



Department of Energy

Washington, DC 20585

January 10, 2012

Mr. Steven Aftergood
Federation of American Scientists
1725 De Sales Street, NW
Suite 600
Washington, DC 20036

HQ-2012-00298-F

Dear Mr. Aftergood:

This is the final response to the request for information that you sent to the Department of Energy (DOE) under the Freedom of Information Act (FOIA), 5 U.S.C. 552. You asked for a copy of a recent letter to Congress from the Secretary of Energy transmitting proposed legislation to amend the Atomic Energy Act.

The Office of the General Counsel has conducted a search of their files and identified the enclosed document as responsive to your request. This document is provided to you in its entirety.

Pursuant to 10 C.F.R. 1004.8, you may challenge the adequacy of the search for responsive documents by submitting a written appeal to the Director, Office of Hearings and Appeals, at HG-1/L'Enfant Plaza Building, U.S. DOE, 1000 Independence Avenue, SW, Washington, DC 20585-1615. You should submit the appeal within 30 calendar days of receipt of this determination.

The written appeal, including the envelope, must clearly indicate that a FOIA appeal is being made. The appeal must contain the elements required by 10 C.F.R. 1004.8, including a copy of this letter. Judicial review will thereafter be available (1) in the district where you reside; (2) in the district where you have your principal place of business; (3) in the district where the DOE records are located; or (4) in the District of Columbia.

I appreciate the opportunity to assist you with matter. If you have any questions about this correspondence, please contact Ms. Vera Dunmore of my staff at (202) 586-4047.

Sincerely,

A handwritten signature in black ink, appearing to read "Alex Morris", written over a horizontal line.

Alexander C. Morris
FOIA Officer
Office of Information Resources

Enclosures





The Secretary of Energy
Washington, D.C. 20585

August 4, 2011

The Honorable John Boehner
Speaker of the House of Representatives
Washington, DC 20515

Dear Mr. Speaker:

The purpose of this letter is to submit proposed legislation that would allow the Department of Energy (DOE) to restore to the Restricted Data (RD) category certain information that has been removed from that category pursuant to section 142 of the Atomic Energy Act of 1954, as amended (AEA).

Formerly Restricted Data (FRD) is certain information concerning the military utilization of nuclear weapons that has been removed from the RD category pursuant to subsection 142 d. of the AEA. Transclassified Foreign Nuclear Information (TFNI) is certain information concerning the atomic energy programs of other nations that was removed from the RD category pursuant to subsection 142 e. of the AEA. These types of information were removed from the RD category to support the mission requirements of the Department of Defense (DoD) and the Intelligence Community, respectively. In some cases, the reasons for transclassifying RD to FRD or TFNI are no longer valid because of changes in (1) the potential for utilization of nuclear weapons, or (2) the mission needs of the DoD or the Intelligence Community. There is sensitive nuclear weapons design information embodied in some FRD and TFNI that should be subject to the more stringent security protections afforded RD now than current programmatic capabilities of DoD and the Intelligence Community permit. This proposed legislation would permit DOE, in conjunction with DoD or the Director of National Intelligence, to restore such information to the RD category.

This proposed legislation would also make a technical correction to subsection 142 e. of the AEA. The duties of the Director of Central Intelligence under subsection 142 e. were transferred to the Director of National Intelligence by the Intelligence Reform and Terrorism Prevention Act of 2004 (50 U.S.C. § 401 note), but the text of subsection 142 e. still refers to the Director of Central Intelligence. The technical correction would replace "Central" with "National" to make subsection 142 e. consistent with the Intelligence Reform and Terrorism Prevention Act of 2004.

The Office of Management and Budget advises that there is no objection to the submission of this legislative proposal from the standpoint of the President's program.



Enclosed with this letter is legislative language for this proposal. I urge Congress to consider it favorably. If you or your staff have any questions regarding this proposal, please call me or Mr. Jeff Lane, Assistant Secretary for Congressional and Intergovernmental Affairs, at (202) 586-5450.

Sincerely,

A handwritten signature in black ink, appearing to read "Steven Chu". The signature is written in a cursive, flowing style.

Steven Chu

Enclosure



The Secretary of Energy
Washington, D.C. 20585

August 4, 2011

The Honorable Joseph R. Biden, Jr.
President of the Senate
Washington, D.C. 20510

Dear Mr. President:

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Sincerely,



Steven Chu

Enclosure

Legislative In
formation
Mr. Assistant
at (202) 586-5450

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Mr. Assistant
at (202) 586-5450

Legislative In
formation
Mr. Assistant
at (202) 586-5450

A BILL

To amend section 142 of the Atomic Energy Act of 1954 to give the Secretary of Energy the authority to restore certain information removed from the Restricted Data category under that section to the Restricted Data category, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. RESTORING FORMERLY RESTRICTED DATA TO THE RESTRICTED DATA CATEGORY.

Section 142 of the Atomic Energy Act of 1954 (42 U.S.C. 2162) is amended—

(a) In subsection d.—

(1) by redesignating the text of subsection d. as paragraph d. (1); and

(2) by inserting the following at the end of subsection d.:

“(2) The Commission may restore to the Restricted Data category information related to the design of nuclear weapons (“design information”) removed under paragraph (1) of this subsection if the Commission and the Department of Defense jointly determine that—

“(1) the programmatic requirements that caused the design information to be removed from the Restricted Data category are no longer applicable or have diminished;

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“(ii) the design information would be more appropriately protected as Restricted Data; and

“(iii) restoring the design information to the Restricted Data category is in the interest of the national security.

“(3) Design information shall be restored to the Restricted Data category in accordance with regulations implemented pursuant to this section.”

(b) In subsection e.—

(1) by redesignating the text of subsection e. as paragraph e. (1); and

(2) by inserting the following at the end of subsection e.:

“(2) The Commission may restore to the Restricted Data category information related to foreign nuclear programs (“foreign nuclear information”) removed under paragraph (1) of this subsection if the Commission and the Director of National Intelligence jointly determine that—

“(i) the programmatic requirements that caused the foreign nuclear information to be removed from the Restricted Data category are no longer applicable or have diminished;

“(ii) the foreign nuclear information would be more appropriately protected as Restricted Data; and

1 “(iii) restoring the foreign nuclear information to the
2 Restricted Data category is in the interest of the national security.

3 “(3) Foreign nuclear information shall be restored to the Restricted
4 Data category in accordance with regulations implemented pursuant to
5 this section.”.

6 **SEC. 2. TECHNICAL CORRECTION TO SECTION 142.**

7 Subsection 142 e. of the Atomic Energy Act of 1954 (42 U.S.C. 2162) is amended by
8 striking “Central” and inserting “National”.