

ORO CONTROL FORM - FINAL DIRECTIVE

PART A (To be completed by the Division of Primary Interest (DPI))

1. NUMBER AND TITLE OF DIRECTIVE: **ORO O 470, Chapter XIII, TECHNICAL SURVEILLANCE COUNTERMEASURES PROGRAM – USE OF TELEPHONE LINEMAN-TYPE HANDSETS OR ITEMS SIMILAR IN PURPOSE, USE, OR EFFECT ON DOE-OWNED OR DOE-LEASED PROPERTY**

2. PURPOSE OF TRANSMITTAL: New Directive Revised Directive

3. THIS DOCUMENT MAY AFFECT THE WORK PERFORMED BY THE FOLLOWING CONTRACTORS: (Check appropriate boxes)

No (all contractors)

Yes If yes, whom? Bechtel Jacobs Co. ORAU UT-Battelle

Other contractors (list by type) All contractors and subcontractors with access to ORO site/facilities.

Many ORO contractors have approved Standards/Requirements Identification Documents (S/RIDs) or Work Smart Standards (WSS) Sets that may affect applicability of contractor requirements from this directive. Applicability of contractor requirements must take into account the approved standards set for each particular contract.

4. SIGNIFICANT PROVISIONS: Are there any significant changes or impacts? No Yes
If yes, describe: This Chapter is a new Chapter in the 470 Series. This Chapter cancels and replaces ORO N 471.2, Change 4, dated May 31, 2002, which expired on May 31, 2003.

5. CONTACT POINT: Linda Eble Office of Safeguards and Security, OS-20 576-6963
Name Organization Telephone

PART B (To be completed by the Directives Management Group (DMG)):

6. FILING INSTRUCTIONS:

<u>Remove</u>	<u>Dated</u>	<u>Insert</u>	<u>Dated</u>
ORO Control Form	05/31/2002	ORO Control Form	01/30/2004
ORO N 471.2, Change 4	05/31/2002	ORO O 470, Chapter XIII	01/30/2004

ORO Directives are available on the ORO Directives Management Group Home Page at http://www.ornl.gov/doe/doe_oro_dmg/oro_dir.htm. The ORO Directives will no longer be mailed in printed copy unless you do not have Internet capabilities.

7. APPROVED FOR DISTRIBUTION IN ACCORDANCE WITH THE OFFICIAL DIRECTIVES DISTRIBUTION LIST:

Original Signed By
Wayne H. Albaugh 01/30/2004
Signature: DMG Team Leader, AD-440 Date

INSTRUCTIONS TO ADDRESSEES: THIS FORM IS TO BE FILED WITH THE DIRECTIVE AND RETAINED

Rev. 11/06/2003

NNSA/YSO CONTROL FORM – FINAL DIRECTIVE

PART A (To be completed by the ORO DIRECTIVES MANAGEMENT GROUP, AD-440):

DIRECTIVE NUMBER, TITLE, AND DATE:

ORO O 470, Chapter XIII, TECHNICAL SURVEILLANCE COUNTERMEASURES PROGRAM – USE OF TELEPHONE LINEMAN-TYPE HANDSETS OR ITEMS SIMILAR IN PURPOSE, USE, OR EFFECT ON DOE-OWNED OR DOE-LEASED PROPERTY, dated 01/30/2004

PURPOSE OF TRANSMITTAL: New Directive Revised Directive

DOES THIS DIRECTIVE CANCEL/REPLACE OR EXTEND ANY OTHER DIRECTIVES? Yes No
If “Yes,” list what action (cancel/replace or extend) and list the Directive(s), including the number(s), title(s), and date(s):

This Chapter cancels and replaces ORO Notice 471.2, Change 4, TECHNICAL SURVEILLANCE COUNTERMEASURES (TSCM) PROGRAM – Use of Telephone Lineman-type Handsets or Items Similar in Purpose, Use, or Effect on DOE-owned or -Leased Property, dated May 31, 2002, which expired on May 31, 2003.

The attached Directive is forwarded for review and action. Complete Part B and forward this form to ORO DMG, AD-440, by 02/19/2004.

PART B (To be completed by the NNSA Y-12 SITE OFFICE, Y12-01):

CONTRACTOR APPLICABILITY:

Does this Directive affect the work performed by BWXT Y-12, L.L.C.? Yes No

Does this Directive affect the work performed by BWXT Y-12, L.L.C., subcontractors? Yes No

If “Yes,” list the subcontractors:

Many contractors have approved Standards/Requirements Identification Documents (S/RID) or Work Smart Standards (WSS) Sets that may affect applicability of contractor requirements from this Directive. Applicability of contractor requirements must take into account the approved standards set for each particular contract.

SIGNIFICANT PROVISIONS: Are there any significant changes or impacts? Yes No

List summary of Directive changes and, if “Yes” above, describe the significant changes or impacts:

IMPLEMENTATION: Does the Directive contain special implementation requirements and/or dates? Yes No

If “Yes,” describe:

FOR DOE DIRECTIVE – SUPPLEMENTAL DIRECTIVE REQUIRED?

Is a new or revised supplemental Directive required? Yes No

If “Yes,” target date for submission of YSO Directive is _____.

IDENTIFY CONTACT POINT: Pat Belland 576-0914
Name Telephone

APPROVED BY COR FOR DIRECTIVES: Diane McCarten 02/19/2004 576-9330
Signature Date Telephone

PART C (To be completed by the ORO DIRECTIVES MANAGEMENT GROUP, AD-440):

DOE Directives are available on the DOE Directives Portal at <http://www.directives.doe.gov/>. ORO Directives are available on the ORO Directives Management Group Home Page at http://www.ornl.gov/doe/doe_oro_dmg/oro_dir.htm. Directives will no longer be mailed in printed copy unless you do not have Internet capabilities.

APPROVED FOR DISTRIBUTION IN ACCORDANCE WITH OFFICIAL DIRECTIVE DISTRIBUTION LIST:

Wayne H. Albaugh, AD-440 02/23/2004
Name Date

INSTRUCTIONS TO ADDRESSEES: THIS FORM IS TO BE FILED WITH THE DIRECTIVE AND RETAINED.

(Revised 11/06/2003)

U.S. Department of Energy

Oak Ridge Operations

ORO O 470
Chapter XIII

Date: 01/30/2004

SUBJECT: TECHNICAL SURVEILLANCE COUNTERMEASURES PROGRAM – USE OF TELEPHONE LINEMAN-TYPE HANDSETS OR ITEMS SIMILAR IN PURPOSE, USE, OR EFFECT ON DOE-OWNED OR DOE-LEASED PROPERTY

1. PURPOSE. This Chapter correlates to DOE O 471.2A, INFORMATION SECURITY PROGRAM, dated March 27, 1997, its supplemental Directives, and Title 18 of the United States Code, Chapter 119, WIRE AND ELECTRONIC COMMUNICATIONS INTERCEPTION AND INTERCEPTION OF ORAL COMMUNICATIONS, Sections 2510, 2511, 2512, and 2513, by assigning responsibility and accountability to Oak Ridge Operations (ORO), National Nuclear Security Administration (NNSA) Y-12 Site Office (YSO), and their contractors and subcontractors. Nothing in this issuance changes any requirements contained in any Department of Energy (DOE) Directive.
2. CANCELLATION. This Chapter cancels and replaces ORO Notice 471.2, Change 4, TECHNICAL SURVEILLANCE COUNTERMEASURES (TSCM) PROGRAM - Use of Telephone Lineman-type Handsets or Items Similar in Purpose, Use, or Effect on DOE-owned or -Leased Property, dated May 31, 2002, which expired on May 31, 2003.
3. APPLICABILITY. The provisions of this Chapter apply to ORO and NNSA YSO. In as much as this Directive is based on established Federal legislation, laws and DOE Directives, it applies to ORO and NNSA YSO contractors as described in the attached Contractor Requirements Document. References to the Y-12 Site Office (YSO) are to clarify the interface between ORO and YSO and are not intended to indicate direction to YSO by ORO. This guidance does not assign responsibility or authority for the YSO to ORO.
4. RESPONSIBILITIES.
 - a. Manager, ORO, and Manager, NNSA YSO, shall:
 - (1) Ensure compliance of Federal and contractor employees under their cognizance.
 - (2) Ensure that this Chapter is incorporated into the contract of contractors/subcontractors under their cognizance.
 - (3) Actively support referral of violators of this Chapter to the Federal Bureau of Investigation (FBI) or other appropriate agency for consideration of prosecution.
 - b. Director, Office of Safeguards and Security, ORO; and Assistant Manager, Safeguards and Security, NNSA YSO, shall:
 - (1) Ensure monitoring and evaluation of compliance with this Chapter through their respective TSCM Operations Manager, their Safeguards and Security staff professionals, and other oversight means available to them.

- (2) Ensure regular review of this Chapter to ensure currency.
 - (3) Ensure that this Chapter becomes part of the regular requirements documents used by inspection, survey, and assessment personnel overseeing contractor/subcontractor operations.
 - (4) Ensure that violators of this Chapter are referred to the FBI or other appropriate agency for consideration of prosecution.
 - c. Office of Chief Counsel, ORO and NNSA YSO, shall provide necessary legal advice and assistance to the Manager/Site Manager and to the Director/Assistant Manager, Safeguards and Security, regarding implementation and enforcement of this Chapter.
5. REQUIREMENTS AND PROCEDURES. Except as noted below, the use and possession, on DOE-owned or-leased property, of telephone handsets or similar devices to intercept telephone conversations and tap wire communications are prohibited. The unauthorized manufacture, assembly, procurement, or use of equipment which can be employed to intercept communications, including telephone conversations, is a violation of Federal law. Persons employed to maintain telecommunication systems may use such equipment only in the performance of their assigned duties.
- The penalties for violation of Federal law are serious. Title 18 of the USC, Chapter 119, Sections 2511 and 2512 (see Attachment 2), provide stiff penalties for violators, including fines, imprisonment, and suit. Also, Title 18 USC 2513 states, "*Any electronic, mechanical or other device used, sent, carried, manufactured, assembled, possessed, sold, or advertised in violation of Sections 2511 or Section 2512 may be seized and forfeited to the United States.*" The only EXCEPTIONS to this action are those bona fide employees of telecommunications common carriers who are authorized to possess and use such equipment, as necessary, in the performance of their official duties.
- DOE operating contractors may execute a formal written agreement with their local telephone company(ies) allowing selected contractor telecommunications specialists to perform telephone lineman functions. These functions must be in support of the local common carrier and may include the installation, repair, and maintenance of telephones and related equipment. The designated specialists may be authorized to use telephone handsets to perform their duties only under controlled conditions and when use is governed by ORO or NNSA YSO approved procedures.
6. REFERENCES. None
 7. DEFINITIONS. None.
 8. CONTRACTOR REQUIREMENTS DOCUMENT. See Contractor Requirements Document, Attachment 1 of this Chapter.
 9. ATTACHMENTS.
 - a. Attachment 1 – Contractor Requirements Document.
 - b. Attachment 2 – Title 18, U.S. Code, Chapter 119, Sections 2510, 2511, 2512, and 2513.

CONTRACTOR REQUIREMENTS DOCUMENT

ORO and NNSA YSO Contractor and Subcontractor personnel subject to this Chapter shall comply with the following:

1. **REQUIREMENTS AND PROCEDURES.** Except as noted below, the use and possession, on DOE-owned or-leased property, of telephone handsets or similar devices to intercept telephone conversations and tap wire communications are prohibited. The unauthorized manufacture, assembly, procurement, or use of equipment which can be employed to intercept communications, including telephone conversations, is a violation of Federal law. Persons employed to maintain telecommunication systems may use such equipment only in the performance of their assigned duties.
2. The penalties for violation of Federal law are serious. Title 18 of the USC, Chapter 119, Sections 2511 and 2512 (see Attachment 2), provide stiff penalties for violators, including fines, imprisonment, and suit. Also, Title 18 USC 2513 states, "*Any electronic, mechanical or other device used, sent, carried, manufactured, assembled, possessed, sold, or advertised in violation of Sections 2511 or Section 2512...may be seized and forfeited to the United States.*" The only EXCEPTIONS to this action are those bona fide employees of telecommunications common carriers who are authorized to possess and use such equipment as necessary in the performance of their official duties.
3. DOE operating contractors may execute a formal written agreement with their local telephone company(ies) allowing selected contractor telecommunications specialists to perform telephone lineman functions. These functions must be in support of the local common carrier and may include the installation, repair, and maintenance of telephones and related equipment. The designated specialists may be authorized to use telephone handsets to perform their duties only under controlled conditions when use is governed by ORO or NNSA YSO approved procedures.
4. Contractors and Subcontractors, ORO and NNSA YSO, shall:
 - (a) Ensure compliance with this Chapter when incorporated into their contracts.
 - (b) Develop an ORO or NNSA YSO approved procedure dictating the routine (at least annually) inspection of telecommunications, electrical, maintenance, and other operations to ensure compliance with this Chapter. The procedure shall require that the routine inspection be documented with a copy of the documentation being provided to ORO or NNSA YSO, as appropriate. Files on routine inspections shall be maintained for two years, then destroyed. Any violation of the provisions of this Chapter must be reported as an Incident of Security Concern.
 - (c) Refer for consideration for security violation and possible prosecution to their cognizant DOE or NNSA Safeguards and Security Office for referral to the FBI, any person found using a telephone lineman's handset (butt set) without proper authority or otherwise in violation of this Chapter.
 - (d) Ensure that compliance with this Chapter is documented and reviewed under established DOE O 470.1 required Self-assessment Programs.

Title 18
United States Code

Chapter 119 – Wire Interception and Interception of Oral Communications

Sections:

- 2510. Definitions.
- 2511. Interception and disclosure of wire or oral communications prohibited.
- 2512. Manufacture, distribution, possession, and advertising of wire or oral communication intercepting devices prohibited.
- 2513. Confiscation of wire or oral communications intercepting devices.

2510. Definitions

As used in this Chapter--

- (1) "wire communication" means any communication made in whole or in part through the use of facilities for the transmission of communications by the aid of wire, cable or other like connection between the point of origin and the point of reception furnished or operated by any person engaged as a common carrier in providing or operating such facilities for the transmission of interstate or foreign communications;
- (2) "oral communication" means any oral communication uttered by a person exhibiting an expectation that such communication is not subject to interception under circumstances justifying such expectation;
- (3) "intercept" means the aural acquisition of the contents of any wire or oral communication through the use of any electronic, mechanical, or other device.
- (4) "electronic, mechanical, or other device" means any device or apparatus which can be used to intercept a wire or oral communication other than--
 - (a) any telephone or telegraph instrument, equipment or facility, or any component thereof, (i) furnished to the subscriber or user by a communications common carrier in the ordinary course of its business and being used by the subscriber or user in the ordinary course of its business; or (ii) being used by a communication common carrier in the ordinary course of its business, or by an investigative or law enforcement officer in the ordinary course of his duties;

- (5) "Investigative or law enforcement officer" means any officer of the United States or of a State or political subdivision thereof, who is empowered by law to conduct investigations of or to make arrests for offenses enumerated in this Chapter, and any attorney authorized by law to prosecute or participate in the prosecution of such offenses;
- (6) "communication common carrier" means any person engaged as a common carrier for hire in interstate or foreign communication by wire or radio or interstate or foreign radio transmission of energy, except a person engaged in commercial radio broadcasting.

2511. Interception and disclosure of wire or oral communications prohibited.

- (1) Except as otherwise specifically provided in this Chapter any person who—
 - (a) willfully intercepts, endeavors to intercept, or procures any other person to intercept or endeavor to intercept, any wire or oral communication;
 - (b) willfully uses, endeavors to use, or procures any other person to use or endeavor to use any electronic, mechanical, or other device to intercept any oral communication when—
 - (i) such device is affixed to, or otherwise transmits a signal through, a wire, cable, or other like connection used in wire communications; or
 - (ii) such device transmits communications by radio, or interferes with the transmission of such communications; or
 - (iii) such person knows, or has reason to know, that such device or any component thereof has been sent through the mail or transported in interstate or foreign commerce; or
 - (iv) such use or endeavor to use (A) takes place on the premises of any business or other commercial establishment the operations of which affect interstate or foreign commerce; or (B) obtains or is for the purpose of obtaining information relating to the operations of any business or other commercial establishment the operations of which affect interstate or foreign commerce; or
 - (c) willfully discloses, or endeavors to disclose, to any other person the contents of any wire or oral communication, knowing or having reason to know that the information was obtained through the interception of a wire or oral communication is in violation of this Subsection; or
 - (d) willfully uses or endeavors to use, the contents of any wire or oral communication, knowing or having reason to know that the information was obtained through the interception of wire or oral communication in violation of this Subsection;

shall be fined not more than \$10,000 or imprisoned not more than five (5) years, or both.

- (2)(a)(i) It shall not be unlawful under this Chapter for an operator of a switchboard, or an officer, employee, or agent of any communication common carrier, whose facilities are used in the transmission of a wire communication, to intercept, disclose, or use that communication in the normal course of his employment while engaged in any activity which is a necessary incident to the rendition of his service or the protection of the rights or property of the carrier of such communication: Provided, That said communication common carrier shall not utilize service observing or random monitoring except for mechanical or service quality control checks.

2512. Manufacture, distribution, possession, and advertising of wire or oral communication intercepting devices prohibited.

2512. Manufacture, distribution, possession, and advertising of wire or oral communication intercepting devices prohibited.

- (1) Except as otherwise specifically provided in this Chapter, any person who willfully—
- (c)(ii) any electronic, mechanical, or other device knowing or having reason to know that the design of such device renders it primarily useful for the purpose of the surreptitious interception of wire or oral communications;
- (2) It shall not be unlawful under this Section for—
- (a) a communications common carrier or an officer, agent, or employee of, or a person under contract with, a communications common carrier, in the normal course of the communications common carrier's business.

2513. Confiscation of wire or oral communications intercepting devices.

Any electronic, mechanical, or other device used, sent, carried, manufactured, assembled, possessed, sold, or advertised in violation of Section 2511 or Section 2512 of this Chapter may be seized and forfeited to the United States.