time and place for the hearing and shall notify the petitioner.

(b) Oral hearings held by the Board shall be open to the public and shall be held in accordance with the following procedures:

(1) Oral hearings shall be conducted in an informal manner, with the objective of providing the petitioner with a full opportunity to present facts and arguments in support of the petition. Evidence may be presented through means of witnesses, exhibits, and visual aids as are arranged for by the petitioner. Petitioner may be represented by any person including its attorney. While proceedings will be ex parte, members of the Board and its counsel may address questions to witnesses called by the petitioner, and the Board may, at its option, enlist the aid of technical advisors or expert witnesses. Any person present at the hearing may make a statement for the record.

(2) A transcript or equivalent record of the proceeding shall be arranged for by the Board. The petitioner shall submit for the record a copy of any exhibit or visual aid utilized during the hearing.

§ 1245.114 Findings and recommendations of the Board.

(a) Findings of the Board. The Board shall consider the petition, the NASA contract, if relevant, the goals cited in § 1245.103(a), the effect of the waiver on the objectives of the related NASA programs, and any other available facts and information presented to the Board by an interested party. The Board shall document its findings.

(b) Recommendation of the Board. Except as provided in § 1245.104(d), after making the findings of fact, the Board shall formulate its proposed recommendation to the Administrator as to the grant of waiver as requested, the grant of waiver upon terms other than as requested, or denial of waiver.

(1) If the Board proposes to recommend, initially or upon reconsideration or after oral hearing, that the petition be granted in the extent requested or, in other cases, where the petitioner does not request reconsideration or a hearing during the period set for the action or informs the Board that the action will not be requested, or fails to file the required statements within the prescribed time, the Board shall transmit the petition, a summary record of hearing proceedings, if applicable, its findings of fact, and its recommendation to the Administrator.

§ 1245.115 Action by the Administrator.

(a) After receiving the transmittal from the Board, the Administrator shall determine, in accordance with the policy of § 1245.103, whether or not to grant any petition for waiver of rights to the petitioner.

(b) In the event of denial of the petition by the Administrator, a written notice of such denial will be promptly transmitted by the Board to the petitioner. The written notice will be accompanied with a statement of the grounds for denial.

(c) If the waiver is granted by the Administrator, the petitioner shall be sent for execution, an instrument of waiver confirmatory of the conditions and reservations of the waiver grant.

The petitioner shall promptly return the executed copy of the instrument of waiver to the Chairperson.

§ 1245.116 Miscellaneous provisions.

(a) Filing of patent applications and reimbursement of costs. In order to protect the interests of the Government and the petitioner in inventions, a petitioner may file United States patent applications for such inventions prior to the Administrator’s determination on a petition for waiver. If an application on an identified invention is filed during the pendency of the petition, or within 60 days prior to the receipt of a petition, NASA will reimburse the petitioner for any reasonable costs of the filing and patent prosecution that may have occurred, provided:

(1) Similar patent filing and prosecution costs are not normally reimbursed to the petitioner as direct or indirect costs chargeable to the Government contracts;

(2) The petition is ultimately denied with respect to domestic rights, or with respect to foreign and domestic rights, if both are requested, and

(3) Prior to reimbursement, petitioner assigns the application to the
§ 1245.117 March-in and waiver revocation procedures.

(a) The exercise of march-in procedures shall be governed by 35 U.S.C. 203 and by the applicable provisions of 37 CFR 401.6, entitled “Exercise of march-in rights for inventions made by non-profit organizations and small business firms.”

(b) Whenever NASA receives information that it believes might warrant the exercise of march-in rights, before initiating any march-in proceeding, it shall notify the waiver recipient in writing of the information and request informal written or oral comments from the waiver recipient as well as information relevant to the matter. In the absence of any comments from the waiver recipient within 30 days, NASA may, at its discretion, proceed with the procedures set forth in 37 CFR 401.6. If a comment is received within 30 days, or later if NASA has not initiated the procedures, then NASA shall, within 60 days after it receives the comment, either initiate the procedures or notify the waiver recipient, in writing, that it will not pursue march-in rights on the basis of the available information.

(c) If march-in procedures are to be initiated, the Administrator of NASA, or designee, shall undertake or refer the matter for fact finding to the