

**§ 1245.100 Scope.**

This subpart prescribes regulations for the waiver of rights of the Government of the United States to inventions made under NASA contract in conformity with section 305 of the National Aeronautics and Space Act of 1958, as amended (42 U.S.C. 2457).

**§ 1245.101 Applicability.**

The provisions of the 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 Government of the United States under section 305(a) of the National Aeronautics and Space Act of 1958, as amended, 42 U.S.C. 2457(a). The provisions do not apply to inventions made under any contract, grant, or cooperative agreement with a nonprofit organization or small business firm that are afforded the disposition of rights as provided in 35 U.S.C. 200-204 (Pub. L. 96-517, 94 Stat. 3019, 3020, 3022 and 3023; and Pub. L. 98-620, 98 Stat. 3364-3367).

**§ 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* includes any art, method, process, machine, manufacture, design, or composition or matter, or any new and useful improvement thereof, or any variety of plant, which is or may be patentable under the Patent Laws of the United States of America or any foreign country.

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

(e) *Practical application* means to manufacture in the case of a composition or product, to practice in the case

of a process or method, or to operate in the case of a machine or system; and, in each case, under such conditions as to establish that the invention is being utilized and that its benefits are to the extent permitted by law or Government regulations available to the public on reasonable terms.

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

(g) *Chairperson* means Chairperson of the NASA Inventions and Contributions Board.

(h) *Petitioner* means a contractor or prospective 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 be the inventor(s).

(i) *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.

(j) *Administrator* means the Administrator of the National Aeronautics and Space Administration or the Administrator's duly authorized representative.

**§ 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 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 Presidential Memorandum and Statement of Government Patent Policy to the Heads of the Executive Departments and agencies dated February 18,