

designating the text following the table as paragraph (a)(2), and by adding paragraph (b), and by adding and reserving paragraphs (c) and (d) with headings to read as follows:

**§ 180.200 Dicloran; tolerances for residues.**

(a) *General.* (1) \* \* \*  
(2) \* \* \*

(b) *Section 18 emergency exemptions.* Time-limited tolerances are established for combined residues of the fungicide, dicloran, 2,6-dichloro-4-nitroaniline in connection with use of the pesticide under section 18 emergency exemptions granted by EPA. The tolerances will expire and are revoked on the dates specified in the following table.

Commodity	Parts per million	Expiration/Revocation Date
Peanut, oil	6.0	10/31/99
Peanuts ...	3.0	10/31/99

(c) *Tolerances with regional registrations.* Reserved]

(d) *Indirect or inadvertent residues.* [Reserved]

[FR Doc. 98-73 Filed 1-2-98; 8:45 am]

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**FEDERAL COMMUNICATIONS COMMISSION**

**47 CFR Part 54**

[FCC 97-419]

**Procedure for Designation of Eligible Telecommunications Carriers Pursuant to Section 214(e)(6) of the Communications Act**

**AGENCY:** Federal Communications Commission.

**ACTION:** Rules of agency procedure and practice.

**SUMMARY:** This action establishes the procedures the Commission will use in implementing Public Law 105-125 (enacted December 1, 1997), which added subsection (e)(6) to section 214(e) of the Communications Act of 1934, as amended (the Act). New section 214(e)(6) provides for the designation of eligible telecommunications carriers by the Federal Communications Commission (Commission) in certain limited circumstances for common carriers that are not subject to the jurisdiction of a state commission.

**DATES:** Effective January 5, 1998.

**ADDRESSES:** One original and five copies of all petitions and comments must be

sent to Magalie Roman Salas, Secretary, Federal Communications Commission, 1919 M Street, N.W., Washington, D.C. 20554. Three copies also should be sent to Sheryl Todd, Universal Service Branch, Accounting and Audits Division, Common Carrier Bureau, 2100 M Street, N.W., 8th Floor, Washington, D.C. 20554. One copy must be sent to the Commission's contractor, International Transcription Service, 1231 20th Street, N.W., Washington, D.C. 20037, (202) 857-3800. In addition to filing comments with the Secretary, a copy of any comments on the information collections contained herein should be submitted to Judy Boley, Federal Communications Commission, Room 234, 1919 M Street, N.W., Washington, DC 20554. See the **SUPPLEMENTARY INFORMATION** section for electronic filing addresses.

**FOR FURTHER INFORMATION CONTACT:** Valerie Yates, Legal Counsel, Common Carrier Bureau, (202) 418-1500, or Cheryl Leanza, Common Carrier Bureau, (202) 418-7400. For additional information concerning the information collections contained in this Public Notice contact Judy Boley at 202-418-0214, or via the Internet at [jboley@fcc.gov](mailto:jboley@fcc.gov).

**SUPPLEMENTARY INFORMATION:** This information collection has been approved by OMB 3060-0810, expiration date of May 31, 1998. This Public Notice establishes the procedures the Commission will use in implementing Public Law 105-125 (enacted December 1, 1997), which added subsection (e)(6) to section 214(e) of the Communications Act of 1934, as amended (the Act). Public Law 105-125, 111 Stat. 2540 (1997). Section 214(e)(1) of the Act provides that common carriers designated as "eligible telecommunications carriers" are eligible to receive universal service support in accordance with section 254 of the Act. 47 U.S.C. secs. 214(e)(1) and 254; see Federal-State Joint Board on Universal Service, CC Docket No. 96-45, *Report and Order*, 62 FR 32862, June 17, 1997 (*Universal Service Order*). Section 214(e)(2) of the Act provides that state commissions shall designate eligible telecommunications carriers. See 47 U.S.C. sec. 214(e)(2). For purposes of the designation requirement, "state commission" is defined in section 3(47) of the Act as a "commission, board, or official (by whatever name designated) which under the laws of any State has regulatory jurisdiction with respect to intrastate operations of carriers." 47 U.S.C. sec. 3(47). Until its recent amendment, section 214(e) did not address how common carriers not

subject to the jurisdiction of a state commission would be designated. New section 214(e)(6) provides for the designation of eligible telecommunications carriers by the Federal Communications Commission (Commission) in certain limited circumstances for common carriers that are not subject to the jurisdiction of a state commission. See 143 Cong. Rec. S12,568 (daily ed. Nov. 13, 1997) (stating that the amendment was intended to correct an "oversight" in the statute regarding certain carriers, such as tribally owned common carriers, that may fall outside the jurisdiction of a state commission and that the amendment "does nothing to alter the existing jurisdiction that state commissions have over local exchange carriers or providers of commercial mobile radio services."). We set forth herein the procedures that carriers must use in requesting such designation from the Commission. Any carrier that is able to be or has already been designated as an eligible telecommunications carrier by a state commission is not required to receive such designation from the Commission. We delegate to the Chief, Common Carrier Bureau, the authority to designate carriers as eligible telecommunications carriers, pursuant to section 214(e)(6).

Carriers seeking designation from the Commission pursuant to section 214(e)(6) must demonstrate that they fulfill the requirements of section 214(e)(1). Accordingly, carriers seeking designation from the Commission are instructed to file a petition that sets forth the following information:

1. A certification and brief statement of supporting facts demonstrating that the petitioner is "not subject to the jurisdiction of a state commission".
2. A certification that the petitioner provides all services designated for support by the Commission pursuant to section 254(c). To meet the requirements of section 214(e)(1) of the Act, a carrier must offer all of the services designated for support by the Commission pursuant to section 254(c). 47 U.S.C. sec. 214(e)(1)(A). The Commission has designated the following services for support: single-party service; voice grade access to the public switched network; Dual Tone Multifrequency (DTMF) signalling or its functional equivalent; access to emergency services including, in some circumstances, access to 911 and Enhanced 911 (E911); access to operator services; access to interexchange service; access to directory assistance; and toll limitation services for qualifying low-income consumers. See *Universal Service Order*, 62 FR 32862, June 17, 1997.

a. If the petitioner seeks an extension of time in order to implement the Commission's requirements to offer single-party service, access to E911, or toll-limitation services for

Lifeline consumers, the petitioner must demonstrate that it has met the criteria set forth by the Commission to receive such an extension of time. *See Universal Service Order*, 62 FR 32862, June 17, 1997.

b. If the petitioner seeks a waiver of the prohibition against disconnecting Lifeline service for non-payment of toll charges, the petitioner must demonstrate that it meets the requirements of § 54.401(b)(1) of the Commission's rules; Section 54.401(b)(1) of the Commission's rules provides that a carrier may receive a waiver of the no-disconnect rule if it demonstrates that: (1) it would incur substantial costs in complying with this requirement; (2) it offers toll limitation to its qualifying low-income consumers without charge; and (3) telephone subscribership among low-income consumers in the carrier's service area is greater than or equal to the national subscribership rate for low-income consumers. 47 CFR 54.401(b)(i)-(iii).

3. A certification that the petitioner offers the supported services "either using its own facilities or a combination of its own facilities and resale of another carrier's services". 47 U.S.C. sec. 214(e)(1)(A).

4. A description of how the petitioner "advertise[s] the availability of the [supported] services and the charges therefor using media of general distribution"; 47 U.S.C. sec. 214(e)(1)(B).

5. If the petitioner meets the definition of a "rural telephone company" pursuant to section 3(37) of the Act, the petitioner must identify its study area. *See* 47 U.S.C. sec. 214(e)(5) (defining the service area of rural telephone companies as "such company's 'study area' . . ."); 47 U.S.C. sec. 153(37). If the petitioner is not a rural telephone company, the petitioner must include a detailed description of the geographic service area that it requests the Commission designate.

In addition, in order to be eligible for any new, modified or renewed instrument of authorization from the Commission, including authorizations issued pursuant to section 214 of the Act, all petitioners must certify that neither the petitioner nor any party to the application is subject to a denial of federal benefits, including Commission benefits, pursuant to section 5301 of the Anti-Drug Abuse Act of 1988. 47 CFR 1.2002(a); 21 U.S.C. sec. 862. We note that this provision does not apply to, *inter alia*, "Federal, State, or local governmental entities or subdivisions thereof." 47 CFR 1.2002(c). This certification must also include the names of individuals specified by section 1.2002(b) of the Commission's rules. Section 1.2002(b) provides that a certification pursuant to that section shall include: "(1) If the applicant is an individual, that individual; (2) If the applicant is a corporation or unincorporated association, all officers, directors, or persons holding 5 percent or more of the outstanding stock or shares (voting and/or non-voting) of the

petitioner; and (3) If the applicant is a partnership, all non-limited partners and any limited partners holding a 5 percent or more interest in the partnership." 47 CFR 1.2002(b).

Pursuant to section 254(e), after the date on which the Commission's regulations implementing section 254 take effect, "only an eligible telecommunications carrier designated under section 214(e) shall be eligible to receive specific Federal universal service support." The Commission's regulations implementing section 254 will take effect January 1, 1998.

Accordingly, starting January 1, 1998, carriers must be designated as eligible telecommunications carriers to receive support under federal universal service support mechanisms. Under certain circumstances, a petitioner that is designated as an eligible telecommunications carrier by the Commission after January 1, 1998, may seek universal service support retroactive to January 1, 1998. Such a petitioner must: (1) Include a request for retroactive support in its petition; (2) demonstrate that, as of January 1, 1998, it met the requirements set forth in section 214(e)(1); and (3) set forth the steps it has taken to receive designation as an eligible telecommunications carrier in a timely manner. Carriers that do not seek retroactive support, or do not qualify for retroactive support under the criteria set forth in this paragraph, shall be eligible to receive compensation after the date of designation by the Commission.

These procedures will be effective upon publication in the **Federal Register**. We conclude that compliance with the notice and public comment provisions of the Administrative Procedure Act (APA) is not required with respect to the procedures adopted in this Public Notice because this Public Notice establishes rules of agency procedure and practice. 5 U.S.C. sec. 553(b)(3)(A) (stating that notice and comment requirements are inapplicable to rules for "agency organization, procedure, or practice"). To the extent that these rules may be deemed to be substantive rather than procedural, we find that good cause exists to adopt these requirements without notice and comment because compliance with the notice and public comment would be impracticable and contrary to the public interest. 5 U.S.C. sec. 553(b)(3)(B) (stating that notice and comment requirements are inapplicable "when the agency for good cause finds \* \* \* that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest"). As noted above, section

214(e)(6) became law on December 1, 1997, only one month before our rules implementing section 254 take effect. Our prompt action establishing these procedures is designed to ensure that eligible telecommunications carriers receive universal service support without interruption (or with minimal interruption). *See* 47 U.S.C. sec. 254(e). This is consistent with Congress' desire to correct the "oversight" in section 214(e) and to provide universal service support for those carriers not subject to the jurisdiction of a state commission. This good cause finding also supports making these rules effective upon publication in the **Federal Register**. 5 U.S.C. sec. 553(d).

**Pleading Cycle.** Upon receipt of a petition filed pursuant to section 214(e)(6), the Commission will issue a public notice establishing a pleading cycle and assigning a Bureau file number to the petition. Oppositions or comments regarding the petition will be due approximately 10 days after the Commission releases the public notice. Reply comments will be due approximately 7 days after comments are due.

**Filing Requirements.** All filings should reference: Petition for Designation as an Eligible Telecommunications Carrier Pursuant to Section 214(e)(6) of the Communications Act, FCC 97-419. Comments and reply comments should reference the name of the petitioner filing a petition for designation and the Bureau file number of the petition. All interested parties should include the name of the filing party and the date of the filing on each page of their petitions and comments. Parties should include a table of contents in all documents regardless of length and should indicate whether they are filing an electronic copy of a submission via the Internet or via diskette. Pleadings must comply with Commission rules. *See, e.g.,* 47 CFR 1.49, 1.415, 1.419.

Parties may also file informal comments or an exact copy of a petition or formal comments electronically via the Internet at: <<http://gullfoss.fcc.gov/cgi-bin/websql/cgi-bin/comment/comment.htm>>. Only one copy of an electronic submission must be submitted. A party must note whether an electronic submission is an exact copy of a petition or formal comments on the subject line and should note in its paper submission that an electronic copy of its comments is being submitted via the Internet. A commenter also must include its full name and Postal Service mailing address in its submission. Parties not submitting an exact copy of their formal comments via the Internet

are also asked to submit their petitions and comments on diskette. Parties submitting diskettes should submit them to Sheryl Todd of the Universal Service Branch, 2100 M Street, N.W., Room 8606, Washington, D.C. 20554. Such a submission should be on a 3.5 inch diskette formatted in an IBM compatible format using WordPerfect 5.1 for Windows or compatible software. The diskette should be accompanied by a cover letter and should be submitted in "read only" mode. The diskette should be clearly labelled with the party's name, proceeding, type of pleading (petition or comment), date of submission, and the name of the electronic file on the diskette. Each diskette should contain only one party's pleadings, preferably in a single electronic file. Electronic submissions are in addition to and not a substitute for the formal filing requirements addressed above.

*Ex parte contact.* For the purposes of ex parte contact, each petition submitted pursuant to section 214(e)(6) will be treated as initiating a permit-but-disclose proceeding under the Commission's rules. See 47 CFR 1.1206.

*Paperwork Reduction Act Requirement.* In the Report and Order on Universal Service (released May 8, 1997), the Commission adopted rules that are designed to implement the universal service provision of section 254 of the Act. In accord with the Paperwork Reduction Act, we previously received OMB approval for the information collections that carriers must comply with in order to apply to their state commissions for designation as carriers eligible to receive universal support pursuant to section 254. Section 214(e) directs the Commission to designate telecommunications carriers that meet specified requirements as eligible in situations where the telecommunications carrier is not subject to the jurisdiction of a state commission. To implement this new statute, we will require telecommunications carriers that seek to be classified as eligible by the Commission and are not subject to the jurisdiction of a state commission to send to the Commission information demonstrating that they meet the eligibility criteria set forth in the Telecommunications Act of 1996 and described in the Commission's rules. This information must be submitted according to the procedural requirements described above. These reporting requirements are necessary to verify that particular carriers are eligible to receive universal service support.

We have estimated that each response to this collection of information will

take, on average, 58 hours for respondents filing petitions and 20 hours for respondents filing written comments. Our estimate includes the time to comply with the statutory requirements, read this Public Notice, review existing records, gather and maintain required data, and complete and review the response. If you have any comments on this estimate, or on how we can improve the collection and reduce the burden it causes you, please write the Federal Communications Commission, AMD-PERM, Washington, D.C. 20554, Paperwork Reduction Project (3060-0793). We will also accept your comments on the burden estimate via the Internet if you send them to [jboley@fcc.gov](mailto:jboley@fcc.gov). Please Do Not Send petitions requesting Commission designation as an eligible telecommunications carrier to this e-mail address.

You are not required to respond to a collection of information sponsored by the Federal government, and the government may not conduct or sponsor this collection, unless it displays a currently valid OMB control number or if we fail to provide you with this notice. This collection has been assigned an OMB control number of 3060-0810, which expires on May 31, 1998.

This notice is required by the Privacy Act of 1974, Public Law 93-579, December 31, 1974, 5 U.S.C. section 552a(e)(3) and the Paperwork Reduction Act of 1995, Public Law 104-13, October 1, 1995, 44 U.S.C. 3507.

Federal Communications Commission.

**Magalie Roman Salas,**

*Secretary.*

[FR Doc. 98-138 Filed 1-2-98; 8:45 am]

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## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 73

[MM Docket No. 97-197; RM-9154]

### Radio Broadcasting Services; Goldsmith, TX

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** The Commission, at the request of Wild West Broadcasting Company, Inc., allots Channel 234A to Goldsmith, TX, as the community's first local aural transmission service. See 62 FR 47786, August 11, 1997. Channel 234A can be allotted to Goldsmith in compliance with the Commission's

minimum distance separation requirements with a site restriction of 11.9 kilometers (7.4 miles) southwest. The coordinates for Channel 234A at Goldsmith are 31-54-26 NL and 102-42-14 WL. With this action, this proceeding is terminated.

**EFFECTIVE DATE:** February 2, 1998. A filing window for Channel 234A at Goldsmith, TX, will not be opened at this time. Instead, the issue of opening a filing window for this channel will be addressed by the Commission in a subsequent order.

**FOR FURTHER INFORMATION CONTACT:** Pam Blumenthal, Mass Media Bureau, (202) 418-2180.

**SUPPLEMENTARY INFORMATION:** This is a synopsis of the Commission's Report and Order, MM Docket No.97-197, adopted December 10, 1997, and released December 19, 1998. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, ITS, Inc., (202) 857-3800, 1231 20th Street, NW, Washington, DC 20036.

### List of Subjects in 47 CFR Part 73

Radio broadcasting.

Part 73 of title 47 of the Code of Federal Regulations is amended as follows:

### PART 73—[AMENDED]

1. The authority citation for Part 73 continues to read as follows:

**Authority:** 47 U.S.C. 154, 303, 334, 336.

### § 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Texas, is amended by adding Goldsmith, Channel 234A.

Federal Communications Commission.

**John A. Karousos,**

*Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.*

[FR Doc. 98-37 Filed 1-2-98; 8:45 am]

BILLING CODE 6712-01-P

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 73

[MM Docket No. 97-173; RM-9134]

### Radio Broadcasting Services; Lexington, TX

**AGENCY:** Federal Communications Commission.