

- Sections 135(d)(1)–(d)(3), (d)(5)(B), and (d)(6) to the Secretary of State, in consultation with other relevant agencies as appropriate;

- Section 135(d)(4) to the Secretary of State, in consultation with the Secretary of the Treasury as appropriate, with respect to the requirement to submit the report described in that provision and to prepare each of the required elements of the report, with the exception of the required assessment related to money laundering or terrorist finance activities in section 135(d)(4)(H);

- Section 135(d)(4)(H) to the Secretary of the Treasury, in consultation with the Secretary of State, with respect to preparation of the assessment described in that provision for inclusion in the report required by section 135(d)(4).

Any reference in this memorandum to provisions of any act related to the subject of this memorandum shall be deemed to include references to any hereafter enacted provisions of law that are the same or substantially the same as such provisions.

The Secretary of State is authorized and directed to publish this memorandum in the Federal Register.

BARACK OBAMA.

## SUBCHAPTER XI—CONTROL OF INFORMATION

### § 2161. Policy of Commission

It shall be the policy of the Commission to control the dissemination and declassification of Restricted Data in such a manner as to assure the common defense and security. Consistent with such policy, the Commission shall be guided by the following principles:

(a) Until effective and enforceable international safeguards against the use of atomic energy for destructive purposes have been established by an international arrangement, there shall be no exchange of Restricted Data with other nations except as authorized by section 2164 of this title; and

(b) The dissemination of scientific and technical information relating to atomic energy should be permitted and encouraged so as to provide that free interchange of ideas and criticism which is essential to scientific and industrial progress and public understanding and to enlarge the fund of technical information.

(Aug. 1, 1946, ch. 724, title I, §141, as added Aug. 30, 1954, ch. 1073, §1, 68 Stat. 940; renumbered title I, Pub. L. 102-486, title IX, §902(a)(8), Oct. 24, 1992, 106 Stat. 2944.)

#### Editorial Notes

##### PRIOR PROVISIONS

Provisions similar to this section were contained in section 1810(a) of this title, prior to the general amendment and renumbering of act Aug. 1, 1946, by act Aug. 30, 1954.

### § 2162. Classification and declassification of Restricted Data

#### (a) Periodic determination

The Commission shall from time to time determine the data, within the definition of Restricted Data, which can be published without undue risk to the common defense and security and shall thereupon cause such data to be declassified and removed from the category of Restricted Data.

#### (b) Continuous review

The Commission shall maintain a continuous review of Restricted Data and of any Classification Guides issued for the guidance of those in the atomic energy program with respect to the areas of Restricted Data which have been declassified in order to determine which information may be declassified and removed from the category of Restricted Data without undue risk to the common defense and security.

#### (c) Joint determination on atomic weapons; Presidential determination on disagreement

In the case of Restricted Data which the Commission and the Department of Defense jointly determine to relate primarily to the military utilization of atomic weapons, the determination that such data may be published without constituting an unreasonable risk to the common defense and security shall be made by the Commission and the Department of Defense jointly, and if the Commission and the Department of Defense do not agree, the determination shall be made by the President.

#### (d) Removal from Restricted Data category

(1) The Commission shall remove from the Restricted Data category such data as the Commission and the Department of Defense jointly determine relates primarily to the military utilization of atomic weapons and which the Commission and Department of Defense jointly determine can be adequately safeguarded as defense information: *Provided, however*, That no such data so removed from the Restricted Data category shall be transmitted or otherwise made available to any nation or regional defense organization, while such data remains defense information, except pursuant to an agreement for cooperation entered into in accordance with subsection (b) or (d) of section 2164 of this title.

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

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

(B) the information would be more appropriately protected as Restricted Data; and

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

(3) In carrying out paragraph (2), information related to the design of nuclear weapons shall be restored to the Restricted Data category in accordance with regulations prescribed for purposes of such paragraph.

#### (e) Joint determination on atomic energy programs

(1) The Commission shall remove from the Restricted Data category such information concerning the atomic energy programs of other nations as the Commission and the Director of National Intelligence jointly determine to be necessary to carry out the provisions of section 102(d) of the National Security Act of 1947, as

amended,<sup>1</sup> and can be adequately safeguarded as defense information.

(2) The Commission may restore to the Restricted Data category any information concerning atomic energy programs of other nations removed under paragraph (1) if the Commission and the Director of National Intelligence jointly determine that—

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

(B) the information would be more appropriately protected as Restricted Data; and

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

(3) In carrying out paragraph (2), information concerning atomic energy programs of other nations shall be restored to the Restricted Data category in accordance with regulations prescribed for purposes of such paragraph.

(Aug. 1, 1946, ch. 724, title I, §142, as added Aug. 30, 1954, ch. 1073, §1, 68 Stat. 941; amended Pub. L. 102-484, div. C, title XXXI, §3152, Oct. 23, 1992, 106 Stat. 2644; renumbered title I, Pub. L. 102-486, title IX, §902(a)(8), Oct. 24, 1992, 106 Stat. 2944; Pub. L. 103-337, div. A, title XXXI, §3155(c)(2), (3), Oct. 5, 1994, 108 Stat. 3092; Pub. L. 112-239, div. C, title XXXI, §3163, Jan. 2, 2013, 126 Stat. 2205.)

#### Editorial Notes

##### REFERENCES IN TEXT

Section 102(d) of the National Security Act of 1947, as amended, referred to in subsec. (e)(1), was a reference to section 102(d) of act July 26, 1947, ch. 343, title I, 61 Stat. 497, which was classified to section 403(d) of Title 50, War and National Defense, prior to repeal by Pub. L. 104-293, title VIII, §805(a), Oct. 11, 1996, 110 Stat. 3477.

##### AMENDMENTS

2013—Subsec. (d). Pub. L. 112-239, §3163(1), designated existing provisions as par. (1) and added pars. (2) and (3).

Subsec. (e). Pub. L. 112-239, §3163(2), designated existing provisions as par. (1), substituted “National Intelligence” for “Central Intelligence”, and added pars. (2) and (3).

1994—Subsec. (d). Pub. L. 103-337, §3155(c)(2), substituted “subsection (b) or (d) of section 2164 of this title” for “section 2164(b) of this title”.

Subsec. (f). Pub. L. 103-337, §3155(c)(3), struck out subsec. (f) which read as follows: “Notwithstanding any other law, the President may publicly release Restricted Data regarding the nuclear weapons stockpile of the United States if the United States and member states of the Commonwealth of Independent States reach reciprocal agreement on the release of such data.”

1992—Subsec. (f). Pub. L. 102-484 added subsec. (f).

#### Statutory Notes and Related Subsidiaries

##### REVIEW OF CERTAIN DOCUMENTS BEFORE DECLASSIFICATION AND RELEASE

Pub. L. 104-106, div. C, title XXXI, §3155, Feb. 10, 1996, 110 Stat. 625, which was formerly set out as a note under this section, was renumbered section 4521 of Pub. L. 107-314, the Bob Stump National Defense Authoriza-

tion Act for Fiscal Year 2003, by Pub. L. 108-136, div. C, title XXXI, §3141(h)(11), Nov. 24, 2003, 117 Stat. 1774, and is classified to section 2671 of Title 50, War and National Defense.

#### Executive Documents

EX. ORD. NO. 10899. COMMUNICATION OF RESTRICTED DATA BY CENTRAL INTELLIGENCE AGENCY

Ex. Ord. No. 10899, eff. Dec. 9, 1960, 25 F.R. 12729, provided:

By virtue of the authority vested in me by the Atomic Energy Act of 1954, as amended (hereinafter referred to as the Act; 42 U.S.C. 2011 *et seq.*), and as President of the United States, it is ordered as follows:

The Central Intelligence Agency is hereby authorized to communicate for intelligence purposes, in accordance with the terms and conditions of any agreement for cooperation arranged pursuant to subsections 144a, b, or c of the act (42 U.S.C. 2162 (a), (b), or (c)), such restricted data and data removed from the restricted data category under subsection 142d of the Act (42 U.S.C. 2162(d)) as is determined

(i) by the President, pursuant to the provisions of the Act, or

(ii) by the Atomic Energy Commission and the Department of Defense, jointly pursuant to the provisions of Executive Order No. 10841 [set out as a note under section 2153 of this title], to be transmissible under the agreement for cooperation involved. Such communications shall be effected through mechanisms established by the Central Intelligence Agency in accordance with the terms and conditions of the agreement for cooperation involved: *Provided*, that no such communication shall be made by the Central Intelligence Agency until the proposed communication has been authorized either in accordance with procedures adopted by the Atomic Energy Commission and the Department of Defense and applicable to conduct of programs for cooperation by those agencies, or in accordance with procedures approved by the Atomic Energy Commission and the Department of Defense and applicable to conduct of programs for cooperation by the Central Intelligence Agency.

DWIGHT D. EISENHOWER.

##### MODIFICATION OF EXECUTIVE ORDER NO. 10899

Ex. Ord. No. 10899, Dec. 9, 1960, 25 F.R. 12729, set out above, when referring to functions of the Atomic Energy Commission is modified to provide that all such functions shall be exercised by the Secretary of Energy and the Nuclear Regulatory Commission, see section 4(a)(1) of Ex. Ord. No. 12038, Feb. 3, 1978, 43 F.R. 4957, set out as a note under section 7151 of this title.

EX. ORD. NO. 11057. COMMUNICATION OF RESTRICTED DATA BY DEPARTMENT OF STATE

Ex. Ord. No. 11057, eff. Oct. 18, 1962, 27 F.R. 10289, provided:

By virtue of the authority vested in me by the Atomic Energy Act of 1954, as amended (hereinafter referred to as the Act; 42 U.S.C. 2011 *et seq.*), and as President of the United States, it is ordered as follows:

The Department of State is hereby authorized to communicate, in accordance with the terms and conditions of any agreement for cooperation arranged pursuant to subsection 144b of the act (42 U.S.C. 2164(b)), such restricted data and data removed from the restricted data category under subsection 142d of the act (42 U.S.C. 2162(d)) as is determined

(i) by the President, pursuant to the provisions of the Act, or

(ii) by the Atomic Energy Commission and the Department of Defense, jointly pursuant to the provisions of Executive Order No. 10841, as amended [set out as a note under section 2153 of this title], to be transmissible under the agreement for cooperation involved. Such communications shall be effected through mechanisms established by the Department of State in ac-

<sup>1</sup> See References in Text note below.

cordance with the terms and conditions of the agreement for cooperation involved: *Provided*, that no such communication shall be made by the Department of State until the proposed communication has been authorized either in accordance with procedures adopted by the Atomic Energy Commission and the Department of Defense and applicable to conduct of programs for cooperation by those agencies, or in accordance with procedures approved by the Atomic Energy Commission and the Department of Defense and applicable to conduct of programs for cooperation by the Department of State.

JOHN F. KENNEDY.

MODIFICATION OF EXECUTIVE ORDER NO. 11057

Ex. Ord. No. 11057, Oct. 18, 1962, 27 F.R. 10289, set out above, when referring to functions of the Atomic Energy Commission is modified to provide that all such functions shall be exercised by the Secretary of Energy and the Nuclear Regulatory Commission, see section 4(a)(1) of Ex. Ord. No. 12038, Feb. 3, 1978, 43 F.R. 4957, set out as a note under section 7151 of this title.

**§ 2163. Access to Restricted Data**

The Commission may authorize any of its employees, or employees of any contractor, prospective contractor, licensee or prospective licensee of the Commission or any other person authorized access to Restricted Data by the Commission under section 2165(b) and (c) of this title to permit any employee of an agency of the Department of Defense or of its contractors, or any member of the Armed Forces to have access to Restricted Data required in the performance of his duties and so certified by the head of the appropriate agency of the Department of Defense or his designee: *Provided, however*, That the head of the appropriate agency of the Department of Defense or his designee has determined, in accordance with the established personnel security procedures and standards of such agency, that permitting the member or employee to have access to such Restricted Data will not endanger the common defense and security: *And provided further*, That the Secretary of Defense finds that the established personnel and other security procedures and standards of such agency are adequate and in reasonable conformity to the standards established by the Commission under section 2165 of this title.

(Aug. 1, 1946, ch. 724, title I, §143, as added Aug. 30, 1954, ch. 1073, §1, 68 Stat. 941; amended Aug. 6, 1956, ch. 1015, §14, 70 Stat. 1071; Pub. L. 87-206, §5, Sept. 6, 1961, 75 Stat. 476; renumbered title I, Pub. L. 102-486, title IX, §902(a)(8), Oct. 24, 1992, 106 Stat. 2944.)

**Editorial Notes**

AMENDMENTS

1961—Pub. L. 87-206 inserted reference to subsection (c) of section 2165 of this title.

1956—Act Aug. 6, 1956, inserted "or any other person authorized access to Restricted Data by the Commission under section 2165(b) of this title".

**§ 2164. International cooperation**

**(a) By Commission**

The President may authorize the Commission to cooperate with another nation and to communicate to that nation Restricted Data on—

- (1) refining, purification, and subsequent treatment of source material;

- (2) civilian reactor development;
- (3) production of special nuclear material;
- (4) health and safety;
- (5) industrial and other applications of atomic energy for peaceful purposes; and
- (6) research and development relating to the foregoing:

*Provided, however*, That no such cooperation shall involve the communication of Restricted Data relating to the design or fabrication of atomic weapons: *And provided further*, That the cooperation is undertaken pursuant to an agreement for cooperation entered into in accordance with section 2153 of this title, or is undertaken pursuant to an agreement existing on August 30, 1954.

**(b) By Department of Defense**

The President may authorize the Department of Defense, with the assistance of the Commission, to cooperate with another nation or with a regional defense organization to which the United States is a party, and to communicate to that nation or organization such Restricted Data (including design information) as is necessary to—

- (1) the development of defense plans;
- (2) the training of personnel in the employment of and defense against atomic weapons and other military applications of atomic energy;
- (3) the evaluation of the capabilities of potential enemies in the employment of atomic weapons and other military applications of atomic energy; and
- (4) the development of compatible delivery systems for atomic weapons;

whenever the President determines that the proposed cooperation and the proposed communication of the Restricted Data will promote and will not constitute an unreasonable risk to the common defense and security, while such other nation or organization is participating with the United States pursuant to an international arrangement by substantial and material contributions to the mutual defense and security: *Provided, however*, That the cooperation is undertaken pursuant to an agreement entered into in accordance with section 2153 of this title.

**(c) Exchange of information concerning atomic weapons; research, development, or design, of military reactors**

In addition to the cooperation authorized in subsections (a) and (b), the President may authorize the Commission, with the assistance of the Department of Defense, to cooperate with another nation and—

- (1) to exchange with that nation Restricted Data concerning atomic weapons: *Provided*, That communication of such Restricted Data to that nation is necessary to improve its atomic weapon design, development, or fabrication capability and provided that nation has made substantial progress in the development of atomic weapons; and
- (2) to communicate or exchange with that nation Restricted Data concerning research, development, or design, of military reactors,

whenever the President determines that the proposed cooperation and the communication of the