

CAS No.	Substance	Effective date	Reporting date
	* *	* * *	
Pyridinamines:			
462–08–8	3-Pyridinamine	January 6, 2005	March 7, 2005
504–24–5	4-Pyridinamine	January 6, 2005	March 7, 2005
504–29–0	2-Pyridinamine	January 6, 2005	March 7, 2005
	* *	* * *	
Tungsten compounds:			
1314–35–8	Tungsten oxide (WO ₃)	January 6, 2005	March 7, 2005
7440–33–7	Tungsten	January 6, 2005	March 7, 2005
7783–03–1	Tungstate (WO ₄ ²⁻), dihydrogen, (T-4)-	January 6, 2005	March 7, 2005
7783–82–6	Tungsten fluoride (WF ₆), (OC-6-11)-	January 6, 2005	March 7, 2005
7790–60–5	Tungstate (WO ₄ ²⁻), dipotassium, (T-4)-	January 6, 2005	March 7, 2005
7790–85–4	Cadmium tungsten oxide (CdWO ₄)	January 6, 2005	March 7, 2005
10213–10–2	Tungstate (WO ₄ ²⁻), disodium, dihydrate, (T-4)-	January 6, 2005	March 7, 2005
11105–11–6	Tungsten oxide (WO ₃), hydrate	January 6, 2005	March 7, 2005
11120–01–7	Sodium tungsten oxide	January 6, 2005	March 7, 2005
11120–25–5	Tungstate (W ₁₂ (OH) ₂ O ₄₀ ¹⁰⁻), decaammonium.	January 6, 2005	March 7, 2005
12027–38–2	Tungstate(4-),[.mu.12-[orthosilicato(4-)-.kappa.O:.kappa.O:.kappa.O:.kappa.O':.kappa.O':.kappa.O':.kappa.O':.kappa.O'':.kappa.O'':.kappa.O'':.kappa.O'':.kappa.O''':.kappa.O''':.kappa.O''':.kappa.O''':.kappa.O''']tetracosam.oxododecaoxododeca-, tetrahydrogen.	January 6, 2005	March 7, 2005
12028–48–7	Tungstate (W ₁₂ (OH) ₂ O ₃₈ ⁶⁻), hexaammonium.	January 6, 2005	March 7, 2005
12036–22–5	Tungsten oxide (WO ₂)	January 6, 2005	March 7, 2005
12067–99–1	Tungsten hydroxide oxide phosphate ...	January 6, 2005	March 7, 2005
12138–09–9	Tungsten sulfide (WS ₂)	January 6, 2005	March 7, 2005
12141–67–2	Tungstate (W ₁₂ (OH) ₂ O ₃₈ ⁶⁻), hexasodium.	January 6, 2005	March 7, 2005
13283–01–7	Tungsten chloride (WCl ₆), (OC-6-11)- ..	January 6, 2005	March 7, 2005
13472–45–2	Tungstate (WO ₄ ²⁻), disodium, (T-4)-	January 6, 2005	March 7, 2005
14040–11–0	Tungsten carbonyl (W(CO) ₆), (OC-6-11)-	January 6, 2005	March 7, 2005
23321–70–2	Tungsten oxide (WO ₃), dihydrate	January 6, 2005	March 7, 2005
	* *	* * *	

* * * * *

[FR Doc. 04-26821 Filed 12-6-04; 8:45 am]

BILLING CODE 6560-50-S

DEPARTMENT OF THE INTERIOR

Office of the Secretary

Bureau of Land Management

43 CFR Parts 44 and 1880

RIN 1093-AA09

Payment in Lieu of Taxes

AGENCY: Office of the Secretary; Bureau of Land Management, Interior.

ACTION: Final rule.

SUMMARY: This rule amends the Code of Federal Regulations to reflect the transfer of responsibility for operating the Payment in Lieu of Taxes (PILT) program from the Bureau of Land Management to the Department of the Interior (“DOI”), Office of the Secretary.

DATES: *Effective Date:* December 7, 2004.

FOR FURTHER INFORMATION CONTACT: Bill Howell, OS, Office of Budget, (202) 208-5308 (Commercial or FTS). Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service at 1-800-877-8339, 24 hours a day, seven days a week, to contact Mr. Howell.

SUPPLEMENTARY INFORMATION:

- I. Background
II. Final Rule as Adopted
III. Procedural Matters

I. Background

This rule moves the existing regulations at 43 CFR 1881 to 43 CFR Part 44 to reflect the transfer of responsibility for operating the PILT program from the Bureau of Land Management to the Office of the Secretary, DOI.

Elevating PILT to the Department level streamlines the budget process, eliminates the competition for dollars at the agency level, and ensures that appropriate emphasis can be directed to PILT as necessary, with a multibureau, Departmental funding contribution.

This is a benefit that would accrue to Congress, the Department, BLM, and to the counties as well.

This rule is an administrative action to reassign PILT responsibilities from one office to another. The changes in the regulations pursuant to the notice consist of moving the implementing regulations from one CFR part to another. There is no substantive change in the Department's PILT responsibilities. Therefore, DOI has determined that it has no substantive impact on the public and for good cause finds under 5 U.S.C. 553(b)(B) and 553(d)(3) that notice and public procedure thereon are unnecessary and that this rule may take effect upon publication.

II. Final Rule as Adopted

The Department adopts the revisions to 43 CFR that deletes subpart 1881 and inserts new Part 44 to reflect the transfer of responsibility for operating the PILT program from the Bureau of Land Management to the Department of the Interior, Office of the Secretary.

III. Procedural Matters

Executive Order 12866, Regulatory Planning and Review

This rule is not a significant rule and was not subject to review by the Office of Management and Budget under Executive Order 12866. The Office of Management and Budget has determined that this rule: Does not have an annual economic impact of \$100 million or more; will not have an adverse impact in a material way on the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; does not pose a serious inconsistency or interfere with an action taken or planned by another agency; does not alter the budgetary effects of entitlements, grants, user fees, or loan programs or the right or obligations of their recipients; and will not have novel legal or policy implications. Therefore, we do not have to assess the potential costs and benefits of the rule under section 6(a)(3) of this order. The rule is administrative in nature, simply transferring a function from one bureau to a Secretarial office.

Regulatory Flexibility Act

This rule does not require a regulatory flexibility analysis. Congress enacted the Regulatory Flexibility Act of 1980 (RFA), as amended (5 U.S.C. 601–612), to ensure that Government regulations do not necessarily or disproportionately burden small entities. The RFA requires a regulatory flexibility analysis if a rule has a significant economic impact, either detrimental or beneficial, on a substantial number of small entities. This rule would not have significant economic impacts on small entities under the RFA (5 U.S.C. 601 *et seq.*). The rule is administrative in nature, simply transferring a function from one bureau to a Secretarial office.

Small Business Regulatory Enforcement Fairness Act

This rule is not a “major rule” as defined by the Small Business Regulatory Enforcement Fairness Act (5 U.S.C. 804(2)). This rule will not have a significant impact on the economy or on small businesses in particular. As discussed above, this rule would update existing regulations to incorporate statutory changes to the authorizing legislation and do not affect small businesses.

Unfunded Mandates Reform Act

This rule does not impose an unfunded mandate on State, local, or tribal governments or the private sector of more than \$100 million per year; nor

do these proposed regulations have a significant or unique effect on State, local, or tribal governments or the private sector. The rule is administrative in nature, simply transferring a function from one bureau to a Secretarial office. Therefore, BLM is not required to prepare a statement containing the information required by the Unfunded Mandates Reform Act (2 U.S.C. 1531 *et seq.*)

Executive Order 12630, Governmental Actions and Interference With Constitutionally Protected Property Rights (Takings)

This rule does not represent a government action capable of interfering with constitutionally protected property rights. Therefore, we have determined that the regulation would not cause a taking of private property. No further discussion of takings implications are required under this Executive Order.

Executive Order 13132, Federalism

This rule will not have a substantial direct effect on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. The rule is administrative in nature, simply transferring a function from one bureau to a Secretarial office. Therefore, in accordance with Executive Order 13132, BLM has determined that this proposed rule does not have sufficient Federalism implications to warrant preparation of a Federalism Assessment.

National Environmental Policy Act (NEPA)

This rule is subject to a categorical exclusion under NEPA. The Department has determined that this action to transfer responsibility of the PILT Act is a regulation of financial, technical, and legal nature under section 101(2)(C) of the National Environmental Policy Act, pursuant to 516 Departmental Manual, Chapter 2, Appendix 1, Item 1.10. Therefore, pursuant to the Council on Environmental Quality regulations (40 CFR 1508.4) and the environmental policies and procedures of the Department of the Interior, the Department has found that neither an environmental assessment nor an environmental impact statement is required.

Executive Order 13175, Consultation and Coordination With for Indian Tribal Governments

In accordance with Executive Order 13175, we have found that this rule does not include policies that have tribal

implications. The rule is administrative in nature, simply transferring a function from one bureau to a Secretarial office.

Executive Order 12988, Civil Justice Reform

The Office of the Solicitor has determined that this rule will not unduly burden the judicial system and that it meets the requirements of sections 3(a) and 3(b)(2) of Executive Order 12988.

Author: The principal author is Bill Howell, Budget Group, assisted by John Strylowski, Office of Executive Secretary.

Paperwork Reduction Act of 1995

These regulations contain information collection requirements. As required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), we submitted a copy of the proposed information collection requirements to the Office of Management and Budget (OMB) for review. The Department will not require collection of this information until OMB has given its approval.

Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution or Use

In accordance with Executive Order 13211, BLM has determined that the proposed rule will not have substantial direct effects on the energy supply, distribution, or use, including a shortfall in supply or price increase.

List of Subjects

43 CFR Part 44

Administrative practice and procedure, Financial assistance-local governments, Grant programs-natural resources, Land Management Bureau, Loan programs-natural resources, Payments in lieu of taxes, Public lands, Public lands-mineral resources.

43 CFR Part 1880

Administrative practice and procedure, Financial assistance-local governments, Grant programs-natural resources, Land Management Bureau, Loan programs-natural resources, Payments in lieu of taxes, Public lands, Public lands-mineral resources.

Dated: November 22, 2004.

J. Steven Griles,
Deputy Secretary of the Interior.

■ For the reasons set forth in the preamble, subtitle A and Chapter II of title 43 of the Code of Federal Regulations are amended as set forth below:

43 CFR Subtitle A—Office of the Secretary of the Interior

■ 1. Part 44 is added to read as follows:

PART 44—FINANCIAL ASSISTANCE, LOCAL GOVERNMENTS

Sec.

General Information

- 44.10 What is the purpose of this subpart?
 44.11 What are the definitions of terms used in this subpart?
 44.12 Who is eligible to receive PILT payments?

Payments to Local Governments Containing Entitlement Lands

- 44.20 How does the Department process payments to local governments whose jurisdictions contain entitlement lands?
 44.21 How does the Department calculate payments to local governments whose jurisdictions contain entitlement lands?
 44.22 Are there any special circumstances that affect the way the Department calculates PILT payments?
 44.23 How does the Department certify payment computations?
 44.30 How does the Department make payments for acquired lands?
 44.31 How does the Department calculate payments for acquired lands?

Payments to Local Governments for Interest in Lands in the Redwood National Park or Lake Tahoe Basin

- 44.40 How does the Department process payments for lands in the Redwood National Park or Lake Tahoe Basin?
 44.41 How does the Department calculate payments for lands in the Redwood National Park or Lake Tahoe Basin?

State and Local Governments' Responsibilities After the Department Distributes Payments

- 44.50 What are the local governments' responsibilities after receiving payments under this part?
 44.51 Are there general procedures applicable to all PILT payments?
 44.52 May a State enact legislation to reallocate or redistribute PILT payments?
 44.53 What will the Department do if a State enacts distribution legislation?
 44.54 What happens if a State repeals or amends distribution legislation?
 44.55 Can a unit of general local government protest the results of payment computations?
 44.56 How does a unit of general local government file a protest?
 44.57 Can a unit of general local government appeal a rejection of a protest?

Authority: Public Law 94-565, 90 Stat. 2662, as amended, 31 U.S.C. 6901-6907.

General Information

§ 44.10 What is the purpose of this subpart?

This subpart sets forth procedures the Department of the Interior uses in disbursing Federal payments in lieu of

taxes to local governments for entitlement lands within their boundaries.

§ 44.11 What are the definitions of terms used in this subpart?

Entitlement land means land owned by the United States:

(1) That is in the National Park System or the National Forest System, including wilderness areas, and national forest lands in northern Minnesota described in 16 U.S.C. 577d-577d-1;

(2) That is administered by the Secretary of the Interior through the Office of the Secretary;

(3) That is dedicated to the use of the Government for water resource development projects;

(4) On which there are semiactive or inactive installations, excluding industrial installations, that the Department of Army keeps for mobilization and reserve component training;

(5) That is a dredge disposal area under the jurisdiction of the Army Corps of Engineers;

(6) That is located in the vicinity of Purgatory River Canyon and Pinon Canyon, Colorado, and was acquired by the United States after December 23, 1981, to expand the Fort Carson military installation; or

(7) That is a reserve area as defined in 16 U.S.C. 715s(g)(3), which is an area of land withdrawn from the public domain and administered, either solely or primarily, by the Secretary of the Interior, through the Fish and Wildlife Service.

Local government means a unit of general local government, which can include any of the following:

(1) A county, parish, township, borough, or city, (other than in Alaska), where the city is independent of any other unit of general local government, that:

(i) Is within the class(es) of such political subdivision in a State that the Secretary of the Interior determines, in his or her discretion, to be the principal provider(s) of governmental services within the State; and

(ii) Is a unit of general local government, as determined by the Secretary of the Interior on the basis of the same principles as were used by the Secretary of Commerce on January 1, 1983, for general statistical purposes;

(2) Any area in Alaska that is within the boundaries of a census area used by the Secretary of Commerce in the decennial census, but that is not included within the boundaries of a governmental entity described under paragraph (1) of this definition; or

(3) The Governments of the District of Columbia, the Commonwealth of Puerto Rico, Guam, and the Virgin Islands.

Payments in lieu of taxes (PILT) means Federal payments disbursed to local governments to compensate for the exemption of real estate taxes on entitlement lands within their boundaries.

Section 6902 (31 U.S.C. 6902) payments means Federal payments disbursed to local governments containing entitlement lands.

Section 6904 (31 U.S.C. 6904) payments means Federal payments disbursed to local governments for acquisitions or interest in lands acquired for addition to the National Park System or National Forest Wilderness Areas.

Section 6905 (31 U.S.C. 6905) payments means Federal payments disbursed to local governments for lands in the Redwood National Park or Lake Tahoe Basin.

§ 44.12 Who is eligible to receive PILT payments?

(a) Each local government containing entitlement lands may receive a PILT payment.

(b) A local government may not receive a payment for land owned or administered by a State or local government that was exempt from real estate taxes when the land was conveyed to the United States. However, a local government may receive a PILT payment for land when:

(1) A State or local government acquires from a private party to donate to the United States within eight years of acquisition;

(2) A State acquires through an exchange with the United States if the land acquired was entitlement land; or

(3) In the State of Utah, that the United States acquires for Federal land, royalties or other assets if, at the time of acquisition, a local government was entitled to receive payments in lieu of taxes from the State of Utah for the land; provided that the payment to the local government does not exceed the payment the State would have disbursed if the land had not been acquired.

Payments to Local Governments Containing Entitlement Lands

§ 44.20 How does the Department process payments to local governments whose jurisdictions contain entitlement lands?

This section describes how the Department processes payments to local governments whose jurisdictions contain entitlement lands (section 6902 payments).

(a) The Department:

(1) Determines the eligibility of each local government, conferring when necessary with the Bureau of the Census, officials of appropriate State and local governments, and officials of the agency administering the entitlement land;

(2) Computes the amount of the payment disbursed to each local government; and

(3) Certifies the amount of the payment disbursed to each local government.

(b) The Department disburses a payment each fiscal year to each local government containing entitlement lands.

(c) The State of Alaska is required to distribute the payment it receives to home rule cities and general law cities (as such cities are defined by the State) that are located within the boundaries of the local government entitled to the payment.

§ 44.21 How does the Department calculate payments to local governments whose jurisdictions contain entitlement lands?

(a) To calculate section 6902 payments, the Department obtains the necessary data on Federal and State payments from several sources:

(1) Federal agencies provide the amount of entitlement land within the boundaries of each local government as of the last day of the fiscal year preceding the fiscal year for which the Department disburses the payment;

(2) The Governor or designated official provides the amount of money transfers (land revenue sharing payments) disbursed by the State during the previous fiscal year to eligible local governments under the payment laws listed under 31 U.S.C. 6903(a)(1) and in paragraph (d) of this section; and

(3) The Bureau of the Census provides statistics on the population of each local government.

(b) The Department consults with the affected local government and the administering agency to resolve conflicts in land records and other data sources.

(c) The Department calculates the amount of payment using:

(1) The amount of actual appropriations;

(2) The formula in 31 U.S.C. 6903(b)(1), which includes inflation adjustments; and

(3) Federal and State payments disbursed during the previous fiscal year to local governments under the land payment laws listed under 31 U.S.C. 6903(a)(1).

(d) The laws listed in 31 U.S.C. 6903(a)(1) and referred to in paragraphs (a) and (c) of this section are:

(1) The Act of June 20, 1910 (Arizona and New Mexico Enabling Acts) (ch. 310, 36 Stat 557);

(2) Section 33 of the Bankhead-Jones Farm Tenant Act (7 U.S.C. 1012);

(3) The Act of May 23, 1908 (Knutson-Vandenberg Act regarding Forest Service timber sales contracts) (16 U.S.C. 500);

(4) Section 5 of the Act of June 22, 1948 (Payments to Minnesota from northern Minnesota National Forest receipts) (16 U.S.C. 577g-1);

(5) Section 401(c)(2) of the Act of June 15, 1935 (Payments to local governments from National Wildlife Refuge System receipts) (16 U.S.C. 715s(c)(2));

(6) Section 17 of the Federal Power Act (16 U.S.C. 810);

(7) Section 35 of the Act of February 25, 1920 (Mineral Leasing Act) (30 U.S.C. 191);

(8) Section 6 of the Mineral Leasing Act for Acquired Lands (30 U.S.C. 355);

(9) Section 3 of the Act of July 31, 1947 (Materials Act of 1947) (30 U.S.C. 603); and

(10) Section 10 of the Act of June 28, 1934 (Taylor Grazing Act) (43 U.S.C. 315i).

§ 44.22 Are there any special circumstances that affect the way the Department calculates PILT payments?

If a local government eligible for payments under this subpart reorganizes, the Department will:

(a) Calculate payments for the fiscal year in which the reorganization occurred as if the reorganization had not occurred; and

(b) Disburse any payment due to each new unit based on the amount of eligible acreage in that unit.

§ 44.23 How does the Department certify payment computations?

(a) The Department will certify a payment computation only after receiving a statement showing all land revenue sharing payments that each local government received from the State during the previous fiscal year. As used in this paragraph, "land revenue sharing payments" means payments made from revenues derived from the payment laws listed under 31 U.S.C. 6903(a)(1). The statement must:

(1) Be signed by the Governor or a designated official of the State in which the local government is located; and

(2) Be accompanied by a certification, signed by a State Auditor, an independent Certified Public Accountant, or an independent public accountant, that the statement has been audited in accordance with:

(i) Auditing standards established by the U.S. Comptroller General in

Standards of Audit of Governmental Organizations, Programs, Activities and Function, (available from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402); and

(ii) The Audit Guide for Payments in Lieu of Taxes issued by the Department of the Interior.

(b) The Department's Office of the Inspector General will assist the Department, under the provisions of sections 4 and 6 of the Inspector General Act of 1978 (5 U.S.C. Appendix), to implement and administer the audit requirements in paragraph (a)(2) of this section.

(c) The Office of the Inspector General will:

(1) Develop appropriate audit guidelines that State auditors, independent Certified Public Accountants, or independent public accountants must use to audit the statements of the Governors or their designated officials and to certify the audits; and

(2) Furnish copies of the guides to the Governor or designated official each year. You should send questions on the use or application of this guide to the Office of Inspector General, U.S. Department of the Interior, Washington, DC 20240.

(d) The Department may waive the requirement to certify audits if the General Accounting Office or the Office of the Inspector General verifies the information in statements the Governor or designated official furnishes or if the Department determines it is not necessary. Payments to Local Governments for Acquisitions or Interest in Lands Acquired for Addition to the National Park System or National Forest Wilderness Areas (31 U.S.C. 6904).

§ 44.30 How does the Department make payments for acquired lands?

This section describes how the Department disburses payments for Acquisitions or Interest in Lands Acquired for Addition to the National Park System or National Forest Wilderness Areas (section 6904 payments).

(a) The Department disburses section 6904 payments to qualified local governments only if the administering agency supplies the following information for each qualified local government:

(1) Acreage or interests in land for which the payments are authorized; and

(2) Any other information the Department may require to certify payments to each qualified local government.

(b) The Department disburses payments under this section only for a period of 5 years from the date the land was conveyed to the United States.

§ 44.31 How does the Department calculate payments for acquired lands?

The Department calculates section 6904 payments by determining 1 percent of the fair market value of the purchased land and comparing the result to the amount of real estate taxes paid on the land in the year before Federal acquisition. The payment to qualified local governments will be the lesser of the two.

Payments to Local Governments for Interest in Lands in the Redwood National Park or Lake Tahoe Basin

§ 44.40 How does the Department process payments for lands in the Redwood National Park or Lake Tahoe Basin?

This section describes how the Department disburses payments for lands in the Redwood National Park or Lake Tahoe Basin (section 6905 payments).

(a) The Department disburses payments to qualified local governments only if the administering agency supplies the following information for each qualified local government:

(1) Acreage or interests in land for which the payments are authorized; and
(2) Any other information the Department may require to certify payments to each qualified local government.

(b) The Department disburses payments until 5 percent of the fair market value is paid in full.

§ 44.41 How does the Department calculate payments for lands in the Redwood National Park or Lake Tahoe Basin?

(a) The Department calculates section 6905 payments by determining 1 percent of the fair market value of the purchased land and comparing the result to the amount of real estate taxes paid on the land in the year prior to Federal acquisition. The payment to qualified units of general local government will be the lesser of the two.

(b) The Department disburses payments annually for a period of 5 years beginning in the year immediately following the year of Federal acquisition of the land or interest.

(1) The difference, if any, between the amounts actually paid during each of the 5 years and 1 percent of the fair market value will be deferred to future years. However, a payment or any portion of a payment not paid because Congress appropriated insufficient monies will not be deferred.

(2) The Department will begin annual payment of the deferred amount (calculated the same as in paragraph (a) of this section) starting with the sixth fiscal year following Federal acquisition.

(3) The Department disburses payment of the deferred amount until the total amount deferred during the first 5 years is paid in full.

State and Local Governments' Responsibilities After the Department Distributes Payments

§ 44.50 What are the local governments' responsibilities after receiving payments under this part?

(a) The local government may use section 6902 payments for any governmental purpose.

(b) Within 90 days of receiving sections 6904 and 6905 payments, the local government must distribute the funds to the affected units of general local government and affected school districts. The affected units of general local government and school districts may use sections 6904 and 6905 payments for any governmental purpose.

(c) The local government must distribute section 6904 and 6905 payments in proportion to the tax revenues assessed and levied by the affected units of general local government and school districts in the Federal fiscal year before the Federal Government acquired the entitlement lands. The Redwoods Community College District in California is an affected school district for this purpose.

(d) Within 120 days of receiving payments, the local government must certify to the Department that it has made an appropriate distribution of funds.

§ 44.51 Are there general procedures applicable to all PILT payments?

(a) The minimum payment that the Department will disburse to any local government is \$100.00 (one hundred dollars).

(b) If Congress appropriates insufficient monies to provide full payment to each local government during any fiscal year, the Department will reduce proportionally all payments in that fiscal year.

§ 44.52 May a State enact legislation to reallocate or redistribute PILT payments?

A State may enact legislation to reallocate or redistribute PILT payments. If a State enacts legislation, it must:

(a) Notify the Department if the legislation requires reallocating or redistributing payments to smaller units

of general local government (see 31 U.S.C. 6907);

(b) Provide the Department a copy of the legislation within 60 days of enactment;

(c) Provide the name and address of the State government office to which the Department should send the payment;

(d) Distribute funds to its smaller units of general local government within 30 days of receiving the payment; and

(e) Not reduce the payment made to smaller units of general local government to pay the cost of State legislation which reallocates or redistributes payments.

§ 44.53 What will the Department do if a State enacts distribution legislation?

If a State enacts distribution legislation, the Department will:

(a) Notify the State that a single payment will be disbursed to the designated State government office beginning with the Federal fiscal year following the fiscal year in which the State enacted legislation; and

(b) Provide the State with information that identifies the entitlement lands data on which the Department bases the payment.

§ 44.54 What happens if a State repeals or amends distribution legislation?

(a) If a State repeals or amends distribution legislation, the State must immediately notify the Department in writing of this fact and send the Department a copy of the new law.

(b) When the Department receives a notification under paragraph (a) of this section, it must:

(1) Determine if the State's process complies with 31 U.S.C. 6907. If the Department determines that it does not, we must notify the designated State government office that the Department will disburse payment directly to the eligible local governments; and
(2) Start the payments:

(i) In the current Federal fiscal year, if the Department receives a copy of the State's amendatory legislation before July 1; or

(ii) Start the payments in the next Federal fiscal year, if the Department receives a copy of the State's amendatory legislation after July 1.

§ 44.55 Can a unit of general local government protest the results of payment computations?

Any affected local government may file a protest with the Department.

§ 44.56 How does a unit of general local government file a protest?

The protesting local government must:

(a) Submit evidence to indicate the possibility of errors in the computations

or the data on which the Department bases the computations; and

(b) File the protest by the first business day of the calendar year following the end of the fiscal year for which the Department made the payments.

§ 44.57 Can a unit of general local government appeal a rejection of a protest?

Any affected local government may appeal the Department's decision to reject a protest to the Interior Board of Land Appeals under 43 CFR part 4.

43 CFR CHAPTER II—BUREAU OF LAND MANAGEMENT, DEPARTMENT OF THE INTERIOR

PART 1880—[AMENDED]

■ 2. Subpart 1881 (§§ 1881.10 through 1881.57) is removed.

[FR Doc. 04-26803 Filed 12-6-04; 8:45 am]

BILLING CODE 4310-RK-P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 18

[ET Docket No. 98-42; FCC 04-263]

RF Lighting Devices

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document addresses a Joint Petition for Clarification (Joint Petition) filed by XM Radio Inc. and Sirius Satellite Radio Inc. (the Satellite Radio Licensees) requesting clarification of the Commission's *Order* in this proceeding. The Commission determined that there was no need to define out-of-band limits for radio frequency (RF) lights in the 2.45 GHz band. We dismissed the Joint Petition and reject the Satellite Radio Licensees' request to prohibit the operation of RF lights in the 2.45 GHz band. We further affirm our decision to terminate the proceeding without prejudice to its substantive merits.

FOR FURTHER INFORMATION CONTACT: Anh Wride, Office of Engineering and Technology, (202) 418-0577, e-mail: Anh.Wride@fcc.gov, TTY (202) 418-2989.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Order, ET Docket No. 98-42, FCC 04-263, adopted November 5, 2004 and released November 9, 2004. The full text of this document is available on the Commission's Internet site at <http://www.fcc.gov>. It is also available for

inspection and copying during regular business hours in the FCC Reference Center (Room CY-A257), 445 12th Street, SW., Washington, DC 20554. The full text of this document also may be purchased from the Commission's duplication contractor, Best Copy and Printing, Inc., Portals II, 445 12th Street, SW., Room CY-B402, Washington, DC 20554; telephone (202) 863-2893; fax (202) 863-2898.

Summary of the Report and Order

1. In the *Order*, the Commission determined that there was no need to define out-of-band limits for radio frequency (RF) lights in the 2.45 GHz band. The Commission dismissed the Joint Petition and rejected the Satellite Radio Licensees' request to prohibit the operation of RF lights in the 2.45 GHz band. We further affirm our decision to terminate the proceeding without prejudice to its substantive merits.

2. On April 1, 1998, the Commission adopted a *Notice of Proposed Rule Making* (NPRM), 63 FR 20362, April 24, 1998, in this proceeding. In the *NPRM*, the Commission proposed changes to part 18 to update the conducted emission limits for RF lighting devices operating in the 2.2-2.8 MHz band. The Commission also proposed more stringent out-of-band radiated emission limits for consumer and non-consumer RF lights in the 2400-2500 MHz (2.45 GHz) bands. In addition, because the existing regulations for RF lighting devices do not specifically include any radiated emission limits for RF lights operating at frequencies above 1000 MHz, the Commission proposed radiated emission limits for such products that are identical to the limits already in place for digital devices.

3. On June 9, 1999, the Commission adopted a *First Report and Order*, 64 FR 37417, July 12, 1999, in this proceeding that adopted less stringent conducted emission limits for RF lighting devices operating in the 2.51-3.0 MHz band, but deferred action on changes to the rules for RF lighting devices operating in the 2.45 GHz band to a future date. Subsequently, Fusion informed the Commission that it is no longer pursuing development of RF lights that operate in the 2.45 GHz band.

4. On May 27, 2003, the Commission adopted an *Order*, 68 FR 37112, June 23, 2003, terminating this proceeding as it found that with the passage of time, the record of the proceeding had become outdated and, furthermore, that Fusion, the only party that expressed interest in producing RF lights in the 2.45 GHz band, had ceased operations in this area. In the *Order*, the Commission concluded that there did not appear to

be a need for further Commission action in defining out-of-band limits for RF lights in the 2.45 GHz band at that time. The Commission therefore decided to terminate the proceeding without prejudice to its substantive merits and stated that should any party wish to pursue the issues in this proceeding in the future, the Commission would evaluate them in the context of a new proceeding.

5. On July 23, 2003, the Satellite Radio Licensees submitted a Joint Petition for Clarification in this proceeding, in which they seek specific clarification that RF lighting devices will not be permitted to operate in the 2.45 GHz band and that "before the Commission considers permitting any such operations, it will either establish another rulemaking, or provide ample notice to affected parties such as the Satellite Radio Licensees."

6. The Satellite Radio Licensees contend that in terminating the proceeding by the *Order*, the Commission has left satellite radio vulnerable to interference from RF lights that may seek to operate at the ISM miscellaneous out-of-band emission limit in the future. Finally, the Satellite Radio Licensees urge the Commission to clarify that RF lights are prohibited from operating in the 2.45 GHz band, unless and until the Commission concludes a new rulemaking in which a specific out-of-band limit is adopted for 2.45 GHz RF lights. To the extent that this relief is not given, the Satellite Radio Licensees request that the Commission provide potentially affected parties, including the Satellite Radio Licensees, an ample notice and opportunity to comment.

7. We disagree with the Satellite Radio Licensees' argument that by terminating the proceeding by the *Order*, the Commission has left satellite radio vulnerable to interference from RF lights operating in the 2.45 GHz band. There is no reason to believe that future RF lights designed by Fusion or any other party would be produced using the same unsuccessful design, the same operating frequencies or exhibit the same characteristics as evaluated in the Satellite Radio Licensees' Supplemental Comments. Furthermore, Fusion no longer develops or manufactures RF lights in the 2.45 GHz band and we are not aware that any other party is developing RF lights that would operate in this band.

8. We note that RF lights are already covered under our existing Part 18 rules and compliant equipment can be authorized according to our equipment authorization procedures. Although traditional low-frequency RF lights are treated as a distinct class in Part 18,