comparable to those afforded to any other company, to participate in any joint venture similar to those authorized by the Act," DOE expects to consider the regime that governs eligibility of U.S.-owned companies seeking to participate in research and development sponsored by that government.

The DOE analysis of this issue would consider discrimination against foreign subsidiaries of U.S.-owned companies relative to any other company in providing access to research and development programs. DOE would consider both discriminatory policies and discriminatory practices. Where a foreign government does not have research and development programs comparable to those authorized by EPAct, the absence of such programs would not preclude companies headquartered in that country from participating in DOE programs.

The statutory phrase "joint venture similar to those authorized under this Act" has uncertain meaning given that EPAct authorizes a number of government-supported programs, but the Department has not, to date, used joint ventures per se. Given the apparent intent of the statute to promote opportunities comparable to those afforded to any other company in energy research and development programs, DOE would construe this phrase to mean government-supported research and development programs similar to those covered by section 2306.

With regard to whether a foreign country "affords to United States-owned companies local investment opportunities comparable to those afforded to any other company," DOE expects to consider a review of applicable international obligations to provide to U.S. investors opportunities comparable to those offered to other companies.

With regard to protection of intellectual property rights in foreign countries, DOE expects to consider certain lists that contain relevant information prepared by other Executive agencies, such as the "Special 301 Priority Foreign Country List," issued by the U.S. Trade Representative.

In making the determinations required under section 2306(2)(B), the Department expects to seek the advice of other appropriate federal agencies.

IV. Procedural Requirements

A. Review Under Executive Order 12866

Today's regulatory action has been determined to be a "significant regulatory action" under Executive Order 12866, "Regulatory Planning and Review," 58 FR 51735 (October 4, 1993).

Accordingly, today's action was reviewed by the Office of Information and Regulatory Affairs.

The draft of today's action and any other documents submitted to OIRA for review have been made a part of the rulemaking record and are available for public review as provided in the ADDRESSES section of this notice.

B. Review Under Paperwork Reduction Act

No new information collection requirements subject to the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, are imposed by today's regulatory action

C. Review Under the National Environmental Policy Act

Pursuant to the Council on Environmental Quality Regulations (40 CFR parts 1500–1508), the Department of Energy has established regulations for its compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.). Pursuant to appendix A of subpart D of 10 CFR part 1021, the Department has determined that today's regulatory action is categorically exempt as a procedural rule for implementation of statutory requirements.

D. Review Under Executive Order 12612

Executive Order 12612, 52 FR 41685 (October 30, 1987), requires that rules be reviewed for any substantial direct effect on States, on the relationship between the National Government and the States, or in the distribution of power and responsibilities among various levels of government. If there are sufficient substantial direct effects, then the Executive Order requires preparation of a federalism assessment to be used in all decisions involved in promulgating and implementing a policy action. Today's action interprets the section 2306 eligibility requirements to be inapplicable to State applications for financial assistance. Therefore, the Department has determined that they will not have a substantial direct effect on the institutional interests or traditional functions of States.

E. Review Under Executive Order 12778

Section 2 of Executive Order 12778 instructs each agency to adhere to certain requirements in promulgating new regulations. These requirements, set forth in section 2(a) and (b)(2), include eliminating drafting errors and needless ambiguity, drafting the regulations to minimize litigation, providing clear and certain legal standards for affected legal conduct, and promoting simplification and burden

reduction. Agencies are also instructed to make every reasonable effort to ensure that regulations define key terms and are clear on such matters as exhaustion of administrative remedies and preemption. The Department certifies that today's regulatory action meets the requirements of section 2(a) and (b)(2) of Executive Order 12778.

V. Opportunity for Public Comment

A. Written Comments

Interested persons are invited to participate in this proceeding by submitting data, views, or comments with respect to today's notice.

Nine copies of written comments should be submitted to the address indicated in ADDRESSES section of this notice. Comments should be identified on the outside of the envelope and on the documents themselves with the designation "Financial Assistance Rules: Eligibility Determination for Certain Financial Assistance Programs, Docket No. PO-RM-95-101." In the event any person wishing to provide written comments cannot provide nine copies, alternative arrangements can be made in advance with the Department.

All comments received will be available for public inspection as part of the administrative record on file for this rulemaking in the Department of Energy Freedom of Information Office Reading Room, 1E–090, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. 20585, 202–586–6020, between 9 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

Any person submitting information which that person believes to be confidential and which may be exempt by law from public disclosure, should submit one complete copy, as well as two copies from which the information claimed to be confidential has been deleted. The Department reserves the right to determine the confidential status of the information and to treat it accordingly under 10 CFR 1004.11.

B. Public Hearing

One public hearing will be held pursuant to this notice at the time, date and place indicated above in the DATES and ADDRESSES sections of this notice. Any person who has an interest in making an oral presentation should make a written request to speak. Such a request should be sent to the address given in the ADDRESSES section of this notice and must be received by 4:30 p.m. on the date specified in the DATES section. The person also should provide a daytime phone number where the person may be reached. Those persons requesting an opportunity to make an