

assistance programs is a covered transaction. With respect to the Department of Agriculture's export and foreign assistance programs, such contracts are the only procurement contracts included as covered transactions, notwithstanding the provisions in paragraphs (a) and (b) of this section.

■ 6. Section 3017.440 is added to read as follows:

**§ 3017.440 What method do I use to communicate those requirements to participants?**

To communicate the requirement, you must include a term or condition in the transaction requiring the participants' compliance with subpart C of this part and requiring them to include a similar term or condition in their lower-tier covered transactions.

■ 7. Section 3017.755 is further amended by adding a sentence at the end to read as follows:

**§ 3017.755 When will I know whether the suspension is continued or terminated?**

\* \* \* However, the record will remain open for the full 30 days, as called for in § 3017.725, even when you make a submission before the 30 days expire.

■ 8. Section 3017.765 is added to subpart G to read as follows:

**§ 3017.765 How may I appeal my suspension?**

(a) You may file an appeal only after you have exhausted the option provided for in § 3017.720 to contest the suspension. You must file your appeal within 30 days of receiving the decision required by § 3017.755 and your filing must specify the basis of the appeal. You must submit your appeal in writing to the Hearing Clerk in the Office of Administrative Law Judges (OALJ), United States Department of Agriculture (USDA), Washington, DC 20250. The assigned appeals officer may vacate the decision of the suspending official only if the officer determines that the decision is:

- (1) Not in accordance with law;
- (2) Not based on the applicable standard of evidence; or
- (3) Arbitrary and capricious and an abuse of discretion.

(b) The appeals officer will base the decision solely on the administrative record.

(c) Within 90 days of the date that you file your appeal with USDA's OALJ Hearing Clerk, the appeals officer will give written notification of the decision to you and to the suspending official who took the action being appealed.

(d) The appeals officer's decision is final and is not appealable within USDA.

■ 9. Section 3017.800 is further amended by adding paragraph (e) to read as follows:

**§ 3017.800 What are the causes of debarment?**

\* \* \* \* \*

(e) Notwithstanding paragraph (c) (1) of this section, within the Department of Agriculture a nonprocurement debarment by any Federal agency taken before March 1, 1989.

■ 10. Section 3017.870 is further amended by adding a sentence at the end of paragraph (a) to read as follows:

**§ 3017.870 When do I know if the debarring official debars me?**

(a) \* \* \* However, the record will remain open for the full 30 days, as called for in § 3017.820, even when you make a submission before the 30 days expire.

\* \* \* \* \*

■ 11. Section 3017.890 is added to subpart H to read as follows:

**§ 3017.890 How may I appeal my debarment?**

(a) You may file an appeal only after you have exhausted the option provided for in § 3017.815 to contest the debarment. You must file your appeal within 30 days of receiving the decision required by § 3017.870 and your filing must specify the basis of the appeal. You must submit your appeal in writing to the Hearing Clerk in the Office of Administrative Law Judges (OALJ), United States Department of Agriculture (USDA), Washington, DC 20250. The assigned appeals officer may vacate the decision of the debarring official only if the officer determines that the decision is:

- (1) Not in accordance with law;
- (2) Not based on the applicable standard of evidence; or
- (3) Arbitrary and capricious and an abuse of discretion.

(b) The appeals officer will base the decision solely on the administrative record.

(c) Within 90 days of the date that you file your appeal with USDA's OALJ Hearing Clerk, the appeals officer will give written notification of the decision to you and to the debarring official who took the action being appealed.

(d) The appeals officer's decision is final and is not appealable within USDA.

■ 12. Section 3017.935 is further amended by adding paragraph (b) to read as follows:

**§ 3017.935 Debarring official.**

\* \* \* \* \*

(b) The head of an organizational unit within the Department of Agriculture (e.g., Administrator, Food and Nutrition Service), who has been delegated authority in part 2 of this title to carry out a covered transaction, is delegated authority to act as the debarring official in connection with such transaction. This authority to act as a debarring official may not be redelegated below the head of the organizational unit, except that, in the case of the Forest Service, the Chief may redelegate the authority to act as a debarring official to the Deputy Chief or an Associate Deputy Chief for the National Forest System.

■ 13. Section 3017.1010 is further amended by adding paragraph (b) to read as follows:

**§ 3017.1010 Suspending official.**

\* \* \* \* \*

(b) The head of an organizational unit within the Department of Agriculture (e.g., Administrator, Food and Nutrition Service), who has been delegated authority in part 2 of this title to carry out a covered transaction, is delegated authority to act as the suspending official in connection with such transaction. This authority to act as a suspending official may not be redelegated below the head of the organizational unit, except that, in the case of the Forest Service, the Chief may redelegate the authority to act as a suspending official to the Deputy Chief or an Associate Deputy Chief for the National Forest System.

■ 14. Part 3021 is added to read as set forth in instruction 2 at the end of the common preamble.

**PART 3021—GOVERNMENTWIDE REQUIREMENTS FOR DRUG-FREE WORKPLACE (FINANCIAL ASSISTANCE)**

**Subpart A—Purpose and Coverage**

Sec.

3021.100 What does this part do?

3021.105 Does this part apply to me?

3021.110 Are any of my Federal assistance awards exempt from this part?

3021.115 Does this part affect the Federal contracts that I receive?

**Subpart B—Requirements for Recipients Other Than Individuals**

3021.200 What must I do to comply with this part?

3021.205 What must I include in my drug-free workplace statement?

3021.210 To whom must I distribute my drug-free workplace statement?

3021.215 What must I include in my drug-free awareness program?