and cooperative agreements, but not contracts and subcontracts. 10 CFR 600.3 ("financial assistance instruments are grants and cooperative agreements and subawards"). Contracts and subcontracts do not constitute financial assistance but instead provide for payment in exchange for procured products or services. See 31 U.S.C. 6303. Thus, the Department concludes that contracts and subcontracts, including cost-shared contracts and subcontracts, fall outside the scope of financial assistance and does not propose modifying the current definition of financial assistance in 10 CFR 600.3 for purposes of this subpart.

The Department's current definition of financial assistance also excludes cooperative research and development agreements (CRADAs). The Stevenson-Wydler Technology Innovation Act, 15 U.S.C. 3710a, which authorizes the use of CRADAs, does not authorize the transfer of funds to a CRADA participant and specifically distinguishes CRADAs from cooperative agreements. Thus any assistance provided under CRADAs would not be 'financial" assistance as the term ordinarily is understood. We note as well that existing law governing the use of CRADAs contains a set of considerations for the selection of CRADA participants that address similar policy objectives. 15 U.S.C. 3710a(c)(4).

Section 2306 applies to financial assistance "under Titles XX through XXIII" of EPAct. The intended effect of this statutory phrase is ambiguous. The Department proposes to interpret the range of activities covered by section 2306 to include all Department of Energy research and development programs either mentioned specifically in the text of Titles XX through XXIII or suggested by references to similar and related research and development activities in the conference reports on the Appropriations Acts for Energy and Water Development and for Interior and Related Agencies. This includes many programs and program activities that were initiated prior to the enactment of EPAct under authority of pre-existing law. Thus, for many programs, there are now two or more authorities. Comment is requested on this interpretation.

A list of covered programs for fiscal year 1995 (FY95) is set forth in the discussion of the term "covered program" in section III below. This list will be updated each fiscal year and published in the **Federal Register** to account for changes in appropriated activities undertaken under Titles XX through XXIII of EPAct.

III. Section-By-Section Analysis

Today's proposed policy statement would be codified as a new subpart F in 10 CFR part 600 where the Department's general financial assistance regulations are codified. The following is a discussion of the new sections that would make up subpart F.

§ 600.500 Purpose and scope.

This section states that the subpart provides procedures and interpretations to guide DOE officials in making eligibility determinations under section 2306 of the EPAct.

§ 600.501 Definitions.

The definition section begins by alerting readers that the existing definitions in § 600.3 of the general subpart are applicable to the new subpart F. Section 600.3 contains definitions of "applicant," "cooperative agreement," "financial assistance," "grant," and "State."

The term "company" is defined to mean any for-profit business entity. The eligibility requirements of section 2306 would apply only to companies. This definition, based on common usage of the term company, is intended to include for-profit corporations, general or limited partnerships, sole proprietorships, and other forms of business entities. It is also intended to cover joint ventures involving one or more such entities. The definition does not include governmental entities, and thus such entities would not be subject to this restriction on eligibility to receive financial assistance. Moreover, the definition does not include nonprofit organizations. The Department invites comment on whether it is appropriate to exclude all non-profit organizations from this definition, or whether it would be more appropriate to exclude a narrower class of educational and charitable organizations, such as organizations exempted from Federal income tax under section 501(c)(3) of the Internal Revenue Code.

The term "covered program" is defined in order to have a convenient term for referring to the list of activities under Titles XX through XXIII of the Energy Policy Act of 1992 to which the section 2306 eligibility restrictions apply. Set out below is the proposed list of covered programs for FY95:

COVERED PROGRAMS—FY 95

Fossil energy R & D	EPACT sections
Petroleum: All Programs	§ 2011, 2012

COVERED PROGRAMS—FY 95— Continued

Continued	
Fossil energy R & D	EPACT sections
Gas: Natural Gas Research	§ 2013–2015,
All programs, including: Resource & Extraction	§ 2013, 2014
Delivery & Storage Utilization Turbines	§ 2013, 2014 § 2013, 2014 § 2112
Environmental Research & Regulatory Analysis.	§ 2013, 2014
Midcontinent Energy Re- search Center. Fuel cells:	§ 2013, 2015 § 2115
All Programs, including: Advanced Research	§2115
Molten Carbonate Systems.	§ 2115 § 2115
Advanced Concepts Energy conservation: Transportation	§ 2021–2025,
·	2027, 2028, 2112
Alternative Fuels Utilization. Materials Development	§ 2021, 2023 § 2021
Heat Engine Development Electric & Hybrid Propul- sion Development.	§ 2021, 2112 § 2021, 2025
Implementation & Deploy- ment.	§ 2021
Management Capital Equipment Advanced Automotive Fuel Economy.	§ 2021 § 2021 § 2021, 2022
Biofuels User Facility Advanced Diesel Emissions Program.	§ 2021, 2024 § 2021, 2027
Telecommuting Study Utility:	§ 2021, 2028 § 2101
All programs. Industry All Programs, Including:	§2101–2108
Industrial Wastes Municipal Solid Wastes . Cogeneration	§ 2101 § 2101 § 2101
Electric Drives Materials and Metals Processing.	§ 2101, 2105 § 2101, 2107
Other Process Efficiency Process Heating & Cooling.	§ 2101 § 2101, 2102
Implementation & Deployment.	§2101
Management	§2101 §2101 §2101, 2202
Pulp & Paper Steel, Aluminum, and Metal Research.	§2101, 2103 §2101, 2106
Energy Efficient Envi- ronmental Program.	§2101, 2108
Buildings All Programs, including: Federal Energy Man-	§2101–2108 §2101
agement Program. Implementation & De-	§2101
ployment.	I