Nuclear Energy Advance Class Patent Waiver

What is it?

- Through a patent waiver, the Department of Energy (DOE) foregoes taking title to patentable inventions conceived or made by a company using DOE funding.
- “Advance” refers to the fact that the patent waiver is available when contract negotiations begin and “Class” refers to the category of applicable contractors; in this case large, domestic businesses who are participating in DOE nuclear energy related funding opportunities. Note that small businesses and some other entities are already eligible for a patent waiver under Bayh-Dole legislation.
- The Nuclear Energy Advance Class Patent Waiver is intended to increase participation by domestic large businesses in DOE Office of Nuclear Energy (DOE-NE) funding opportunities that are released during or after fiscal year 2020.

Why do we need it?

- Without an advance patent waiver, large domestic businesses who are DOE grant recipients would need to submit a request for a patent waiver and wait for a decision; this can sometimes take a significant amount of time. Also, the associated uncertainty discourages information sharing and limits scopes of proposed work below their full potential.
- The necessity for a request drives negotiation time up and increases the associated burden on companies.

Why is DOE offering it?

- DOE recognizes that a majority of domestic large businesses who are performing work under an NE funding agreement are likely to qualify for an advance patent waiver.
- DOE recognizes that businesses have significant investment in their technology and are better positioned to exercise patent rights for commercialization of developed technology.
- DOE supports the acceleration and simplification of processes for working with industry to commercialize advanced nuclear energy technologies.

What difference will it make?

- The NE Advance Class Patent Waiver is expected to reduce uncertainty and the amount of time in contract negotiations between DOE and Funding Opportunity Announcement (FOA) or Request for Proposal (RFP) awardees.
- With uncertainty reduced, large domestic businesses will be more willing to leverage DOE NE FOAs to develop and commercialize their innovative technologies.