

Office, 3380 Americana Terrace, Boise, Idaho 83706-2500, 208-384-3166.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714 (1988), it is ordered as follows:

1. The Geological Survey Order dated August 16, 1955, which established Powersite Classification No. 435, is hereby revoked insofar as it affects the following described land:

Boise Meridian

T. 5 S., R. 3 E.,

Sec. 9, lots 4, 9, and 10.

The area described contains 95.22 acres in Elmore County.

2. The Secretarial Order dated July 2, 1910, which established Powersite Reserve No. 117, is hereby revoked insofar as it affects the following described land:

Boise Meridian

T. 5 S., R. 3 E.,

Sec. 4, lot 5.

The area described contains 39.10 acres in Elmore County. The total areas described aggregate 134.32 acres in Elmore County.

3. At 9 a.m. on November 13, 1995, the lands described in paragraphs 1 and 2 will be opened to the operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, other segregations of record, and the requirements of applicable law. All valid applications received at or prior to 9 a.m. on November 13, 1995, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

Dated: September 22, 1995.

Bob Armstrong,

Assistant Secretary of the Interior.

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## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 97

[PR Docket No. 93-305; FCC 95-402]

#### Implementation of a Vanity Call Sign System

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** This action makes revisions to the vanity call sign system rules. The revisions concern limiting availability of call signs for call sign Regions 11, 12, and 13 to licensees who have a mailing

address in the specific state, commonwealth, or island of those regions, requiring a close relative of a deceased call sign holder to hold the same or higher class of operator license as the deceased, specifying that applicants who file timely vanity call sign renewal applications will have continuing operating authority, establishing a new starting gate, Gate 1A, for clubs that wish to obtain the call sign of a deceased member, and making an editorial change relating to new club and military recreation station applications. The rule amendments are necessary so that all members of the amateur community will be treated fairly, yet recognizing the privileges of higher grade operator licensees. The effect of this action is to make available to amateur operators call signs that they themselves select for their amateur stations.

**EFFECTIVE DATE:** November 17, 1995.

**FOR FURTHER INFORMATION CONTACT:** Maurice J. DePont, Federal Communications Commission, Wireless Telecommunications Bureau, Washington, DC 20554, (202) 418-0690.

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's *Memorandum Opinion and Order*, adopted September 21, 1995, and released October 2, 1995. The complete text of this Commission action is available for inspection and copying during normal business hours in the FCC Reference Center (room 239), 1919 M Street, NW., Washington, DC 20554. The complete text of this Memorandum Opinion and Order may also be purchased from the Commission's copy contractor, International Transcription Services, Inc. (ITS, Inc.), 2100 M Street, NW., suite 140, Washington, DC 20037, (202) 857-3800.

#### Summary of Memorandum Opinion and Order

1. The Commission made several changes in the vanity call sign system rules. Upon reconsideration, the Commission limited the assignability of call signs designated for Regions 11, 12, and 13 solely to licensees having a mailing address in the specific state, commonwealth, or island of those regions. The limitation does not apply to former call sign holders or to close relatives of deceased call sign holders. The Commission declined to limit vanity call signs to those available in the applicant's call sign region within the 48 contiguous United States.

2. Another change requires that, in the case of a close relative applying for the former call sign of a deceased licensee,

the applicant must hold the same or a higher class of operator license.

3. The rules were also amended to specify that an applicant who timely files an application for renewal of a station license having a vanity call sign will have continuing operating authority.

4. Clubs may obtain the call sign of a deceased member, with an additional starting gate, Gate 1A, giving priority to clubs licensed on March 24, 1995. A club station licensed after March 24, 1995, will become eligible to apply immediately under Gate 4 for the call sign of a deceased club member without being required to comply with the normal two year waiting period.

5. An editorial change relating to new club and military recreation stations applications was also made.

6. This Memorandum Opinion and Order is issued under the authority of 47 U.S.C. sections 154(i), and 303(o) and (r).

#### List of Subjects in 47 CFR Part 97

Club stations, Military recreation stations, Radio, Vanity call signs.

Federal Communications Commission.

William F. Caton,

*Acting Secretary.*

#### Amended Rules

Part 97 of chapter I of title 47 of the Code of Federal Regulations is amended as follows:

#### PART 97—AMATEUR RADIO SERVICE

1. The authority citation for part 97 continues to read as follows:

Authority citation: 48 Stat. 1066, 1082, as amended; 47 U.S.C. sections 154, 303. Interpret or apply 48 Stat. 1064-1068, 1081-1105, as amended; 47 U.S.C. sections 151-155, 301-609, unless otherwise noted.

#### § 97.17 [Amended]

2. Section 97.17 is amended by removing paragraph (g) and by redesignating paragraph (h) as paragraph (g).

3. Section 97.19 is amended by revising paragraph (d) introductory text and adding new paragraph (d)(4) to read as follows:

#### § 97.19 Application for a vanity call sign.

\* \* \* \* \*

(d) The vanity call sign requested by an applicant must be selected from the group of call signs corresponding to the same or lower class of operator license held by the applicant as designated in the sequential call sign system.

\* \* \* \* \*

(4) A call sign designated under the sequential call sign system for Alaska,

Hawaii, Caribbean Insular Areas, and Pacific Insular areas will be assigned only to a primary or club station whose licensee's mailing address is in the corresponding state, commonwealth, or island. This limitation does not apply to an applicant for the call sign as the spouse, child, grandchild, stepchild, parent, grandparent, stepparent, brother, sister, stepbrother, stepsister, aunt, uncle, niece, nephew, or in-law, of the former holder now deceased.

4. In § 97.21, paragraphs (a)(3) and (ii) is revised to read as follows:

**§ 97.21 Application for a modified or renewed license.**

(a) \* \* \*

(3) \* \* \*

(ii) When the license shows a call sign selected by the vanity call sign system, the application must be filed as specified in Section 97.19(b). When the application has been received at the proper address specified in the Wireless Telecommunications Bureau Fee Filing Guide prior to the license expiration date, the licensee operating authority is continued until final disposition of the application.

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**DEPARTMENT OF TRANSPORTATION**

**Federal Railroad Administration**

**49 CFR Parts 209 and 240**

[FRA Docket No. RSOR-9, Notice 9, FRA Docket No. RSEP-6, Notice 8]

RIN 2130-AA74

**Qualifications for Locomotive Engineers; and, Railroad Safety Enforcement Procedures—Disqualification Procedures—Procedural Changes to Accommodate FRA Hearing Officers**

**AGENCY:** Federal Railroad Administration (FRA), DOT.

**ACTION:** Interim final rule.

**SUMMARY:** This interim final rule amends two different regulations to clarify the procedures that will be employed in hearings involving the determination of an individual's fitness for performing safety-sensitive functions and those regarding certification of locomotive engineers.

**DATES:** (1) This interim final rule is effective November 13, 1995. This rule shall apply as of that date to all future hearings and to review of all hearings pending on that date.

(2) Written comments concerning this rule must be filed no later than November 13, 1995. Comments received after that date will be considered to the extent practicable.

**ADDRESSES:** Written comments (three copies) concerning this rule should be submitted to the Docket Clerk, Office of Chief Counsel, FRA, 400 Seventh Street SW, Washington, DC 20590. Persons desiring to be notified that their written comments have been received by FRA should submit a stamped, self addressed, postcard with their comments. The docket clerk will indicate on the postcard the date on which the comments were received and will return the card to the addressee. Written comments will be available for examination during normal business hours both before and after the closing date for comments in the public docket examination facility of the Nassif Building at the above address.

**FOR FURTHER INFORMATION CONTACT:** Alan H. Nagler, Trial Attorney, Office of Chief Counsel, FRA, 400 Seventh Street, SW, Washington, DC 20590 (telephone: 202-366-0621).

**SUPPLEMENTARY INFORMATION:** This interim final rule amends two different regulations to clarify the procedures that will be employed in hearings regarding the determination of an individual's fitness for performing safety-sensitive functions and those involving denial or revocation of certification of locomotive engineers.

**Disqualification Proceedings**

Section 3(a) of the Rail Safety Improvement Act of 1988 "RSIA" (recodified at 49 U.S.C.A. 20111 (c) (1995)) authorizes FRA to disqualify individuals who are shown to be unfit to perform safety-sensitive functions based on the individual's violation of an FRA safety rule, regulation, order or standard. FRA's railroad safety enforcement regulations (49 CFR part 209, subpart D), prescribing procedures for disqualifying individuals from performing safety-sensitive functions in the rail industry, were published in the Federal Register on October 18, 1989 (54 FR 42894). FRA is amending that regulation to permit agency employees to serve as hearing officers and preside over disqualification proceedings rather than limiting selection of persons permitted to perform that function to administrative law judges (ALJs). The change is intended to assure the prompt and efficient conduct of disqualification proceedings in a manner more cost effective for the agency than using only ALJs while still affording administrative

due process to those against whom such proceedings are initiated.

In the preamble to the disqualification final rule, FRA raised the preliminary question of whether the RSIA requires formal, trial-type "on the record" hearings under 5 U.S.C. 554, 556, and 557. In short, the preamble explained that neither the RSIA nor the legislative history granted an individual a right to an "on the record" hearing. Despite this conclusion, FRA chose to afford individuals procedural due process by adopting procedures similar to those set forth for formal hearings under 5 U.S.C. 554, 556, and 557.

As stated in the earlier rule, FRA continues to believe that "it is essential to promulgate procedures that assure the prompt and efficient conduct of disqualification proceedings under the statute, afford administrative due process to those against whom such proceedings are initiated, and lead to the creation of a record in each individual proceeding that will form the basis for judicial review in the United States District Court without a trial *de novo* of the relevant facts." "54 FR 42894" (Oct. 18, 1989). Since this statement was written, review of FRA's final safety actions has been shifted to the federal courts of appeal, which is a further reason for ensuring that an adequate record is developed.

FRA expects that an agency hearing officer will be able to provide the essential due process at the same professional level as an ALJ without the substantial costs to the agency incurred when using ALJs. This change will bring FRA's disqualification regulation into conformity with analogous provisions contained in FRA's locomotive engineer certification regulation (described below) and its rules on hazardous materials and compliance order hearings. Under all of these rules, FRA already has given itself flexibility to use hearing officers other than ALJs. Moreover, this new flexibility in selecting agency personnel to perform this function, in addition to possible continued use of ALJs, has the potential for improving the promptness and efficiency with which these proceedings are conducted.

**Engineer Qualifications**

The initial final rule establishing qualification standards for locomotive engineers was published in the Federal Register on June 19, 1991 (56 FR 28228). That final rule established the right to an administrative hearing in the event of an adverse Locomotive Engineer Review Board (LERB) decision. See 49 CFR 240.407. This regulation already provides that the presiding officer at