

and recovery of the species in the wild; and

5. Any other measures that the Service may require as being necessary or appropriate for the purposes of the HCP to be met.

#### The Habitat Conservation Plan

The District is administering development of a regional HCP on behalf of the five counties that comprise the San Luis Valley—Alamosa, Conejos, Costilla, Rio Grande, and Saguache Counties. Within the San Luis Valley, certain agricultural and other economic activities could inadvertently harm the endangered southwestern willow flycatcher (*Epidonax traillii extimus*) (flycatcher) and other listed bird species, and would be subject to regulation by the Service if there were a Federal nexus or take involved in the activity. These activities include operation, maintenance, and construction of diversions, ditches, canals, roads, bridges and utility lines; livestock grazing and agricultural practices; tamarisk and noxious weed control; and floodplain maintenance near towns and cities. Rather than seek ESA compliance for these activities on a case-by-case basis, the District will prepare a single, regional conservation plan that will be more efficient and effective in providing for the long-term protection and conservation of the flycatcher and other listed bird species and their habitat while allowing for the continuation of agricultural and other economic activities in the San Luis Valley.

The District intends to apply for an incidental take permit for the flycatcher, bald eagle (*Haliaeetus leucocephalus*), and yellow-billed cuckoo (*Coccyzus americanus*). The District also may seek to cover other rare and/or sensitive species that may be affected by the identified activities in the San Luis Valley. The ITP would become effective for unlisted species, such as the yellow-billed cuckoo, that are adequately covered by the HCP upon listing of such species as threatened or endangered by the Service. Other species for which the District is not seeking permit coverage also may benefit from the conservation measures provided in the HCP.

After receipt of the District's permit application and draft HCP, the Service will publish a notice of availability and request for comment. The draft HCP is planned for release in July 2005.

#### Environmental Review

The Service and the District are proposing to conduct an environmental review of the proposed issuance of an ITP and the associated proposed HCP

and to prepare an environmental document to assess potential impacts related to the ecosystem and the human environment. The District will administer development and coordinate implementation of the HCP, as required by section 10(a)(1)(B) of the ESA. The HCP will provide measures to minimize and mitigate the impacts of the proposed take of listed species and reduce impacts to the habitat upon which they depend.

The environmental review will consider the proposed action, no action (*i.e.*, no permit issuance), a reasonable range of alternatives, and the associated impacts of each alternative. A detailed description of the proposed action and alternatives (including no action) will be included in the environmental document. We anticipate that several alternatives will be developed, which may vary by the level of impacts caused by the proposed activities, their specific locations, and the conservation measures involved.

The NEPA document will identify potentially significant direct, indirect, and cumulative impacts on biological resources, land use, air quality, water quality, water resources, economics, and other environmental issues that could occur with the implementation of the Service's proposed actions and alternatives. For all potentially significant impacts, the NEPA document will identify avoidance, minimization, and mitigation measures to reduce these impacts where feasible, to a level below significance.

The Service will conduct the proposed environmental review in accordance with the requirements of NEPA, its implementing regulations, other appropriate Federal laws and regulations, and policies and procedures of the Service for compliance with those regulations. We are publishing this notice in accordance with section 1501.7 of the NEPA regulations to obtain suggestions and information from other agencies and the public on the scope of issues and alternatives to be addressed in the environmental document. The primary purpose of the scoping process is to identify, rather than to debate, significant issues related to the proposed action. We invite comments and suggestions from all interested parties to ensure that a reasonable range of alternatives is addressed and that all potentially significant issues are identified. All comments received, including names and addresses, will become part of the official administrative record and may be made available to the public. We will fully consider all comments received during the comment period.

Dated: December 16, 2004.

**Richard A. Coleman,**

*Acting Deputy Regional Director, Denver, Colorado.*

[FR Doc. 05-324 Filed 1-6-05; 8:45 am]

BILLING CODE 4310-55-P

## DEPARTMENT OF THE INTERIOR

### Bureau of Indian Affairs

#### Forest County Potawatomi Community—Sale and Consumption of Alcoholic Beverages

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

**ACTION:** Notice.

**SUMMARY:** This notice publishes the Forest County Potawatomi Community Liquor Control Ordinance. The Ordinance regulates and controls the possession, sale and consumption of liquor within the Forest County Potawatomi Community. The land is located on trust land and this Ordinance allows for the possession and sale of alcoholic beverages within the Forest County Potawatomi Community and will increase the ability of the tribal government to control the Community's liquor distribution and possession, and at the same time will provide an important source of revenue for the continued operation and strengthening of the tribal government and the delivery of tribal services.

**DATES:** *Effective Date:* This Act is effective on January 7, 2005.

**FOR FURTHER INFORMATION CONTACT:** De Springer, Regional Tribal Operations Officer, Bureau of Indian Affairs, Midwest Regional Office, Bishop Henry Whipple Federal Building, One Federal Drive, Room 550, Ft. Snelling, MN 55111, Phone (612) 713-4400, ext 1125, Fax (612) 713-4401; or Ralph Gonzales, Office of Tribal Services, 1951 Constitution Avenue, NW., MS-320-SIB, Washington, DC 20240; Telephone (202) 513-7629.

**SUPPLEMENTARY INFORMATION:** Pursuant to the Act of August 15, 1953, Public Law 83-277, 67 Stat. 586, 18 U.S.C. 1161, as interpreted by the Supreme Court in *Rice v. Rehner*, 463 U.S. 713 (1983), the Secretary of the Interior shall certify and publish in the **Federal Register** notice of adopted liquor ordinances for the purpose of regulating liquor transactions in Indian country. The Forest County Potawatomi Community adopted its Ordinance by Resolution No. GC 004-91 on December 14, 1991. The purpose of this Ordinance is to govern the sale, possession and

distribution of alcohol within the Forest County Potawatomi Community.

This notice is published in accordance with the authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs.

I certify that this Liquor Ordinance, of the Forest County Potawatomi Community, was duly adopted by Resolution No. GC 004–91 on December 14, 1991.

Dated: December 23, 2004.

**David W. Anderson,**

*Assistant Secretary—Indian Affairs.*

The Forest County Potawatomi Community Liquor Ordinance reads as follows:

Liquor Ordinance  
Adopted 12/14/91

### **Liquor Control Ordinance**

*Forest County Potawatomi Community of Wisconsin*

Whereas, Public Law 277, 83rd Congress, 1st Session, approved August 15, 1953 and codified at sec. 1161 of Title 18, United States Code, provides that Sections 1154, 1156, 3113, 3488, 3618 of Title 18 of the United States Code shall not apply within any area that is not Indian Country, nor to any act or transaction within any area of Indian Country, provided such act or transaction is in conformity both with the laws of the State in which such act or transaction occurs and with an ordinance duly adopted by the Tribe having jurisdiction over such area of Indian Country, certified by the Secretary of the Interior, and published in the **Federal Register**; and

Whereas, it is the desire of the General Council of the Forest County Potawatomi Community of Wisconsin to adopt a Liquor Control Ordinance in the Indian Country that lies within the jurisdiction of the Community, and

Whereas, the General Council of the Forest County Potawatomi Community of Wisconsin has the authority to adopt ordinances regulating liquor in the Indian Country that lies within the jurisdiction of the Community, by virtue of the provisions of Article IV, section 1(d) of the Constitution of the Forest County Potawatomi Community of Wisconsin, adopted June 5, 1982;

Now therefore be it resolved that the General Council of the Forest County Potawatomi Community of Wisconsin authorizes the issuance of licenses for on-premises sale of alcohol beverages within the Indian Country that lies within the jurisdiction of the Community, provided:

#### 1. Licenses

A. Licenses for the sale of alcohol beverages may be issued only for sale of such beverages on the premises of businesses owned and regulated by the Forest County Potawatomi Community.

B. Licenses issued to businesses owned by the Forest County Potawatomi Community for the sale of alcohol shall be issued by the Executive Council of the Community, upon receipt by the Executive Council of a proper

application containing the following information:

(1) The name of the entity that regulates the Community business at which the sale of alcohol beverages would take place. Such entity shall be the license applicant. No individual or private entity may apply for or receive a license under this Ordinance.

(2) A copy of the Community ordinance or resolution under which the applicant entity is organized.

(3) A description of the land or building owned by the Community and regulated by the applicant entity at which the applicant entity wishes to sell alcohol beverages.

(4) A statement that the applicant entity will conform to all requirements of applicable Tribal, State and Federal law, as they relate to the purchase and sale of alcohol beverages.

C. Upon receipt of a proper application under this Ordinance, licenses for sale of alcohol beverages may be issued by the Executive Council of the Community to a Tribal entity of the Community if the Executive Council finds, in its sound discretion, on the basis of the facts disclosed by the application and by such additional information as the Executive Council may deem relevant, that such issuance is in the interest of the Community.

D. Licenses for the sale of alcohol beverages issued by the Executive Council shall contain the following requirements:

(1) Each license shall require its holder to conform its operations to the laws of the Community, the State of Wisconsin and the United States of America.

(2) No license shall be effective for a term of more than one year from the date of its issuance, and each renewal thereof shall be subject to the same procedures that apply to the initial issuance of a license.

(3) Each license shall explicitly state that its continued validity is dependent upon the compliance of its holder with all the provisions of this Ordinance and other applicable law.

E. The Executive Council of the Community shall have the authority to suspend or revoke any license issued under this Ordinance, under the following procedures:

(1) Upon receiving information suggesting that the holder of a license under this Ordinance may have violated the terms of the license or applicable law, the Executive Council shall give the license holder written notice that the Executive Council intends to suspend or revoke the holder's license. Such notice shall be sent by certified mail, return receipt requested, to the agent of the license holder and shall specify the grounds for the proposed suspension or revocation.

(2) Any license holder who receives a notice of a proposed suspension or revocation may request a hearing by the Executive Council, by sending a written request therefor, certified mail, return receipt requested, to the Chairman of the Forest County Potawatomi Community, at the Community's Tribal Center, within seven (7) days of the license holder's receipt of the notice.

(3) Upon receipt of a request for a hearing under this Ordinance, the Executive Council

shall set a date for a hearing, which shall be not later than thirty days from the date of the receipt of the hearing request.

(4) At a hearing held under this Ordinance, the holder of a license under this Ordinance shall be permitted to present evidence with respect to the holder's compliance with the terms of its license and applicable law. In reaching its decision, the Executive Council may consider such evidence, together with all other evidence it deems relevant. Following a hearing, if in the judgment of the Executive Council the license holder has not complied with the terms of its license and applicable law, the Executive Council shall suspend or revoke its license; and if in the judgment of the Executive Council the terms of the license and applicable law have been complied with, the proceedings shall be dismissed. In either case, the decision of the Executive Council shall be final.

F. The Executive Council of the Forest County Potawatomi Community may reject any application for a license, or for a renewal of a license, under this Ordinance, if the applicant previously has committed acts which have resulted in the suspension or revocation of a license under this Ordinance.

#### 2. Agent

Any tribally owned entity licensed under this Ordinance shall appoint, subject to the approval and confirmation of the Tribal Executive Council, an agent who shall have full authority and control of the premises and of the conduct of all business on the premises relative to alcohol beverages. This person shall also be the person designated by Wis. Stats. sec. 125.04(6) requiring the appointment of agents.

#### 3. Authority of the Tribal Executive Council

A. The Tribal Executive Council, or any individual member thereof or any person acting with prior written authorization of the Tribal Executive Council may enter any premises licensed under this ordinance at any time to observe the activities taking place.

B. Written authorization may be enacted at a closed session of the Tribal Executive Council and remain confidential until any report made by such person is before the Tribal Executive Council for action or until such person seeks to gain access to the premises of any Tribally licensed facility during normal closed hours in which case it shall be presented to the Manager on duty at the time, and said Manager shall immediately admit the person to the premises.

C. Tribal Executive Council members do not need such written authorization and may enter any Tribally licensed facility at any time upon identifying themselves if such admission is sought during normal closed hours.

#### 4. Separate Licenses for Each Facility

Each tribally owned entity licensed under this Ordinance shall be required to file a separate application and hold a separate license for each facility it operates.

#### 5. Transfer of Licenses Prohibited

No license issued under this Ordinance may be transferred to any other entity or person.

## 6. State Law Applicable

The Forest County Potawatomi Community recognizes the applicability of general State law governing the sales of alcohol beverages.

## 7. State Law Adopted

The Forest County Potawatomi Community hereby adopts for purpose of Tribal enforcement against any entity licensed by the Tribe under this Ordinance that following provisions of Chapter 125 of the Wisconsin Statutes, as modified below:

- 125.02 Definitions. Except as otherwise provided, in this Ordinance:
- 125.02(1) "Alcohol beverages" means fermented malt beverages and intoxicating liquor. Wine defined below is included in this definition.
- 125.02(6) "Fermented malt beverage" means any beverage made by the alcohol fermentation of an infusion in potable water of barley malt and hops, with or without unmalted grains or decorticated and degerminated grains or sugar containing 0.5% or more alcohol by volume.
- 125.02(8) "Intoxicating liquor" means all ardent, spirituous, distilled or vinous liquors, liquids or compounds, whether medicated, proprietary, patented or not, and by whatever named called, containing 0.5% or more of alcohol by volume, which are beverages, but does not include "fermented malt beverages".
- 125.02(8m) "Legal drinking age" means 21 years of age.
- 125.02(14) "Person" means a natural person, sole proprietorship, partnership, corporation or association.
- 125.02(14m) "Premises" means the area described in a license.
- 125.02(17) "Regulation" means any rule adopted by the Tribal Executive Council or Ordinance adopted by the Tribal General Council.
- 125.02(20) "Sell", "sold", "sale" or "selling" means any transfer of alcohol beverages with consideration or any transfer without consideration if knowingly made for purposes of evading the law relating to the sales of alcohol beverages or any shift, devise, scheme or transaction for obtaining alcohol beverages, including the solicitation of orders for, or the sale for future delivery of, alcohol beverages.
- 125.02(20m) "Underage person" means a person who has not attained the legal drinking age.
- 125.02(22) "Wine" means products obtained from the normal alcohol fermentation of the juice or must of sound, ripe grapes, other fruits or other agricultural products, imitation wine, compounds sold as wine, vermouth, cider, perry, mead and sake, if such products contain 0.5% or more of alcohol by volume.
- 125.04(1) General licensing requirements. No person may sell, manufacture, rectify, brew or engage in any other activity for which this Ordinance provides a license without holding an appropriate license issued under this Ordinance.
- 125.04(2) Licenses issued in violation of this Ordinance. No license may be issued

to any person except as provided in this Ordinance. Any license issued in violation of this ordinance is void.

- 125.04(10) License framed and posted. (a) Frame. Licenses for the sale of alcohol beverages, shall be enclosed in a frame having a transparent front which allows the license to be clearly read. (b) Display. All licenses shall be conspicuously displayed for public inspection at all times in the room or place where the activity subject to licensure is carried on.
- 125.07 Underage and intoxicated persons; presence on licensed premises; possession; penalties.
- 125.07(1) Restrictions.
1. No person may procure for, sell, dispense or give away any alcohol beverages to any underage person not accompanied by his or her parent, guardian or spouse who has attained the legal drinking age.
  2. No licensee may sell, vend, deal or traffic in alcohol beverages to or with any underage person not accompanied by his or her parent, guardian or spouse who has attained the legal drinking age.
  3. No adult may knowingly permit or fail to take action to prevent the illegal consumption of alcohol beverages by an underage person on premises owned by the adult or under the adult's control.
  4. No adult may intentionally encourage or contribute to a violation of this section.
- 125.07(2) Sales of alcohol to intoxicated persons. Restrictions. 1. No person may procure for, sell, dispense or give away alcohol beverages to a person who is intoxicated. 2. No licensee or may sell, vend, deal or traffic in alcohol beverages to or with a person who is intoxicated.
- 125.07(3) Presence in places of sale; penalty. An underage person not accompanied by his or her parent, guardian or spouse who has attained the legal drinking age may not enter, knowingly attempt to enter or be on any premises for which a license for the retail sale of alcohol beverages has been issued.
- 125.085 Proof of age.
- (1) Definition. In this section, "official identification card" means a valid operator's license issued under chapter 343 of the Wisconsin Statutes that contains the photograph of the holder, an identification card issued under section 343.50 or an identification card issued under section 125.08, of the statutes.
  - (2) Use. No card other than the identification card authorized under this section may be recognized as an official identification card in premises licensed under this ordinance.
8. Closing Hours
- Every entity licensed by the Forest County Potawatomi Community shall observe the closing hours established by Wisconsin Statutes governing the type of State license which is similar to the Tribal license which the entity holds. Failure to do so shall be the basis for the revocation of licenses issued by the Tribal Executive Council.
- [FR Doc. 05-321 Filed 1-6-05; 8:45 am]
- BILLING CODE 4310-4J-P**

## DEPARTMENT OF THE INTERIOR

## Bureau of Indian Affairs

## Kickapoo Tribe of Oklahoma—Liquor and Beer Ordinance

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

**ACTION:** Notice.

**SUMMARY:** This notice publishes the Kickapoo Tribe of Oklahoma Liquor and Beer Ordinance. The Ordinance regulates and controls the possession, sale and consumption of liquor within the Kickapoo Tribe of Oklahoma Indian Country. The land is located on trust land and this Ordinance allows for the possession and sale of alcoholic beverages within the Kickapoo Tribe of Oklahoma's Indian Country and will increase the ability of the tribal government to control the tribe's liquor distribution and possession, and at the same time will provide an important source of revenue for the continued operation and strengthening of the tribal government and the delivery of tribal services.

**DATES:** *Effective Date:* This Act is effective on January 7, 2005.

**FOR FURTHER INFORMATION CONTACT:** Terry Bruner, Community Services Officer, Southern Plains Regional Office, Bureau of Indian Affairs, WCK Office Complex, P.O. Box 368, Anadarko, OK 73005, Phone: (405) 247-1668; Fax: (405) 247-5611 or 247-9240; or Ralph Gonzales, Office of Tribal Services, Bureau of Indian Affairs 1951 Constitution Avenue, NW., Mail Stop 320-SIB, Washington, DC 20240; Telephone (202) 513-7629.

**SUPPLEMENTARY INFORMATION:** Pursuant to the Act of August 15, 1953, Public Law 83-277, 67 Stat. 586, 18 U.S.C. 1161, as interpreted by the Supreme Court in *Rice v. Rehner*, 463 U.S. 713 (1983), the Secretary of the Interior shall certify and publish in the **Federal Register** notice of adopted liquor ordinances for the purpose of regulating liquor transactions in Indian country. The Kickapoo Council adopted its Liquor and Beer Ordinance by Resolution No. 02-78 on October 11, 2002. The purpose of this Ordinance is to govern the sale, possession and distribution of alcohol within the Kickapoo Tribe of Oklahoma Indian Country.

This notice is published in accordance with the authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs.

I certify that the Council of the Kickapoo Tribe of Oklahoma adopted its Liquor and Beer Ordinance by