

## § 782.6

investigation may be limited to the specifically identified accused articles or processes, or to a specific acquisition (e.g. identified contracts), it may speed disposition of the claim.

(c) *Denial for refusal to provide information.* In the course of investigating a claim, it may become necessary for the Department of Energy to request information in the control and custody of claimant that is relevant to the disposition of the claim. Failure of the claimant to respond to a request for such information may be sufficient reason alone for denying a claim.

## § 782.6 Processing of administrative claims.

(a) *Filing and forwarding of claims.* All communications regarding claims should be addressed to:

General Counsel, ATTN: Assistant General Counsel for Patents, Office of the General Counsel, U.S. Department of Energy, Washington, DC 20545.

If any communication relating to a claim or possible claim of patent or copyright infringement is received by an agency, organization, office, or field establishment within the Department of Energy, it should be forwarded to the Assistant General Counsel for Patents.

(b) *Disposition and notification.* The General Counsel shall investigate and administratively settle, deny, or otherwise dispose of each claim by denial or settlement. When a claim is denied, the Department shall so notify the claimant or his authorized representative and provide the claimant with the reasons for denying the claim. Disclosure of information shall be subject to applicable statutes, regulations, and directives pertaining to security, access to official records, and the rights of others.

## § 782.7 Incomplete notice of infringement.

(a) If a communication alleging patent or copyright infringement is received that does not meet the requirements set forth above in § 782.5, the sender shall be advised in writing by the General Counsel:

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(1) That the claim for infringement has not been satisfactorily presented; and

(2) Of the elements considered necessary to establish a claim.

(b) A communication, such as a mere offer of a license, in which an infringement is not alleged in accordance with § 782.5(a) of this part shall not be considered a claim for infringement.

## § 782.8 Indirect notice of infringement.

If a patent or copyright owner communicates an allegation of infringement in the performance of a Government contract, grant, or other arrangement to addressees other than those specified in § 782.5(a), such as Department of Energy contractors including contractors operating government-owned facilities, the communication shall not be considered a claim within the meaning of § 782.5 until it meets the requirements of that section.

## PART 783—WAIVER OF PATENT RIGHTS

Sec.

783.1 Waiver.

783.2 Limitations.

AUTHORITY: Secs. 152, 161, 68 Stat. 944, 948, as amended; (42 U.S.C. 2182, 2201).

SOURCE: 41 FR 56784, Dec. 30, 1976, unless otherwise noted.

### § 783.1 Waiver.

The Department of Energy, hereinafter “DOE”, waives its rights under section 152 of the Atomic Energy Act of 1954 (66 Stat. 944) with respect to inventions and discoveries resulting from the use of the following materials and services:

(a) Source materials, special nuclear materials, and heavy water distributed by DOE in accordance with the “Schedules of Base Charges for Materials Sold or Leased by DOE for Use in Private Atomic Energy Development and Base Prices Which DOE Will Pay for Certain Products From Private Reactors.”

(b) Radioactive and stable isotopes, irradiation services (this waiver does not include inventions or discoveries made by DOE or DOE contractor personnel in the course of or in connection

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with the performance of an irradiation service), and radioactive material resulting from the performance of an irradiation service sold or distributed by DOE in accordance with the prices and charges established by:

(1) Oak Ridge National Laboratory Inventory and Price List of electromagnetically enriched and other stable isotopes.

(2) Oak Ridge National Laboratory Catalog and Price List of radioisotopes, special materials, and services.

(3) Idaho National Engineering Laboratory Catalog of Price and charges on irradiation services at the materials testing reactor. The waiver does include inventions or discoveries made by sponsor personnel in the course of their use of the Gamma Irradiation Facility at the Idaho National Engineering Laboratory.

(4) Argonne National Laboratory schedule of charges for irradiation services at its irradiation facilities.

(5) Brookhaven National Laboratory schedule of prices and charges for irradiation services and radioisotopes.

### § 783.2 Limitations.

(a) Except with regard to the use of the Gamma facility at the Idaho National Engineering Laboratory, nothing contained in this part shall be deemed to waive any rights in inventions or discoveries where a person or a group of persons acting on behalf of the person requesting the irradiation service works at the DOE facility in connection with the irradiation service. In such event, special arrangements are made.

(b) Nothing contained in this part shall be construed to affect the provisions of any written agreement to which DOE has or may become a party.

## PART 784—PATENT WAIVER REGULATION

Sec.

784.1 Scope and applicability.

784.2 Definitions.

784.3 Policy.

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784.7 Class waiver.

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784.9 Content of waiver requests.

784.10 Record of waiver determinations.

784.11 Bases for granting waivers.

784.12 Terms and conditions of waivers.

784.13 Effective dates.

AUTHORITY: 42 U.S.C. 7151; 42 U.S.C. 5908; 42 U.S.C. 2182; 35 U.S.C. 202 and 210; 42 U.S.C. 7261a.

SOURCE: 61 FR 36614, July 12, 1996, unless otherwise noted.

### § 784.1 Scope and applicability.

(a) This part states the policy and establishes the procedures, terms and conditions governing waiver of the Government's rights in inventions made under contracts, grants, agreements, understandings or other arrangements with the Department of Energy (DOE).

(b) This part applies to all inventions conceived or first actually reduced to practice in the course of or under any contract, grant, agreement, understanding, or other arrangement with or for the benefit of DOE (including any subcontract, subgrant, or subagreement), the patent rights disposition of which is governed by section 152 of the Atomic Energy Act of 1954, 42 U.S.C. 2182, or section 9 of the Federal Non-nuclear Energy Research and Development Act of 1974, 42 U.S.C. 5908. In funding agreements with nonprofit organizations or small business firms, when title or other rights are reserved to the Government under the authority of 35 U.S.C. 202(a), this part will apply to any waiver of such rights. The patent waiver provisions in this part supersede the patent waiver regulations previously included with patent regulations at 41 CFR part 9-9.100.

### § 784.2 Definitions.

As used in this part:

*Contract* means procurement contracts, grants, agreements, understandings and other arrangements (including Cooperative Research and Development Agreements [CRADAs], Work for Others and User Facility agreements, which includes research, development, or demonstration work, and includes any assignment or substitution of the parties, entered into, with, or for the benefit of DOE.

*Contractor* means entities performing under contracts as defined above.