

**DEPARTMENT OF THE INTERIOR****Bureau of Indian Affairs****25 CFR Part 248**

RIN 1076-AD86

**Use of Columbia River Indian In-Lieu Fishing Sites**

**AGENCY:** Bureau of Indian Affairs, Interior.

**ACTION:** Proposed rule with request for comments.

**SUMMARY:** The Bureau of Indian Affairs (BIA) is writing into plain English the existing regulations governing the use of Columbia River Indian In-Lieu Fishing Sites. We are doing this as part of the President's regulatory reinvention initiative.

**DATES:** Comments must be submitted on or before December 29, 1997.

**ADDRESSES:** Submit comments on this rule to: Chuck James, Area Archeologist, Portland Area Office, Bureau of Indian Affairs, 911 NE. 11 Ave., Portland, OR 97232, (503) 231-6229.

**FOR FURTHER INFORMATION CONTACT:** Chuck James (Area Archeologist), (503) 231-6229.

**SUPPLEMENTARY INFORMATION:** The purpose of this rulemaking is to revise the regulations governing the use of Columbia River Indian In-Lieu Fishing Sites. We have written these regulations in plain English to make them easier for users to read and understand.

**Executive Order 12988**

The Department has certified to the Office of Management and Budget (OMB) that these proposed regulations meet the applicable standards provided in sections 3(a) and 3(b)(2) of Executive Order 12988.

**Executive Order 12866**

This proposed rule is not a significant regulatory action and does not require Office of Management and Budget review under Executive Order 12866.

**Regulatory Flexibility Act**

This rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

**Executive Order 12630**

The Department has determined that this rule does not have significant "takings" implications. The rule does not pertain to "taking" of private property interests, nor does it impact private property.

**Executive Order 12612**

The Department has determined that this rule does not have significant Federalism effects because it pertains solely to Federal-tribal relations and will not interfere with the roles, rights, and responsibilities of states.

**NEPA Statement**

The Department has determined that this rule does not constitute a major Federal action significantly affecting the quality of the human environment and that no detailed statement is required under the National Environmental Policy Act of 1969.

**Paperwork Reduction Act of 1995**

This rule does not contain any collection of information requiring approval under the Paperwork Reduction Act of 1995.

**Unfunded Mandates Reform Act of 1995**

This rule imposes no unfunded mandates on any governmental or private entity and is in compliance with the provisions of the Unfunded Mandates Reform Act of 1995.

**Drafting Information**

The primary author of this document is Chuck James, Area Archaeologist, Bureau of Indian Affairs, Department of the Interior.

**List of Subjects in 25 CFR Part 248**

Fisheries, Fishing, Indians, Indians—claims, Indians—law.

For the reasons set out in the preamble, Bureau of Indian Affairs proposes to revise part 248 as follows:

**PART 248—USE OF COLUMBIA RIVER INDIAN IN-LIEU FISHING SITES**

Sec.

- 248.1 What definitions apply to this part?
- 248.2 What lands are subject to these regulations in this part?
- 248.3 Who is eligible to use Columbia River in-lieu fishing sites?
- 248.4 How may I use the sites?
- 248.5 What identification do I need in order to use a site?
- 248.6 What requirements must I obey in order to be able to use a site?
- 248.7 How does this part affect tribal treaty rights?
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- 248.9 Can I build a structure on a site?
- 248.10 What sanitation requirements must I meet?
- 248.11 What am I responsible for if I use the facilities?
- 248.12 What will happen if I abandon property?
- 248.13 What other restrictions apply to use of the sites?

248.14 Will I have to pay to use a site?

248.15 Can I appeal an administrative action?

**Authority:** 5 U.S.C. 301; 25 U.S.C. 2, 9.

**§ 248.1 What definitions apply to this part?**

*Abandoned property* means property left at a site while the owner of the property is not actively engaged in fishing or drying or processing fish. Abandoned property may include:

- (1) Vehicles;
- (2) Mobile trailers;
- (3) Campers;
- (4) Tents;
- (5) Tepees;
- (6) Boats; or
- (7) Other personal property.

*Area Director* means the position responsible for administration of the Portland Area of the Bureau of Indian Affairs.

*Campfire* means fire, not within any building, motor home or trailer, that is used for cooking, personal warmth, lighting, ceremonial or aesthetic purposes.

*Damage* means to injure, mutilate, deface, destroy, cut, chop, girdle, dig, excavate, kill, or in any way harm or disturb.

*In-lieu fishing sites* means any lands acquired by the Secretary of War and transferred to the Secretary of the Interior pursuant to the Act of March 2, 1945 (59 Stat. 22) as amended to replace Indian fishing grounds submerged or destroyed as a result of the construction of the Bonneville Dam.

*Secretary* means the Secretary of the Interior or his/her designee.

*Site* means an in-lieu fishing site as defined in this section.

*Vehicle* means any device in, upon, or by which any person or property is or may be transported, and including any motor, frame, chassis, or body of any motor vehicle, or camper shell, except devices used exclusively upon stationary rails or tracks.

**§ 248.2 What lands are subject to the regulations in this part?**

This part applies to in-lieu fishing sites as defined in § 248.1.

**§ 248.3 Who is eligible to use Columbia River in-lieu fishing sites?**

Members of the general public may not use Columbia River in-lieu fishing sites. You may use a site only if:

(a) You are a member of any of the following tribes:

- (1) Yakama;
- (2) Umatilla;
- (3) Warm Springs; or
- (4) Any other tribe that had treaty fishing rights that were inundated or destroyed by the Bonneville Dam; and

(b) You comply with the requirements of this part and of any additional guidance that the Area Director may issue to implement this part.

#### **§ 248.4 How may I use the sites?**

If you meet the criteria in § 248.3, you may use a site:

- (a) For access to usual and accustomed fishing areas and ancillary facilities; and
- (b) For camping with your family (while you are fishing?).

#### **§ 248.5 What identification do I need in order to use a site?**

(a) When you use a site you must have with you either:

- (1) Your tribal identification card; or
- (2) If you belong to a tribe specified in § 248.3(a)(4), a special identification issued by the Area Director.

(b) You must show the identification required in paragraph (a) of this section to any authorized Federal, State, or local official who asks to see it.

#### **§ 248.6 What requirements must I obey in order to be able to use a site?**

(a) You may use a site only if you obey:

- (1) The requirements of tribal, State, and Federal laws and regulations (unless they conflict with your treaty tribe's rights); and

(2) Any additional requirements that the Area Director may develop to implement this part.

(b) The Area Director may suspend or withdraw your access and use privileges if you do not follow the requirements of this section.

#### **§ 248.7 How does this part affect tribal treaty rights?**

(a) This part does not limit or affect the treaty rights of any tribe.

(b) You are not required to obey State fishing laws or regulations if:

- (1) You are an Indian properly exercising tribal treaty rights; and
- (2) The State laws or regulations are not compatible with your treaty rights.

#### **§ 248.8 What will happen if I damage government-owned property?**

If you commit any act of vandalism, depredation, destruction, theft, or misuse of land, buildings, fences, signs, or other structures that are the property of the United States, you can be prosecuted under applicable Federal or State law.

#### **§ 248.9 Can I build a structure on a site?**

You may erect, place, or maintain dwellings, camping facilities, and other structures (such as fish drying facilities and fish platforms) if you need them for treaty fishing or related activities.

#### **§ 248.10 What sanitation requirements must I meet?**

(a) You must use the sites in conformance with the health, sanitation, and safety requirements of State or local law. If there are no appropriate State or local laws, you must follow the health, sanitation, and safety requirements of the U.S. Public Health Service.

(b) The Area Director may suspend or withdraw your access and use privileges if:

- (1) You violate the requirements referred to in paragraph (a) of this section; and
- (2) You repeat the violation after having been given a notice to cease and desist.

#### **§ 248.11 What am I responsible for if I use the facilities?**

(a) You are responsible for:

- (1) Campsites, drying sheds and other facilities during the time you occupy or use them; and

(2) Any personal property that you erect, place, or maintain on the site during the time you occupy the site, including:

- (i) Tents;
- (ii) Tepees;
- (iii) Campers;
- (iv) Mobile trailers;
- (v) Temporary drying sheds; and
- (vi) Fishing platforms.

(b) Neither the United States nor any of its employees is responsible for the safety or condition of any personal property.

#### **§ 248.12 What will happen if I abandon property?**

If you abandon property at a site, it may be removed without your consent and disposed of at your expense, if the Area Director approves.

#### **§ 248.13 What other restrictions apply to use of the sites?**

The Area Director may prescribe and post at the sites regulations covering:

- (a) Camping;
- (b) Picnicking;
- (c) Use of alcoholic beverages;
- (d) Setting or use of fires;
- (e) Use of the sites for cleaning fish;
- (f) Deposit of garbage, paper, cans, bottles, or rubbish of any kind; or
- (g) Use of the sites for any commercial activity (including commercial purchase of fish).

#### **§ 248.14 Will I have to pay to use a site?**

No. Neither you nor any member of your family will be charged for using a site in accordance with this part.

#### **§ 248.15 Can I appeal an administrative action?**

You may appeal any decision made by the Area Director under this part to

the Commissioner of Indian Affairs. You may appeal any decision of the Commissioner of Indian Affairs to the Secretary of the Interior in accordance with part 2 of this chapter.

Dated: October 17, 1997.

**Ada E. Deer,**

*Assistant Secretary—Indian Affairs.*

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## **DEPARTMENT OF THE TREASURY**

### **Internal Revenue Service**

#### **26 CFR Parts 1 and 301**

[REG-105162-97]

RIN-1545-AV16

#### **Treatment of Changes in Elective Entity Classification**

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Notice of proposed rulemaking and notice of public hearing.

**SUMMARY:** This document contains proposed regulations addressing elective changes in entity classification. The proposed regulations describe how elective changes in classification will be treated for federal tax purposes. The proposed regulations would affect business entities and their members. This document also contains a notice of public hearing on these proposed regulations.

**DATES:** Written comments must be received by January 26, 1998. Requests to speak (with outlines of oral comments) at the public hearing scheduled for February 24, 1997, must be submitted by January 26, 1998.

**ADDRESSES:** Send submissions to: CC:DOM:CORP:R (REG-105162-97), room 5228, Internal Revenue Service, POB 7604, Ben Franklin Station, Washington, DC 20044. In the alternative, submissions may be hand delivered between the hours of 8 a.m. and 5 p.m. to: CC:DOM:CORP:R (REG-105162-97), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC. Alternatively, taxpayers may submit comments electronically via the Internet by selecting the "Tax Regs" option of the IRS Home Page, or by submitting comments directly to the IRS Internet site at: <http://www.irs.ustreas.gov/prod/tax-regs/comments.html>. The public hearing will be held in room 2615, Internal Revenue Building, 1111 Constitution Avenue, NW., Washington, DC.