

should also include "Manchester-by-the-Sea town." (See 69 FR 69735.)

Dated: January 7, 2005.

Dennis C. Shea,

Assistant Secretary for Policy Development and Research.

[FR Doc. E5-170 Filed 1-18-05; 8:45 am]

BILLING CODE 4210-27-P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR-4743-N-07]

Notice of Planned Closing of Memphis, TN Post-of-Duty Station

AGENCY: Office of Inspector General, (HUD).

ACTION: Notice of planned closing of the Memphis, Tennessee post-of-duty station.

SUMMARY: This notice advises the public that HUD Office of Inspector General (OIG) plans to close its Memphis, Tennessee post-of-duty station, and also provides a cost-benefit analysis of the impact of this closure.

FOR FURTHER INFORMATION CONTACT: Bryan Saddler, Counsel to the Inspector General, Room 8260, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410-4500, 202-708-1613 (this is not a toll free number). A telecommunications device for hearing- and speech-impaired persons (TTY) is available at 1-800-877-8339 (Federal Information Relay Services).

SUPPLEMENTARY INFORMATION: The Memphis, Tennessee post-of-duty station was opened in the middle 1980s to address fraud throughout the State of Tennessee. Later, the Nashville, Tennessee office—which is centrally located, and, thus, better situated geographically to address fraud statewide—was opened. In September 2004, one of the two agents assigned to Memphis was promoted and transferred to Texas. HUD/OIG has determined that greater efficiency and cost-savings can be achieved by now consolidating staff and resources in the centrally located Nashville office.

Section 7(p) of the Department of Housing and Urban Development Act (42 U.S.C. 3535(p)) provides that a plan for field reorganization, which may involve the closing of any field or regional office, of the Department of Housing and Urban Development may not take effect until 90 days after a cost-benefit analysis of the effect of the plan on the office in question is published in the **Federal Register**. The required cost-benefit analysis should include: (1) An

estimate of cost savings anticipated; (2) an estimate of the additional cost which will result from the reorganization; (3) a discussion of the impact on the local economy; and (4) an estimate of the effect of the reorganization on the availability, accessibility, and quality of services provided for recipients of those services.

Legislative history pertaining to section 7(p) indicates that not all reorganizations are subject to the requirements of section 7(p). Congress stated that "[t]his amendment is not intended to [apply] to or restrict the internal operations or organization of the Department (such as the establishment of new or combination of existing organization units within a field office, the duty stationing of employees in various locations to provide on-site service, or the establishment or closing, based on workload, of small, informal offices such as valuation stations)." (See House Conference Report No. 95-1792, October 14, 1978 at 58.) Through this notice, HUD/OIG advises the public of the closing of the Memphis, Tennessee duty station and provides the cost benefit analysis of the impact of the closure.

Impact Of The Closure Of The Memphis, Tennessee, Post-Of-Duty Station: HUD/OIG considered the costs and benefits of closing the Memphis, Tennessee post-of-duty station, and is publishing its cost-benefit analysis with this notice. In summary, HUD/OIG has determined that the closure will result in a cost savings, and, as a result of the size and limited function of the office, will cause no appreciable impact on the provision of authorized investigative services/activities in the area.

Cost-Benefit Analysis

A. Cost Savings: The Memphis, Tennessee post-of-duty station currently costs approximately \$2,645.00 per month for space rental. Additional associated overhead expenses (*e.g.*, telephone service) are incurred to operate the post-of-duty station. Thus, closing the office will result in annual savings of at least \$32,000. In addition, by closing the office HUD/OIG will not be required to incur additional costs associated with current plans to install high-speed computer access lines to and on the premises.

B. Additional Costs: Relocation costs associated with the transfer of one special agent to Nashville from Memphis, Tennessee is estimated to total no more than \$25,000. This cost will be offset by savings in the first year.

C. Impact on Local Economy: No appreciable impact on the local

economy is anticipated. The post-of-duty station is co-located with office space leased by other Federal agencies, and it is anticipated that the space can easily be re-leased to other tenants.

D. Effect on Availability, Accessibility and Quality of Services Provided to Recipients of Those Services: The availability, accessibility and quality of services provided to complainants will not be adversely impacted. Special agents assigned to other HUD/OIG offices—chiefly Nashville—can cost-effectively address fraud allegations in Tennessee generally and Memphis specifically.

For the reasons stated in this notice, HUD/OIG intends to proceed to close its Memphis, Tennessee post-of-duty station at the expiration of the 90-day period from the date of publication of this notice.

Dated: January 6, 2005.

Kenneth M. Donohue, Sr.,
Inspector General.

[FR Doc. E5-169 Filed 1-18-05; 8:45 am]

BILLING CODE 4210-27-P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Osage Tribe—Sale and Consumption of Alcoholic Beverages

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice.

SUMMARY: This notice publishes the Osage Tribe's Liquor Control Ordinance. The Ordinance regulates and controls the possession, sale and consumption of liquor within the Osage Indian Reservation and Osage Indian Country. The land is located on trust land and this Ordinance allows for the possession and sale of alcoholic beverages within the Osage Tribe's Reservation and Osage 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.

EFFECTIVE DATE: This Act is effective on January 19, 2005.

FOR FURTHER INFORMATION CONTACT: Karen Ketcher, Regional Tribal Government Officer, Bureau of Indian Affairs, Eastern Oklahoma Regional Office, PO Box 8002, Muskogee, OK 74402-8002, Phone 918-781-4685, Fax 918-781-4649; 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 Osage Tribal Council adopted its Liquor Control Ordinance by Resolution No. 31-846 on August 4, 2004. The purpose of this Ordinance is to govern the sale, possession and distribution of alcohol within the Osage Indian Reservation and Osage 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 this Liquor Ordinance, of the Osage Tribe, was duly adopted by the Tribal Council on August 4, 2004.

Dated: January 11, 2005.

David W. Anderson,

Assistant Secretary—Indian Affairs.

The Osage Tribe's Liquor Ordinance reads as follows:

Osage Tribe Liquor Control Ordinance Introduction

Section 1. Citation

This Act may be cited as the "Osage Tribe Liquor Control Ordinance."

Section 2. Purpose

(a) It is necessary to strengthen the government of the Osage Tribe of Indians by exercising the specific grant of authority contained in Act of June 28, 1906, 34 Stat. 539, as amended, and interpreted by subsequent judicial decisions, to levy and collect taxes and fees, to license and regulate certain conduct within the jurisdiction of the Osage Tribe, to provide financing for the current expenses of the tribal government, and to provide financing for the expansion of tribal government operations and services in order for the Osage Tribe to efficiently and effectively exercise its confirmed inherent sovereignty and governmental responsibilities within the jurisdiction of the Osage Tribe.

(b) The purpose of this Ordinance is to regulate the sale, possession and use of alcoholic liquor on the Osage Indian Reservation and other lands subject to Tribal jurisdiction, and to provide simple, fair, straightforward and efficient procedures for the levy and collection of certain taxes and fees and

the licensing and regulation of certain conduct.

(c) The enactment of a tribal ordinance governing liquor possession and sale on the Osage Indian Reservation and Osage Indian Country will increase the ability of the tribal government to control the sale, distribution and possession of liquor and will provide an important source of revenue for the continued operation and strengthening of the tribal government and the delivery of tribal government services.

Section 3. Declaration of Public Policy

(a) The introduction, possession, and sale of liquor in the Osage Indian Reservation and Osage Indian Country are a matter of special concern to the Osage Tribe.

(b) Federal law forbids the introduction, possession and sale of liquor in Indian Country (18 U.S.C. 1154 and other statutes), except when the same is in conformity both with the laws of the State and Tribe (18 U.S.C. 1161). As such, compliance with this ordinance shall be in addition to, and not a substitute for, compliance with the laws of the State of Oklahoma or other state where the Osage Indian Reservation and/or Osage Indian Country is located.

(c) The Osage Tribal Council finds that a complete ban on liquor within the Osage Indian Reservation and Osage Indian Country is ineffective and unrealistic. However, it recognizes that a need still exists for strict regulation and control over liquor transactions within the Osage Indian Reservation and Osage Indian Country because of the many potential problems associated with the unregulated or inadequately regulated sale, possession, distribution, and consumption of liquor. The Osage Tribal Council finds that tribal control and regulation of liquor is necessary to achieve maximum economic benefit to the Tribe, to protect the health and welfare of tribal members, and to address specific concerns relating to alcohol use on the Osage Indian Reservation and Osage Indian Country.

(d) It is in the best interests of the Osage Tribe to enact a tribal ordinance governing liquor sales on the Osage Indian Reservation and Osage Indian Country, which provides for purchase, distribution, and sale of liquor only on tribal lands within the exterior boundaries of the Osage Indian Reservation and in Osage Indian Country wherever located. Further, the Tribe has determined that said purchase, distribution, and sale shall take place only at a tribally-owned gaming facility complex or at such other

location duly licensed by the Osage Tribe.

Section 4. Jurisdiction

The Osage Tribal Council, as the sole governing body of the Osage Tribe of Indians, hereby affirmatively declares, asserts, and extends the jurisdiction of the Osage Tribe over the Osage Indian Reservation and all Indian country, as defined in 18 U.S.C. 1151, within the exterior boundaries of the Osage Indian Reservation, as described in the Act of June 5, 1872, 17 Stat. 220, except that portion purchased by the Kawes, and all Osage Indian Country wherever located.

Section 5. Scope of Law; Consent

The scope of this ordinance shall extend to all persons or legal entities receiving licenses hereunder, or doing business within the Tribal jurisdiction, or having significant contacts within the Tribal jurisdiction, or residing within the Tribal jurisdiction, or entering or coming within the Tribal jurisdiction, or consuming, possessing, manufacturing or distributing alcohol within the Tribal jurisdiction. All such persons or entities shall be deemed to have consented to the jurisdiction of the Osage Tribe of Indians and to the provisions of this Act, the operation thereof, and to the jurisdiction and authority of the Osage Tribe of Indians, and shall, by virtue of such actions, be deemed to have waived all jurisdictional defenses to the jurisdiction and venue of the Osage Tribe of Indians and the Osage Tribal Court, notwithstanding that such persons or legal entities may be of non-Indian descent or character.

Section 6. Severability

If any provision or application of this ordinance is determined by review to be invalid, such determination shall not be held to render ineffectual the remaining portions of this ordinance or to render such provisions inapplicable to other persons or circumstances. Any and all prior liquor control enactments of the Tribal Council which are inconsistent with the provisions of this ordinance are hereby rescinded and repealed.

Section 7. Amendment and Construction

This ordinance may only be amended by a vote of the Osage Tribal Council, the governing body of the Osage Tribe. Nothing in this ordinance shall be construed to diminish or impair in any way the rights or sovereign powers of the Osage Tribe or its tribal government.

Section 8. Sovereign Immunity

The Osage Tribal Council, as the sole governing body of the Osage Tribe of

Indians, expressly and generally reserves for itself, the Osage Tribe of Indians, the Osage Nation Tax Commission and individual members and employees of the Osage Tribal Council and the Osage Nation Tax Commission and individual employees of the Osage Tribal Government, when acting within the scope of their official duties, all rights of sovereign immunity against lawsuits of every kind and nature, less and except the right to appeal decisions of the Tax Commission as provided by Section 106 of the Osage Tribe Revenue and Taxation Act of 1997, as amended.

The sovereign immunity of the Tribe and any elected Tribal council member or tribal official and the Osage Nation Tax Commission with respect to any action taken in an official capacity under this ordinance, or in the exercise of the official powers of any such office, in any action filed in any court with respect thereto, may only be waived by a formal resolution of the Tribal Council. All waivers shall be unequivocally expressed in such resolution. No waiver of the Tribe's sovereign immunity from suit may be implied from any action or document. Waivers of sovereign immunity in a Tribal Council resolution shall not be general but shall be specific and limited as to duration, grantee, action, and property or funds, if any, of the Tribe or any agency of the tribe subject thereto. No express waiver of sovereign immunity by resolution of the Tribal Council shall be deemed a consent to the levy of any judgment, lien or attachment upon property of the Tribe or any agency of the Tribe other than property specifically pledged or assigned therein. Any consent to arbitration agreed to by the Tribe in any contract shall not constitute a waiver of sovereign immunity unless it conforms to this section, and the Tribe hereby expressly retains its sovereign immunity from suit.

Section 9. Effective Date

This ordinance shall be effective on such date as the Secretary of the Interior certifies this ordinance and publishes the same in the **Federal Register**.

Chapter One—Liquor Control

Section 101. Definitions

As used in this Ordinance, the following words shall have the following meaning unless the context clearly requires otherwise:

(a) "*Alcohol*" means that substance known as ethyl alcohol, hydrated oxide of ethyl, alcohol, hydrated oxide of ethyl, ethanol, or spirits of wine, from

whatever source or by whatever source or by whatever process produced.

(b) "*Alcoholic Beverage*" is synonymous with the term "liquor" as defined in subsection (h) of this section.

(c) "*Bar*" means any establishment with special space and accommodations for the sale of liquor by the glass and for consumption on the premises as herein defined.

(d) "*Beer*" means any beverage obtained by the alcoholic fermentation of an infusion or decoction of pure hops, or pure extract of hops and pure barley malt or other wholesome grain or cereal in pure water and containing the percent of alcohol by volume subject to regulation as an intoxicating beverage in the state where the beverage is located. Beer includes, among other things, beer, ale, stout, lager beer, porter and other malt or brewed liquors, but does not include sake, known as Japanese rice wine.

(e) "*Consume*" means the putting of liquor to any use, whether by drinking or otherwise.

(f) "*Distiller*" means a person engaged in the business of distilling spirits.

(g) "*Distribute*" means to deliver or sell liquor products prior to retail sale.

(h) "*Liquor*" includes the four varieties of liquor (alcohol, spirits, wine and beer) and all fermented, spirituous, vinous, malt liquor, or combinations thereof, a mixed liquor a part of which is fermented, and every liquid or solid or semisolid or other substance, patented or not, containing distilled or rectified spirits, potable alcohol, beer, wine, brandy, whiskey, rum, gin, aromatic bitters, and all drinks or drinkable liquids and all preparations or mixtures capable of human consumption and any liquid, semisolid, solid, or other substances which contains more than one-half of 1 percent of alcohol.

(i) "*Liquor Store*" means any store at which liquor is sold and, for the purpose of this ordinance, including stores only a portion of which are devoted to sale of liquor or beer.

(j) "*Malt Liquor*" means beer, strong beer, ale, stout and porter.

(k) "*Manufacturer*" means a person engaged in the preparation of liquor for sale, in any form whatsoever.

(l) "*Osage Indian Reservation and Osage Indian Country*" means all lands constituting Indian Country as defined by 18 U.S.C. 1151 that are subject to the jurisdiction of the Osage Tribe.

(m) "*Osage Nation Tax Commission*" means the authority of the Osage Tribe which is charged with the duty to enforce this Liquor Control Ordinance in addition to their other duties.

(n) "*Osage Tribal Council*" means the governing body of the Osage Tribe.

(o) "*Osage Tribe*" means the federally recognized Osage Tribe and any of its successors or assigns.

(p) "*Package*" means any container or receptacle used for holding liquor.

(q) "*Person*" means an individual, partnership, association or corporation.

(r) "*Public Place*" includes state, county, tribal, federal highways, or roads; buildings and grounds used for school purposes; streets and alleys of communities; rodeo grounds, community buildings, public dance halls and grounds adjacent thereto; soft drink establishments, public buildings, public meeting halls, lobbies, halls and dining rooms of hotels, restaurants, theaters, gaming facilities, entertainment centers, stores, garages, and filling stations which are open to and/or are generally used by the public and to which the public is permitted to have unrestricted access; public conveyances of all kinds and character; publicly-owned bathing beaches, parks or playgrounds; and all other places of like or similar nature to which the general public has unrestricted right of access and which are generally used by the public.

(s) "*Sale and Sell*" include exchange, barter, and traffic, and also include the selling or supplying or distributing by any means whatsoever, of liquor, or of any liquid known or described as beer or by any name whatsoever commonly used to describe malt or brewed liquor or of wine by any person to any person.

(t) "*Spirits*" mean any beverage which contains alcohol obtained by distillation, and includes those products known as whiskey, brandy, rum, gin, vodka, liqueurs, cordials and fortified wines and similar compounds, including wines exceeding 17 percent of alcohol by weight.

(u) "*Tavern*" means any retail sales business selling beer, liquor or wine not in sealed packages, that is "by the drink," within the boundaries of the Osage Indian Reservation or Osage Indian Country.

(v) "*Tribal Court*" means the Osage Tribal Court.

(w) "*Wine*" means any alcohol beverage obtained by fermentation of the natural contents of fruits, vegetables, honey, milk or other products containing sugar, whether or not other ingredients are added, to which any saccharine substances may have been added before, during or after fermentation, and containing more than one-half of one percent alcohol by volume and not more than 17 percent of alcohol by weight, including sweet wines fortified with wine spirits such as

port, sherry, muscatel and angelica, and including vermouth and sake, known as Japanese rice wine.

Section 102. Enforcement

(a) *Powers and Duties.* In furtherance of this ordinance, the Osage Nation Tax Commission shall have the following powers and duties:

(1) To publish and enforce rules and regulations governing licensing and the sale, manufacture, distribution, and possession of alcoholic beverages on the Osage Indian Reservation and Osage Indian Country. Such rules and regulations shall not be inconsistent with the rules and regulations of the State of Oklahoma and shall be approved by the Osage Tribal Council prior to taking effect;

(2) To employ managers, accountants, security personnel, inspectors and such other persons as shall be reasonably necessary to allow the Osage Nation Tax Commission to perform its function. Such employees shall be tribal employees;

(3) To bring suit in the Tribal Court or other appropriate Court to enforce this ordinance as necessary;

(4) To issue licenses permitting the sale of liquor on the Osage Indian Reservation and other lands subject to Tribal jurisdiction;

(5) To determine and seek damages for violation of the ordinance;

(6) To make such reports as may be required by the Osage Tribal Council;

(7) Keep accurate records, books and accounts; and

(8) To exercise such other powers as is necessary and appropriate to fulfill the purposes of this ordinance.

(b) *Limitation on Powers.* In the exercise of its powers and duties under this ordinance, the Osage Nation Tax Commission shall not:

(1) Accept any gratuity, compensation or other thing of value from any liquor wholesaler, retailer, or distributor or from any licensee; or

(2) Waive the immunity of the Osage Tribe from suit without the express written consent and resolution of the Tribal Council in accordance with Section 8.

(c) *Inspection Rights.* The premises on which liquor is sold or distributed shall be open for inspection by the Osage Nation Tax Commission at all reasonable times for the purposes of ascertaining whether the rules and regulations of the Osage Nation Tax Commission and this ordinance are being complied with.

Section 103. Licensing

(a) *Application.* Any person or entity applying for a license to sell or serve

liquor in the jurisdiction of the Osage Nation shall complete an application provided by the Osage Nation Tax Commission and pay such application fee as may be set from time to time by the Osage Nation Tax Commission.

(b) *Licensing requirements.* No license shall be issued under this ordinance except upon a sworn application filed with the Osage Nation Tax Commission containing a full and complete application showing the following:

(1) Satisfactory proof that the applicant is duly licensed by the State of Oklahoma to sell alcoholic beverages;

(2) The description and location of the premises in which the alcoholic beverages are to be sold and proof that the applicant is entitled to use such premises for such purposes for the duration of the time period of the license;

(3) Agreement by the applicant to accept and abide by all conditions of the license as established by the Osage Nation Tax Commission; and

(4) Payment of a fee established by the Osage Nation Tax Commission;

(c) *Period of license.* Each license may be issued for a period not to exceed one year from the date of issuance.

(d) *Renewal of license.* A licensee may renew its license if the licensee has complied in full with this ordinance.

(e) *Revocation of license.* The Osage Nation Tax Commission may revoke a license for reasonable cause upon notice and hearing at which the licensee is given an opportunity to respond to any charges against it and to demonstrate why the license should not be suspended or revoked.

(f) *Non-transferability of license.* Licenses issued by the Osage Nation Tax Commission shall not be transferable and may only be utilized by the person or entity to which it was issued.

Section 104. Sales and Purchases of Liquor

The introduction and possession of liquor consistent with this ordinance shall be lawful within Indian Country under the jurisdiction of the Osage Tribe and within the exterior boundaries of the Osage Indian Reservation only when such activities are in conformity with this Ordinance. All other purchases and sales of liquor within the Osage Indian Reservation and Osage Indian Country shall be prohibited.

(a) *Sales by Tribe or Licensees.* Only the Osage Tribe may make retail sales of liquor in gaming facilities that are owned by the Tribe and the patrons of the Tribe's gaming facilities may consume said liquor on the gaming facility complex. Any other licensed retailer may make retail sales of liquor

on their licensed premises, but patrons of the licensee may consume said liquor only on those licensed premises, or where otherwise allowed by this ordinance.

(b) *Sales for Cash.* All liquor sales on the Osage Indian Reservation and Osage Indian Country shall be on a cash only basis and no credit shall be extended to any person, organization, or entity, except that the provision does not prevent the payment for purchases with use of credit cards such as Visa, MasterCard, American Express, etc.

(c) *Sale for Personal Consumption.* All sales shall be for the personal use and consumption of the purchaser. Any person who purchases an alcoholic beverage on the Osage Indian Reservation and Osage Indian Country and sells it, without a license, whether in the original container or not, shall be guilty of a violation of this ordinance and shall be subjected to paying damages to the Osage Tribe as set forth herein.

Section 105. Taxes

(a) *Tax Levied.* There is hereby levied a liquor tax of five percent (5%) on the sale of each and every alcoholic beverage sold within the Osage Indian Reservation and Osage Indian Country. The incidence of said tax shall be on the consumer. The liquor tax shall be collected by the gaming facility or licensee and paid over to the Osage Nation Tax Commission as provided herein. No municipality, city, town or county, nor the state shall have the power to impose an excise or any other tax upon liquor as defined in this Ordinance, or to govern or license the sale or distribution thereof in any manner within the Osage Indian Reservation and Osage Indian Country, unless in conformance with federal, Oklahoma, and Osage Tribal law.

(b) *Taxes Due.* All taxes for the sale of liquor and alcoholic beverages on the Osage Indian Reservation and Osage Indian Country are due on the 15th day of the month following the end of the calendar quarter for which the taxes are due.

(c) *Delinquent Taxes.* Past due taxes shall accrue interest at two percent (2%) per month.

(d) *Reports.* Along with payment of the taxes imposed herein, the taxpayer shall submit a quarterly accounting of all income from the sale or distribution of liquor, as well as for the taxes collected, to the Osage Nation Tax Commission.

(e) *Compliance with Tribal Tax laws.* Except as otherwise set forth in this Ordinance, the collection and enforcement of liquor taxes shall be

conducted by the Osage Nation Tax Commission in accordance with the Osage Tribe Revenue and Taxation Act of 1997, as amended.

Section 106. Rules, Regulations and Enforcement

(a) In any proceeding under this ordinance, conviction of one unlawful sale or distribution of liquor shall establish prima facie intent of unlawfully keeping liquor for sale, selling liquor or distributing liquor in violation of this ordinance.

(b) Any person who buys liquor within the boundaries of the Osage Indian Reservation and Osage Indian Country contrary to this ordinance shall be guilty of a violation of this ordinance.

(c) Any person who sells or offers for sale any liquor within the boundaries of the Osage Indian Reservation and Osage Indian Country contrary to this ordinance shall be guilty of a violation of this ordinance.

(d) Any person who shall operate a liquor product outlet or tavern within the boundaries of the Osage Indian Reservation and Osage Indian Country without first obtaining a current and valid Tribal license under this Ordinance shall be considered to be in violation of all federal Indian liquor laws and regulations as well as in violation of this Ordinance.

(e) Any person who keeps or possesses liquor upon his person or in any place or on premises conducted or maintained by his principal or agent with the intent to sell or distribute it contrary to the provisions of this title, shall be guilty of a violation of this ordinance.

(f) Any person who knowingly sells liquor to a person under the influence of liquor shall be guilty of a violation of this ordinance. No person shall sell liquor to any buyer when, from the physical appearance of the buyer at the time of the sale, it could be reasonably believed or understood that the buyer was intoxicated.

(g) Any person engaged wholly or in part in the business of carrying passengers for hire, and every agent, servant, or employee of such person, who shall knowingly permit any person to drink liquor in any public conveyance, shall be guilty of an offense. Any person who shall drink liquor in a public conveyance shall be guilty of a violation of this ordinance.

(h) No person under the age of 21 years shall consume, acquire or have in his possession any liquor or alcoholic beverage. No person shall permit any other person under the age of 21 to consume liquor on his premises or any premises under his control except in

those situations set out in this section. Any person who shall sell or provide any liquor to any person under the age of 21 years shall be guilty of a violation of this ordinance for each sale or drink provided. Any person violating this section shall be guilty of a separate violation of this ordinance for each and every drink so consumed.

(i) Any person who transfers in any manner an identification of age to a person under the age of 21 years for the purpose of permitting such person to obtain liquor shall be guilty of an offense, provided that corroborative testimony of a witness other than the underage person shall be a requirement of finding a violation of this ordinance.

(j) Any person who attempts to purchase an alcoholic beverage through the use of false or altered identification which falsely purports to show the individual to be over the age of 21 years shall be guilty of violating this ordinance.

(k) When requested by the provider of liquor, any person shall be required to present official documentation of the bearer's age, signature and photograph. Official documentation includes any one or more of the following:

(1) Driver's license or identification card issued by any state department of motor vehicles;

(2) Tribal enrollment card, Tribal identification card or Certificate of Degree of Indian Blood (CDIB) card showing date of birth and photograph;

(3) United States Active Duty Military; or

(4) Passport.

(l) Liquor which is possessed, including for sale, contrary to the terms of this ordinance is declared to be contraband. Any tribal agent, employee or officer who is authorized by the Tribal Council or Osage Nation Tax Commission, including law enforcement officers under a cross-deputization agreement, to enforce this section shall seize all contraband and preserve it in accordance with the provisions established for the reservation of impounded property. Upon being found in violation of this ordinance, the party shall forfeit all right, title and interest in the items seized which shall become the property of the Osage Tribe.

(m) Alcoholic liquor shall not be given as a prize, premium or consideration for a lottery, contest, game of chance or skill, or competition of any kind.

(n) For the purpose of obtaining information concerning any matter related to the administration or enforcement of this ordinance, the Tribe or any person appointed by it in writing for that purpose, may inspect the books

and records of any licensee doing business on the Osage Indian Reservation and Osage Indian Country. Every person who neglects or refuses to produce or submit to inspection any records referred to in this section when requested to do so shall be guilty of a violation of this ordinance.

(o) Any person guilty of a violation of this ordinance, except non-payment of liquor taxes due, shall be liable to pay to the Osage Tribe the amount of up to \$5,000 per violation as civil damages to defray the Tribe's cost of enforcement of this ordinance, and may be subject to criminal prosecution under tribal law, or under state law if non-Indian. The Tribal Court shall not issue any order or injunction closing any business for a violation of this ordinance without granting to the defendant the opportunity to have a full evidentiary and adversary hearing before the Tribal Court.

(p) All persons found to have violated this ordinance, except for non-payment of liquor taxes, shall be reported to the Federal Bureau of Investigation and the United States Attorney for the purpose of requesting a federal criminal prosecution of such persons or entities for violation of Federal Indian liquor laws.

Section 107. Exemptions

(a) Nothing in this Ordinance shall apply to or prevent the sale of liquor by any person to the Tribe.

(b) Nothing in this Ordinance shall apply to alcoholic beverages used in a bona fide religious ceremony.

(c) Nothing in this Ordinance shall apply to or prevent sale, purchase or consumption of:

(1) Any pharmaceutical preparation containing liquor which is prepared by a druggist according to a formula of the pharmacopoeia of the United States, or the dispensatory of the United States; or

(2) Away proprietary or patent medicine; or

(3) Wood alcohol or denatured alcohol, except in the case or the sale, purchase, or consumption of wood alcohol or denatured alcohol for beverage purposes, either alone or combined with any other liquid or substance.

(4) Cooking Wine used in cooking.

(d) Nothing in this Ordinance shall apply to wine or beer manufactured in any home for consumption therein, and not for sale.

(e) Nothing in this Ordinance shall apply to alcoholic beverages possessed by an individual in his/her home for private consumption therein.

Section 108. Abatement

(a) Any room, house, building, vehicle, structure, or other place where liquor is sold, manufactured, bartered, exchanged, given away, furnished, or otherwise disposed of in violation of the provisions of this ordinance or of any other tribal law relating to the manufacture, importation, transportation, possession, distribution and sale of liquor, and all property kept in and used in maintaining such place, is hereby declared to be a nuisance.

(b) The Osage Nation Tax Commission shall institute and maintain an action in the Tribal Court in the name of the Tribe to abate and perpetually enjoin any nuisance declared under this article. In addition to other remedies at tribal law, the Tribal Court may also order the room, house, building, vehicle, structure, or place closed for a period of 1 year or until the owner, lessee, tenant, or occupant thereof shall give bond of a sufficient sum from \$1,000 to \$15,000, depending upon the severity of past offenses, the risk of offenses in the future and other appropriate criteria, payable to the Tribe and conditions that liquor will not be thereafter manufactured, kept, sold, bartered, exchanged, given away, furnished, or otherwise disposed of in violation of the provisions of this ordinance or of any other violation of this ordinance or other tribal liquor laws. If any conditions of the bond are violated, the bond may be applied to satisfy any amount due to the Tribe under this ordinance.

(c) In all cases where any person has been found in violation of this ordinance relating to the manufacture, importation, transportation, possession, distribution, and sale of liquor, an action may be brought to abate as a nuisance any real estate or other property involved in the violation of the ordinance and violation of this ordinance shall be prima facie evidence that the room, house, building, vehicle, structure, or place against which such action is brought is a public nuisance.

Section 109. Liability Insurance

Prior to a liquor license being granted to any applicant, and prior to renewal of any liquor license, the applicant must provide proof of liability insurance to the Osage Nation Tax Commission.

Section 110. Revenue

Revenue received by the Tribe under this ordinance, from whatever source, shall be expended for administrative costs incurred in the enforcement of this ordinance. Excess funds shall be subject to appropriation by the Tribal Council

for essential governmental and social services, including the use of revenues to combat alcohol abuse and its debilitating effects among individuals and family members with the Osage Tribe.

Certification

I hereby certify that the above and foregoing Liquor Control Ordinance is the Ordinance adopted by the Osage Tribal Council on the 4th day of August 2004, pursuant to Resolution No. 3846.

Jim Gray,

Principal Chief.

Attested by:

Jewell Purcell,

Secretary.

[FR Doc. 05-995 Filed 1-18-05; 8:45 am]

BILLING CODE 4310-4J-P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CA-340-1210-PC]

South Cow Mountain Wet Weather Temporary Closure; Temporary Motor Vehicle Use Closure of the South Cow Mountain Recreation Area Due to Wet Weather/Snow Conditions, Mendocino and Lake Counties, CA

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: In order to facilitate temporary operations and protect resources in the event of severe seasonal storms and/or natural disasters, the Ukiah Field Office is hereby serving notice that it will be adopting a temporary closure policy to be enacted on an as-needed basis when basic criteria are met. The policy will be in place for up to one year, or upon completion of the Ukiah RMP. The closure will be invoked or lifted through notices in news media outlets, information hot lines and on-the-ground postings. The lands covered by this temporary closure include all public lands administered by the Ukiah Field Office within the South Cow Mountain Recreation Area. Public notices listed on information lines will specify which public lands will be temporarily closed, and will reflect local conditions. One of the following criteria shall be met to temporarily close the area:

- (1) State, County or Federal road access to the area is closed or restricted to residents and emergency personnel;
- (2) BLM or emergency response personnel cannot access and/or perform their duties in a given location;

(3) Roads or trails are saturated with moisture to the point where vehicle traffic causes ruts or bogs leading to increased erosion. Moisture criteria are detailed in the **SUPPLEMENTARY INFORMATION** below. The above temporary closure is intended to allow the BLM flexibility in implementing closures while utilizing the most time-effective method of notifying the public. This will also facilitate management to minimize threats to public health and safety, as well as the potential for resource damage. Any time the closure policy is enacted, the following persons will be exempt:

(1) Federal, State, or local law enforcement officers, while engaged in the execution of their official duties.

(2) BLM personnel or their representatives while engaged in execution of their official duties.

(3) Any member of an organized rescue, fire-fighting force, and/or emergency medical services organization while in the performance and execution of an official duty.

(4) Any member of a Federal, State, or local public works department while in the performance of an official duty.

(5) Any person in receipt of a written authorization of exemption obtained from the Ukiah Field Office.

(6) Local landowners, persons with valid existing rights or lease operations, or representatives thereof, who have a responsibility or need to access their property or to continue their operations on public land.

(7) Human use and associated foot traffic into the area during the closure period are exempt from this closure restriction.

EFFECTIVE DATE: This policy will become effective October 1, 2004, and shall remain in effect for up to one year, or upon completion of the Ukiah RMP.

FOR FURTHER INFORMATION CONTACT: Rich Burns, field manager, BLM Ukiah Field Office, 2550 North State St., Ukiah, CA 95482. Telephone: (707) 468-4000.

SUPPLEMENTARY INFORMATION: These closures and restrictions are under the authority of 43 CFR 8364.1. Persons violating this closure shall be subject to the penalties provided in 43 CFR 8360.0-7, including a fine not to exceed \$1,000 and/or imprisonment not to exceed 12 months. Parties exempt from the closure action shall be responsible for mitigating any resource damage caused by entering the closed area. Waivers can be granted for emergency circumstances; however, in the event an emergency is caused by a negligent action, the responsible party would then be responsible for the mitigation.