

- 32.1220 What will the EPA debarring official consider in making a decision on my reinstatement request?
- 32.1225 When will the EPA debarring official make a decision on my reinstatement request?
- 32.1230 How will the debarring official notify me of the reinstatement decision?
- 32.1300 Can I resolve my eligibility status under terms of an administrative agreement without having to submit a formal reinstatement request?
- 32.1305 What are the consequences if I mislead the EPA in seeking reinstatement or fail to comply with my administrative agreement?
- 32.1400 How may I appeal a decision denying my request for reinstatement?
- 32.1500 If I am reinstated, when will my name be removed from the EPLS?
- 32.1600 What definitions apply specifically to actions under this subpart?

#### Appendix to Part 32—Covered Transactions

**Authority:** 33 U.S.C. 1251 *et seq.*; 42 U.S.C. 7401 *et seq.*; Sec. 2455, Pub. L. 103-355, 108 Stat. 3327 (31 U.S.C. 6101 note); E.O. 11738 (3 CFR, 1973 Comp., p. 799); E.O. 12549 (3 CFR, 1986 Comp., p. 189); E.O. 12689 (3 CFR, 1989 Comp., p. 235).

#### PART 32—GOVERNMENTWIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT); AND STATUTORY DISQUALIFICATION UNDER THE CLEAN AIR ACT AND CLEAN WATER ACT

- 2. The heading for Part 32 is revised as set forth above.
- 3. Part 32 is further amended as set forth below.
- a. “[Agency noun]” is removed and “EPA” is added in its place wherever it occurs.
- b. “[Agency adjective]” is removed and “EPA” is added in its place wherever it occurs.
- c. “[Agency head or designee]” is removed and “EPA Debarring Official” is added in its place wherever it occurs.
- 4. Section 32.220 is further amended by adding a paragraph (c) to read as follows:

#### § 32.220 Are any procurement contracts included as covered transactions?

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(c) The contract is awarded by any contractor, subcontractor, supplier, consultant or its agent or representative in any transaction, regardless of tier, to be funded or provided by the EPA under a nonprocurement transaction that is expected to equal or exceed \$25,000. (See optional lower tier coverage shown in the diagram in the appendix to this part.)

- 5. Section 32.440 is added to read as follows:

#### § 32.440 What method do I use to communicate those requirements to participants?

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

- 6. Section 32.765 is added to Subpart G to read as follows:

#### § 32.765 How may I appeal my suspension?

(a) If the EPA suspending official issues a decision under § 32.755 to continue your suspension after you present information in opposition to that suspension under § 32.720, you can ask for review of the suspending official's decision in two ways:

- (1) You may ask the suspending official to reconsider the decision for material errors of fact or law that you believe will change the outcome of the matter; and/or
- (2) You may request the Director, Office of Grants and Debarment (OGD Director), to review the suspending official's decision to continue your suspension within 30 days of your receipt of the suspending official's decision under § 32.755 or paragraph (a)(1) of this section. However, the OGD Director can reverse the suspending official's decision only where the OGD Director finds that the decision is based on a clear error of material fact or law, or where the OGD Director finds that the suspending official's decision was arbitrary, capricious, or an abuse of discretion.

(b) A request for review under this section must be in writing; state the specific findings you believe to be in error; and include the reasons or legal bases for your position.

(c) A review under paragraph (a)(2) of this section is solely within the discretion of the OGD Director who may also stay the suspension pending review of the suspending official's decision.

(d) The EPA suspending official and the OGD Director must notify you of their decisions under this section, in writing, using the notice procedures at § 32.615 and § 32.975.

- 7. Section 32.890 is added to Subpart H to read as follows:

#### § 32.890 How may I appeal my debarment?

(a) If the EPA debarring official issues a decision under § 32.870 to debar you after you present information in opposition to a proposed debarment under § 32.815, you can ask for review

of the debarring official's decision in two ways:

(1) You may ask the debarring official to reconsider the decision for material errors of fact or law that you believe will change the outcome of the matter; and/or

(2) You may request the Director, Office of Grants and Debarment (OGD Director), to review the debarring official's decision to debar you within 30 days of your receipt of the debarring official's decision under § 32.870 or paragraph (a)(1) of this section. However, the OGD Director can reverse the debarring official's decision only where the OGD Director finds that the decision is based on a clear error of material fact or law, or where the OGD Director finds that the debarring official's decision was arbitrary, capricious, or an abuse of discretion.

(b) A request for review under this section must be in writing; state the specific findings you believe to be in error; and include the reasons or legal bases for your position.

(c) A review under paragraph (a)(2) of this section is solely within the discretion of the OGD Director who may also stay the debarment pending review of the debarring official's decision.

(d) The EPA debarring official and the OGD Director must notify you of their decisions under this section, in writing, using the notice procedures at § 32.615 and § 32.975.

- 8. Section 32.995 is further amended by adding a paragraph (c) to read as follows:

#### § 32.995 Principal.

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(c) Other examples of individuals who are principals in EPA covered transactions include:

- (1) Principal investigators;
- (2) Technical or management consultants;
- (3) Individuals performing chemical or scientific analysis or oversight;
- (4) Professional service providers such as doctors, lawyers, accountants, engineers, etc.;
- (5) Individuals responsible for the inspection, sale, removal, transportation, storage or disposal of solid or hazardous waste or materials;
- (6) Individuals whose duties require special licenses;
- (7) Individuals that certify, authenticate or authorize billings; and
- (8) Individuals that serve in positions of public trust.

- 9. Subpart J is added to read as follows: