

Pt. 781

10 CFR Ch. III (1-1-06 Edition)

has communicated to a foreign nation, the Board shall take into account the considerations set forth in §780.53(b) of this part and the damage to the applicant resulting from such communication.

(d) In the course of its review of an application to provide compensation, pursuant to 35 U.S.C. 183, to an applicant whose patent was withheld because of a secrecy order issued at the request of the Department, the Board shall take into account the considerations set forth in §780.53(b) of this part and:

(1) The damage sustained by the applicant as a result of the secrecy order; and

(2) The use of the invention by the Government resulting from the disclosure of such invention to the Department.

[46 FR 39581, Aug. 4, 1981, as amended at 58 FR 68735, Dec. 29, 1993]

PART 781—DOE PATENT LICENSING REGULATIONS

GENERAL PROVISIONS

Sec.

- 781.1 Scope.
- 781.2 Policy.
- 781.3 Definitions.
- 781.4 Communications.

TYPES OF LICENSES AND CONDITIONS FOR LICENSING

- 781.51 Nonexclusive licenses.
- 781.52 Exclusive and partially exclusive licenses.
- 781.53 Additional licenses.

PROCEDURES

- 781.61 Publication of DOE inventions available for license.
- 781.62 Contents of a license application.
- 781.63 Published notices.
- 781.64 Termination.
- 781.65 Appeals.
- 781.66 Third-party termination proceedings.

SPECIAL PROVISIONS

- 781.71 Litigation.
- 781.81 Transfer of custody.

AUTHORITY: Dept. of Energy Organization Act, sec. 301, Pub. L. 95-91 (42 U.S.C. 7301); Federal Nonnuclear Energy Research and Development Act of 1974, sec. 9(g), Pub. L. 93-577 (42 U.S.C. 5908(g)); Atomic Energy Act of 1954, as amended, secs. 156, 161g, Pub. L.

83-703 (42 U.S.C. 2186, 2201g); Presidential Statement, 36 FR 16887, Aug. 26, 1971.

SOURCE: 45 FR 73447, Nov. 4, 1980, unless otherwise noted.

GENERAL PROVISIONS

§ 781.1 Scope.

The regulations of this part establish the procedures, terms, and conditions upon which licenses may be granted in inventions covered by patents or patent applications, both domestic and foreign, vested in the United States of America, as represented by or in the custody of the Department of Energy.

§ 781.2 Policy.

(a) The inventions covered by the patents and patent applications, both foreign and domestic, vested in the Government of the United States of America, as represented by or in the custody of the Department, normally will best serve the public interest when they are developed to the point of practical or commercial application and made available to the public in the shortest possible time. This may be accomplished by the granting of express nonexclusive, exclusive, or partially exclusive licenses for the practice of these inventions. However, it is recognized that there may be inventions as to which the Department deems dedication to the public by publication the preferable method of accomplishing these objectives.

(b) Although DOE encourages the nonexclusive licensing of its inventions to promote competition and to achieve their widest possible utilization, the commercial development of certain inventions may require a substantial capital investment that private manufacturers may be unwilling to risk under a nonexclusive license. Thus, DOE may grant exclusive or partially exclusive licenses where the granting of such exclusive or partially exclusive licenses is consistent with §781.52.

(c) Decisions as to grants or denials of any license application will, in the discretion of the Secretary, be based on the Department's view of what is in the best interests of the United States and the general public under the provisions of these regulations. Decisions of the Department under these regulations