

(b) Any resolution of your eligibility status under the CAA or CWA resulting from an administrative agreement must include a certification that the condition giving rise to the conviction has been corrected.

(c) The EPA debarring official may enter into an administrative agreement to resolve CAA or CWA disqualification issues as part of a comprehensive criminal plea, civil or administrative agreement when it is in the best interest of the United States to do so.

§ 32.1305 What are the consequences if I mislead the EPA in seeking reinstatement or fail to comply with my administrative agreement?

(a) Any certification of correction issued by the EPA debarring official, whether the certification results from a reinstatement decision under § 32.1205(a) and § 32.1230, or from an administrative agreement under § 32.1205(b) and § 32.1300, is conditioned upon the accuracy of the information, representations or assurances made during development of the administrative record.

(b) If the EPA debarring official finds that he or she has certified correction of the condition giving rise to a CAA or CWA conviction or violation on the basis of a false, misleading, incomplete or inaccurate information; or if a person fails to comply with material condition of an administrative agreement, the EPA debarring official may revoke the certification of correction and immediately reinstate the CAA or CWA disqualification. In addition, the EPA debarring official may take suspension or debarment action against the person(s) responsible for the misinformation or noncompliance with the agreement as appropriate. If anyone provides false, inaccurate, incomplete or misleading information to EPA in an attempt to obtain reinstatement, the EPA debarring official will refer the matter to the EPA Office of the Inspector General for potential criminal or civil action.

§ 32.1400 How may I appeal a decision denying my request for reinstatement?

(a) If the EPA debarring official denies your request for reinstatement under the CAA or CWA, you can ask for review of the EPA 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 denial within 30 days of your

receipt of the debarring official's decision under § 32.1230 or paragraph (a)(1) of this section. However, the OGD Director can reverse the debarring official's decision denying reinstatement only where the OGD Director finds that there is 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 and state the specific findings you believe to be in error and the reason for your position.

(c) A review by the OGD Director under this section is solely within the discretion of the OGD Director.

(d) The OGD Director must notify you of his or her decision under this section, in writing, using the notice procedures identified at § 32.615 and § 32.975.

§ 32.1500 If I am reinstated, when will my name be removed from the EPLS?

If your eligibility for procurement and nonprocurement participation is restored under the CAA or CWA, whether by decision, appeal, or by administrative agreement, the EPA will remove your name and that of the violating facility from the EPLS, generally within 5 working days of your reinstatement.

§ 32.1600 What definitions apply specifically to actions under this subpart?

In addition to definitions under subpart I of this part that apply to this part as a whole, the following two definitions apply specifically to CAA and CWA disqualifications under this subpart:

(a) *Person* means an individual, corporation, partnership, association, state, municipality, commission, or political subdivision of a state, or any interstate body.

(b) *Violating facility* means any building, plant, installation, structure, mine, vessel, floating craft, location or site of operations that gives rise to a CAA or CWA conviction, and is a location at which or from which a Federal contract, subcontract, loan, assistance award or other covered transaction may be performed. If a site of operations giving rise to a CAA or CWA conviction contains or includes more than one building, plant, installation, structure, mine, vessel, floating craft, or other operational element, the entire location or site of operation is regarded as the violating facility unless otherwise limited by the EPA.

■ 10. Part 36 is added to read as set forth in instruction 2 at the end of the common preamble.

PART 36—GOVERNMENTWIDE REQUIREMENTS FOR DRUG-FREE WORKPLACE (FINANCIAL ASSISTANCE)

Subpart A—Purpose and Coverage

Sec.

36.100 What does this part do?

36.105 Does this part apply to me?

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

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

Subpart B—Requirements for Recipients Other Than Individuals

36.200 What must I do to comply with this part?

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

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

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

36.220 By when must I publish my drug-free workplace statement and establish my drug-free awareness program?

36.225 What actions must I take concerning employees who are convicted of drug violations in the workplace?

36.230 How and when must I identify workplaces?

Subpart C—Requirements for Recipients Who Are Individuals

36.300 What must I do to comply with this part if I am an individual recipient?

36.301 [Reserved]

Subpart D—Responsibilities of EPA Awarding Officials

36.400 What are my responsibilities as an EPA awarding official?

Subpart E—Violations of This Part and Consequences

36.500 How are violations of this part determined for recipients other than individuals?

36.505 How are violations of this part determined for recipients who are individuals?

36.510 What actions will the Federal Government take against a recipient determined to have violated this part?

36.515 Are there any exceptions to those actions?

Subpart F—Definitions

36.605 Award.

36.610 Controlled substance.

36.615 Conviction.

36.620 Cooperative agreement.

36.625 Criminal drug statute.

36.630 Debarment.

36.635 Drug-free workplace.

36.640 Employee.

36.645 Federal agency or agency.

36.650 Grant.

36.655 Individual.

36.660 Recipient.

36.665 State.

36.670 Suspension.

Authority: 41 U.S.C. 701 *et seq.*