

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