

PAPERWORK REDUCTION ACT SUBMISSION

Designated Original

Please read the instructions before completing this form. For additional forms or assistance in completing this form, contact your agency's Paperwork Clearance Officer. Send two copies of this form, the collection instrument to be reviewed, the Supporting Statement, and any additional documentation to: Office of Information and Regulatory Affairs, Office of Management and Budget, Docket Library, Room 10102, 725 17th Street NW, Washington, DC 20503.

1. Agency/Subagency originating request U.S. Nuclear Regulatory Commission		2. OMB control number <input checked="" type="checkbox"/> a. 3150 - 0107 <input type="checkbox"/> b. None	
3. Type of information collection (check one) <input type="checkbox"/> a. New collection <input type="checkbox"/> b. Revision of a currently approved collection <input checked="" type="checkbox"/> c. Extension of a currently approved collection <input type="checkbox"/> d. Reinstatement, without change, of a previously approved collection for which approval has expired <input type="checkbox"/> e. Reinstatement, with change, of a previously approved collection for which approval has expired <input type="checkbox"/> f. Existing collection in use without an OMB control number		4. Type of review requested (check one) <input checked="" type="checkbox"/> a. Regular <input type="checkbox"/> c. Delegated <input type="checkbox"/> b. Emergency - Approval requested by (date): _____ 5. Will this information collection have a significant economic impact on a substantial number of small entities? <input type="checkbox"/> a. Yes <input checked="" type="checkbox"/> b. No	
7. Title Grant/Cooperative Agreement Provisions		6. Requested expiration date <input checked="" type="checkbox"/> a. Three years from approval date <input type="checkbox"/> b. Other (Specify): _____	
8. Agency form number(s) (if applicable) Not applicable			
9. Keywords Grant Administration Agreements			
10. Abstract The NRC Division of Contracts uses provisions required to obtain or retain a benefit in its awards and cooperative agreements to ensure adherence to Public Laws, that the Government's rights are protected, work proceeds on schedule, and that disputes between the Government and the recipient are settled.			
11. Affected public (Mark primary with "P" and all others that apply with "X") <input type="checkbox"/> a. Individuals or households <input type="checkbox"/> b. Business or other for-profit <input checked="" type="checkbox"/> c. Not-for-profit institutions <input type="checkbox"/> d. Farms <input type="checkbox"/> e. Federal Government <input checked="" type="checkbox"/> f. State, Local or Tribal Government		12. Obligation to respond (Mark primary with "P" and all others that apply with "X") <input type="checkbox"/> a. Voluntary <input checked="" type="checkbox"/> b. Required to obtain or retain benefits <input type="checkbox"/> c. Mandatory	
13. Annual reporting and recordkeeping hour burden a. Number of respondents <u>60</u> b. Total annual responses <u>91</u> 1. Percentage of these responses collected electronically <u>0.0</u> % c. Total annual hours requested <u>1,069</u> d. Current OMB inventory <u>1,069</u> e. Difference <u>0</u> f. Explanation of difference 1. Program change _____ 2. Adjustment _____		14. Annual reporting and recordkeeping cost burden (in thousands of dollars) a. Total annualized capital/startup costs _____ b. Total annual costs (O&M) _____ c. Total annualized cost requested _____ d. Current OMB inventory _____ e. Difference _____ f. Explanation of difference 1. Program change _____ 2. Adjustment _____	
15. Purpose of information collection (Mark primary with "P" and all others that apply with "X") <input checked="" type="checkbox"/> a. Application for benefits <input type="checkbox"/> b. Program evaluation <input type="checkbox"/> c. General purpose statistics <input type="checkbox"/> d. Audit <input type="checkbox"/> e. Program planning or management <input type="checkbox"/> f. Research <input type="checkbox"/> g. Regulatory or compliance		16. Frequency of recordkeeping or reporting (check all that apply) <input type="checkbox"/> a. Recordkeeping <input checked="" type="checkbox"/> c. Reporting <input type="checkbox"/> b. Third-party disclosure <input checked="" type="checkbox"/> 1. On occasion <input type="checkbox"/> 2. Weekly <input type="checkbox"/> 3. Monthly <input checked="" type="checkbox"/> 4. Quarterly <input type="checkbox"/> 5. Semi-annually <input type="checkbox"/> 6. Annually <input checked="" type="checkbox"/> 7. Biennially <input checked="" type="checkbox"/> 8. Other (describe) At completion	
17. Statistical methods Does this information collection employ statistical methods? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		18. Agency contact (person who can best answer questions regarding the content of this submission) Name: Mary Lynn Scott Phone: 301-415-6179	

OMB 83-1

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19. Certification for Paperwork Reduction Act Submissions

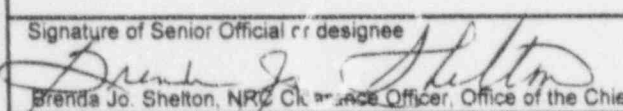
On behalf of this Federal agency, I certify that the collection of information encompassed by this request complies with 5 CFR 1320.9.

NOTE: The text of 5 CFR 1320.9, and the related provisions of 5 CFR 1320.8 (b) (3), appear at the end of the instructions. *The certification is to be made with reference to those regulatory provisions as set forth in the instructions.*

The following is a summary of the topics, regarding the proposed collection of information, that the certification covers:

- (a) It is necessary for the proper performance of agency functions;
- (b) It avoids unnecessary duplication;
- (c) It reduces burden on small entities;
- (d) It uses plain, coherent, and unambiguous terminology that is understandable to respondents;
- (e) Its implementation will be consistent and compatible with current reporting and recordkeeping practices;
- (f) It indicates the retention periods for recordkeeping requirements;
- (g) It informs respondents of the information called for under 5 CFR 1320.8 (b) (3):
 - (i) Why the information is being collected;
 - (ii) Use of information;
 - (iii) Burden estimate;
 - (iv) Nature of response (voluntary, required for a benefit, or mandatory);
 - (v) Nature of extent of confidentiality; and
 - (vi) Need to display currently valid OMB control number;
- (h) It was developed by an office that has planned and allocated resources for the efficient and effective management and use of the information to be collected (see note in Item 19 of the instructions);
- (i) It uses effective and efficient statistical survey methodology; and
- (j) It makes appropriate use of information technology.

If you are unable to certify compliance with any of these provisions, identify the item below and explain the reason in Item 18 of the Supporting Statement.

Signature of Authorized Agency Official	Date
Signature of Senior Official or designee 	Date 5/18/94
Brenda Jo. Shelton, NRC Clearance Officer, Office of the Chief Information Officer	

SUPPORTING STATEMENT FOR GRANT/COOPERATIVE AGREEMENT PROVISIONS
(3150-0107)
Extension Request

Description of Information Collection

The information collected ensures that the Division of Contracts and Property Management (DCPM) uses these provisions to adhere to Public Laws, that the Government's rights are protected, that work proceeds on schedule, and that disputes between the Government and the recipient are settled.

A. JUSTIFICATION

1. Need for and Practical Utility of the Collection of Information

The Nuclear Regulatory Commission provides funds for financial assistance for research as well as to support professional meetings, symposia, conferences, national and international commissions and publications to stimulate research. DCPM is responsible for the awarding of grants and cooperative agreements for the Agency. These financial assistance instruments fund these programs for a public purpose.

Incorporation of the grant/cooperative agreement provisions in NRC's awards ensures that public laws are adhered to, that the Government's rights are protected, that work proceeds on schedule, and that disputes between the Government and the recipient are settled.

2. Agency Use of Information

• Dispute Review Procedure

This provision clearly establishes the mechanism to be used by the NRC should the recipient/cooperator request a review of an adverse action taken by the Commission against the recipient or cooperator. Seeking fairness and equity, the provision calls for a committee to review the facts and, where appropriate, provide a forum for the recipient/cooperator and program personnel to discuss the issues. The recipient/cooperator is required to submit to the Grants Officer a copy of a request to review a Grants Officer decision. The committee reviews the merits of the request and prepares a recommendation to the Director, Office of Administration, who decides the particular matter. No other method exists to secure the recipient/cooperator request.

• Reporting Program Technical Performance

In order to be apprised of the recipient's/cooperator's progress under the grant or cooperative agreement, technical performance reports must be submitted. Should the report indicate problems, remedial steps can be initiated.

Further, this provision allows the Commission to review the final draft of a journal article before publication. The recipient is required to submit a

report in letter format within 30 calendar days after the end of every second calendar quarter of the performance period and a final report no later than the expiration date of the award. One copy of the letter report is submitted to DCPM and three copies to the NRC Program Office.

- Patent Rights (Small Business Firms or Non-Profit Organizations, July, 1981)

The recipient/cooperator must submit information for the Government to determine for any invention or discovery which may be patentable, whether or not the public interest and the equities of the recipient/cooperator are served in deciding whether or not to file a patent application. The Government must also obtain information concerning title and rights that may result under a patent application, when determining the disposition of an invention or discovery.

Further, this provision is required to protect against public disclosure information related to inventions or discoveries that would adversely affect the patent interests of the NRC or the recipient. Recipients are to send one copy of the information to the Grants Officer who reviews the material to make the above determinations in consultation with the cognizant NRC attorney. There is no other method of securing this information from recipients.

- Reporting of Royalties

The requirements of this provision make clear that the Government may contest the enforceability, validity, and title to any patent under which a royalty or payment is made. The provision is also necessary in that it allows the Commission thorough review of recipient/cooperator supplied information to ascertain the patents or basis on which royalties are to be paid. The recipient agrees to report in writing (one copy) to the NRC Patent Counsel stipulating the amount of royalties or other payments made in connection with performance under the award or cooperative agreement. No other method exists to secure the information required under this provision.

- Changes in Principal Investigator or Technical Objectives

This provision ensures that the stated objective of the award/cooperative agreement research effort, the principal investigator or the phenomenon under study will not unilaterally be changed by the recipient. NRC Grants Officer approval is required for any such changes under the award/cooperative agreement. The recipient must submit one copy of the request to the Grants Officer who reviews the request in consultation with the Project officer before approving or disapproving the proposed change. There is no other method of obtaining the requested information other than following the instructions in this provision.

- Notice and Assistance Regarding Patent and Copyright Infringement

This provision requires the recipient to provide the Commission with all evidence and information known should any claim or suit arise against the Government of any alleged patent or copyright infringement under grant/cooperative agreement performance. This requirement is important since it protects the rights and interests of the Government. The recipient shall provide this evidence and information in one copy to the Grants Officer who in consultation with NRC patent counsel reviews the material to decide the best course of action to protect the Government's interests. No other method exists to secure the required information.

- Procurement Standards

This provision sets rules for the recipient to follow if the recipient/cooperator awards a contract(s) under the award of cooperative agreement. The Government seeks to ensure that these contracts are awarded competitively where possible and that negotiated prices are reasonable. The clause stipulates circumstances when the recipient must submit requests (one copy) to the Grants Officer for approval. The Grants Officer reviews each request and decides which course of action is in the Government's best interest. No other method exists to secure these requests.

- Suspension or Termination for Cause

This provision protects the Government by stating that it has the unilateral right to terminate or suspend the grant/cooperative agreement when the recipient fails to comply with the grant/cooperative agreement terms and conditions. The provision requires an accounting of funds expended so that the Government can ascertain what monies, if any, should be deobligated from the grant/cooperative agreement and returned to the Government. The recipient must respond to the Grants Officer (one copy) within 30 days of the Government's letter identifying deficiencies in grant/cooperative agreement performance. The recipient shall also send one copy to the Principal Investigator and one copy to the NRC Project Officer. The Grants Officer must decide the course of action to follow in consultation with the Project Officer (suspend, terminate or continue grant/cooperative agreement performance). No other method exists outside the aegis of this provision to collect the needed information.

- Termination for Convenience

This provision requires the recipient to document a request to terminate the grant/cooperative agreement and submit the request and one copy to the NRC Grants Officer and one copy to the Project Officer and Principal Investigator. The Commission then has a written record to respond to and challenge if it is in its best interest. The Grants Officer, in consultation with the Project Officer and Principal Investigator, will come to an

understanding with the recipient as to whether to terminate the grant/cooperative agreement or not. No other method exists to secure this needed information.

- Travel

This provision requires explicit approval by the Grants Officer prior to foreign travel, regardless of its inclusion in the approved award budget. No other method exists to secure this needed information.

The reporting and recordkeeping requirements imposed by the above grant provisions annually affect from approximately 1 to 90 recipients depending upon the particular provision. Table 1 shows the number of respondents for each provision. The information collection requirements do not involve surveys. Recipients send reports and information to the NRC per award requirements. All information is collected under the above cited provisions. As indicated in the individual supporting statements, the information is submitted to the Grants Officer with copies going to the NRC Project Officer and legal counsel in some instances. In all cases, it is the responsibility of the Grants Officer to review the information and decide on the best course of action to follow.

3. Reduction of Burden Through Information Technology

Currently no responses are submitted electronically. There are no legal obstacles to reducing the burden associated with this information collection. However, sensitive information must be protected from improper disclosure and the integrity of the competitive procurement process must be maintained. NRC encourages the use of information technology whenever possible.

4. Effort to Identify Duplication and to Use Similar Information

The Information Requirements Control Automated System (IRCAS) was searched to determine duplication and none was found. The nature of the collections does not lend itself to duplication. These provisions are not used in any other legal instrument for agency use other than for grants and cooperative agreements.

5. Effort to Reduce Small Business Burden

The agency grant/cooperative agreement program is not extended to profit making concerns, including small businesses. Program participants only include: nonprofit concerns, universities and other institutions of higher learning, professional societies and State and local governments.

6. Consequences to Federal Program or Policy Activities if the Collection is Not Conducted or is Conducted Less Frequently

If the requested information is not collected or is collected less frequently, the agency could not adequately track recipient progress or ascertain if the work

being performed is within the general scope of the award or cooperative agreement.

Most provisions (Dispute Review Procedure, Patent Rights, Reporting of Royalties, Changes in Principal Investigator or Technical Objectives, Notice and Assistance Regarding Patent and Copyright Infringement, Suspension or Termination for Cause, Termination for Convenience and Audits) require information only in specific, limited circumstances defined in the provision. The information is necessary to protect the rights of the parties under the grant or cooperative agreement in those situations. Less frequent reporting of technical progress and financial status removes an effective mechanism needed to monitor grant/cooperative agreement performance and initiate appropriate remedial action to protect the interests of the Government.

7. Circumstances Which Justify Variation From OMB Guidelines

The numbers of copies required by the provisions are within OMB guidelines for all provisions except for Reporting Program Technical Performance. In order to apprise concerned agency personnel of the progress or lack thereof, to facilitate simultaneous assessment of recipient performance, and to permit timely initiation of remedial action, one copy of the final report is sent to DCPM, and three copies are sent to the cognizant technical Program Office. Direct submission by the recipient standardizes dissemination of progress information thus allowing actions to be undertaken to protect the interest of the government without delay. Reports are often large bound books which cannot be reasonably copied and disseminated by the NRC. Therefore, four copies are required to be submitted by the recipient.

8. Consultation Outside the NRC

Notice of opportunity to comment was published March 1, 1999 in the Federal Register (64 FR 10027). No comments were received.

9. Payment or Gifts to Respondents

None.

10. Confidentiality of the Information

Information related to patents, inventions, royalties, and copyrights would be protected from improper disclosure.

11. Justification for Sensitive Questions

Information related to litigation, claims, patent or copyright infringement, inventions, award/cooperative agreement disputes or termination would be sensitive from a legal perspective. Certain cost information, (e.g., salaries, indirect cost rates and fees) would be sensitive from a corporate perspective. All sensitive information is properly filed and safeguarded against improper

disclosure. This is the Grant's Officer's responsibility. No sensitive personal information is required or requested.

12. Estimated Burden and Burden Hour Cost

Table 1 represents the burden estimates for each provision. Such burden estimates were derived from experience as to the approximate number of recipients/cooperators affected by each particular provision and the approximate number of hours each would have to expend to comply with the requirements of the provision. Total annual cost is estimated to be \$129,288.50 (1,068.5 hours X \$121/hr).

13. Estimate of Other Additional Costs

No other additional monetary costs are required in order to implement the provisions of the information collection.

14. Estimated Annualized Cost to the Federal Government

The cost to the Agency attributable to the provisions discussed in this supporting statement is \$30,346.80. Table 2 presents such cost by provision. The cost to the Government for each provision was derived from experience as to the approximate number of hours the grant specialist expends in ensuring that recipients/cooperators comply with a particular provision. The hours were then multiplied by \$121/hour (standard fee recoverable rate for materials licensees) to arrive at the approximate cost to the Government.

15. Reason for Change in Burden or Cost

There is no change in burden.

16. Publication for Statistical use

Not applicable.

17. Reason for Not Displaying the Expiration Date

The OMB clearance expiration date is displayed.

18. Exceptions to the Certification Statement

Not applicable.

B. COLLECTIONS OF INFORMATION EMPLOYING STATISTICAL METHODS

Statistical methods are not used in this collection of information.

TABLE 1

GRANT/COOPERATIVE AGREEMENT PROVISIONS*

<u>PROVISION</u>	<u>**GRANTEE/COOPERATOR BURDEN ANNUAL</u>	<u>NO. OF GRANTEE/COOPERATOR* RESPONSES - ANNUAL</u>	<u>TOTAL GRANTEE/ COOPERATOR ANNUAL BURDEN</u>
Dispute Review Procedure	15 hours	1.5	22.5 hours
Reporting Program Tech. Performance	15 hours	60	900 hours
Patent Rights	10 hours	1	10 hours
Reporting of Royalties	5 hours	1	5 hours
Changes in Principal Investigator or Technical Objectives	10 hours	1	10 hours
Notice and Assistance Regarding Patent and Copyright Infringement	10 hours	1	10 hours
Procurement Standards	3 hours	22	66 hours
Suspension or Termination for Cause	20 hours	1	20 hours
Termination for Convenience	20 hours	1	20 hours
Travel	5 hours	1	5 hours
TOTAL		90.5 per year	1,068.5 hours

*All figures herein are NRC estimates developed by the Division of Contracts and Property Management.

**The term grantee/cooperator represents those nonprofit organizations, universities, other institutions of higher education, professional societies and state and local governments to which the Agency has awarded grants and cooperative agreements.

TABLE 2

GRANT/COOPERATIVE AGREEMENT PROVISIONS*

<u>PROVISION</u>	<u>ACTIONS</u>	<u>HOURS/ACTION</u>	<u>GOVERNMENT STAFF HOURS - ANNUAL</u>	<u>GOV'T COST AT \$121/HR</u>
Dispute Review Procedure	1.5	25	37.5	\$4,537.50
Reporting Program Tech. Performance	60	2	120	\$14,520.00
Patent Rights	1	10	10	\$1,210.00
Reporting of Royalties	1	3	3	\$363.00
Changes in Principal Investigator or Technical Objectives	1	10	10	\$1,210.00
Notice and Assistance Regarding Patent and Copyright Infringement	1	10	10	\$1,210.00
Procurement Standards	22	.9	19.8	\$2,395.80
Suspension or Termination for Cause	1	20	20	\$2,420.00
Termination for Convenience	1	20	20	\$2,420.00
Travel	1	.5	0.5	\$60.50
TOTAL			250.8	\$30,346.80

*All figures herein are NRC estimates developed by the Division of Contracts and Property Management.

Approved by OMB Clearance No. 3150-0107

Expires:

Estimated burden per response: 11.8 hrs.

If a means used to impose an information collection does not display a currently valid OMB control number, the NRC may not conduct or sponsor, and a person is not required to respond to the information collection.

GRANT/COOPERATIVE AGREEMENT PROVISIONS

I. Dispute Review Procedure

- a. Any request for review of notice of termination or other adverse decision should be addressed to the Grants Officer. It must be postmarked no later than 30 days after the postmarked date of such notice.
- b. The request for review must contain a full statement of the recipient's position and the pertinent facts and reasons in support of such position.
- c. The Grants Officer will promptly acknowledge receipt of the request for review and shall forward it to the Director, Office of Administration, who shall appoint a review committee consisting of a minimum of three persons.
- d. Pending resolution of the request for review, the NRC may withhold or defer payments under the award during the review proceedings.
- e. The termination review committee will request the Grants Officer who issued the notice of termination to provide copies of all relevant background materials and documents. It may, at its discretion, invite representatives of the recipient and the NRC program office to discuss pertinent issues and to submit such additional information as it deems appropriate. The chairman of the review committee will ensure that all review activities or proceedings are adequately documented.
- f. Based on its review, the committee will prepare its recommendations to the Director, Office of Administration, who will advise the parties of his/her decision.

II. Reporting Program Technical Performance

Recipients are responsible for the performance under awards and other agreements and, where appropriate, must ensure that time schedules are being met, projected work units by time periods are being accomplished, and other performance goals are being achieved.

a. Frequency of Performance Reports

Performance reports will be submitted in letter format within 30 calendar days after the end of every second calendar quarter of the performance period and a final report no later than 90 days after the expiration date of the award period indicated on the face page.

b. Copies of Performance Reports

One copy of the letter report shall be submitted to the Division of Contracts and Property Management, three copies to the NRC Program Office (at the address indicated on the face page).

c. Content of Performance Report

The report content shall be as follows:

- (1) A comparison of actual accomplishments with the goals established for the period, the findings of the investigator, or both. If the output of programs or projects can be readily quantified, such quantitative data should be related to cost data for computation of unit costs.
- (2) Reasons why established goals were not met.
- (3) Other pertinent information including, when appropriate, analysis and explanation of anticipated cost overruns or high unit costs.
- (4) Between the required performance reporting dates, events may occur that have significant impact upon the project or program. In such instances, the recipient shall inform the Nuclear Regulatory Commission as soon as the following types of conditions become known:
 - a. Problems, delays, or adverse conditions that will materially affect the ability to attain program objectives, prevent the meeting of time schedules and goals, or preclude the attainment of project work units by established time periods. This disclosure shall be accompanied by a statement of action taken, or contemplated, and any Federal assistance needed to resolve the situation.
 - b. Favorable developments or events that enable time schedules to be met sooner than anticipated or more work units to be produced than originally projected.
 - c. If any performance review conducted by the recipient discloses the need for change in the budget estimates in accordance with the criteria

established in Subpart C- Post-Award Requirements, Financial and Program Management (25) to Circular A-110, the recipient shall submit a request to the Grants Officer for budget revision.

d. Publication of Results

The general conditions of the assistance instrument will specify the publications requirements of the award and a provision for the awarding to the Government a royalty free, nonexclusive, irrevocable license to reproduce, translate, publish, use and dispose of all copyrightable material first produced or composed in the recipient's performance under the award or cooperative agreement.

Recipients may be required to produce reports to be published by NRC in accordance with the provisions of NRC Management Directive/Handbook 3.8 or be given the option of publications in a recognized technical journal. Each journal article submission must be accompanied by the following statement, "The submitted manuscript has been authored by a recipient of the U.S. Government under Award No. _____. Accordingly, the U.S. Government has a nonexclusive, royalty-free license to publish or reproduce the published form of this contribution, or allow others to do so, for U.S. Government purposes."

All open literature publications prepared under this award shall contain the following statement:

"This paper was prepared with the support of the U.S. Nuclear Regulatory Commission (NRC) under Award No. _____."

The opinions, findings, conclusions and recommendations expressed herein are those of the author(s) and do not necessarily reflect the views of the NRC.

If requested by the journal or other publisher to transfer the copyright, the author shall respond to the journal or other publisher, in writing, in accordance with the sample letter shown below:

Sample Letter on Copyright Agreement

Dear _____:

We recently received a document for signature assigning copyright and republication rights in the submitted article (title) to (name of publication). This letter is offered in lieu of the document as a means of completing the transfer of ownership. Accordingly, we hereby expressly transfer and assign our rights of ownership in the above cited work to (name of publisher).

You are advised, however, that the above assignment and any publication or republication of the above cited work is subject to the following Government rights:

The submitted manuscript has been authored by a recipient of the U.S. Government under award No. _____. Accordingly, the U.S. Government has a nonexclusive, royalty-free license to publish or reproduce the published form of this contribution, or allow others to do so, for U.S. Government purposes.

Sincerely,

e. Reprints of Publications

At such time as any article resulting from work under the award is published in a scientific, technical or professional journal or publication, two reprints of the publication should be sent to the cognizant NRC Project Officer, clearly labeled with the award number and other appropriate identifying information.

III. Patent Rights

a. Definitions

- (1) "Invention" means any invention or discovery which is or may be patentable or otherwise protectable under Title 35 of the United States Code (USC).
- (2) "Subject Invention" means any invention of the recipient conceived or first actually reduced to practice in the performance of work under this award.
- (3) "Practicable Application" means to manufacture in the case of 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.

- (4) "Made" when used in relation to any invention means the conception or first actual reduction to practice of such invention.
- (5) "Small Business Firm" means small business concern as defined in Section 2 of Public Law 85-536 (15 USC 632) and implementing regulations of the Administrator of the Small Business Administration. For the purpose of this clause, the size standard contained in Federal Acquisition Regulation Subpart 19.102 for small business concerns involved in Government procurement and for subcontracts will be used.
- (6) "Non-Profit Organization" means universities and other institutions of higher education of an organization of the type described in Section 501(c)(3) of the Internal Revenue Code of 1954 (26 USC 501a) or any non-profit scientific or educational organization qualified under a state non-profit organization statute.

b. Allocation of Principal Rights

The recipient may retain the entire right, title, and interest throughout the work to each subject invention subject to the provisions of this clause. With respect to any subject invention in which the recipient retains title, the Federal Government shall have a non-exclusive, nontransferable, irrevocable, paid-up license to practice or have practiced for or on behalf of the United States any subject invention throughout the world for which the recipient has elected to retain title.

c. Invention Disclosure Election of Title and Filing of Patent Applications by Recipient

- (1) After a subject invention has been disclosed in writing by the inventor(s) to recipient personnel responsible for the administration of patent matters, the recipient will:
 - (i) Disclose such invention to the Nuclear Regulatory Commission (NRC) within six months;
 - (ii) Elect whether or not to retain any such invention by notifying the NRC within twelve months of disclosure to the recipient;
 - (iii) File its initial patent application on an elected invention within two years after election; and
 - (iv) File patent applications in additional countries within either ten months of the corresponding initial patent application, or six months from the date a license is awarded by the Commissioner of Patents and Trademarks to file foreign patent applications when such filing was prohibited for security reasons.

- (2) Notwithstanding the requirements of subparagraph c.(1) above:
- (i) Disclosure to the NRC shall be made immediately after recipient personnel responsible for the administration of patent matters become aware of any manuscript describing the invention accepted for publication, or any duplication, or sale or public use of such invention; and
 - (ii) In any case where publication, sale, or public use has initiated the one year statutory period wherein valid patent protection can still be obtained in the United States, the period for election of title and filing of a United States patent application may be shortened by the NRC to a date that is no more than 45 days prior to the end of the statutory period.
- (3) Requests for extension of the time for disclosure to the NRC election and filing, where reasonable, will normally be awarded.
- (4) The disclosure to the NRC shall be in the form of a written report and shall identify the award under which the invention was made and the inventor(s). It shall be sufficiently complete in technical detail to convey a clear understanding of the nature, purpose, operation, and, to the extent known, the physical, chemical, biological or electrical characteristics of the invention. The report shall also identify any publication, sale or public use of the invention and whether a manuscript describing the invention has been submitted for publication and accepted at the time of disclosure.

d. Forfeiture of Title

- (1) The recipient will convey to the NRC, upon written request, title to any subject invention:
- (i) If the recipient fails to disclose or elect the subject invention within the times specified in c. above, or elects not to retain title.
 - (ii) In those countries in which the recipient fails to file patent applications within the times specified in c. above, provided however, that if the recipient has filed a patent application in a country after the times specified in c. above but prior to its receipt of the written request of the NRC, the recipient shall continue to retain title in that country; or
 - (iii) In any country in which the recipient decides not to continue the prosecution of any application for, to pay the maintenance fees on, or defend in a reexamination or opposition proceeding of a patent on a subject invention.

e. Minimum Rights to Recipient

The recipient will retain a nonexclusive, royalty-free license throughout the world in each subject invention to which the Government obtains title except if the recipient fails to disclose the subject invention within the times specified in c. above. This license may be revoked and transferred, in accordance with applicable procedures.

f. Recipient Action to Protect Government's Interest

- (1) The recipient agrees to execute or to have executed and promptly deliver to the NRC all instruments necessary to:
 - (i) Establish or confirm the rights the government has throughout the world in those subject inventions for which the contractor retains title; and
 - (ii) Convey title to the NRC when requested under d. above and to enable the Government to obtain patent protection throughout the world in that subject invention.
- (2) The recipient agrees to require, by written agreement, its employees, other than clerical and non-technical employees, to disclose promptly in writing to personnel identified as responsible for the administration of patent matters and in a format suggested by the recipient, each subject invention made under this award in order that the recipient can comply with the disclosure provisions of c. above and execute all papers necessary to file patent applications on subject inventions and to establish the Government's rights in the subject inventions. The disclosure format should require, as a minimum, the information requested by subparagraph c.(4) above. The recipient shall instruct such employees through the employee agreements or other suitable educational programs on the importance of reporting inventions in sufficient time to permit the filing of patent applications prior to U.S. or foreign statutory bars.
- (3) The recipient will notify the NRC of any decision not to continue prosecution of a patent application, pay maintenance fees, or defend in a reexamination or opposition proceeding on a patent, in any country, not less than thirty days before the expiration of the response period required by the relevant patent office.
- (4) The recipient agrees to include, within the specifications of any United States patent application and any patent issuing thereon covering a subject invention, the following statement, "This invention was made with Government support under (identify the award) awarded by the Nuclear Regulatory Commission. The Government has certain rights in this invention."

g. Subcontracts

- (1) The recipient will include this clause, suitably modified to identify the parties, in all subcontracts, regardless of tier, for experimental, developmental or research work to be performed in the United States by a small business firm or a non-profit organization. The subcontractor will retain all rights provided for the recipient in this clause, and the recipient will not, as part of the consideration for awarding the subcontract, obtain rights in the subcontractor's subject inventions.
- (2) The recipient will include in all other subcontracts, regardless of tier, for experimental, developmental or research work the appropriate patent rights clause required by Federal Acquisition Regulation Subpart 27.303.

h. Reporting on Utilization of Subject Inventions

The recipient agrees to submit on request periodic reports no more frequently than annually on the utilization of a subject invention or on efforts at obtaining such utilization that are being made by the recipient or its licensees or assignees. Such reports shall include information regarding the status of development, date of first commercial sale or use, gross royalties received by the recipient, and such other data and information as the NRC may reasonably specify. The recipient also agrees to provide additional reports as may be requested by the NRC in connection with any march-in proceeding undertaken by the NRC in accordance with paragraph j. of this clause. To the extent data or information supplied under this section is considered by the recipient, its licensee or assignee to be privileged and confidential and is so marked, the NRC agrees that, to the extent permitted by 35 USC 202(c)(5), it will not disclose such information to persons outside the Government.

i. Preference for United States Industry

Notwithstanding any other provision of this clause, the recipient agrees that neither it nor any assignee will award to any person the exclusive right to use or sell any subject invention in the United States unless such person agrees that any products embodying the subject invention or produced through the use of the subject invention will be manufactured substantially in the United States. However, in individual cases, the requirement for such an agreement may be waived by the NRC upon a showing by the recipient or its assignee that reasonable but unsuccessful efforts have been made to award licenses or similar terms to potential licensees that would likely to be manufactured substantially in the United States or that under the circumstances domestic manufacture is not commercially feasible.

j. March-in Rights

The recipient agrees that with respect to any subject invention in which it has acquired title, the NRC has the right in accordance with the applicable procedures that require the

recipient, an assignee or exclusive licensee of a subject invention to award a non-exclusive, partially exclusive, or exclusive license in any field of use to a responsible applicant or applicants, upon terms that are reasonable under the circumstances. If the recipient assigns, or exclusive licensee refuses such a request, the NRC has the right to award such a license itself if the NRC determines that:

- (1) Such action is necessary because the recipient or assignee has not taken, or is not expected to take within a reasonable time, effective steps to achieve practical application of the subject invention in such field of use;
- (2) Such action is necessary to alleviate health or safety needs which are not reasonably satisfied by the recipient, assignee, or its licensees;
- (3) Such action is necessary to meet requirements for public use specified by Federal regulations and such requirements are not reasonably satisfied by the recipient, assignee, or licensees; or
- (4) Such action is necessary because the agreement required by paragraph i. of this clause has not been obtained or waived or because a licensee or the exclusive right to use or sell any subject invention in the United States is breach of such agreement.

k. Special Provisions for Awards with Non-Profit Organizations

If the recipient is a non-profit organization, it agrees that:

- (1) Rights to a subject invention in the United States may not be assigned without the approval of the NRC, except where such assignment is made to an organization, which has as one of its primary functions the management of inventions, and which is not itself engaged in or does not hold a substantial interest in other organizations engaged in the manufacture or sale of products or the use of processes that might utilize the invention or be in competition with embodiments of the invention (provided that such assignee will be subject to the same provisions as the recipient);
- (2) The recipient may not award exclusive licenses under United States patents or patent application in subject inventions to persons other than small business firms for a period in excess of the earlier of:
 - (i) five years from commercial sale or use of the invention; or
 - (ii) eight years from the date of the exclusive license excluding that time before regulatory agencies necessary to obtain pre-market clearance, unless on a case-by-case basis, the Federal agency

approves a longer exclusive license. If exclusive field of use licenses are awarded, commercial sale or use as to other fields of use, and a first commercial sale or use with respect to a product of the invention will not be deemed to end the exclusive period to different subsequent products covered by the invention.

- (3) The recipient will share any royalties collected on a subject invention with the inventor; and
- (4) The balance of any royalties or income by the recipient with respect to subject inventions, after payment of expenses (including payments to inventors) incidental to the administration of subject inventions, will be utilized for the support of scientific research or education.

IV. Reporting of Royalties

If this award is in an amount which exceeds \$10,000 and if any royalty payments are directly involved in the award or are reflected in the award price to the Government, the recipient agrees to report in writing to the Patent Counsel, NRC (with notification by Patent Counsel to the Grants Officer) during the performance of this award and prior to its completion or final settlement, the amount of any royalties or other payments paid or to be paid by it directly to others in connection with the performance of this award, together with the names and addresses of licensors to whom such payments are made, and either the patent numbers involved or such other information as will permit the identification of the patents, or other basis on which the royalties are to be paid. The approval of NRC of any individual payments or royalties shall not stop the Government at any time from contesting the enforceability, validity or scope of, or title to, any patent under which a royalty or payments are made.

V. Changes in Principal Investigator or Technical Objectives

- a. The recipient shall be permitted to change the methods and procedures employed in performing the research without the need to make special reports on proposed actions or obtain NRC approval. Significant changes in methods or procedures shall be reported to NRC in status reports and final technical reports. However, in the event the methodology or experiment is proposed as a specific stated objective of the research work, it shall not be changed without approval of the Grants Officer.
- b. The stated objective of the research effort shall not be changed, except with the approval of the NRC Grants Officer.
- c. The phenomenon or phenomena under study, i.e., the broad category of research, shall not be changed except with the prior approval of the NRC Grants Officer.
- 1. d. The recipient shall obtain the approval of the NRC Grants Officer to change the principal investigator, or to continue the research work during a continuous period

in excess of three months without the participation of an approved principal investigator.

- e. The recipient shall consult with the NRC Grant Officer if the principal investigator plans to, or becomes aware that he will devote substantially less effort to the work than that anticipated in the approved award. If NRC determines that the reduction of effort would substantially impair the successful performance of the research, it may request a change of principal investigator or other appropriate modification of the award or may suspend or terminate the award pursuant to the clause VIII and IX herein entitled, Suspension or Termination for Cause and Termination for Convenience.

VI. Notice and Assistance Regarding Patent and Copyright Infringement

The provisions of this clause shall be applicable only if the amount of this award exceeds \$10,000.

- a. The recipient shall report to the Grants Officer, promptly and in reasonable written detail, each notice or claim of patent or copyright infringement based on the performance of this award of which the recipient has knowledge.
- b. In any event of any claim or suit against the Government on account of any alleged patent or copyright infringement arising out of the performance of this award or out of the use of any supplies furnished or work or services performed hereunder, the recipient shall furnish to the Government when requested by the Grants Officer, all evidence and information in possession of the recipient pertaining to such suit or claim. Such evidence and information shall be furnished at the expense of the Government except where the recipient has agreed to indemnify the Government.
- c. This clause shall be included in all subcontracts.

VII. Procurement Standards

- a. NRC recipients shall follow the requirements of Subpart C- Post-Award Requirements, Procurement Standards to OMB Circular A-110.
- b. In addition, unless these provisions provide otherwise, prior written approval shall be obtained from the NRC Grants Officer before:
 - (1) Any of the research or other substantive project effort is contracted or otherwise transferred.
 - (2) Contracting for the commercial production or distribution of books, films, or similar materials.

- c. NRC approvals will be made by the Grants Officer, who will specify which requirements of this award must be flowed-down to satisfy the purposes of OMB Circular A-110.
- d. Recipient requests for approvals shall include an explanation of the need for the contracting, a proposed performance statement, justification for the price or estimated cost (including a detailed budget for cost-reimbursement type arrangements), and the basis for selecting the contractor.

VIII. Suspension or Termination for Cause

- a. When in the opinion of NRC, a recipient has materially failed to comply with the terms and conditions of an award, NRC may (1) suspend the award or (2) terminate the award for cause.
- b. NRC prefers that deficiencies be corrected whenever practicable. When it is believed that a recipient has failed to comply with one or more of the terms and conditions of an award, the Grants Officer will advise the recipient by letter of the nature of the problem and that failure to correct the deficiency may result in suspension or termination of the award. The recipient will be requested to respond in writing within 30 days of receipt of such letter, describing the action taken or the plan designed to correct the deficiency. Copies of such correspondence will be furnished to the Principal Investigator (PI) and the NRC Project Officer. If a timely satisfactory response is not received, the Grants Officer may issue a suspension notice. The notice of suspension will be sent by certified mail (return receipt requested) to the recipient with a copy to the PI. The notice will set forth the activities covered under the suspension and its effective date, and the corrective action required by the recipient in order to lift the suspension. However, this policy does not preclude immediate termination when such action is reasonable under the circumstances and necessary to protect the interests of the Government.
- c. If an award is suspended pursuant to this article, no obligations incurred by the recipient during the period of suspension will be allowable under the suspended award other than necessary and proper costs that the recipient could not reasonably avoid during the period of suspension; provided that such costs would otherwise be allowable under the applicable Federal cost principles.
- d. The suspension will remain in effect for a maximum of 90 days during which time the recipient will take corrective action to the satisfaction of NRC or give assurances satisfactory to NRC that corrective action will be taken. In that event, the Grants Officer will issue a notification to the recipient that the suspension is lifted.
- e. In the event the deficiency is not corrected to the satisfaction of NRC, the Grants Officer may issue a notice of termination. The notice will establish the reasons for the action and its effective date.

- f. If an award is terminated pursuant to this article, financial obligations incurred by the recipient prior to the effective date of termination shall be allowable to the extent they would have been allowable had the award not been terminated, except that no obligation incurred during the period in which the award was suspended (except those allowed pursuant to c, above) will be allowed. The settlement of termination costs will be in accordance with the applicable Federal cost principles.
- g. Within 90 days of the effective date of termination, the recipient will furnish an itemized accounting of funds expended for allowable costs prior to the effective date of termination and the unexpended award balance.

IX. Termination for Convenience

- a. Circumstances may arise in which either NRC or the recipient wishes to terminate its performance of a project in whole or in part. If both parties agree, the award may be terminated by mutual agreement.
- b. If the recipient wishes to terminate the project, it shall advise the NRC Grants Officer, with a copy to the cognizant NRC Project Officer.
- c. If NRC wishes to terminate the project, the Grants Officer will advise the recipient with copies to the PI and the cognizant NRC Project Officer.
- d. Within 30 days after receipt of a request from either party for termination by mutual agreement, other party will provide an appropriate written response.
- e. In the event of disagreement between parties, the Director, Office of Administration, will make a final decision subject to the review procedures described in the article entitled "Dispute Review Procedure."
- f. The recipient shall not incur new obligations for the terminated portion after the effective date and shall cancel as many outstanding obligations as possible. The Nuclear Regulatory Commission shall allow full credit to the recipient for the Federal share of the noncancellable obligations, properly incurred by the recipient prior to termination.

X. Travel

- a. Domestic travel is an appropriate charge to this award, and prior authorization for specific trips is not required. Foreign travel must be clearly essential to the award effort and must have prior explicit approval of the Grants Officer to be charged against this award, regardless of its inclusion in the approved award budget.
- b. All common carrier travel reimbursable hereunder shall be via the least expensive class rates consistent with achieving the objective of the travel. If not available, reimbursement

vouchers will be annotated that economy class accommodations were not available.
First-class air travel is not authorized.