



ASSOCIATION OF
AMERICAN UNIVERSITIES



October 27, 2016

Dr. Adam Cohen
Deputy Undersecretary
Office of the Under Secretary for Science and Energy
U.S. Department of Energy
1000 Independence Avenue, SW
Washington, DC 20585

RE: Request for Limited Exemption from DOE Order 142.3A

Dear Dr. Cohen:

The Council of Government Relations (COGR) would like to thank you for joining us on Wednesday October 19th to speak to our Research Compliance and Administration, and Contracts and Intellectual Property Committees about the Request for Limited Exemption from DOE Order 142.3A. As you know, DOE's application of this order to foreign nationals involved in DOE/NETL funded fundamental research conducted on university campuses has led to confusion in recent years. Both COGR and the Association of American Universities (AAU) have approached DOE and NETL on behalf of its members seeking clarification of this order in cases where only fundamental research is being conducted and no foreign national access to DOE/NETL sites, information, technologies or equipment is contemplated. It was helpful to hear your explanation of how DOE made the determination to change its interpretation of this Order to include all information derived between the time of funding and the time of publication under unrestricted fundamental research projects as DOE information under DOE Order 142.3A. We are pleased that an exemption process was created for accredited institutions of higher education where our schools can affirm that the information will be published and that the results would not be export controlled.

Although we welcome this exemption process, we are concerned that it will be subject to future scrutiny as administrations change and different interpretations are considered. To avoid this uncertainty, we would encourage you to advocate for permanent inclusion of this exemption within DOE Order 142.3A. Both COGR and AAU are available to assist as necessary as you pursue this. Thank you again for making yourself available to us and for explaining the new exemption process. Should you have any additional questions or concerns, please feel free to contact us at (202) 289-6655.

Sincerely,

Anthony DeCrappeo
President – COGR

Tobin Smith
Vice President for Policy - AAU