927.302 Policy.

(a) *Introduction.*

(1) A primary mission of the Department of Energy (DOE) is to conduct research, development, and demonstration leading to the ultimate commercialization of efficient sources of energy. To accomplish this mission, DOE must work in cooperation with industry in the development of new energy sources and achieve the ultimate goal of widespread commercial utilization of those energy sources in the shortest practicable time. To this end, Congress has provided DOE with the authority to invoke an array of incentives to secure the commercialization of new technologies developed for DOE. One such important incentive is provided by the patent system.

(2) Another primary mission of DOE is to manage the Nation's nuclear weapons programs and other classified programs, where research and development procurements are directed toward processes and equipment not available to the public. To support DOE programs for bringing private industry into these and other special programs to the maximum extent permitted by national security and policy considerations, the technology developed in these programs should be made available for use in the particular fields of interest and under controlled conditions by properly cleared industrial and scientific research institutions. To ensure such availability and control, the granting of waivers in these programs may be more limited, either by the imposition of field of use restrictions or national security measures, than in other DOE programs.

(b) *Government right to receive title.* Pursuant to 42 U.S.C. 2182 and 5908, DOE takes title to all inventions conceived or first actually reduced to practice in the course of or under contracts with large, for-profit companies, foreign organizations, and other entities that are not beneficiaries of 35 U.S.C. 200 *et seq.* Regulations dealing with Department's authority to waive its title to subject inventions, including the relevant statutory objectives, exist at 10 CFR part 784. Pursuant to that section, DOE may waive the Government's patent rights in appropriate situations at the time of contracting to encourage industrial participation, foster commercial utilization and competition, and make the benefits of DOE activities widely available to the public. In addition to considering the waiver of patent rights at the time of contracting, DOE will also consider the incentive of a waiver of patent rights upon the reporting of an identified invention when requested by such entities or by the employee-inventor with the permission of the contractor. These requests can be made whether or not a waiver request was made at the time of contracting. Waivers for identified inventions will be granted where it is determined that the patent waiver will be a meaningful incentive to achieving the development and ultimate commercial utilization of inventions. Where DOE grants a waiver of the Government's patent rights, either at the time of contracting or after an invention is made, certain minimum rights and obligations will be required by DOE to protect the public interest.

Parent topic: Subpart 927.3—Patent Rights Under Government Contracts