



Department of Energy

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MEMORANDUM FOR DISTRIBUTION

FROM:


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SUBJECT: Consensual Listening Procedures

The Federal Information Resources Management Regulations, 41 CFR 201-21.603, set forth the limited circumstances under which agencies were authorized to engage in consensual listening. Consistent with these regulations, the Department adopted consensual listening procedures and codified them in Department of Energy (DOE) Order 1450.4, *Consensual Listening-In To or Recording Telephone/Radio Conversations*. Under those procedures, the Office of the Chief Information Officer (OCIO) reviewed and approved consensual listening plans and procedures at field sites.

Recently, 41 CFR 201-21.603 was rescinded. Based in part on this rescission, the Department has decided to also rescind DOE Order 1450.4 and simplify the process and procedures offices should follow when seeking authorization to engage in consensual listening. A justification notice to cancel this Order is currently being processed.

Upon cancellation of DOE Order 1450.4, the OCIO will no longer be required to review and approve consensual listening plans and procedures at field sites. Rather, the heads of Departmental Elements, in consultation with appropriate legal counsel, should determine whether consensual listening is appropriate for certain operations, such as Central Alarm Stations, Emergency Operations Centers, and other operational activities. If the facts and attendant circumstances indicate that consensual listening is appropriate and necessary, the heads of Departmental elements, with appropriate legal counsel, must approve the local procedures for such activities. Approved procedures must be in conformance with all applicable Federal, State, and local statutes, DOE directives, and statutory guidance



(e.g., 18 U.S.C. 2511(2)(d)), and must contain carefully articulated procedures, including periodic review. If you have any questions, please contact Dr. Richard Donovan at (301) 903-3022.

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