

*Estimated Cost:* There is no annual reporting recordkeeping cost associated with this collection.

#### Comments

Comments may be submitted as indicated in the **ADDRESSES** caption above. Comments are solicited to (a) Evaluate whether the proposed data collection is necessary for the proper performance of the agency, including whether the information shall have practical utility; (b) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) enhance the quality, utility, and clarity of the information to be collected; and (d) minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

Larry Gray,

Director, Records Management Division,  
Office of Management, Federal Emergency  
Management Agency, Department of  
Homeland Security.

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BILLING CODE 9111-78-P

## DEPARTMENT OF THE INTERIOR

### Bureau of Indian Affairs

#### Cherokee Nation Limited Mixed Beverage Sales Act

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

**ACTION:** Notice.

**SUMMARY:** This notice publishes the legislation passed by the Cherokee Nation amending Cherokee Nation Legislative Act # 09-04 that regulates and controls the possession, sale, and consumption of liquor within the tribal lands. The tribal lands are located in Indian country and this enactment allows for possession and sale of alcoholic beverages within their boundaries. This law 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 Ordinance is effective on October 30, 2009.

#### FOR FURTHER INFORMATION CONTACT:

Charles Head, Tribal Government Services Officer, Eastern Oklahoma Regional Office, PO Box 8002, Muskogee, OK 74402-8002, Telephone: (918) 781-4685, Fax (918) 781-4649; or Elizabeth Colliflower, Office of Indian Services, 1849 C Street, NW., Mail Stop 4513-MIB, Washington, DC 20240, Telephone: (202) 513-7640.

**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 governing body of the Cherokee Nation passed the Limited Mixed Beverage Sales Act on July 14, 2008. This enactment amends the Cherokee Nation's alcohol control laws last published in the **Federal Register** June 28, 2004. The purpose of this amendment is to authorize the Cherokee Nation's limited liability company or other person to apply for a license to establish liquor retail sales at various locations within tribal lands of the Tribe.

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 Limited Mixed Beverage Sales Act—Legislative Act #41-03 was enacted by the legislative body of the Cherokee Nation on July 14, 2008.

Dated: September 21, 2009.

Larry Echo Hawk,

Assistant Secretary—Indian Affairs.

The Limited Mixed Beverage Sales Act of the Cherokee Nation reads as follows:

#### Legislative Act 13-08

**A Legislative Act Amending the Cherokee Nation Limited Mixed Beverage Sales Act—Legislative Act #41-03, as Amended by Legislative Act #09-04**

#### Be It Enacted by the Cherokee Nation: Title and Codification:

This Act shall be known as the 2008 Technical Amendment to The Cherokee Nation Limited Mixed Beverage Sales Act and codified as \_\_\_\_ (Title) \_\_\_\_ (Section) \_\_\_\_ of the Cherokee Nation Code Annotated. The Cherokee Nation Limited Mixed Beverage Sales Act is hereby amended to read as follows:

#### Section 1. Title and Codification

This Act shall be known as The Cherokee Nation Limited Mixed Beverage Sales Act and codified as \_\_\_\_ (Title) \_\_\_\_ (Section) \_\_\_\_ of the Cherokee Nation Code Annotated.

#### Section 2. Authority

This legislation is enacted by the authority of the Cherokee Nation Tribal Council under Article V, Section 7 of the Constitution of the Cherokee Nation and the *Federal Act of August 15, 1953, 67 Stat. 586, codified at 18 U.S.C. Section 1161.*

#### Section 3. Purpose

This Act authorizes the Board of Directors of Cherokee Nation Enterprises, LLC ("CNE"), a limited liability company wholly owned by the Cherokee Nation, or other person approved by CNE, to apply for a license from the Tax Commission to establish retail liquor sales at designated locations within hotel, restaurant, entertainment and/or gaming operations located on trust land. The purpose of this Act is to regulate and control the possession and sale of liquor on trust land. This enactment will increase the ability of the Cherokee Nation to control the sale, distribution and possession of liquor at limited and designated areas on tribal trust land.

#### Section 4. Application of 18 U.S.C. Section 1161

Federal law requires that any Indian tribal authorization for the sale of liquor or other alcoholic beverages must be in conformity with the laws of the State and approved by an ordinance duly adopted by the tribe having jurisdiction over such area of Indian country. All acts and transactions under this law of the Cherokee Nation shall be in conformity with federal law and with the laws of the State of Oklahoma as applicable.

#### Section 5. Effective Date

This Act shall be effective on the date of certification by the Secretary of the Interior or designee, or the date of its publication in the **Federal Register**, whichever is later.

#### Section 6. Definitions

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

(a) "Alcohol" means the substance known as ethyl alcohol, hydrated oxide of ethyl, ethanol, or spirits of wine, from whatever source or by whatever process produced.

(b) "Alcoholic Beverage" is synonymous with the term "liquor" as defined in this Chapter.

(c) "Board of Directors" means the Board of Directors of Cherokee Nation Enterprises, LLC

(d) "CNE" means Cherokee Nation Enterprises, LLC

(e) "Liquor" includes mixed beverages and all fermented, spirituous, vinous, or malt liquor or combinations thereof, and 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 one percent of alcohol.

(f) "Sale" or "Sell" includes exchange, barter and traffic; and also includes the selling or supplying or distribution, by any means whatsoever, of liquor.

(g) "Tax Commission" means the Cherokee Nation Tax Commission.

(h) "Trust Land" means those lands that are held in trust by the United States for the Cherokee Nation and not for any individual Indian.

#### Section 7. Powers of Enforcement

The Tax Commission. In furtherance of this Act, the Tax Commission shall have the power to:

(a) Issue licenses pursuant to Section 8 of this Act;

(b) collect the excise tax specified in Section 9 of this Act;

(c) publish and enforce rules and regulations adopted by the Tax Commission governing the sale, consumption and possession of alcoholic beverages;

(d) establish procedure for conducting hearings related to licensing; and

(e) take all necessary steps to enforce sections 8 and 9 of this Act, including the collection of fees, taxes and damages related thereto.

#### Section 8. Sales of Liquor

A. License Required. Sales of liquor and alcoholic beverages may only be made by CNE, or other person approved by CNE, under a license issued by the Tax Commission.

B. Identification. When requested by the provider of liquor, any person asking to purchase liquor or being served in a group shall be required to present official documentation bearing the holder's age, signature and photograph before being served. Official

documentation includes one of the following:

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

(2) United States Military identification;

(3) *Official Passport issued by any nation and accepted by the United States Department of State for entry into the United States.*

#### Section 9. Taxes

*Excise Tax:* In lieu of any otherwise applicable tribal sales tax on the retail sale of liquor for alcoholic beverages, there shall be an excise tax in the amount of two percent (2%) of the retail sales price, to be collected by the Tax Commission. These revenues shall be used to promote mental health and related issues associated with substance abuse and shall be reserved for expenditure as provided for in the annual budget by the Cherokee Nation Health Service. The Board of Directors shall be entitled to make recommendation as to how these revenues are expended.

#### Section 10. Rules, Regulations, and Enforcement

A. Sales Without License. Any person who shall sell or offer for sale, distribute or transport, in any manner, liquor in violation of this Act, or who shall operate or shall have liquor for sale in his possession without a license, shall be guilty of a violation of this Act subjecting him or her to prosecution for a crime.

B. Sale for Personal Consumption. All sales shall be for the personal consumption of the purchaser or persons in a group. Resale of any alcoholic beverage is prohibited. Any person not licensed pursuant to this Act who purchases an alcoholic beverage and sells it, whether in the original container or not, shall be guilty of a crime.

C. Illegal Purchases. Any person who buys liquor from any person other than a properly licensed facility shall be guilty of a violation of this Act, subjecting him or her to prosecution for a crime.

D. Minors. 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 violating this section shall be guilty of a violation of this Act, subjecting him or her to prosecution for a crime.

E. Sales to Minors. Any person who shall sell or provide any liquor to any person under the age of 21 years shall be guilty of a crime.

F. Sales to Intoxicated Persons. Any person who shall sell or provide any alcoholic beverage to an individual who is intoxicated, or appears intoxicated, shall be guilty of a crime.

G. False Identification. 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 or any alcoholic beverage shall be in violation of this Act, subjecting him or her to prosecution for a crime.

H. Using False Identification. Any person who attempts to purchase liquor or any 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 Act, subjecting him or her to prosecution for a crime.

I. Punishment. Any person found guilty of a crime under this section may be punished by imprisonment for up to one (1) year and/or fined up to \$500.00 for each violation.

J. Contraband Liquor. Any liquor, possessed contrary to the terms of this Act, whether for personal consumption, hospitality, sale, or otherwise, is declared to be contraband. Any tribal law enforcement officer who is authorized to enforce this section shall seize all contraband and preserve it in accordance with the provisions established for the preservation of impounded property.

K. Forfeiture. Upon being found in violation of this Act, the party shall forfeit all right, title and interest in the items seized which shall become the property of the Cherokee Nation.

#### Section 11. Severability and Effective Date

If any provision or application of this Act is determined by review to be invalid, such determination shall not be held to render ineffectual the remaining portions of this Act or to render such provisions inapplicable to other persons or circumstances.

Enacted by the Council of the Cherokee Nation on the 14th day of July, 2008.

/s/ Meredith A. Frailey  
Meredith A. Frailey,  
Speaker, Council of the Cherokee Nation.

Attest:  
/s/ Don Garvin  
Don Garvin,  
Secretary, Council of the Cherokee Nation.

Approved and signed by the Principal Chief this 21st day of July, 2008.

/s/ Chadwick Smith  
Chadwick Smith,  
Principal Chief, Cherokee Nation.

Attest:

/s/ Melanie Knight  
Melanie Knight,  
Secretary of State, Cherokee Nation.

Yeas and Nays as Recorded:

Tina Glory Jordan .....	Yea
Bill John Baker .....	Yea
Joe Crittenden .....	Nay
Jodie Fishinghawk .....	Yea
Janelle Lattimore Fullbright .....	Yea
David W. Thornton, Sr. ....	Yea
Don Garvin .....	Yea
Harley L. Buzzard .....	Yea
Curtis G. Snell .....	Yea
Meredith A. Frailey .....	Yea
Chris Soap .....	Yea
Cara Cowan Watts .....	Yea
Buel Anglen .....	Yea
Bradley Cobb .....	Yea
Charles Hoskin, Jr. ....	Yea
Julia Coates .....	Yea
Jack D. Baker .....	Yea

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## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

[FWS-R6-R-2009-N181;60138-1265-6CCP-S3]

#### Lee Metcalf National Wildlife Refuge, Stevensville, MT

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Notice of intent.

**SUMMARY:** We, the U.S. Fish and Wildlife Service (Service), intend to gather information necessary to prepare a comprehensive conservation plan (CCP) and associated environmental documents for Lee Metcalf National Wildlife Refuge (NWR) in Stevensville, Montana. We furnish this notice in compliance with Service CCP policy to advise other agencies and the public of our intentions and to obtain suggestions and information on the scope of issues to consider in the planning process.

**DATES:** To ensure consideration, please send your written comments by November 13, 2009.

**ADDRESSES:** Send your comments or requests for more information by any of the following methods.

*E-mail:* leemetcalf@fws.gov. Include "Lee Metcalf CCP" in the subject line of the message.

*Fax:* Laura King, Planning Team Leader, 406-644-2661.

*U.S. Mail:* Laura King, Planning Team Leader, National Bison Range, Division of Refuge Planning, 58355 Bison Range Road, Moiese, MT 59824.

*In-Person Drop-off:* You may drop off comments during regular business hours at the above address or at the Lee Metcalf National Wildlife Refuge office located in Stevensville, Montana, at 4567 Wildfowl Lane.

#### FOR FURTHER INFORMATION CONTACT:

Laura King, 406-644-2211, extension 210 (phone); or Michael Spratt, Chief, Division of Planning, P.O. Box 25486, Denver Federal Center, Denver, CO 80225.

#### SUPPLEMENTARY INFORMATION:

##### Introduction

With this notice, we initiate our process for developing a CCP for Lee Metcalf NWR for the conservation and enhancement of its natural resources. This notice complies with our CCP policy to (1) Advise other Federal and State agencies, tribes, and the public of our intention to conduct detailed planning on this refuge and (2) obtain suggestions and information on the scope of issues to consider in the environmental document and during development of the CCP.

##### Background

###### *The CCP Process*

The National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd-668ee) (Administration Act), as amended by the National Wildlife Refuge System Improvement Act of 1997, requires us to develop a CCP for each national wildlife refuge. The purpose for developing a CCP is to provide refuge managers with a 15-year plan for achieving refuge purposes and contributing toward the mission of the National Wildlife Refuge System, consistent with sound principles of fish and wildlife management, conservation, legal mandates, and our policies. In addition to outlining broad management direction on conserving wildlife and their habitats, CCPs identify wildlife-dependent recreational opportunities available to the public, including opportunities for hunting, fishing, wildlife observation and photography, and environmental education and interpretation. We will review and update the CCP at least every 15 years in accordance with the Administration Act.

Each unit of the National Wildlife Refuge System was established for specific purposes. We use these purposes as the foundation for developing and prioritizing the management goals and objectives for each refuge within the National Wildlife Refuge System mission, and to determine how the public can use each refuge. The planning process is a way

for us and the public to evaluate management goals and objectives that will ensure the best possible approach to wildlife, plant, and habitat conservation, while providing for wildlife-dependent recreation opportunities that are compatible with each refuge's establishing purposes and the mission of the National Wildlife Refuge System.

Our CCP process provides participation opportunities for tribal, State, and local governments; agencies; organizations; and the public. At this time we encourage input in the form of issues, concerns, ideas, and suggestions for the future management of Lee Metcalf NWR.

We will conduct the environmental review of this project and develop environmental documents in accordance with the requirements of the National Environmental Policy Act of 1969, as amended (NEPA) (42 U.S.C. 4321 *et seq.*); NEPA regulations (40 CFR parts 1500-1508); other appropriate Federal laws and regulations; and our policies and procedures for compliance with those laws and regulations.

##### *Lee Metcalf National Wildlife Refuge*

This Refuge was established in 1963 and has two purposes:

(1) "For use as an inviolate sanctuary, or for any other management purpose, for migratory birds" (Migratory Bird Conservation Act); and

(2) "for (a) incidental fish and wildlife oriented recreational development, (b) the protection of natural resources, [and] (c) the conservation of endangered species or threatened species" (Refuge Recreation Act).

This Refuge is located in Ravalli County, 2 miles north of Stevensville, Montana. The Refuge is one of the Nation's smaller refuges, encompassing 2,800 acres, but it is one of the few remaining undeveloped areas in the Bitterroot Valley. The Refuge lies along the meandering Bitterroot River and is comprised of wet meadow and forested habitats and has created and modified wetlands. This Refuge provides numerous opportunities for the public, including walking trails and an outdoor classroom for students and visitors. The Refuge provides habitat for raptors, including ospreys and numerous waterfowl species.

##### Scoping: Preliminary Issues, Concerns, and Opportunities

We have identified preliminary issues, concerns, and opportunities that we may address in the CCP. During public scoping, we may identify additional issues.