NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

WASHINGTON, D. C. 20546

PATENT WAIVER REGULATIONS

(Revised 8/30/72)

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Subpart 1—Patent Waiver Regulations

On February 24, 1972, a notice of proposed rule making was published in the FEDERAL REGISTER (37 F.R. 3918–3921) with respect to proposed revisions to the NASA Patent Waiver Regulations (14 CFR 1245). Interested parties were permitted 30 days to submit written comments or suggestions regarding the proposed revisions. Full consideration has been given to all material presented and substantive amendments to certain sections of the proposed regulations have been made in view thereof, as follows:

Section 1245.102 (b) and (g) have been revised to make clear that only a NASA contractor or the inventor(s) himself may petition for a waiver of rights in an invention. Section 1245.103 has been amended to provide a basis for waiving all or any part of the rights in an invention. Section 1245.104(b)(2) has been changed by adding a necessary incentive provision to the exceptional circumstances finding with respect to an individual invention. Section 1245.105 has been amended to require that the petition for waiver be submitted prior to the filing by NASA of a U.S. patent application claiming the reported invention. Subsequent to this filing date, the invention will be subject to the NASA Patent Licensing Regulations (14 CFR 1245.2). In § 1245.106, with respect to waiver of foreign rights, an additional test has been added that the grant of foreign rights be consistent with the economic interests of the United States. Also, the march-in rights of § 1245.107(b) have been amended to delete the specific language regarding the right to require the granting of a license royalty-free.

The revised Patent Waiver Regulations are hereby adopted and shall become effective on the date of this publication in the FEDERAL REGISTER (8–30–72).

Subpart 1 is revised in its entirety as follows:

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AUTHORITY: The provisions of this Subpart 1 issued under 42 U.S.C. 2457.

§ 1245.100 Scope.

This Subpart 1 prescribes regulations for the waiver of rights of the United States to inventions made under NASA contract.

§ 1245.101 Applicability.

The provisions of this subpart apply to all inventions made or which may be made under conditions enabling the Administrator to determine that the rights therein reside in the United States pursuant to section 305(a) of the National Aeronautics and Space Act of 1958, as amended (42 U.S.C. 2457(a)).

§ 1245.102 Definitions and terms.

As used in this subpart:

(a) "Contract" means any actual or proposed contract, agreement, understanding, or other arrangement with the National Aeronautics and Space Administration (NASA) or another Government agency on NASA's behalf, including any assignment, substitution of parties or subcontract executed or entered into thereunder, and including NASA grants awarded under the authority of 42 U.S.C. 1891–1893.

(b) "Contractor" means the party who has undertaken to perform work under a contract or subcontract.

(c) "Invention" is any new and useful process, machine, manufacture, design, composition of matter, any new and useful improvement thereof, or any variety of new plant, which is or may be patentable under the laws of the United States (35 U.S.C. 101, 161 and 171) or any foreign country, and which is made in the manner specified in paragraph (1) or (2) of section 305(a) of the National Aeronautics and Space Act of 1958, as amended (42 U.S.C. 2457(a)) in the performance of work under a contract.

(d) "Made," when used in relation to any invention, means the conception or first actual reduction to practice of such invention.

(e) "Board" means the NASA Inventions and Contributions Board established by the Administrator of NASA within the Adminstration under section 305(f) of the National Aeronautics and Space Act of 1958, as amended (42 U.S.C. 2457(f)).

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

(g) "Petitioner" means a contractor who requests that the Administrator waive rights in an invention or class of inventions made or which may be made, under a NASA contract. In the case of an identified invention, the petitioner may also be the inventor(s).

(h) "Government agency" includes any executive department, independent commission, board, office, agency, administration, authority, Government corporation, or other Government establishment of the executive branch of the Government of the United States of America.

(i) "States" means the States of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, American Samoa, Guam and the Trust Territory of the Pacific Islands.

§ 1245.103 Policy.

(a) In implementing the provisions of section 305(f) of the National Aeronautics and Space Act of 1958, as amended (42 U.S.C. 2457(f)) and in determining when the interests of the United States would be served by waiver of all or any part of the rights of the United States in inventions made in the performance of work under NASA contracts, the Administrator, NASA, will be guided by the objectives set forth in the National Aeronautics and Space Act of 1958, as amended (42 U.S.C. 2451–2477) and by the basic policy of the revised Presidential Memorandum and Statement of Government Patent Policy issued August 23, 1971 (36 F.R. 16887–16892). Among the most important goals thereof are to provide incentives to foster inventiveness and encourage reporting of inventions made under NASA contracts, to provide for the widest practicable dissemination of new technology resulting from NASA's programs, and to encourage the expeditious development and adoption of this new technology for commercial purposes.

(b) Several different situations when waiver of all or any part of the rights of the United States may be requested are prescribed in §§ 1245.104–1245.106. Under § 1245.104, advance waiver of rights to any or all of the inventions which may be made under a contract may be requested prior to the execution of the contract, or within 30 days after execution of the contract. Waiver of rights to an identified invention made and reported under a contract may be requested under § 1245.105. Waiver of rights may be requested under any of these provisions even though a request under a different provision was not made, or if made, was not granted. Waiver of foreign rights under § 1245.106 may be requested concurrently with domestic rights or independently thereof.

§ 1245.104 Advance waivers.

(a) The provisions of this § 1245.104 apply to petitions for waiver of domestic rights to any or all of the inventions

which may be made under a contract. Such petitions may be submitted by the contractor prior to his execution of the contract or within 30 days thereafter.

(b) (1) The Board shall recommend to the Administrator, NASA, that waiver of domestic rights to any or all of the inventions which may be made under the NASA contract involved be granted when the Board makes each of the findings of paragraphs (c) and (d) of this section.

(2) Where the Board is unable to make one or more of the findings of paragraph (c) of this section as to the contract, but nevertheless finds that exceptional circumstances exist so that the public interest would best be served by a waiver of rights to any or all of the inventions which may be made under the contract, the Board shall recommend to the Administrator, NASA, that waiver be granted (conditions of paragraph (d) of this section are not relevant to the Board's findings under this subparagraph). A finding of exceptional circumstances shall be accompanied by a discussion of the rationale therefor. Examples of exceptional circumstances would include: A contract where participation of the contractor may only be secured through the grant of waiver and such contractor is deemed essential to a NASA program; a contract having as a principal objective the application of aerospace related technology to other uses in accordance with an established NASA technology application program and where the grant of waiver would materially advance this objective; or, a cooperative endeavor where the contract calls for a significant contribution of funds by the contractor to the work to be performed. In the case of an individual invention which is identified prior to execution of the contract, exceptional circumstances may also be found where waiver is a necessary incentive to call forth risk capital and expense to bring the invention to the point of practical or commercial application and where either (i) the contractor has established substantial equities at his own expense in the development of the invention; or, (ii) the grant of advance waiver will significantly advance the availability of the invention to the general public.

(c) (1) It is not a principal purpose of the contract to create, develop or improve products, processes, or methods which are intended for commercial use (or which are otherwise intended to be made available for use) by the general public at home or abroad, or which will be required for such use by governmental regulations.

(2) It is not a principal purpose of the contract to explore into fields which directly concern the public health, public safety, or public welfare.

(3) The contract is not in a field of science or technology in which there has been little significant experience outside of work funded by the Government, or where the Government has been the principal developer of the field, and with respect to which the acquisition of exclusive rights at the time of contracting might confer on the petitioner a preferred or dominant position.

(4) The contract is not for services of the petitioner for (i) the operation of a Government-owned research or production facility; or (ii) coordinating and directing the work of others.

(d) (1) The purpose of the contract is to build upon existing knowledge or technology, to develop information, products, processes, or methods for use by the Government.

(2) The work called for by the contract is in a field of technology in which the petitioner has acquired technical competence (demonstrated by factors such as know-how, experience, and patent position), and either (i) the work is directly related to an area in which the petitioner has an established nongovernmental commercial position; or (ii) the commercial position of the petitioner is not sufficiently established, but a special situation exists such that the public interest in the availability of inventions would best be served by a waiver of rights to the petitioner. Such special situations include, but are not limited to the following:

(*a*) A newly formed company having a definite program for establishing a nongovernmental commercial position in the field of the contract or in an area directly related thereto.

(*b*) An established company lacking an established nongovernmental commercial position in the field of the contract or a directly related field, but having established plans and programs for achieving such a position.

(c) An education or nonprofit institution having a promulgated policy and an effective program for acquiring rights to inventions and for acting by itself or through others to bring the results of such inventions to commercial application.

(e) When a petition for waiver is submitted pursuant to paragraph (a) of this section, prior to contract execution, it will be processed expeditiously so that a decision on the petition may be reached prior to execution of the contract. However, if there is insufficient time or insufficient information is presented to allow the Board to make its findings and recommendations to the Administrator, NASA, without unduly delaying execution of the contract, the Board will inform the contracting officer that such findings and recommendations have not been made. The contracting officer will then notify the petitioner of the Board's action.

(f) After notification by the contracting officer under paragraph (e) of this section, the petitioner may, upon his execution of the contract, or within 30 days thereof, request the Board to reconsider the matter under paragraph (b) of this section either on the record or with any additional statements submitted in support of the original petition.

(g) A waiver granted pursuant to a petition submitted under this § 1245.104 shall apply only to inventions reported during the term of the applicable contract and which are designated at the time of reporting as being an invention on which the petitioner intends to file or has filed a U.S. patent application. The waiver shall extend to the claimed invention of any division or continuation of the patent application filed on the reported invention provided the claims of the subsequent application do not substantially broaden the scope of the reported invention.

(h) A waiver granted pursuant to a petition submitted under this § 1245.104 shall extend to any contract changes, modifications, or supplemental agreements, so long as the purpose of the contract or the scope of work to be performed is not substantially changed.

§ 1245.105 Waiver after reporting inventions.

(a) (1) The provisions of this § 1245.105 apply to petitions for waiver of domestic rights to identified inventions which have been reported to NASA and to which a waiver of rights has not been granted pursuant to § 1245.104. A petition for waiver under this section must be submitted prior to the filing by NASA of a U.S. patent application claiming the reported invention.

(2) A waiver granted pursuant to this section shall extend to the claimed invention of any division or continuation of the patent application filed on the reported invention provided the claims of the subsequent application do not substantially broaden the scope of the reported invention.

(b) The Board shall recommend to the Administrator, NASA, that waiver of domestic rights to an identified invention be granted where the Board makes all of the findings below:

(1) The invention is not directly related to a governmental program for creating, developing, or improving products, processes, or methods for use by the general public at home or abroad.

(2) The invention is not likely to be required by governmental regulations for use by the general public at home or abroad.

(3) The invention does not directly concern the public health, public safety, or public welfare.

(4) The invention is not in a field of science or technology in which there has been little significant experience outside of work funded by the Government, or where the Government has been the principal developer of the field, and with respect to which the acquisition of exclusive rights in the invention would not likely confer on the petitioner a preferred or dominant position: *Provided*, That the Board also finds that in view of the petitioner's plans and intentions to bring the invention to the point of practical or commercial application and the known plans of others, the incentives provided by waiver will increase the likelihood that the benefits of the invention would be readily available to the public at an early date.

(c) If the Board is unable to make one of the findings set forth in paragraph (b) (1) through (4) of this section, the

Board may nevertheless recommend a waiver of domestic rights be granted by the Administrator, NASA, if the Board finds that such waiver is a necessary incentive to call forth risk capital and expense to bring the invention to the point of practical or commercial application, or that the Government's contribution to the invention is small compared to that of the contractor.

§ 1245.106 Waiver of foreign rights.

(a) The Board will consider the waiver of domestic and foreign rights concurrently when so requested by the petitioner in accordance with § 1245.110 (d). Where the Board makes the findings necessary to support a waiver of domestic rights, the petitioner will normally be granted the right to secure patents in any country in which he elects to file provided that the grant of such right is consistent with the economic interests of the United States. The Board may also recommend the grant of only foreign rights, in accordance with the guidelines of paragraph (b) of this section, when the interests of the United States will best be served thereby.

(b) The Board will also consider a separate request for the waiver of the right to secure a patent in any country in which the petitioner elects to file as to an identified invention when so requested by the petitioner in accordance with § 1245.110(d). Waiver of such foreign rights will normally be granted in countries in which the Administrator, NASA, does not desire to file an application for patent provided that the grant of such right is consistent with the economic interests of the United States.

§ 1245.107 Reservations.

(a) With respect to any particular invention, each waiver of domestic or foreign rights granted shall be subject to the reservation of an irrevocable, nonexclusive, nontransferable, royalty-free license for the practice of the invention throughout the world by or on behalf of the U.S. Government or any agency thereof, any foreign government pursuant to any existing or future treaty or agreement with the United States, or any State, or domestic municipal government unless the Administrator, NASA, determines, based upon a recommendation of the Board, that it would not be in the public interest to acquire the license for the States and municipal governments.

(b) With respect to any particular invention, each waiver of domestic rights granted shall be subject to the reservation by the Administrator, NASA, of the right to require the granting of a nonexclusive or exclusive license for the practice of the invention to any responsible applicant upon terms that are reasonable under the circumstances:

(1) Unless the waiver recipient, his licensees, or assigns have taken effective steps within 3 years after a U.S. patent issues on the invention to bring the invention to the point of practical or commercial application and thereafter continue to work the invention and make its benefits reasonably accessible to the public; or

(2) Unless within 3 years after a U.S. patent issues on the invention, the waiver recipient, or his assigns have taken effective steps to make such patent available for licensing to responsible applicants, royalty-free or on terms that are reasonable in the circumstances; or

(3) As may be appropriate to satisfy the requirements which may be made by governmental regulations for public use of the invention or as may be necessary to fulfill health or safety needs, or for other public purposes stipulated in the contract.

(c) With respect to any particular invention, each waiver granted for domestic or foreign rights shall be subject to any other reservations called for by the Administrator of NASA upon the grant of the petition.

(d) The waiver recipient shall be given an opportunity to show cause before the Board why he should not be required to grant a license under paragraph (b) of this section or why he should otherwise retain the full benefits of waiver for a further period of time.

§ 1245.108 License to contractor.

Each contractor reporting an invention is granted a license upon the terms and conditions specified in the NASA Patent Licensing Regulations (14 CFR 1245.204(a)).

§ 1245.109 Voidability of waivers.

(a) With respect to any particular invention, each waiver of domestic rights shall be voidable at the option of the Administrator, NASA, unless:

(1) Within 8 months from the date of reporting an invention under a contract, subject to a waiver granted pursuant to § 1245.104, or 8 months from the date of the granting by the Administrator of a waiver pursuant to § 1245.105, the waiver recipient causes an application for U.S. Letters Patent to be filed disclosing and claiming the invention and includes within the first paragraph of the specification following the abstract, the statement:

The invention described herein was made in the performance of work under NASA contract No. —— and is subject to the provisions of section 305 of the National Aeronautics and Space Act of 1958 (72 Stat. 435; 42 U.S.C. 2457).

(2) The waiver recipient promptly furnishes to the Chairman of the Board a copy of the U.S. patent application filed on such invention, together with identifying serial number and filing date promptly upon receipt thereof; and, promptly furnishes to the Chairman of the Board properly executed instruments fully confirmatory of the rights herein reserved by the Government.

(3) The waiver recipient, in the event he elects not to continue prosecution of any application filed on such invention, notifies the Chairman of the Board and delivers to the Chairman the documents necessary to inspect said application in the U.S. Patent Office within sufficient time to allow assumption of prosecution by the Government, and delivers to the Chairman such duly executed instruments as are necessary to vest title in the Administrator, including an instrument of assignment to such patent application.

(4) The waiver recipient grants any license which the Administrator may require pursuant to § 1245.107.

(5) The waiver recipient files a utilization report with the Board by September 1 of the second year following the grant of the waiver and thereafter upon NASA's written request, which request shall not be made more often than annually. Such reports shall set forth in detail the progress, development, application, and commercial use being made and that is intended to be made of the waived invention.

(b) With respect to any particular invention, each waiver granted shall be voidable at the option of the Administrator, NASA, if a patent claiming such invention is held, in a final determination, to have been used in violation of the antitrust laws in any suit, action, or proceeding brought before a properly constituted authority authorized to hear such matters.

(c) With respect to any particular invention, waiver of foreign rights as to any foreign country shall be voidable at the option of the Administrator, NASA, unless:

(1) A patent application is filed in the country within nine months from the date a corresponding U.S. application is filed, or 6 months from the date permission is granted to file foreign applications where such filing has been prohibited for security reasons, or such longer periods as may be expressly approved by the Administrator;

(2) The waiver recipient furnishes to the Chairman of the Board the identifying serial number and filing date of each foreign patent application filed promptly upon receipt thereof; and, upon request, a copy of the foreign patents or applications;

(3) The waiver recipient executes and furnishes to the Chairman of the Board instruments fully confirmatory of the rights herein reserved by the Government; and

(4) The waiver recipient, in the event he elects not to continue prosecution of any foreign application filed on such invention or if he intends to abandon a foreign patent by the nonpayment of a maintenance tax, notifies the Chairman of the Board within sufficient time to allow assumption of prosecution by the Government, or payment of the maintenance tax, respectively, and delivers to the Chairman of the Board such duly executed instruments as are necessary to vest in the Administrator title thereto, including an instrument of assignment.

§ 1245.110 Content of petitions.

(a) *General contents and forms.* Forms which may be used in petitioning for waiver and for filing utilization reports are available from the NASA Inventions and Contributions Board, National Aeronautics and Space Administration, Washington, D.C. 20546. Each request for waiver of foreign or domestic rights under § 1245.104, § 1245.105, or

§ 1245.106 shall be by petition to the Administrator, NASA, and shall include:

(1) An identification of the petitioner, his place of business and address, and if the petitioner is represented by counsel, his name and address;

(2) An identification by number and date of the pertinent NASA contract or proposed contract;

(3) A specification of the kind of waiver requested and a citation to section under which the petition is submitted; and

(4) The signature of the petitioner or his authorized representative, and date of signature.

(b) *Petitions for advance waiver under § 1245.104.* In addition to the information specified in paragraph (a) of this section, each petition for waiver under § 1245.104 shall include:

(1) A copy of the statement of work of the pertinent NASA contract or proposed contract;

(2) A full and detailed statement of facts sufficient to enable the Board to make the findings regarding the contract and the petitioner as specified in § 1245.-104 or, if applicable, whether the exceptional circumstances of § 1245.104(b) are present; and

(3) The date of contractor's execution of the contract, if the petition is filed subsequent to contract execution.

(c) *Petitions for waiver for identified inventions under § 1245.105.* A separate petition shall be submitted for each identified invention. In addition to the information specified in paragraph (a) of this section, such petition shall include:

(1) The full names of all inventors;

(2) A statement whether a patent application has been filed on the invention, together with a copy of such application if filed; or, if not filed, a complete description of the invention;

(3) If a patent application has not been filed, any information which may indicate a potential statutory bar to the filing of a patent application under 35 U.S.C. 102 or a statement that no bar is known to petitioner to exist;

(4) A full and detailed statement of facts sufficient to enable the Board to make the findings regarding the invention as specified in § 1245.105 (b) or (c); and

(5) Where the petitioner(s) is the inventor(s), a statement in writing from the contractor that the contractor has conveyed sufficient rights so that the petitioner(s) may carry out the obligations of the waiver.

(d) *Petitions for waiver of foreign rights under § 1245.106.* A petition for waiver of foreign rights may accompany and be a part of a petition for waiver of domestic rights under either § 1245.104 or § 1245.105, or a petition for foreign rights may be submitted independently of any request for domestic rights under § 1245.106(b). In addition to the information specified in paragraph (a) of this section, petition for waiver of foreign rights shall include, where feasible, a denomination of the foreign countries in which petitioner elects to secure or intends to file patent applications, and his plans and intentions to practice the invention in such countries.

§ 1245.111 Submission of petitions.

Petitions for advance waiver of domestic rights under § 1245.104 or advance waiver of foreign rights under § 1245.106 presented prior to contract execution must be submitted through the contracting officer to the Inventions and Contributions Board, National Aeronautics and Space Administration, Washington, D.C. 20546. All other petitions shall be submitted directly to the Board.

§ 1245.112 Notice of proposed Board action and reconsideration.

(a) *Notice.* When sufficient time and complete information is presented with respect to petitions for the advanced waiver of rights under § 1245.104 or § 1245.106 or when complete information is presented as to all other petitions for waiver the Board will notify the petitioner:

(1) Whether it proposes to recommend to the Administrator, NASA, that the petition be:

(i) Granted in the extent requested;

(ii) Granted in an extent different from that requested; or,

(iii) Denied.

(2) Of the reasons for any recommended action adverse to or different from the waiver of rights requested by the petitioner.

(b) *Request for reconsideration and statements required.* (1) If, pursuant to paragraph (a) of this section, the Board notifies the petitioner that the Board proposes to recommend action adverse to or different from the waiver requested, the petitioner may, within such period as the Board may set, but not less than 15 days, request reconsideration by the Board.

(2) If reconsideration has been requested within the prescribed time limit, the petitioner shall, within 30 days from his request for reconsideration, or within such other time as the Board may set, file a statement setting forth the points, authorities, arguments, and any additional material on which he relies.

(3) Upon filing of the reconsideration statement by the petitioner, the petition will be assigned for reconsideration by the Board upon the contents of the petition, the record, and the reconsideration statement submitted by the petitioner.

(4) The Board, after reconsideration of the petition, will notify the petitioner of its proposed recommendations to the Administrator, NASA. If the Board's proposed action is adverse to, or different from, the waiver requested, the petitioner may request an oral hearing within such time as the Board has set.

§ 1245.113 Hearing procedure.

(a) If the petitioner requests an oral hearing within the time set, pursuant to § 1245.112(b)(4), the Board shall set the time and place for such hearing and shall so 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 such witnesses, exhibits, visual aids as are arranged for by the petitioner. Petitioners may be represented by any authorized person including an 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 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 then determine and make, if applicable, each of the specific findings of fact required by § 1245.104, § 1245.105, or § 1245.106 under which the petition was submitted. The Board shall document all their findings.

(b) *Recommendation of Board.* (1) After making the findings of fact, the Board shall formulate its proposed recommendation to the Administrator, NASA, as to the grant of waiver as requested, the grant of waiver upon terms other than as requested, or denial of waiver.

(2) If the Board proposes to recommend, initially or upon reconsideration, that the petition be granted in the extent requested or, in other cases, if the petitioner does not request reconsideration or a hearing during the period set for such action, or informs the Board that such action will not be requested, or fails to file the required statements within the prescribed time limit, the Board shall transmit the petition, its findings of fact with respect thereto, and its recommendation to the Administrator, NASA.

(3) After a hearing, as provided in § 1245.113, the Board shall consider the entire record and shall transmit its recommendations and findings to the Administrator, NASA, along with the petition, and a summary record of the proceedings.

§ 1245.115 Action by the Administrator, NASA.

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

suant to § 1245.104(b)(2) will be granted only when the Board so recommends.

(b) In the event of denial of the petition by the Administrator, NASA, 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 Administrator, NASA, decides to grant the waiver, the petitioner shall be sent an instrument of waiver confirmatory of the conditions and reservations of the waiver grant for his execution and prompt return to the Board.

§ 1245.116 Filing of patent applications.

(a) In order to protect the interests of the Government and of petitioners in inventions, petitioners are encouraged to file patent applications prior to the final disposition of their petitions for waiver.

(b) If a petitioner files a U.S. patent application on an identified invention during the pendency of the petition, or within 60 days prior to the receipt thereof by NASA, NASA will reimburse the petitioner for the reasonable costs of filing said U.S. patent application and such patent prosecution as may have ensued, provided:

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

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

(3) Prior to reimbursement, the petitioner assigns the application to the United States as represented by the Administrator of the National Aeronautics and Space Administration.

§ 1245.117 Publication.

The findings and recommendations by the Board with respect to each petition for waiver shall be made available to the public by the Board. In addition, selected findings and recommendations of the Board shall be published annually.

Effective date. The provisions of this Subpart shall be effective upon publication in the FEDERAL REGISTER (8-30-72), and supersede the NASA Patent Waiver Regulations of June 1, 1966 (31 F.R. 7677-7679) as of that date, except that (a) any petition pending on the effective date will be considered under the latter regulations unless consideration under the revised regulations is specifically requested by the petitioner, and (b) any petition received prior to October 1, 1972, may be considered under the latter regulations if specifically requested by the petitioner at the time of submission. All petitions received on and after October 1, 1972, will be considered under the new revised Patent Waiver Regulations.

JAMES C. FLETCHER,
Administrator.

[FR Doc.72-14765 Filed 8-29-72;8:51 am]