

## § 727.6

(b) The individual has consented in writing to permit access by an authorized investigative agency to any DOE computer used during the period of that individual's access to information on a DOE computer and for a period of three years thereafter.

### § 727.6 What are the obligations of a DOE contractor?

(a) A DOE contractor must ensure that neither its employees nor the employees of any of its subcontractors has access to information on a DOE computer unless the DOE contractor has obtained a written acknowledgment and consent by each contractor or subcontractor employee that complies with the requirements of § 727.5 of this part.

(b) A DOE contractor must maintain a file of original written acknowledgments and consents executed by its employees and all subcontractors employees that comply with the requirements of § 727.5 of this part.

(c) Upon demand by the cognizant DOE contracting officer, a DOE contractor must provide an opportunity for a DOE official to inspect the file compiled under this section and to copy any portion of the file.

(d) If a DOE contractor violates the requirements of this section with regard to a DOE computer with Restricted Data or other classified information, then the DOE contractor may be assessed a civil penalty or a reduction in fee pursuant to section 234B of the Atomic Energy Act of 1954 (42 U.S.C. 2282b).

## PART 733—ALLEGATIONS OF RESEARCH MISCONDUCT

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AUTHORITY: 42 U.S.C. 2201; 7254; 7256; 7101 *et seq.*; 50 U.S.C. 2401 *et seq.*

SOURCE: 70 FR 37014, June 28, 2005, unless otherwise noted.

## 10 CFR Ch. III (1–1–10 Edition)

### § 733.1 Purpose.

The purpose of this part is to set forth a general statement of policy on the treatment of allegations of research misconduct consistent with Federal Policy on Research Misconduct established by the White House Office of Science and Technology Policy on December 6, 2000 (65 FR 76260–76264).

### § 733.2 Scope.

This part applies to allegations of research misconduct with regard to scientific research conducted under a Department of Energy contract or an agreement.

### § 733.3 Definitions.

The following terms used in this part are defined as follows:

*Contract* means an agreement primarily for the acquisition of goods or services that is subject to the Federal Acquisition Regulations (48 CFR Chapter 1) and the DOE Acquisition Regulations (48 CFR Chapter 9).

*DOE* means the U.S. Department of Energy (including the National Nuclear Security Administration).

*DOE Element* means a major division of DOE, usually headed by a Presidential appointee, which has a delegation of authority to carry out activities by entering into contracts or financial assistance agreements.

*Fabrication* means making up data or results and recording or reporting them.

*Falsification* means manipulating research materials, equipment, or processes, or changing or omitting data or results such that the research is not accurately represented in the research record.

*Financial assistance agreement* means an agreement the primary purpose of which is to provide appropriated funds to stimulate an activity, including but not limited to, grants and cooperative agreements pursuant to 10 CFR Part 600.

*Finding of research misconduct* means a determination, based on a preponderance of the evidence, that research misconduct has occurred. Such a finding requires a conclusion that there has been a significant departure from

accepted practices of the relevant research community and that it be knowingly, intentionally, or recklessly committed.

*Plagiarism* means the appropriation of another person's ideas, processes, results, or words without giving appropriate credit.

*Research* means all basic, applied, and demonstration research in all fields of science, engineering, and mathematics, such as research in economics, education, linguistics, medicine, psychology, social sciences, statistics, and research involving human subjects or animals.

*Research misconduct* means fabrication, falsification, or plagiarism in proposing, performing, or reviewing research, or in reporting research results, but does not include honest error or differences of opinion.

*Research record* means the record of all data or results that embody the facts resulting from scientists' inquiries, including, but not limited to, research proposals, laboratory records, both physical and electronic, progress reports, abstracts, theses, oral presentations, internal reports, and journal articles

**§ 733.4 Research misconduct requirements.**

DOE intends to apply the research misconduct policy set forth in 65 FR 76260-76264 by including appropriate research misconduct requirements in contracts and financial assistance awards that make contractors and financial recipients primarily responsible for implementing the policy in dealing with allegations of research misconduct in connection with the proposal, performance or review of research for DOE .

**§ 733.5 Allegations received by DOE.**

If DOE receives directly a written allegation of research misconduct with regard to research under a DOE contract or financial assistance agreement, DOE will refer the allegation for processing to the DOE Element responsible for the contract or financial assistance agreement.

**§ 733.6 Consultation with the DOE Office of the Inspector General.**

Upon receipt of an allegation of research misconduct, the DOE Element shall consult with the DOE Office of the Inspector General which will determine whether that office will elect to investigate the allegation.

**§ 733.7 Referral to the contracting officer.**

If the DOE Office of the Inspector General declines to investigate an allegation of research misconduct, the DOE Element should forward the allegation to the contracting officer responsible for administration of the contract or financial assistance agreement to which the allegation pertains.

**§ 733.8 Contracting officer procedures.**

Upon receipt of an allegation of research misconduct by referral under § 733.7, the contracting officer should, by notification of the contractor or financial assistance recipient:

- (a) Require the contractor or the financial assistance recipient to act on the allegation consistent with the Research Misconduct requirements in the contract or financial assistance award to which the allegation pertains; or
- (b) In the event the contractor or the financial assistance recipient is unable to act:

(1) Designate an appropriate DOE program to conduct an investigation to develop a complete factual record and an examination of such record leading to either a finding of research misconduct and an identification of appropriate remedies or a determination that no further action is warranted; and

(2) Make the appropriate findings consistent with the Research Misconduct requirements contained in the contract or financial assistance award, in order to act in lieu of the contractor or financial assistance recipient.

**PART 745—PROTECTION OF HUMAN SUBJECTS**

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- 745.102 Definitions.