

“Restrictions on licensing of federally owned inventions” in item 209.

1984—Pub. L. 98-620, title V, §501(15), Nov. 8, 1984, 98 Stat. 3368, added item 212.

1982—Pub. L. 97-256, title I, §101(5), Sept. 8, 1982, 96 Stat. 816, redesignated chapter 38, as added by Pub. L. 96-517, §6(a), Dec. 12, 1980, 94 Stat. 3018, comprising sections 200 to 211, as chapter 18, and transferred chapter 18, as so redesignated, to end of this part from end of part IV.

§ 200. Policy and objective

It is the policy and objective of the Congress to use the patent system to promote the utilization of inventions arising from federally supported research or development; to encourage maximum participation of small business firms in federally supported research and development efforts; to promote collaboration between commercial concerns and nonprofit organizations, including universities; to ensure that inventions made by nonprofit organizations and small business firms are used in a manner to promote free competition and enterprise without unduly encumbering future research and discovery; to promote the commercialization and public availability of inventions made in the United States by United States industry and labor; to ensure that the Government obtains sufficient rights in federally supported inventions to meet the needs of the Government and protect the public against nonuse or unreasonable use of inventions; and to minimize the costs of administering policies in this area.

(Added Pub. L. 96-517, §6(a), Dec. 12, 1980, 94 Stat. 3018; amended Pub. L. 106-404, §5, Nov. 1, 2000, 114 Stat. 1745.)

AMENDMENTS

2000—Pub. L. 106-404 substituted “enterprise without unduly encumbering future research and discovery;” for “enterprise;”.

EFFECTIVE DATE

Chapter effective July 1, 1981, but implementing regulations authorized to be issued earlier, see section 8(f) of Pub. L. 96-517, set out as an Effective Date of 1980 Amendment note under section 41 of this title.

SHORT TITLE

This chapter is popularly known as the Bayh-Dole Act. Section 6(a) of Pub. L. 96-517, Dec. 12, 1980, 94 Stat. 3018, which enacted this chapter, is also popularly known as the Bayh-Dole Act and also as the University and Small Business Patent Procedures Act of 1980. For complete classification of section 6(a) of Pub. L. 96-517 to the Code, see Tables.

§ 201. Definitions

As used in this chapter—

(a) The term “Federal agency” means any executive agency as defined in section 105 of title 5, and the military departments as defined by section 102 of title 5.

(b) The term “funding agreement” means any contract, grant, or cooperative agreement entered into between any Federal agency, other than the Tennessee Valley Authority, and any contractor for the performance of experimental, developmental, or research work funded in whole or in part by the Federal Government. Such term includes any assignment, substitution of parties, or subcontract

of any type entered into for the performance of experimental, developmental, or research work under a funding agreement as herein defined.

(c) The term “contractor” means any person, small business firm, or nonprofit organization that is a party to a funding agreement.

(d) The term “invention” means any invention or discovery which is or may be patentable or otherwise protectable under this title or any novel variety of plant which is or may be protectable under the Plant Variety Protection Act (7 U.S.C. 2321 et seq.).

(e) The term “subject invention” means any invention of the contractor conceived or first actually reduced to practice in the performance of work under a funding agreement: *Provided*, That in the case of a variety of plant, the date of determination (as defined in section 41(d)¹ of the Plant Variety Protection Act (7 U.S.C. 2401(d))) must also occur during the period of contract performance.

(f) The term “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.

(g) The term “made” when used in relation to any invention means the conception or first actual reduction to practice of such invention.

(h) The term “small business firm” means a small business concern as defined at section 2 of Public Law 85-536 (15 U.S.C. 632) and implementing regulations of the Administrator of the Small Business Administration.

(i) The term “nonprofit organization” means universities and other institutions of higher education or an organization of the type described in section 501(c)(3) of the Internal Revenue Code of 1986 (26 U.S.C. 501(c)) and exempt from taxation under section 501(a) of the Internal Revenue Code (26 U.S.C. 501(a)) or any nonprofit scientific or educational organization qualified under a State nonprofit organization statute.

(Added Pub. L. 96-517, §6(a), Dec. 12, 1980, 94 Stat. 3019; amended Pub. L. 98-620, title V, §501(1), (2), Nov. 8, 1984, 98 Stat. 3364; Pub. L. 99-514, §2, Oct. 22, 1986, 100 Stat. 2095; Pub. L. 107-273, div. C, title III, §13206(a)(12), Nov. 2, 2002, 116 Stat. 1904.)

REFERENCES IN TEXT

The Plant Variety Protection Act, referred to in subsec. (d), is Pub. L. 91-577, Dec. 24, 1970, 84 Stat. 1542, as amended, which is classified principally to chapter 57 (§2321 et seq.) of Title 7, Agriculture. For complete classification of this Act to the Code, see Short Title note set out under section 2321 of Title 7 and Tables.

Section 41 of the Plant Variety Protection Act (7 U.S.C. 2401(d)), referred to in subsec. (e), was subsequently amended, and no longer defines the term “date of determination”.

¹ See References in Text note below.