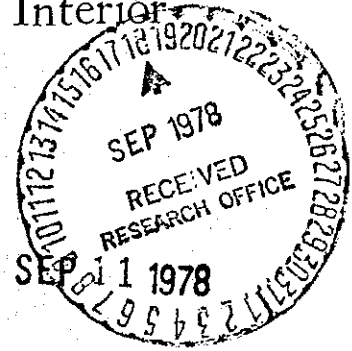




United States Department of the Interior

OFFICE OF THE SOLICITOR
WASHINGTON, D.C. 20240



IN REPLY REFER TO:

GLP.DAG.131886

J. Ralph Shay
Assistant Dean of Research
Oregon State University
Corvallis, Oregon 97331

Re: Department of the Interior Policy -
Institutional Agreements Under 41 CFR
1-9.109-7, July 18, 1978

Dear Dean Shay:

Your letter of August 7 to Secretary Andrus has received most careful consideration since it raises a question of significant import with respect to the Department of the Interior's patent policy.

As you well know from previous correspondence with the Department in April of 1976, the Department could not enter into blanket agreements due to the limitations imposed by many Organic Acts under which the Department conducts its research and development functions.

The issuance of the regulations by General Services Administration (GSA) does not change the Department's situation. Regulations cannot take precedence over the legislative mandates found in many of our Organic Acts. For this reason, the GSA regulations are presented in permissive, rather than mandatory, language so that the various Executive agencies may or may not adopt the regulations consistent with whatever Organic Acts may apply to a given program.

The Department of the Interior has concluded that, for the present, it will not adopt the GSA regulations with respect to institutional agreements as such. This decision is based, in part, on the fact that we cannot apply the regulation uniformly, as pointed out, and, additionally, because the regulations are an interim expedient pending several investigations currently in progress into Government patent policy.

You are advised, however, that while the Department will not enter into institutional agreements, as such, it is in the process of promulgating regulations for the Office of Water Research and

While I cannot speak for the Congress or the Administration, my feeling is that this bill will receive luke warm, if any, Administration support and will not get through the Senate.

As matters now stand, the present posture of this Department as to IPA's is decidedly uncertain.

I would suggest that since a policy decision is involved, it would be apropos to write the Secretary or the Solicitor of the Department requesting a clarification of Departmental policy.

I regret that this office cannot be of further assistance at this time.

Sincerely yours,

A handwritten signature in black ink, appearing to read 'D. Gardiner', with a long horizontal flourish extending to the right.

Donald A. Gardiner
Assistant Solicitor
Branch of Patents
Division of General Law