

CLEARPATH

Proposed Permitting CatEx for DOE-funded Demonstration Projects

Proposal: Include demonstration projects as an eligible activity under DOE's existing R&D categorical exclusion (Appendix B3.6).

Background

Rising energy demand requires the rapid deployment of new energy infrastructure to ensure reliability, affordability, and national security. However, this urgency is met with an outdated permitting system that remains misaligned with President Trump's energy agenda. While reforms have been proposed to streamline approvals, DOE must lead by advancing innovative technologies like advanced nuclear and geothermal through a more efficient regulatory pathway.

President Trump signed the Energy Act of 2020 during his first term that authorized demonstration projects for a variety of new technologies. These projects include demonstrations for advanced nuclear, geothermal, and natural gas with carbon capture, supporting American innovation to unleash U.S. energy dominance. In the years since, Congress has built on this legacy by appropriating billions in funding for reliable energy demonstration projects.

However, many of these demonstration projects are held up by the federal permitting process that is triggered as a condition of accepting federal funds. This is different from how most research and development activities at DOE are treated, as they are conducted under a categorical exclusion ("CatEx"). This designation allows R&D activities and pilot programs to proceed quickly without becoming subject to the lengthiest forms of review under the National Environmental Policy Act (NEPA). Demonstration projects, the next stage in proving a technology's readiness for the commercial market, do not receive this same expedited pathway.

As a result, many of the investments supported by the Energy Act of 2020 will languish without additional action to modernize the regulatory review process. DOE has a unique role to expedite these first-of-a-kind projects, as ClearPath outlined in its 2024 [proposal to Modernize the Department of Energy](#). Regulatory reviews should be guided by statutory requirements and structured to deliver timely, predictable outcomes for projects that support national energy priorities. Agencies have the authority to streamline approvals, and should use every available mechanism to eliminate unnecessary delays.

Proposed Action

The Trump admin DOE has the opportunity to modernize outdated permitting regulations. Consistent with direction from recent Executive Orders, DOE should build on its existing categorical exclusions for R&D activities by including energy demonstration projects in its existing CatEx. This action can be done by rulemaking, without new authorities from Congress.

The Biden admin DOE previously issued a Request for Information (RFI) to assess new provisions for federally permitting and CatExes. This included new authorities championed by

republicans in Congress through the Fiscal Responsibility Act. However, the Biden admin declined to issue new regulations to streamline the process for demonstration projects.

DOE's existing R&D CatEx reads as follows:

B3.6 SMALL-SCALE RESEARCH AND DEVELOPMENT, LABORATORY OPERATIONS, AND PILOT PROJECTS. Siting, construction, modification, operation, and decommissioning of facilities for small-scale research and development projects; conventional laboratory operations (such as preparation of chemical standards and sample analysis); and small-scale pilot projects (generally less than 2 years) frequently conducted to verify a concept before demonstration actions, provided that construction or modification would be within or contiguous to a previously disturbed or developed area (where active utilities and currently used roads are readily accessible). **Not included in this category are demonstration actions, meaning actions that are undertaken at a scale to show whether a technology would be viable on a larger scale and suitable for commercial deployment.**¹ (emphasis added)

This categorical exclusion specifically does not include government supported demonstration actions, which are frequently the next step to a technology achieving commercial variability in the private market. Currently, energy system demonstration projects are classified as “Actions that Normally Require EAs but not Necessarily EISs”:

C12 Energy System Demonstration Actions Siting, construction, operation, and decommissioning of energy system demonstration actions (including, but not limited to, wind resource, hydropower, geothermal, fossil fuel, biomass, and solar energy, but excluding nuclear). For purposes of this category, **“demonstration actions” means actions that are undertaken at a scale to show whether a technology would be viable on a larger scale and suitable for commercial deployment.**²

The Department should build on the finding that research and development actions and pilot projects do not have a significant impact on human health or the environment by extending this same interpretation to federally funded energy demonstration projects that are an extension of past research and development activities. Including demonstration projects in the existing CatEx would greatly reduce barriers to deployment across the entire suite of new energy technologies.

Demonstration projects remain a cornerstone of President Trump’s energy strategy to restore American prosperity and energy dominance. The President’s 2025 executive orders reinforce the need to reduce permitting delays and empower agencies like DOE to use all available tools to bring essential infrastructure online faster. Without swift action to align regulatory processes with national priorities, the breakthrough technologies risk being stuck in bureaucracy instead of delivering results for the American people.

¹ 10 CFR Appendix B to Subpart D of Part 1021

² 10 CFR Appendix C to Subpart D of Part 1021