



This document is scheduled to be published in the Federal Register on 07/30/2012 and available online at <http://federalregister.gov/a/2012-18435>, and on [FDsys.gov](http://FDsys.gov)

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

14 CFR Part 1275

[Docket Number NASA-0031]

RIN 2700-AD84

Research Misconduct

AGENCY: National Aeronautics and Space Administration.

ACTION: Direct final rule.

SUMMARY: The NASA Research Misconduct rule describes procedures to be used by NASA for the handling of allegations of research misconduct. This direct final rule makes non-substantive changes to the policy governing the handling of allegations of research misconduct and updates to reflect organizational changes that have occurred in the Agency. The revisions to this rule are part of NASA's retrospective plan under EO 13563 completed in August 2011. NASA's full plan can be accessed at: <http://www.nasa.gov/open/>

DATES: This direct final rule is effective on [INSERT DATE 60 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER], unless adverse comment is received by [INSERT DATE 30 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER]. If adverse comment is received, NASA will publish a timely withdrawal of the rule in the Federal Register.

ADDRESSES: Comments must be identified with RN 2700-AD84 and may be sent to NASA via the Federal E-Rulemaking Portal: <http://www.regulations.gov>. Follow the

online instructions for submitted comments. Please note that NASA will post all comments on the internet with changes, including any personal information provided.

FOR FURTHER INFORMATION CONTACT: Teresa Fryberger, Office of the Chief Scientist, NASA Headquarters, telephone (202) 358-1982.

SUPPLEMENTARY INFORMATION:

Direct Final Rule and Significant Adverse Comments

NASA has determined this rulemaking meets the criteria for a direct final rule because it involves nonsubstantive changes dealing with NASA's procedures for dealing with research misconduct. NASA expects no opposition to the changes and no significant adverse comments. However, if NASA receives a significant adverse comment, the Agency will withdraw this direct final rule by publishing a notice in the Federal Register. A significant adverse comment is one that explains: (1) Why the direct final rule is inappropriate, including challenges to the rule's underlying premise or approach; or (2) why the direct final rule will be ineffective or unacceptable without a change. In determining whether a comment necessitates withdrawal of this direct final rule, NASA will consider whether it warrants a substantive response in a notice and comment process.

Background

The NASA Research Misconduct Rule was created in accordance with the "Federal Policy on Research Misconduct" issued by the Office of Science and Technology Policy on December 6, 2000. The proposed rule, published July 25, 2003 (68 FR 43982), was created to establish a new research misconduct policy for NASA and requested public comments on the proposed action. Details of the proposed rule can be found at <http://www.gpo.gov/fdsys/pkg/FR-2003-07-25/pdf/03-18982.pdf>. The

proposed rule was changed to address public comments, and the final rule was published on July 14, 2004 (69 FR 42102). Details on how the comments were addressed can be found at <http://www.gpo.gov/fdsys/pkg/FR-2004-07-14/pdf/04-15432.pdf>.

NASA's research mission involves the advancement of research in the fields of aeronautics, space science, Earth science, biomedicine, biology, engineering, and physical science. NASA fulfills this objective through intramural research performed by NASA researchers and through extramural contracts, cooperative agreements, grants, and Space Act agreements with external entities, including the private sector; nonprofit and academic and educational organizations; and with other governmental entities. Because of this multiplicity of research arrangements, allegations of research misconduct could arise in any number of ways. While there is some overlap in the actions that may be pursued by Federal agencies and research institutions, this rule provides procedures and criteria for the interaction of NASA with its research partners in dealing with the various contingencies that could arise in the processing of research misconduct allegations.

#### Statutory Authority:

The National Aeronautics and Space Act (the Space Act), 51 U.S.C. 20113(a), authorizes the Administrator of the National Aeronautics and Space Administration (NASA) to make, promulgate, issue, rescind, and amend rules and regulations governing the manner of its operations and the exercise of the powers vested in it by law.

#### Regulatory Analysis

Executive Order 12866 and Executive Order 13563

Executive Orders 13563 and 12866 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting flexibility. This final rule has been designated a "significant regulatory action," although not economically significant, under section 3(f) of Executive Order 12866. Accordingly, the rule has been reviewed by the Office of Management and Budget.

#### Regulatory Flexibility Act

It has been certified that this final rule is not subject to the Regulatory Flexibility Act (5 U.S.C. 601) because it would not, if promulgated, have a significant economic impact on a substantial number of small entities.

#### Paperwork Reduction Act Statement

This final rule does not contain an information collection requirement subject to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.).

#### List of Subjects in 14 CFR Part 1275

Administrative practice and procedure, grant programs, investigations, research, science and technology, scientists.

Accordingly, 14 CFR Part 1275 is amended as follows:

#### Part 1275 – RESEARCH MISCONDUCT

1. The authority citation for part 1275 continues to read as follows:

**Authority:** Pub. L. 85-568, 72 Stat. 426, 42 U.S.C. 2473.

2. Section 1275.100 is amended by revising paragraphs (d) and (e) to read as follows:

§ 1275.100 Purpose and scope.

\* \* \* \* \*

(d) A determination that research misconduct has occurred must be accompanied by recommendations on appropriate administrative actions. However, the administrative actions themselves may be imposed only after further procedures described in applicable Federal acquisition and NASA regulations concerning contracts, cooperative agreements, grants, Space Act agreements, or other transactions, depending on the type of agreement used to fund or support the research in question. Administrative actions involving NASA civil service employees may be imposed only in compliance with all relevant Federal laws and policies.

(e) Allegations of research misconduct concerning NASA research may be transmitted to NASA in one of the following ways: by mail address to the Office of Inspector General (OIG), National Aeronautics and Space Administration, 300 E Street, SW., Washington, DC 20546-0001 via the NASA OIG Hotline at 1-800-424-9183, or cyber hotline at <http://oig.nasa.gov/hotline.html>.

3. Section 1275.101 is amended by revising paragraphs (a) and (m) to read as follows:

§ 1275.101 Definitions.

(a) Research misconduct means fabrication, falsification, or plagiarism in proposing, performing, or reviewing research, or in reporting research results. Research misconduct does not include honest error or differences of opinion. Research as used in this part includes all basic and applied research as defined

in OMB Circular A-11 in all fields of science, engineering, and mathematics, including, but not limited to, research in space and Earth sciences, economics, education, linguistics, medicine, psychology, social sciences, statistics, and biological and physical research (ground based and microgravity), including research involving human subjects or animals.

\* \* \* \* \*

(m) NASA Adjudication Official is the NASA Associate Administrator of a Mission Directorate, Chief Technologist, or Chief Engineer, depending on the research area involved in the misconduct allegation (as described in the list of NASA research disciplines and their associated directorates contained in the Appendix to this part).

\* \* \* \* \*

4. The Appendix to Part 1275 is revised to read as follows:

Appendix to Part 1275—Research Misconduct

NASA Research Disciplines and Respective Associated Directorates

1. Aeronautics Research—Aeronautics Research Mission Directorate
2. Space Science Research—Science Mission Directorate
3. Earth Science Research and Applications—Science Mission Directorate
4. Biomedical Research—Human Exploration and Operations Mission Directorate
5. Fundamental Biology—Human Exploration and Operations Mission Directorate
6. Fundamental Physics—Human Exploration and Operations Mission Directorate
7. Research for Exploration Systems not covered by the disciplines above—Human Exploration and Operations Mission Directorate
8. Research for the International Space Station not covered by the disciplines above—Human Exploration and Operations Mission Directorate
9. Other engineering research not covered by disciplines above—NASA Chief Engineer

10. Other technology research not covered by disciplines above—NASA Chief Technologist

Charles F. Bolden, Jr.  
Administrator

[FR Doc. 2012-18435 Filed 07/27/2012 at 8:45 am; Publication Date: 07/30/2012]