

DEPARTMENT OF TRANSPORTATION
FEDERAL RAILROAD ADMINISTRATION

UNITED STATES GOVERNMENT

memorandum

Subject: Part 220 - Radio Standards and
Procedures

Date: SEP 30 1980

From: Associate Administrator for Safety

Reply to
Attn. of: TB 80-18

To: All Directors of Railroad Safety

The following information is a guide to govern field activities involving radio communications which are monitored for compliance with Part 220 - Radio Standards and Procedures.

(a) An FRA inspector may listen to a carrier's radio communications:

- (1) only for purposes of radio rules enforcement, and
- (2) only while in the physical presence of a carrier-authorized sender or carrier-authorized receiver of the radio communication and with that person's knowledge.

A carrier-authorized receiver is not only the specific addressee (the person whom the sender wishes to specifically hear the message), but any person who is authorized by the carrier to listen to the radio communication and is listening to the communication(s). For practical purposes, a carrier-authorized receiver is any carrier employee. An inspector may listen to a carrier's radio communications while in the train dispatcher's office, in the cab of a locomotive, or in any other carrier facility only if a carrier employee is present.

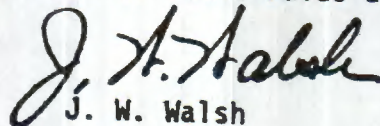
Listening to carrier radio communications at a point which is away from the sender, receiver, or other carrier-authorized employee is an illegal "interception," which is in violation of the Communications Act of 1934, 47 U.S.C. 605. Any violation of the Act subjects the interceptor to criminal and civil liability. In addition, all evidence which is obtained by illegal interception, as well as all evidence derived from it, is inadmissible in legal proceedings.

The monitoring of a carrier's radio communications may be done out of the physical presence of the sender, receiver, or other carrier employee who is a party to the communication, only if the inspector has first obtained permission. Prior consent to "long distance" monitoring, interceptions, must be obtained from the sender, receiver, or other carrier employee. Ideally, permission should be obtained in writing.

- (b) An FRA inspector may record carrier radio communications which are overheard on the carrier's radio equipment:
- (1) only for purposes of radio rules enforcement, and
 - (2) only when in the physical presence of a carrier-authorized sender or a carrier-authorized receiver, as defined in paragraph (a).

Recording devices must never be concealed while in use.

- (c) Inspectors may listen to tape recordings of radio communications which are made by the carrier as a matter of record, if the inspector is in the presence of an employee authorized by the carrier to listen to the carrier's radio communications and with that person's knowledge. That employee need not have heard or participated in the communication. Such carrier recordings may be monitored for purposes of accident investigation, as well as for radio rules enforcement.


J. W. Walsh