

MAY 7 1981

MEMORANDUM FOR: Royal J. Voegeli, Attorney
Office of the Executive Legal Director

FROM: Vernon S. Kerr, Chief
Telecommunications Branch
Division of Facilities and
Operations Support, ADM

SUBJECT: LEGAL ASPECTS OF CONSENSUAL RECORDING OF TELEPHONE CALLS

- REFERENCES:
- a) Informal discussion between ourselves, May 6, 1981.
 - b) Ltr., DJDonoghue (NRC) to FJCarr (GSA), Jan 4, 1981, w/encls.
 - c) Ltr., DJDonoghue (NRC) to PLVerveer (FCC), Dec 16, 1980.
 - d) FCC Memorandum Opinion & Order, Jan 29, 1981.
 - e) Memo, RJBrady (SEC) to HDThornburg (IE), Apr 3, 1981.
 - f) Note, HThornburg (IE) to RDeYoung (IE), Apr 29, 1981.
 - g) Draft, NRC Apndx 2101, Part XIII, Apr 24, 1981, w/comments.
 - h) NRC Apndx 0270, Part II, D, 4, as amended.
 - i) 41 CFR Part 101-37 (FPMR Amendment F-47), Mar 31, 1981.

In the interest of public health and safety, the EDO determined the need to record telephone conversations in the NRC Operations Center (encl to Ref b). In using this capability, difficulty of communication was experienced because of "beep-tones" applied under FCC regulations and telephone company tariffs. To overcome this difficulty, NRC applied to the FCC for an exemption allowing discontinuation of the "beep-tones" (Refs c & d). The general NRC policies concerning nonconsensual and consensual recording are contained in Refs g & h respectively. Ref f expresses concern over the potential consequences of recording NRC Operations Center telephone conversations without the consent of all parties in accordance with a statement in Ref e and the NRC policies in Refs g & h. Federal government policy is published in Ref i.

With the exception of Ref i, which is available to you, we have provided copies of all references during our meeting on May 6.

This branch proposes that the following actions be taken:

- o amend NRC 0270 to include reference to 41 CFR Part 101-37;
- o amend NRC 0270 to exempt the NRCOC telephone recording capability from the "consent of all parties" policy (thus notifying NRC personnel);
- o publish in the Federal Register that all conversations on telephone systems serving the NRCOC are recorded;
- o remove beep-tones when all of the above have been accomplished (after the change in the C&P Telco tariff).

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Royal J. Voegeli

Please provide us a determination concerning the legal adequacy of the steps enumerated above and any additional comments you may feel of consequence in deciding a course of action when the beep-tones are removed.

(signed) Vernon S. Kerr

Vernon S. Kerr, Chief
Telecommunications Branch
Division of Facilities and
Operations Support, ADM

cc: B.Weiss, IE
J.Cohen, SEC
bcc: JGJones
JTMelville

File: 1730 Ops Ctr - BeepTone
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