

Rules and Regulations

Federal Register

Vol. 60, No. 244

Wednesday, December 20, 1995

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DEPARTMENT OF ENERGY

10 CFR Part 600

[Docket No. PO–RM–95–101]

Financial Assistance Rules: Eligibility Determination for Certain Financial Assistance Programs

AGENCY: Department of Energy.

ACTION: Final rule.

SUMMARY: The Department of Energy is amending its Financial Assistance Rules by adding a final statement of policy, including procedures and interpretations, to guide DOE officials in making determinations required by section 2306 of the Energy Policy Act of 1992 (EPACT) concerning eligibility to receive financial assistance under DOE programs authorized by Titles XX through XXIII of EPACT.

EFFECTIVE DATE: January 19, 1996.

FOR FURTHER INFORMATION CONTACT: Dr. Robert C. Marlay, Office of Science Policy (Mail Stop PO–81), Office of Policy, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, D.C. 20585, (202) 586–3900. Paul Sherry, Esq., Office of

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SUPPLEMENTARY INFORMATION:

I. Background

II. Discussion of Public Comments

III. Procedural Requirements

I. Background

This notice sets forth a final general statement of policy, including procedures and interpretations, concerning implementation of the requirements of section 2306 of EPACT (42 U.S.C. 13525). This general statement of policy will guide implementing DOE officials in making a special eligibility determination prerequisite to a financial assistance award to a company under Titles XX through XXIII of EPACT. Those titles relate to research, development, demonstration and commercialization programs in diverse areas of energy efficiency, energy supply, and related basic research.

Section 2306 provides for a two-part determination. An applicant must be found to satisfy the conditions of both parts in order to be eligible. The first part, set out in section 2306(1), involves a finding with regard to whether an award of financial assistance to the applicant would be in the economic interest of the United States. 42 U.S.C. 13525(1). The statute provides some illustrative examples of the kinds of evidence that would support such a finding: investments in the United States in research, development, and

manufacturing; significant contributions to employment in the United States; and agreements, with respect to any technology arising from financial assistance provided, to promote the manufacture within the United States of products resulting from that technology and to procure parts and materials for such manufacture from competitive suppliers.

The second part of the determination, section 2306(2), involves two subparts, one of which must be satisfied. 42 U.S.C. 13525(2). The first subpart is satisfied if the applicant is a “United States-owned company.” The second subpart is satisfied if the applicant is found to be incorporated in the United States and the applicant’s parent company is incorporated in a foreign country that: (a) affords opportunities to United States-owned companies comparable to those afforded to any other company to participate in government-supported joint ventures in energy research and development; (b) affords opportunities to United States-owned companies comparable to those afforded to any other company with regard to general investment opportunities; and (c) affords adequate and effective protection of intellectual property rights owned by United States-owned companies.

The current list of covered programs is set forth below. This list will be updated as appropriate and published in the Federal Register to account for changes in activities undertaken in relation to Titles XX through XXIII of EPACT.

Covered programs	EPACT sections
Fossil energy R & D Petroleum: All Programs	§ 2011, 2012
Gas: Natural Gas Research	§ 2013–2015, 2112
All programs, including:	
Resource & Extraction	§ 2013, 2014
Delivery & Storage	§ 2013, 2014
Utilization	§ 2013, 2014
Turbines	§ 2112
Environmental Research & Regulatory Analysis	§ 2013, 2014
Mid-continent Energy Research Center	§ 2013, 2015
Fuel cells:	§ 2115
All Programs, including:	
Advanced Research	§ 2115
Molten Carbonate Systems	§ 2115
Advanced Concepts	§ 2115
Energy conservation:	
Transportation	§ 2021–2025, 2027, 2028, 2112
Alternative Fuels Utilization	§ 2021, 2023
Materials Development	§ 2021