) of such section.

3 “(b) INFORMATION ACQUIRED UNDER SECTION
4 703.—Information acquired from an acquisition con-
5 ducted under section 703 shall be deemed to be informa-
6 tion acquired from an electronic surveillance pursuant to
7 title I for purposes of section 106.

8 **“SEC. 707. CONGRESSIONAL OVERSIGHT.**

9 “(a) SEMIANNUAL REPORT.—Not less frequently
10 than once every 6 months, the Attorney General shall fully
11 inform, in a manner consistent with national security, the
12 congressional intelligence committees and the Committees
13 on the Judiciary of the Senate and the House of Rep-
14 resentatives, consistent with the Rules of the House of
15 Representatives and the Standing Rules of the Senate,
16 concerning the implementation of this title.

17 “(b) CONTENT.—Each report made under subsection
18 (a) shall include—

19 “(1) with respect to section 702—

20 “(A) any certifications made under section
21 702(g) during the reporting period;

22 “(B) with respect to each determination
23 made under section 702(c)(1)(A)(ii), the rea-
24 sons for exercising the authority under such
25 section;

1 “(C) any directives issued under section
2 702(h) during the reporting period;

3 “(D) a description of the judicial review
4 during the reporting period of any such certifi-
5 cations and targeting and minimization proce-
6 dures required by subsections (d) and (e) of
7 section 702 and utilized with respect to such
8 acquisition, including a copy of any order or
9 pleading in connection with such review that
10 contains a significant legal interpretation of the
11 provisions of section 702;

12 “(E) any actions taken to challenge or en-
13 force a directive under paragraphs (4) or (5) of
14 section 702(h);

15 “(F) any compliance reviews conducted by
16 the Attorney General or the Director of Na-
17 tional Intelligence of acquisitions authorized
18 under section 702(a);

19 “(G) a description of any incidents of non-
20 compliance with a directive issued by the Attor-
21 ney General and the Director of National Intel-
22 ligence under section 702(h), including—

23 “(i) incidents of noncompliance by an
24 element of the intelligence community with
25 procedures and guidelines adopted in ac-

1 cordance with subsections (d), (e), and (f)
2 of section 702; and

3 “(ii) incidents of noncompliance by a
4 specified person to whom the Attorney
5 General and Director of National Intel-
6 ligence issued a directive under section
7 702(h); and

8 “(H) any procedures implementing section
9 702;

10 “(2) with respect to section 703—

11 “(A) the total number of applications made
12 for orders under section 703(b);

13 “(B) the total number of such orders—

14 “(i) granted;

15 “(ii) modified; or

16 “(iii) denied; and

17 “(C) the total number of emergency acqui-
18 sitions authorized by the Attorney General
19 under section 703(d) and the total number of
20 subsequent orders approving or denying such
21 acquisitions; and

22 “(3) with respect to section 704—

23 “(A) the total number of applications made
24 for orders under 704(b);

25 “(B) the total number of such orders

1 “(i) granted;
2 “(ii) modified; or
3 “(iii) denied; and
4 “(C) the total number of emergency acqui-
5 sitions authorized by the Attorney General
6 under section 704(d) and the total number of
7 subsequent orders approving or denying such
8 applications.

9 **“SEC. 708. SAVINGS PROVISION.**

10 “Nothing in this title shall be construed to limit the
11 authority of the Government to seek an order or author-
12 ization under, or otherwise engage in any activity that is
13 authorized under, any other title of this Act or chapter
14 119, 121, or 206 of title 18, United States Code.”.

15 (b) TABLE OF CONTENTS.—The table of contents in
16 the first section of the Foreign Intelligence Surveillance
17 Act of 1978 (50 U.S.C. 1801 et. seq.) is amended—

- 18 (1) by striking the item relating to title VII;
19 (2) by striking the item relating to section 701;
20 and
21 (3) by adding at the end the following:

**“TITLE VII—ADDITIONAL PROCEDURES REGARDING CERTAIN
PERSONS OUTSIDE THE UNITED STATES**

“Sec. 701. Definitions.

“Sec. 702. Procedures for targeting certain persons outside the United States
other than United States persons.

“Sec. 703. Certain acquisitions inside the United States of United States per-
sons outside the United States.

“Sec. 704. Other acquisitions targeting United States persons outside the
United States.

“Sec. 705. Joint applications and concurrent authorizations.

“Sec. 706. Use of information acquired under title VII.

“Sec. 707. Congressional oversight.

“Sec. 708. Savings provision.”.

1 (c) TECHNICAL AND CONFORMING AMENDMENTS.—

2 (1) TITLE 18, UNITED STATES CODE.—Section
3 2511(2)(a)(ii)(A) of title 18, United States Code, is
4 amended by inserting “or a court order pursuant to
5 section 704 of the Foreign Intelligence Surveillance
6 Act of 1978” after “assistance”.

7 (2) FOREIGN INTELLIGENCE SURVEILLANCE
8 ACT OF 1978.—Section 601(a)(1) of the Foreign In-
9 telligence Surveillance Act of 1978 (50 U.S.C.
10 1871(a)(1)) is amended—

11 (A) in subparagraph (C), by striking
12 “and”; and

13 (B) by adding at the end the following new
14 subparagraphs:

15 “(E) acquisitions under section 703; and

16 “(F) acquisitions under section 704;”.

17 **SEC. 102. STATEMENT OF EXCLUSIVE MEANS BY WHICH**
18 **ELECTRONIC SURVEILLANCE AND INTERCEP-**
19 **TION OF CERTAIN COMMUNICATIONS MAY BE**
20 **CONDUCTED.**

21 (a) STATEMENT OF EXCLUSIVE MEANS.—Title I of
22 the Foreign Intelligence Surveillance Act of 1978 (50

1 U.S.C. 1801 et seq.) is amended by adding at the end
2 the following new section:

3 “STATEMENT OF EXCLUSIVE MEANS BY WHICH ELEC-
4 TRONIC SURVEILLANCE AND INTERCEPTION OF CER-
5 TAIN COMMUNICATIONS MAY BE CONDUCTED

6 “SEC. 112. (a) Except as provided in subsection (b),
7 the procedures of chapters 119, 121, and 206 of title 18,
8 United States Code, and this Act shall be the exclusive
9 means by which electronic surveillance and the intercep-
10 tion of domestic wire, oral, or electronic communications
11 may be conducted.

12 “(b) Only an express statutory authorization for elec-
13 tronic surveillance or the interception of domestic wire,
14 oral, or electronic communications, other than as an
15 amendment to this Act or chapters 119, 121, or 206 of
16 title 18, United States Code, shall constitute an additional
17 exclusive means for the purpose of subsection (a).”.

18 (b) OFFENSE.—Section 109(a) of the Foreign Intel-
19 ligence Surveillance Act of 1978 (50 U.S.C. 1809(a)) is
20 amended by striking “authorized by statute” each place
21 it appears in such section and inserting “authorized by
22 this Act, chapter 119, 121, or 206 of title 18, United
23 States Code, or any express statutory authorization that
24 is an additional exclusive means for conducting electronic
25 surveillance under section 112.”; and

26 (c) CONFORMING AMENDMENTS.—

1 (1) TITLE 18, UNITED STATES CODE.—Section
2 2511(2)(a) of title 18, United States Code, is
3 amended by adding at the end the following:

4 “(iii) If a certification under subpara-
5 graph (ii)(B) for assistance to obtain for-
6 eign intelligence information is based on
7 statutory authority, the certification shall
8 identify the specific statutory provision,
9 and shall certify that the statutory require-
10 ments have been met.”; and

11 (2) TABLE OF CONTENTS.—The table of con-
12 tents in the first section of the Foreign Intelligence
13 Surveillance Act of 1978 (50 U.S.C. 1801 et seq.)
14 is amended by inserting after the item relating to
15 section 111, the following new item:

“Sec. 112. Statement of exclusive means by which electronic surveillance and
interception of certain communications may be conducted.”.

16 **SEC. 103. SUBMITTAL TO CONGRESS OF CERTAIN COURT**
17 **ORDERS UNDER THE FOREIGN INTEL-**
18 **LIGENCE SURVEILLANCE ACT OF 1978.**

19 (a) INCLUSION OF CERTAIN ORDERS IN SEMIANNUAL
20 REPORTS OF ATTORNEY GENERAL.—Subsection (a)(5) of
21 section 601 of the Foreign Intelligence Surveillance Act
22 of 1978 (50 U.S.C. 1871) is amended by striking “(not
23 including orders)” and inserting “, orders,”.

1 (b) REPORTS BY ATTORNEY GENERAL ON CERTAIN
2 OTHER ORDERS.—Such section 601 is further amended
3 by adding at the end the following:

4 “(c) SUBMISSIONS TO CONGRESS.—The Attorney
5 General shall submit to the committees of Congress re-
6 ferred to in subsection (a)—

7 “(1) a copy of any decision, order, or opinion
8 issued by the Foreign Intelligence Surveillance Court
9 or the Foreign Intelligence Surveillance Court of Re-
10 view that includes significant construction or inter-
11 pretation of any provision of this Act, and any
12 pleadings, applications, or memoranda of law associ-
13 ated with such decision, order, or opinion, not later
14 than 45 days after such decision, order, or opinion
15 is issued; and

16 “(2) a copy of any such decision, order, or opin-
17 ion, and any pleadings, applications, or memoranda
18 of law associated with such decision, order, or opin-
19 ion, that was issued during the 5-year period ending
20 on the date of the enactment of the FISA Amend-
21 ments Act of 2008 and not previously submitted in
22 a report under subsection (a).

23 “(d) PROTECTION OF NATIONAL SECURITY.—The
24 Attorney General, in consultation with the Director of Na-
25 tional Intelligence, may authorize redactions of materials

1 described in subsection (c) that are provided to the com-
2 mittees of Congress referred to in subsection (a), if such
3 redactions are necessary to protect the national security
4 of the United States and are limited to sensitive sources
5 and methods information or the identities of targets.”.

6 (e) DEFINITIONS.—Such section 601, as amended by
7 subsections (a) and (b), is further amended by adding at
8 the end the following:

9 “(e) DEFINITIONS.—In this section:

10 “(1) FOREIGN INTELLIGENCE SURVEILLANCE
11 COURT.—The term ‘Foreign Intelligence Surveillance
12 Court’ means the court established by section
13 103(a).

14 “(2) FOREIGN INTELLIGENCE SURVEILLANCE
15 COURT OF REVIEW.—The term ‘Foreign Intelligence
16 Surveillance Court of Review’ means the court estab-
17 lished by section 103(b).”.

18 **SEC. 104. APPLICATIONS FOR COURT ORDERS.**

19 Section 104 of the Foreign Intelligence Surveillance
20 Act of 1978 (50 U.S.C. 1804) is amended—

21 (1) in subsection (a)—

22 (A) by striking paragraphs (2) and (11);

23 (B) by redesignating paragraphs (3)
24 through (10) as paragraphs (2) through (9), re-
25 spectively;

1 (C) in paragraph (5), as redesignated by
2 subparagraph (B) of this paragraph, by striking
3 “detailed”;

4 (D) in paragraph (6), as redesignated by
5 subparagraph (B) of this paragraph, in the
6 matter preceding subparagraph (A)—

7 (i) by striking “Affairs or” and insert-
8 ing “Affairs,”; and

9 (ii) by striking “Senate—” and insert-
10 ing “Senate, or the Deputy Director of the
11 Federal Bureau of Investigation, if des-
12 ignated by the President as a certifying of-
13 ficial—”;

14 (E) in paragraph (7), as redesignated by
15 subparagraph (B) of this paragraph, by striking
16 “statement of” and inserting “summary state-
17 ment of”;

18 (F) in paragraph (8), as redesignated by
19 subparagraph (B) of this paragraph, by adding
20 “and” at the end; and

21 (G) in paragraph (9), as redesignated by
22 subparagraph (B) of this paragraph, by striking
23 “; and” and inserting a period;

24 (2) by striking subsection (b);

1 (3) by redesignating subsections (c) through (e)
2 as subsections (b) through (d), respectively; and

3 (4) in paragraph (1)(A) of subsection (d), as re-
4 designated by paragraph (3) of this subsection, by
5 striking “or the Director of National Intelligence”
6 and inserting “the Director of National Intelligence,
7 or the Director of the Central Intelligence Agency”.

8 **SEC. 105. ISSUANCE OF AN ORDER.**

9 Section 105 of the Foreign Intelligence Surveillance
10 Act of 1978 (50 U.S.C. 1805) is amended—

11 (1) in subsection (a)—

12 (A) by striking paragraph (1); and

13 (B) by redesignating paragraphs (2)
14 through (5) as paragraphs (1) through (4), re-
15 spectively;

16 (2) in subsection (b), by striking “(a)(3)” and
17 inserting “(a)(2)”;

18 (3) in subsection (c)(1)—

19 (A) in subparagraph (D), by adding “and”
20 at the end;

21 (B) in subparagraph (E), by striking “;
22 and” and inserting a period; and

23 (C) by striking subparagraph (F);

24 (4) by striking subsection (d);

1 (5) by redesignating subsections (e) through (i)
2 as subsections (d) through (h), respectively;

3 (6) by amending subsection (e), as redesignated
4 by paragraph (5) of this section, to read as follows:

5 “(e)(1) Notwithstanding any other provision of this
6 title, the Attorney General may authorize the emergency
7 employment of electronic surveillance if the Attorney Gen-
8 eral—

9 “(A) reasonably determines that an emergency
10 situation exists with respect to the employment of
11 electronic surveillance to obtain foreign intelligence
12 information before an order authorizing such surveil-
13 lance can with due diligence be obtained;

14 “(B) reasonably determines that the factual
15 basis for the issuance of an order under this title to
16 approve such electronic surveillance exists;

17 “(C) informs, either personally or through a
18 designee, a judge having jurisdiction under section
19 103 at the time of such authorization that the deci-
20 sion has been made to employ emergency electronic
21 surveillance; and

22 “(D) makes an application in accordance with
23 this title to a judge having jurisdiction under section
24 103 as soon as practicable, but not later than 7 days

1 after the Attorney General authorizes such surveil-
2 lance.

3 “(2) If the Attorney General authorizes the emer-
4 gency employment of electronic surveillance under para-
5 graph (1), the Attorney General shall require that the
6 minimization procedures required by this title for the
7 issuance of a judicial order be followed.

8 “(3) In the absence of a judicial order approving such
9 electronic surveillance, the surveillance shall terminate
10 when the information sought is obtained, when the appli-
11 cation for the order is denied, or after the expiration of
12 7 days from the time of authorization by the Attorney
13 General, whichever is earliest.

14 “(4) A denial of the application made under this sub-
15 section may be reviewed as provided in section 103.

16 “(5) In the event that such application for approval
17 is denied, or in any other case where the electronic surveil-
18 lance is terminated and no order is issued approving the
19 surveillance, no information obtained or evidence derived
20 from such surveillance shall be received in evidence or oth-
21 erwise disclosed in any trial, hearing, or other proceeding
22 in or before any court, grand jury, department, office,
23 agency, regulatory body, legislative committee, or other
24 authority of the United States, a State, or political sub-
25 division thereof, and no information concerning any

1 United States person acquired from such surveillance shall
2 subsequently be used or disclosed in any other manner by
3 Federal officers or employees without the consent of such
4 person, except with the approval of the Attorney General
5 if the information indicates a threat of death or serious
6 bodily harm to any person.

7 “(6) The Attorney General shall assess compliance
8 with the requirements of paragraph (5).”; and

9 (7) by adding at the end the following:

10 “(i) In any case in which the Government makes an
11 application to a judge under this title to conduct electronic
12 surveillance involving communications and the judge
13 grants such application, upon the request of the applicant,
14 the judge shall also authorize the installation and use of
15 pen registers and trap and trace devices, and direct the
16 disclosure of the information set forth in section
17 402(d)(2).”.

18 **SEC. 106. USE OF INFORMATION.**

19 Subsection (i) of section 106 of the Foreign Intel-
20 ligence Surveillance Act of 1978 (8 U.S.C. 1806) is
21 amended by striking “radio communication” and inserting
22 “communication”.

1 **SEC. 107. AMENDMENTS FOR PHYSICAL SEARCHES.**

2 (a) APPLICATIONS.—Section 303 of the Foreign In-
3 telligence Surveillance Act of 1978 (50 U.S.C. 1823) is
4 amended—

5 (1) in subsection (a)—

6 (A) by striking paragraph (2);

7 (B) by redesignating paragraphs (3)
8 through (9) as paragraphs (2) through (8), re-
9 spectively;

10 (C) in paragraph (2), as redesignated by
11 subparagraph (B) of this paragraph, by striking
12 “detailed”;

13 (D) in paragraph (3)(C), as redesignated
14 by subparagraph (B) of this paragraph, by in-
15 serting “or is about to be” before “owned”; and

16 (E) in paragraph (6), as redesignated by
17 subparagraph (B) of this paragraph, in the
18 matter preceding subparagraph (A)—

19 (i) by striking “Affairs or” and insert-
20 ing “Affairs,”; and

21 (ii) by striking “Senate—” and insert-
22 ing “Senate, or the Deputy Director of the
23 Federal Bureau of Investigation, if des-
24 ignated by the President as a certifying of-
25 ficial—”; and

1 (2) in subsection (d)(1)(A), by striking “or the
2 Director of National Intelligence” and inserting “the
3 Director of National Intelligence, or the Director of
4 the Central Intelligence Agency”.

5 (b) ORDERS.—Section 304 of the Foreign Intel-
6 ligence Surveillance Act of 1978 (50 U.S.C. 1824) is
7 amended—

8 (1) in subsection (a)—

9 (A) by striking paragraph (1);

10 (B) by redesignating paragraphs (2)
11 through (5) as paragraphs (1) through (4), re-
12 spectively; and

13 (C) in paragraph (2)(B), as redesignated
14 by subparagraph (B) of this paragraph, by in-
15 serting “or is about to be” before “owned”; and

16 (2) by amending subsection (e) to read as fol-
17 lows:

18 “(e)(1) Notwithstanding any other provision of this
19 title, the Attorney General may authorize the emergency
20 employment of a physical search if the Attorney General—

21 “(A) reasonably determines that an emergency
22 situation exists with respect to the employment of a
23 physical search to obtain foreign intelligence infor-
24 mation before an order authorizing such physical
25 search can with due diligence be obtained;

1 “(B) reasonably determines that the factual
2 basis for issuance of an order under this title to ap-
3 prove such physical search exists;

4 “(C) informs, either personally or through a
5 designee, a judge of the Foreign Intelligence Surveil-
6 lance Court at the time of such authorization that
7 the decision has been made to employ an emergency
8 physical search; and

9 “(D) makes an application in accordance with
10 this title to a judge of the Foreign Intelligence Sur-
11 veillance Court as soon as practicable, but not more
12 than 7 days after the Attorney General authorizes
13 such physical search.

14 “(2) If the Attorney General authorizes the emer-
15 gency employment of a physical search under paragraph
16 (1), the Attorney General shall require that the minimiza-
17 tion procedures required by this title for the issuance of
18 a judicial order be followed.

19 “(3) In the absence of a judicial order approving such
20 physical search, the physical search shall terminate when
21 the information sought is obtained, when the application
22 for the order is denied, or after the expiration of 7 days
23 from the time of authorization by the Attorney General,
24 whichever is earliest.

1 “(4) A denial of the application made under this sub-
2 section may be reviewed as provided in section 103.

3 “(5)(A) In the event that such application for ap-
4 proval is denied, or in any other case where the physical
5 search is terminated and no order is issued approving the
6 physical search, no information obtained or evidence de-
7 rived from such physical search shall be received in evi-
8 dence or otherwise disclosed in any trial, hearing, or other
9 proceeding in or before any court, grand jury, department,
10 office, agency, regulatory body, legislative committee, or
11 other authority of the United States, a State, or political
12 subdivision thereof, and no information concerning any
13 United States person acquired from such physical search
14 shall subsequently be used or disclosed in any other man-
15 ner by Federal officers or employees without the consent
16 of such person, except with the approval of the Attorney
17 General if the information indicates a threat of death or
18 serious bodily harm to any person.

19 “(B) The Attorney General shall assess compliance
20 with the requirements of subparagraph (A).”.

21 (c) CONFORMING AMENDMENTS.—The Foreign Intel-
22 ligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.)
23 is amended—

- 1 (1) in section 304(a)(4), as redesignated by
2 subsection (b) of this section, by striking
3 “303(a)(7)(E)” and inserting “303(a)(6)(E)”; and
4 (2) in section 305(k)(2), by striking
5 “303(a)(7)” and inserting “303(a)(6)”.

6 **SEC. 108. AMENDMENTS FOR EMERGENCY PEN REGISTERS**
7 **AND TRAP AND TRACE DEVICES.**

8 Section 403 of the Foreign Intelligence Surveillance
9 Act of 1978 (50 U.S.C. 1843) is amended—

- 10 (1) in subsection (a)(2), by striking “48 hours”
11 and inserting “7 days”; and
12 (2) in subsection (c)(1)(C), by striking “48
13 hours” and inserting “7 days”.

14 **SEC. 109. FOREIGN INTELLIGENCE SURVEILLANCE COURT.**

15 (a) DESIGNATION OF JUDGES.—Subsection (a) of
16 section 103 of the Foreign Intelligence Surveillance Act
17 of 1978 (50 U.S.C. 1803) is amended by inserting “at
18 least” before “seven of the United States judicial cir-
19 cuits”.

20 (b) EN BANC AUTHORITY.—

21 (1) IN GENERAL.—Subsection (a) of section
22 103 of the Foreign Intelligence Surveillance Act of
23 1978, as amended by subsection (a) of this section,
24 is further amended—

25 (A) by inserting “(1)” after “(a)”; and

1 (B) by adding at the end the following new
2 paragraph:

3 “(2)(A) The court established under this subsection
4 may, on its own initiative, or upon the request of the Gov-
5 ernment in any proceeding or a party under section 501(f)
6 or paragraph (4) or (5) of section 702(h), hold a hearing
7 or rehearing, en banc, when ordered by a majority of the
8 judges that constitute such court upon a determination
9 that—

10 “(i) en banc consideration is necessary to se-
11 cure or maintain uniformity of the court’s decisions;
12 or

13 “(ii) the proceeding involves a question of ex-
14 ceptional importance.

15 “(B) Any authority granted by this Act to a judge
16 of the court established under this subsection may be exer-
17 cised by the court en banc. When exercising such author-
18 ity, the court en banc shall comply with any requirements
19 of this Act on the exercise of such authority.

20 “(C) For purposes of this paragraph, the court en
21 banc shall consist of all judges who constitute the court
22 established under this subsection.”.

23 (2) CONFORMING AMENDMENTS.—The Foreign
24 Intelligence Surveillance Act of 1978 is further
25 amended—

1 (A) in subsection (a) of section 103, as
2 amended by this subsection, by inserting “(ex-
3 cept when sitting en banc under paragraph
4 (2))” after “no judge designated under this
5 subsection”; and

6 (B) in section 302(c) (50 U.S.C. 1822(c)),
7 by inserting “(except when sitting en banc)”
8 after “except that no judge”.

9 (c) STAY OR MODIFICATION DURING AN APPEAL.—
10 Section 103 of the Foreign Intelligence Surveillance Act
11 of 1978 (50 U.S.C. 1803) is amended—

12 (1) by redesignating subsection (f) as sub-
13 section (g); and

14 (2) by inserting after subsection (e) the fol-
15 lowing new subsection:

16 “(f)(1) A judge of the court established under sub-
17 section (a), the court established under subsection (b) or
18 a judge of that court, or the Supreme Court of the United
19 States or a justice of that court, may, in accordance with
20 the rules of their respective courts, enter a stay of an order
21 or an order modifying an order of the court established
22 under subsection (a) or the court established under sub-
23 section (b) entered under any title of this Act, while the
24 court established under subsection (a) conducts a rehear-
25 ing, while an appeal is pending to the court established

1 under subsection (b), or while a petition of certiorari is
2 pending in the Supreme Court of the United States, or
3 during the pendency of any review by that court.

4 “(2) The authority described in paragraph (1) shall
5 apply to an order entered under any provision of this
6 Act.”.

7 (d) **AUTHORITY OF FOREIGN INTELLIGENCE SUR-**
8 **VEILLANCE COURT.**—Section 103 of the Foreign Intel-
9 ligence Surveillance Act of 1978 (50 U.S.C. 1803), as
10 amended by this Act, is amended by adding at the end
11 the following:

12 “(i) Nothing in this Act shall be construed to reduce
13 or contravene the inherent authority of the court estab-
14 lished by subsection (a) to determine, or enforce, compli-
15 ance with an order or a rule of such court or with a proce-
16 dure approved by such court.”.

17 **SEC. 110. WEAPONS OF MASS DESTRUCTION.**

18 (a) **DEFINITIONS.**—

19 (1) **FOREIGN POWER.**—Subsection (a) of sec-
20 tion 101 of the Foreign Intelligence Surveillance Act
21 of 1978 (50 U.S.C. 1801(a)) is amended—

22 (A) in paragraph (5), by striking “persons;
23 or” and inserting “persons;”;

24 (B) in paragraph (6) by striking the period
25 and inserting “; or”; and

1 (C) by adding at the end the following new
2 paragraph:

3 “(7) an entity not substantially composed of
4 United States persons that is engaged in the inter-
5 national proliferation of weapons of mass destruc-
6 tion.”.

7 (2) AGENT OF A FOREIGN POWER.—Subsection
8 (b)(1) of such section 101 is amended—

9 (A) in subparagraph (B), by striking “or”
10 at the end;

11 (B) in subparagraph (C), by striking “or”
12 at the end; and

13 (C) by adding at the end the following new
14 subparagraphs:

15 “(D) engages in the international prolifera-
16 tion of weapons of mass destruction, or activi-
17 ties in preparation therefor; or

18 “(E) engages in the international prolifera-
19 tion of weapons of mass destruction, or activi-
20 ties in preparation therefor for or on behalf of
21 a foreign power; or”.

22 (3) FOREIGN INTELLIGENCE INFORMATION.—
23 Subsection (e)(1)(B) of such section 101 is amended
24 by striking “sabotage or international terrorism”
25 and inserting “sabotage, international terrorism, or