

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

25 CFR Part 248

[201A2100DD/AAKC001030/
AOA501010.999900253G]

RIN 1076-AF61

Columbia River In Lieu Fishing Sites

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Final rule; technical amendment.

SUMMARY: This rule replaces references to outdated position titles and office names with references to current positions and offices and corrects two typographical errors. These corrections will clarify the regulation, including clarifying that appeals of decisions of the Bureau of Indian Affairs (BIA) Regional Director made regarding Columbia River In-Lieu Fishing Sites go to the Assistant Secretary.

DATES: Effective November 17, 2020.

FOR FURTHER INFORMATION CONTACT: Ms. Elizabeth Appel, Director, Office of Regulatory Affairs & Collaborative Action, Office of the Assistant

Secretary—Indian Affairs, (202) 273–4680, *elizabeth.appel@bia.gov*.

SUPPLEMENTARY INFORMATION: The current regulation at 25 CFR part 248 addresses rights of persons to use “in lieu fishing sites,” which are lands acquired by the Secretary of War and transferred to the Secretary of the Interior in 1945, to replace Indian fishing grounds submerged or destroyed as a result of the construction of the Bonneville Dam. See 59 Stat. 22. The regulations refer to outdated positions and offices. This rule updates those outdated terms as shown in the table below:

Outdated term	Updated term	Sections affected
Area Director	Regional Director	248.1, 248.3, 248.4, 248.6, 248.8, 248.9, 248.10
Portland Area Office	Northwest Regional Office	248.1
Commissioner of Indian Affairs	Assistant Secretary—Indian Affairs	248.10

These changes are necessary to clarify who is responsible for the actions listed in these sections and to clarify in § 248.10 that decisions of the Regional Director go to the Assistant Secretary—Indian Affairs, rather than any other official.

This rule also corrects two typographical errors. The first, in § 248.2, uses the term “is accordance” instead of “in accordance.” The second, in § 248.10, refers to a decision “on” the official, rather than “of” the official.

A. Regulatory Planning and Review (E.O. 12866)

Executive Order (E.O.) 12866 provides that the Office of Information and Regulatory Affairs (OIRA) at the Office of Management and Budget (OMB) will review all significant rules. OIRA has determined that this rule is not significant.

E.O. 13563 reaffirms the principles of E.O. 12866 while calling for improvements in the Nation’s regulatory system to promote predictability, to reduce uncertainty, and to use the best, most innovative, and least burdensome tools for achieving regulatory ends. The E.O. directs agencies to consider regulatory approaches that reduce burdens and maintain flexibility and freedom of choice for the public where these approaches are relevant, feasible, and consistent with regulatory objectives. E.O. 13563 emphasizes further that regulations must be based on the best available science and that the rulemaking process must allow for public participation and an open exchange of ideas. We have developed

this rule in a manner consistent with these requirements.

B. Reducing Regulatory and Controlling Regulatory Costs (E.O. 13771)

This action is not an E.O. 13771 regulatory action because this rule is not significant under Executive Order 12866.

C. Regulatory Flexibility Act

The Department of the Interior certifies that this document will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). It does not change current funding requirements and would not impose any economic effects on small governmental entities.

D. Small Business Regulatory Enforcement Fairness Act

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act, because this rule only replaces outdated references to position titles. This rule:

- (a) Will not have an annual effect on the economy of \$100 million or more.
- (b) Will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions.
- (c) Will not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of the U.S.-based enterprises to compete with foreign-based enterprises.

E. 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. The rule does not have a significant or unique effect on State, local, or Tribal governments or the private sector. A statement containing the information required by the Unfunded Mandates Reform Act (2 U.S.C. 1531 *et seq.*) is not required.

F. Takings (E.O. 12630)

This rule does not effect a taking of private property or otherwise have taking implications under E.O. 12630. A takings implication assessment is not required.

G. Federalism (E.O. 13132)

Under the criteria in section 1 of E.O. 13132, this rule does not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement. A federalism summary impact statement is not required.

H. Civil Justice Reform (E.O. 12988)

This rule complies with the requirements of E.O. 12988. Specifically, this rule: (a) Meets the criteria of section 3(a) requiring that all regulations be reviewed to eliminate errors and ambiguity and be written to minimize litigation; and (b) meets the criteria of section 3(b)(2) requiring that all regulations be written in clear language and contain clear legal standards.

I. Consultation With Indian Tribes (E.O. 13175)

The Department of the Interior strives to strengthen its government-to-government relationship with Indian Tribes through a commitment to consultation with Indian Tribes and recognition of their right to self-governance and Tribal sovereignty. We have evaluated this rule under the Department's consultation policy and under the criteria in E.O. 13175 and have determined there are no substantial direct effects on federally recognized Indian Tribes that will result from this rulemaking because the rule is limited to updating outdated terms.

J. Paperwork Reduction Act

This rule does not contain information collection requirements, and a submission to the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) is not required. We may not conduct or sponsor and you are not required to respond to a collection of information unless it displays a currently valid OMB control number.

K. National Environmental Policy Act

This rule does not constitute a major Federal action significantly affecting the quality of the human environment. A detailed statement under the National Environmental Policy Act of 1969 (NEPA) is not required because this is an administrative and procedural regulation. (For further information see 43 CFR 46.210(i)). We have also determined that the rule does not involve any of the extraordinary circumstances listed in 43 CFR 46.215 that would require further analysis under NEPA.

L. Effects on the Energy Supply (E.O. 13211)

This rule is not a significant energy action under the definition in E.O. 13211. A Statement of Energy Effects is not required.

M. Determination To Issue Final Rule Without the Opportunity for Public Comment and With Immediate Effective Date

BIA is taking this action under its authority, at 5 U.S.C. 552, to publish regulations in the **Federal Register**. Under the Administrative Procedure Act, statutory procedures for agency rulemaking do not apply "when the agency for good cause finds . . . that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest." 5 U.S.C. 553(b)(3)(B). BIA finds that the notice

and comment procedure are impracticable, unnecessary, or contrary to the public interest, because: (1) These amendments are non-substantive; and (2) the public benefits for accurate identification of agency officials, and further delay is unnecessary and contrary to the public interest. Similarly because this final rule makes no substantive changes and merely reflects updates to titles in the existing regulations, this final rule is not subject to the effective date limitation of 5 U.S.C. 553(d).

List of Subjects in 25 CFR Part 248

Fishing, Indians.

For the reasons stated in the preamble, the Department of the Interior, Bureau of Indian Affairs, amends part 248 in title 25 of the Code of Federal Regulations as follows:

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

■ 1. The authority for part 248 continues to read as follows:

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

§ 248.1 [Amended]

■ 2. In § 248.1, remove the words "following rules and regulations" and "Portland Area Office" and add, in their place, the words "rules and regulations in this part" and "Northwest Regional Office," respectively.

§ 248.2 [Amended]

■ 3. In § 248.2, remove the words "in accordance" and add, in their place, the words "in accordance."

§ 248.10 [Amended]

■ 4. In § 248.10:

■ a. Remove the reference "this part 248" and add, in its place, the reference "this part."

■ b. Remove the words "to the Commissioner of Indian Affairs" and add, in their place, the words "to the Assistant Secretary—Indian Affairs"; and

■ c. Remove the words "on the Commissioner of Indian Affairs" and add, in their place, "of the Assistant Secretary—Indian Affairs".

§§ 248.1, 248.3, 248.4, 248.6, 248.8, 248.9, and 248.10 [Amended]

■ 5. In 25 CFR part 248, remove the words "Area Director" and add, in their place, the words "Regional Director" wherever they appear in the following places:

- a. Section 248.1;
- b. Section 248.3;
- c. Section 248.4;
- d. Section 248.6;

- e. Section 248.8;
- f. Section 248.9; and
- g. Section 248.10.

Tara Sweeney,

Assistant Secretary—Indian Affairs.

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DEPARTMENT OF DEFENSE**Office of the Secretary****32 CFR Part 199**

[Docket ID: DOD–2017–HA–0058]

RIN 0720–AB71

TRICARE: Referring of Physical Therapy and Occupational Therapy by Doctors of Podiatric Medicine Acting Within the Scope of Their License

AGENCY: Office of the Secretary, Department of Defense (DoD).

ACTION: Final rule.

SUMMARY: The DoD is amending its TRICARE regulation. Specifically, this rule allows coverage of otherwise authorized physical therapy (PT) and occupational therapy (OT) for TRICARE beneficiaries when such services are referred by a TRICARE-authorized Doctor of Podiatric Medicine, also known as a Podiatrist, acting within the scope of his/her license.

DATES: This rule is effective December 17, 2020.

FOR FURTHER INFORMATION CONTACT: Amber Butterfield, Defense Health Agency, TRICARE Health Plan, Medical Benefits and Reimbursement Section, (303) 676–3565 or amber.l.butterfield.civ@mail.mil.

SUPPLEMENTARY INFORMATION:**I. Executive Summary****A. Purpose of the Rule**

This rule permits coverage of services referred by TRICARE-authorized Podiatrists for PT and OT. Prior to the issuance of this regulatory action, the language of Title 32 Code of Federal Regulations (CFR), § 199.4(c)(3)(x) stated that PT and OT may be cost-shared when services are referred and monitored by a physician, certified physician assistant, or certified nurse practitioner. As a result, otherwise authorized PT and OT services for TRICARE beneficiaries were not covered benefits when Podiatrists (even when acting within their scope of license) referred the services. Podiatrists are included in the provider category of "Other allied health professional" listed