

Department of Energy

§ 781.4

may be made on the Secretary's behalf by the General Counsel or the General Counsel's delegate, except where otherwise delegated to the Invention Licensing Appeal Board. When the Department determines that it is appropriate to grant a license, the license will be negotiated on terms and conditions most favorable to the interests of the United States and the general public.

(d) No license shall be granted or implied under a DOE invention except as provided for in these regulations, in patent rights articles under Department procurement regulations (41 CFR part 9-9), in agreements between DOE and other Government bodies, or in any existing or future treaty or agreement between the United States and any foreign government or intergovernmental organization.

(e) No grant of a license under this part shall be construed to confer upon any licensee any immunity from the antitrust laws or from liability for patent misuse, and the acquisition and use of rights pursuant to this part shall not be immunized from the operation of State or Federal law by reason of the source of the grant.

§ 781.3 Definitions.

(a) *Board* means the Invention Licensing Appeal Board.

(b) *Department of Energy, Department, or DOE* mean the Department of Energy, established by the Department of Energy Organization Act (Pub. L. 95-91; 42 U.S.C. 7101).

(c) *DOE invention* means an invention covered by a U.S. or foreign patent or patent application that is vested in the Government of the United States, as represented by or in the custody of the Department or any of its predecessors, and which is designated by the Department as appropriate for the grant of an express nonexclusive, exclusive, or partially exclusive license.

(d) *Exclusive license* means a license in which the licensee has the exclusive right under the patent for a part or the full term of the patent, subject only to the retention by the U.S. Government of a license and rights in the invention, as specified herein.

(e) *Partially exclusive license* means (1) an exclusive license where the exclusive right granted is limited to making

or using or selling the invention, or is limited to specified fields of use or use in specified geographic locations; or (2) a license where the number of licenses under the particular invention is limited.

(f) *Person* means any individual, partnership, corporation, association, or institution, or other entity.

(g) *Predecessor* means the Energy Research and Development Administration, the Atomic Energy Commission, and any of the Government entities or parts thereof whose functions were transferred to the Department of Energy pursuant to title III of the Department of Energy Organization Act.

(h) *Responsible applicant* means an applicant who, in the discretion of the Department, has the intention, plans, and ability expeditiously to bring the invention to the point of practical or commercial application.

(i) *Secretary* means the Secretary of Energy or the delegate of the Secretary of Energy.

(j) *To the point of practical or commercial application* means to manufacture in the case of composition or product, to practice in the case of a process, or to operate in the case of a machine, under such conditions as to establish that the invention is being worked and that its benefits are reasonably accessible to the public.

(k) *United States and the general public* means the United States Government, United States citizens, and United States organizations.

(l) *United States Organization* means any partnership, corporation, association, or institution where 75 percent or more of the voting interest is owned by United States citizens.

§ 781.4 Communications.

All communications concerning the regulations in this part, including applications for licenses, should be addressed or delivered to the General Counsel, Attention: Assistant General Counsel for Patents, U.S. Department of Energy, Washington, DC 20545.