

parking areas and casino. Regional access to the casino complex would be from Richmond Parkway via Interstate 80.

A range of project alternatives is considered in the DEIS. These are as follows: (1) The proposed casino complex; (2) a reduced casino; (3) a reduced casino and commercial development; (4) retail/office development; and (5) no action. Environmental issues addressed in the DEIS include land resources, water resources, air quality, biological resources, cultural resources, socioeconomic conditions, environmental justice, transportation, land use, agriculture, public services, noise, hazardous materials, visual resources, cumulative effects, indirect effects, growth inducing effects and mitigation measures.

The BIA is the lead agency for the EIS/DEIS on this project. The Tribe, Contra Costa County and the California Department of Transportation are participating as cooperating agencies. A public scoping meeting for the EIS was held by the BIA on August 4, 2004, in Richmond, California.

#### Public Comment Availability

Comments, including names and addresses of respondents, will be available for public review at the BIA address shown in the **ADDRESSES** section, during business hours, 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. Individual respondents may request confidentiality. If you wish us to withhold your name and/or address from public review or from disclosure under the Freedom of Information Act, you must state this prominently at the beginning of your written comment. Such requests will be honored to the extent allowed by the law. We will not, however, consider anonymous comments. All submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, will be made available for public inspection in their entirety.

#### Authority

This notice is published in accordance with section 1503.1 of the Council on Environmental Quality Regulations (40 CFR Parts 1500 through 1508) implementing the procedural requirements of the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321 *et seq.*), and the Department of the Interior Manual (516 DM 1-6), and is in the exercise of authority delegated to the Principal

Deputy Assistant Secretary—Indian Affairs by 209 DM 8.1.

Dated: February 10, 2006.

**Michael D. Olsen,**

*Acting Principal Deputy Assistant Secretary—Indian Affairs.*

[FR Doc. E6-2755 Filed 2-27-06; 8:45 am]

**BILLING CODE 4310-W7-P**

## DEPARTMENT OF THE INTERIOR

### Bureau of Indian Affairs

#### Amendment (Title 8 of the Tribal Code) to Omaha Tribe's Beverage Control Ordinance

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

**ACTION:** Notice.

**SUMMARY:** This notice publishes an Amendment to Title 8 of the Omaha Tribe's Beverage Control Ordinance. The Ordinance regulates and controls the possession, sale and consumption of liquor within the Omaha Tribe's Reservation. The Reservation is located on trust land and this Ordinance allows for the possession and sale of alcoholic beverages within the exterior boundaries of the Omaha Tribe's Indian Reservation. This Ordinance 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 February 28, 2006.

#### FOR FURTHER INFORMATION CONTACT:

James Steele, Sr., Tribal Government Officer, Great Plains Regional Office, 115 Fourth Avenue SE, Aberdeen, SD 57401, Telephone (605) 226-7376; or Ralph Gonzales, Office of Tribal Services, 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. Renner*, 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 Omaha Tribal Council adopted this Amendment to Title 8 of the Omaha Tribe's Beverage Control Ordinance by Ordinance No. 04-54 on June 15, 2004. The purpose of this Ordinance is to govern the sale, possession and

distribution of alcohol within the Omaha Tribe's Indian Reservation.

This notice is published in accordance with the authority delegated by the Secretary of the Interior to the Principal Deputy Assistant Secretary—Indian Affairs. I certify that the Tribal Council duly adopted this Amendment to Title 8 of the Omaha Tribe's Beverage Control Ordinance of the Omaha Tribe on June 15, 2004.

Dated: February 22, 2006.

**Debbie L. Clark,**

*Acting Principal Deputy Assistant Secretary—Indian Affairs.*

The Amendment to Title 8 of the Omaha Tribe's Beverage Control Ordinance reads as follows:

The Omaha Tribal Code (2003), Title 8, ALCOHOLIC BEVERAGE CONTROL, shall be, and hereby is, amended to delete reference to "in the State of Iowa" at Sections 8-1-1(m), 8-1-8, 8-2-14, and by such amendment, specifically makes such Omaha Tribal Code (2003), Title 8 ALCOHOLIC BEVERAGE CONTROL applicable to any and all territory within the confines of the Omaha Indian Reservation, and to any and all future additions of land acquired within or without said boundary lines by the Secretary of the Interior for the Tribe or by the Tribe, and,

The Omaha Tribal Code (2003), Title 8, ALCOHOLIC BEVERAGE CONTROL, shall now read as follows:

#### Omaha Tribal Code (2003): Title 8. Alcoholic Beverage Control

*Source:* Omaha Tribal Council Resolution No. 92-88 (6-1-92); repealing 92-48 (12-17-91); repealing in part 85-89 (11-7-85). *See* 58 FR 8888-01 (2-17-93), 1993 WL 37754 (FR)

#### Chapter 1. Alcoholic Beverages

#### Section 8-1-1. Definition of Terms

Terms used in this Title, unless the context otherwise plainly requires, shall mean as follows:

(a) "Alcoholic Beverages" shall mean any intoxicating liquor, beer or any wine as defined under the provisions of this Title.

(b) "Application" shall mean a formal written request for the issuance of a license supported by a verified statement of facts.

(c) "Intoxicating Liquor" shall mean any liquid either commonly used, or reasonable adopted to use for beverage purposes, containing in excess of three and two-tenths percentum of alcohol by weight. This shall include any type of wine, regardless of alcohol content.

(d) "Legal Age" shall mean the age requirements as defined by Chapter 4.

(e) "Liquor Store" shall mean any store, established for the sale of alcoholic beverages.

(f) "On-Sale Dealer" shall mean the Omaha Tribe of Nebraska, Tribal Citizen or other person, firm or entity that sells, or keeps for sale, any alcoholic beverages authorized under this Title for consumption on the premises where sold.

(g) "On-Sale" shall mean the sale of any alcoholic beverage for consumption only upon the premises where sold.

(h) "Off-Sale" shall mean the sale of any alcoholic beverage for consumption off the premises where sold.

(i) "Package" shall mean the bottle or immediate container of any alcoholic beverage.

(j) "Package Dealer" shall mean the Omaha Tribe of Nebraska, Tribal Citizen or any person, firm or entity as distinguished from a distiller, manufacturer, or wholesaler, that sells, or keeps for sale, any alcoholic beverage authorized under the Title for consumption off the premises where sold.

(k) "Public Place" shall mean any place, building, or conveyance to which the public has or is permitted access.

(l) "Retailer" shall mean Omaha Tribe of Nebraska, Tribal Citizen or any person, firm or entity that sells alcoholic beverages authorized under this Title for other than resale.

(m) "Reservation" shall mean all lands located within the exterior boundaries of the Reservation of the Tribe, and such other lands over which the Tribe exercises governmental authority.

(n) "Sacramental Wine" shall mean wines for sacramental purposes only and used by ordained Rabbis, Priests, Ministers, or Pastors, or any church or established religious organization.

(o) "Sale" shall mean the transfer of bottled or canned liquor for any consideration and of title to any alcoholic beverage.

(p) "Tribal Citizen" or "Citizen of the Tribe" shall mean an enrolled member of the Tribe and persons eligible for enrollment.

(q) "Tribal Council" shall mean the governing body of the Omaha Tribe of Nebraska.

(r) "Tribe" shall mean the Omaha Tribe of Nebraska.

(s) "Vendor" shall mean, in the case of a Tribal Citizen, any person employed and under the direct supervision of such Tribal citizen to conduct and manage Tribal Citizen's liquor stores, and in the case of other persons, firms or entities, a vendor shall mean such person, firm or entity and any person employed and under the direction supervision of such person, firm or entity.

(t) "Wholesaler" shall mean any person other than a brewer or bottler of beer, who shall sell, barter, exchange, offer for sale, have in possession with intent to sell, deal or traffic in intoxicating liquor or beer; no wholesaler shall be permitted to sell for consumption upon the premises.

(u) "Wine" shall mean any beverage containing alcohol obtained by the fermentation of the natural sugar content of fruits or other agricultural products, and containing not more than seventeen percent of alcohol by weight, including sweet wines fortified with wine spirits, such as port, sherry, muscatel and other fortified wines.

(v) The Terms, "the provisions of this Title" "as provided in this Title" or similar terms shall include all rules and regulations of the Tribe adapted to aid in the administration or enforcement of this Title.

#### Section 8-1-2. Public Policy Declared

This Title shall be cited as the "Alcoholic Beverage Control Title" and under the inherent sovereignty of the Omaha Tribe of Nebraska, shall be deemed an exercise of the Tribe's power, for the protection of the welfare, health, peace, morals, and safety of the people of the Tribe, and all its provisions shall be liberally construed for the accomplishment of that purpose, and it is declared to be public policy that the traffic in alcoholic beverages if it affects the public interest of the people, should be regulated to the extent of prohibiting all traffic of liquor, except as provided in this Title.

#### Section 8-1-3. General Prohibition

It shall be unlawful to manufacture for sale, sell, offer, or keep for sale, possess or transport intoxicating liquor or beer except upon the terms, conditions, limitations, and restrictions specified in this Title.

#### Section 8-1-4. Director Appointed

The Omaha Tribal Council shall appoint one of its members to serve as Director of Liquor Control. The Director shall not have an interest directly or indirectly in the transportation or sale of intoxicating liquor or beer, or in any building or property used in connection with such a business. The Director shall review liquor licenses, applications for liquor licenses and shall report to the Council on such matters. The Director shall serve at the pleasure of the Tribal Council.

#### Section 8-1-5. Removal

The Director may be removed for cause by the Omaha Tribal Council and such removal shall not be in lieu of any

other punishment that may be prescribed by the laws of the Tribe or the United States. The Director so removed shall be entitled to an opportunity to be heard before the Omaha Tribal Council before removal.

#### Section 8-1-6. Tribal Control of Importation of Liquor

The Tribal Council shall have the sole and exclusive right of authorizing importation, into the Reservation, of all forms of intoxicating liquor and beer, except as otherwise provided in this Title, and no person or organization shall so import any such intoxicating liquor or beer into the Reservation, unless authorized by the Tribal Council by the issuance of a Class C wholesaler's license. No licensed wholesaler or distillery shall sell any intoxicating liquor or beer within the Reservation to any person or organization unless authorized by the Tribal Council and except as otherwise provided in this Title. It is the intent of this section to retain in the Tribal Council, exclusive control within the Reservation both as authorizer and controller of all alcoholic beverages sold by licensed wholesalers or distilleries within the Reservation or imported therein, and except as otherwise provided in this Title.

#### Section 8-1-7. Individual and Firms To Hold License

An individual person, as well as firms, corporations or other entities may hold a liquor license under the provisions of this Title. It is the intent of this Title to allow individuals as well as firms, corporations or other entities to hold liquor licenses, as provided by this Title.

#### Section 8-1-8. Tribal Liquor Stores or Lounges

Subject to the provisions of Chapter 2, the Tribal Council may establish and maintain anywhere on the Reservation the Tribal Council may deem advisable, a Tribal liquor store, lounge or stores or lounges for storage and sale of alcoholic beverages in accordance with the provisions of this Title.

#### Section 8-1-9. Vendor-Cash Sales

In the conduct and management of Tribal liquor stores and lounges, the Tribal Council is empowered to employ a person who shall be under the direct supervision of the Director, who shall be known as a "vendor" and who shall observe all provisions of this Title and rules and regulations that may be prescribed by the Tribal Council under this Title. No vendor shall sell alcoholic beverages to any person or organization except for cash, check, or credit card

transaction, except where the purchaser is a bona fide registered guest in a hotel or motel.

#### Section 8–1–10. Storage of Beverages

The Omaha Tribe of Nebraska and all licensees under this Title shall not keep or store any alcoholic beverages at any place within the Omaha Tribe of Nebraska Reservation other than on the premises where they are authorized to operate and except as otherwise provided by this Title.

#### Section 8–1–11. Payment of Fee

There shall be a filing fee on applications for any licenses under this Title, as established by the Tribal Council.

#### Section 8–1–12. Request for Notice of Hearing

If any Tribal Citizen shall file with the Tribal Council, a written request that he or she be notified of the time and place of hearing upon any specified application or applications for licenses for the on or off sale at retail of alcoholic beverages, the Director shall give notice to such person by certified mail and within a sufficient length of time prior to the hearing upon such application as to allow such person a reasonable opportunity to be present. For the purpose of this section, the certified letter must be deposited with the U.S. Post Office at least five (5) days before the scheduled date of the hearing.

#### Section 8–1–13. Time and Place for Hearing

The Tribal Council shall fix a time and place for hearing upon all such applications which may come before the Tribal Council, and the Director shall publish notice once in a newspaper of general circulation within the Reservation which notice shall be headed "Notice of Hearing Upon Application for Sale of Alcoholic Beverage" and shall state the time and place, when and where such applications will be considered by the Tribal Council and that any person interested in the approval or rejection of any such application may appear and be heard, which notice shall be published at least one week prior to such hearing. At the time and place so fixed, the Tribal Council shall consider such applications and all objections thereto, if any, prior to final decision thereon.

#### Section 8–1–14. Transfer of License

No license granted pursuant to the provisions of this Title shall be transferred to another person or organization. If a transfer to a new location is requested by a licensee, the

licensee must make application showing all the relevant facts as to such new application, which application shall take the same course and be acted upon as if an original application. No fee shall be required of a licensee who desires to transfer to a new location; however, such licensee must pay the actual costs involved in the Notification of Hearing as published in the official newspaper.

#### Section 8–1–15. Sale of Stock on Termination

Any license authorized to deal in alcoholic beverages upon termination of its license may at any time within twenty (20) days thereafter sell the whole or any part of the alcoholic beverages included in its stock in trade at the time of termination, to any licensed wholesaler approved under the provisions of the Title to deal in alcoholic beverages as a wholesaler. A complete report of such purchase and sale must be made by both the wholesaler and licensee to the Tribal Council. At the discretion of the Tribal Council, an additional twenty (20) days extension to sell may be granted to the licensee by the Tribal Council.

#### Section 8–1–16. Complaints Authorized

Any person may file with the Tribal Council, a duly notarized complaint as to any violations of the provisions of this Title and immediately upon receipt thereof, the Tribal Council shall cause the Director to make a thorough investigation and, if there is evidence to support the charge made in such complaint, the Tribal Council may revoke or suspend the license in question and/or take other appropriate action.

#### Section 8–1–17. Revocation Proceedings

The Tribal Council shall on due notice to such licensee, conduct a hearing and on the basis thereof determine whether such license should be revoked or suspended.

#### Section 8–1–18. Subpoena by Tribal Council

For the purpose of conducting the hearing as prescribed above, the Tribal Council shall have the power to subpoena witnesses and to administer oaths. Witnesses so subpoenaed may be paid at the then prevailing witness rate which is established by the Tribal Council from time-to-time. Said witness fee may be paid from the Tribal Liquor Control Fund. The initial witness fee shall be \$20.00 per day. Criminal proceedings must be filed in the Tribal Court and may be instituted by the Tribal Council as Complainant against

any violator except the Omaha Tribe of Nebraska.

#### Section 8–1–19. Dismissal or Acceptance of Complaint

If the Tribal Council determines the license should not be revoked or suspended, it shall dismiss the complaint. If the Tribal Council determines the license should be suspended or revoked and suspends or revokes such license, it must make in writing, findings of fact as to every such violation alleged in such complaint before it revokes or suspends such license, and must within thirty (30) days following the hearing, make a report available to the membership of the Tribe consisting of a transcript of the proceedings had, and all findings as to every such violation alleged in such complaint.

#### Section 8–1–20. Suspension in Lieu of Revocation

The Tribal Council may, if the facts warrant, mitigate the revocation to a suspension. When in any proceedings upon verified complaint, the Tribal Council is satisfied that the nature of such violation and the circumstances thereof were such that a suspension of license would be adequate, it may suspend the license for a period not exceeding sixty (60) days, which suspension shall become effective twenty-four (24) hours after service of notice thereof upon the license. During the period of such suspension, such licensee shall exercise no rights or privileges whatsoever under the license.

#### Section 8–1–21. Public Hearing Required

All hearings under the provisions of this Title shall be public, and place of hearing shall be specifically designated in the notice of hearing.

#### Section 8–1–22. Order of Revocation

In any case where the Tribal Council approves a revocation of a license, it shall forthwith make an order for such revocation and upon service of notice thereof on the licensee, all of such licensee's rights under such license shall terminate three (3) days after such notice, except in the event of a Stay of Appeal.

#### Section 8–1–23. Waiting Period for New License

Any licensee, except the Omaha Tribe of Nebraska, whose license is revoked, shall not for a period of two (2) years thereafter, be granted any license under the provisions of this Title.

**Section 8-1-24. Appeal to the Omaha Tribal Court**

Any licensee whose license is revoked or suspended by the Tribal Council regardless of how the proceedings were instituted, may appeal from such revocation or suspension, to the Omaha Tribal Court within five (5) days after notice to the licensee of such revocation or suspension, and such appeal operate to stay all proceedings for a period of fifteen (15) days thereafter. Upon good cause shown, the Tribal Court may extend the stay an additional period of time but not to exceed thirty (30) additional days. The Tribal Council shall forthwith, upon such appeal being made, prepare a complete record in the proceedings and shall thereupon fix a time and place for hearing before the Tribal Court, due notice of such hearing shall be given to all concerned parties involved in the appeal. The Tribal Court shall review the proceeding before the Tribal Council on the record made before the Tribal Council utilizing the clearly erroneous standard of review for findings of fact.

**Section 8-1-25. Bootlegging**

Any person, who by himself, or through another acting for him, shall keep or carry on his person, or in a vehicle, or leave in a place for another to secure, any alcoholic liquor or beer with intent to sell or dispense of such liquor or beer or otherwise in violation of law, or who shall, within this Reservation in any manner, directly or indirectly solicit, take, or accept any order for the purchase, sale, shipment, or delivery of such alcoholic liquor or beer in violation of law, or aid in the delivery and distribution of any alcoholic liquor or beer so ordered or shipped, or who shall in any manner procure for, sell, or give any alcoholic liquor or beer to any person under legal age, for any purpose except as authorized and permitted in this Title, shall be guilty of bootlegging and upon conviction thereof shall be subject to a fine of not less than one hundred dollars (\$100.00) nor more than five hundred dollars (\$500.00), and to a jail sentence of not less than three (3) months, nor more than six (6) months, or both such fine and jail sentence plus costs. Proceedings under this Section involving Tribal Citizens shall be criminal in nature and heard before the Omaha Tribal Court.

Proceedings under this Section involving non-Tribal Citizens shall be deemed an administrative exercise of the Tribe's regulatory power and the fine for any one offense cannot exceed

\$10,000.00 and no jail sentence may be imposed.

**Section 8-1-26. Sacramental Wines**

The provisions of this Title, except as otherwise provided, shall not apply to the purchase and sale of sacramental wines. Ordained rabbis, priests, ministers, or pastors of any church or established religious organizations within the Omaha Tribe Reservation may buy sacramental wines from any person in such quantities as necessary for their religious purposes only.

**Chapter 2. Liquor Licenses and Sales****Section 8-2-1. Power to License and Tax**

The power to establish licenses and levy taxes under the provisions of this Title is vested exclusively with the Tribal Council. The Tribal Council may levy an administrative fine for violations of this Title by those who are not Citizens of the Tribe, but such fines shall not exceed Ten Thousand Dollars (\$10,000.00) per violation.

**Section 8-2-2. Classes of Licenses**

Classes of licenses under this Chapter with the fee for each class as established by the Tribal Council from time-to-time shall be as follows:

- (a) Class A Package Dealers: \$1,000.00
- (b) Class B On Sale Dealers: \$1,500.00
- (c) Class C Wholesalers: \$500.00

**Section 8-2-3. Acceptance or Rejection of License**

In accepting or rejecting a request for a license, the Tribal Council shall consider the need of the area to be served for such liquor sales, the number of existing licensed businesses covering the area, the desires of the community within the area to be served, any law enforcement problem which may arise because of the sale of liquor, the character and reputation of the person seeking the license, suitability of the physical premises and plan of operation of the person seeking the license, and any other consideration relevant to the request.

**Section 8-2-4. Domestication Requirement for Corporated Licenses**

Any corporate, partnership or other entity applying for a Class A or Class B license under this chapter must be a corporation, partnership or entity organized under the laws of the Omaha Tribe of Nebraska, provided that if the applicant is a foreign corporation, partnership or entity, the applicant shall be deemed eligible if, prior to the application, it has complied with all the laws of the United States and the Tribe

concerning doing business within the Omaha Reservation and submitted to the jurisdiction of the Tribe by appointing a resident agent for service of process. Individuals, partnerships, and other forms of business association shall be eligible to obtain all classes of licenses under this chapter.

**Section 8-2-5. Discretion of the Tribal Council**

Application for licenses under this chapter shall be submitted to the Tribal Council as specified in Chapter 1 of this Title and the Tribal Council shall have absolute discretion to approve or disapprove the same in accordance with the provisions of this Title.

**Section 8-2-6. Cancellation of Surety Bond**

Any surety may cancel any bond required under this Title as to future liability by giving thirty (30) days notice to the Tribal Council. Unless the licensee gives other sufficient surety by the end of the thirty (30) day period, the license shall be revoked automatically at the end of the thirty (30) days.

**Section 8-2-7. Surety Bond**

(a) Every application for a license under this Title, unless exempted by the Tribal Council, must be accompanied by a bond, which shall become operative and effective upon the issuing of a license unless the licensee already has a continuing bond in force. The bond shall be in the amount of \$10,000.00 and must be in a form approved by the Tribal Council and it shall be conditioned that the licensee will faithfully obey and abide by all the provisions of this Title and all existing laws relating to the conduct of its business and will promptly pay to the Omaha Tribe of Nebraska when due, all taxes and license fees payable by it under the provisions of this Title and also any costs and cost penalty assessed against it in any judgment for violation of the terms of this Title.

(b) All bonds required by this Title shall be with a corporate surety as surety, or shall be by cash deposit. If said bond is placed by cash, it shall be kept in a separate escrow account within a legally chartered bank.

**Section 8-2-8. Action of Bond for Injury**

Any person injured by reason of the failure of any licensee to faithfully obey and abide by all the provisions of this Title shall have a direct right of acting upon the bond before the Tribal Council, and if the Tribal Council or the Tribe is the Complainant, before the Tribal Court, for the purpose of recovering the damage sustained by

such person, which action may be prosecuted in the name of the injured.

#### Section 8-2-9. Agreement by Licensee To Grant Access

Every application for a license under this Title must include an agreement by the applicant that his premises, for the purpose of search and seizure laws shall be considered public premises, and that such premises and all buildings, safes, cabinets, lockers, and store rooms thereon will at all times on demand of the Tribal Council or a duly appointed Tribal or Federal policeman, be open to inspection, and that all its books and records dealing with the sale of ownership of alcoholic beverages shall be open to said person or persons for such inspection, and that the application and the license issued thereon shall constitute an irrevocable contract between the licensee and the Omaha Tribe of Nebraska entitling the Tribe for the purpose of enforcing the provisions of this Title to inspect the premises and books at any time.

#### Section 8-2-10. Duration of Licenses

The period covered by the licenses under this Title shall be from 12:00 o'clock midnight on the 31st day of December to 12 o'clock midnight on the 31st of the following December, except that the license shall be valid for an additional thirty (30) days provided that proper application for a new license is in the possession of the Tribal Council prior to midnight on the 31st day of December when the license for a portion of such period, unless otherwise provided by this Title.

#### Section 8-2-11. Refilling Prohibited

No licensee shall buy or sell any package which has previously contained alcoholic beverages sold under the provisions of this Title or refill any such package.

#### Section 8-2-12. Deliveries

No licensee under this Title shall make any delivery of alcoholic beverages outside the premises described in the license.

#### Section 8-2-13. Prohibited Sales

No vendor shall sell any intoxicating liquor:

- (a) To any person under legal age;
- (b) To any person who is intoxicated at the time, or who is known to the vendor to be a habitual drunkard;
- (c) To any person to whom the vendor has been requested in writing not to make such sale, where such request is by the Tribal Council, any police or peace officer, or the husband or wife of the person; or

(d) To any mentally ill or mentally retarded person.

Any person who violates any of the provisions of this section shall be guilty of an offense and punished by a fine of not less than one hundred dollars (\$100.00) nor more than five hundred dollars (\$500.00), or by both such fine and imprisonment with costs.

#### Section 8-2-14. After Hours Sales

No vendor shall sell, serve or allow to be consumed on the premises covered by the license, alcoholic beverages other than in the hours permitted by its license. The Tribal Council shall specify the hours of sale in the license issued to the vendor, provided that such hours of sale shall not be more extensive than those permitted from time to time.

#### Section 8-2-15. Prohibited Sales

No Class B licensed On-Sale establishment shall allow to be sold any alcoholic beverages in a package, whether sealed or unsealed, or whether full or partially full.

#### Section 8-2-16. Unsealed Packages in Public

No person shall have an unsealed package containing intoxicating liquor in his possession in any public place, other than in a duly licensed facility authorizing such broken seal.

#### Section 8-2-17. Prohibited Use

No person shall be permitted either to consume any intoxicating liquor or to mix or blend any intoxicating liquor or alcohol with any other beverage whether or not such other beverage is an alcoholic beverage, in any public place other than upon the premises of a licensed on-sale dealer as defined and authorized by this Title, and any vendor who knowingly permits such violation to occur upon the premises shall be equally responsible with the person performing the act for the violation of the terms thereof.

#### Section 8-2-18. Cash Sales Only

All sales of alcoholic beverage shall be made for cash, check or by credit card transaction except where the purchaser is a bona fide registered guest in a hotel or motel. No Licensee may extend credit for the purchase of alcoholic beverages or engage in any pawn business of any type.

### Chapter 3. Sales Tax

#### Section 8-3-1. Sales Tax Levied

There is hereby imposed a sales tax on the purchaser of alcoholic beverages from any retail licensee licensed under the provisions of this Title in the amount of ten percentum (10%) of the

retail selling price. Such sales tax shall be deposited in a specific fund for use to prevent and control substance abuse on the Reservation.

### Chapter 4. Age Requirements

#### Section 8-4-1. Sales to Persons Under 21

It shall be unlawful to sell or give any alcoholic beverage to any person under the age of twenty-one (21) years. Any Tribal Citizen who violates this section shall be guilty of an offense and upon conviction thereof shall be punished by a fine of not less than one hundred dollars (\$100.00) or more than five hundred dollars (\$500.00) or by imprisonment in jail for not less than thirty (30) days nor more than one hundred eighty (180) days, or by both such fine and imprisonment with costs. Violations of this Section by persons or entities which are not Tribal Citizens may be regulated by the levy of an administrative fine not in excess of \$2,000.00 per violation following an opportunity for a hearing before the Tribal Council. The levy of an administrative fine by the Tribal Council under this Section is in addition to the power to suspend or revoke any license.

#### Section 8-4-2. Purchase, Possession by Minor

It shall be unlawful for any person under the age of twenty-one (21) years of age to purchase, attempt to purchase or possess or consume intoxicating liquor, or to misrepresent his age for the purpose of purchasing or attempting to purchase such intoxicating liquor. Any person who violates any of the provisions of this section shall be guilty of an offense and upon conviction thereof shall be punished by a fine of not less than One Hundred Dollars (\$100.00) or more than Five Hundred Dollars (\$500.00) or by imprisonment in the jail for a period of not less than thirty (30) days nor more than one hundred twenty (120) days, or by both such fine and imprisonment with costs. Violating this Section by persons who are not Citizens of the Tribe may be regulated by the levy of an administrative fine not in excess of \$1,000.00 per violation following an opportunity for a hearing before the Tribal Council.

#### Section 8-4-3. Evidence of Legal Age Demanded

Upon attempt to purchase any alcoholic beverages in any liquor store licensed pursuant to this Title by any person who appears to the vendor to be under legal age, such vendor shall

demand, and the prospective purchaser upon such demand, shall display satisfactory evidence that he or she is of legal age. Any person under legal age who presents to any vendor falsified evidence as to his age shall be guilty of a misdemeanor and upon conviction shall be subject to the penalties specified in Section 8-4-1 above.

#### *Chapter 5. Revision*

##### **Section 8-5-1. Severability**

If any section of any chapter of this Title or the application thereof to any party or class, or to any circumstances, shall be held to be invalid for any cause whatsoever, the remainder of the chapter or Title shall not be affected thereby and shall remain in full force and effect as though no part thereof had been declared to be invalid.

##### **Section 8-5-2. All Prior Ordinances and Resolutions Repealed**

All prior Ordinances and Resolutions thereof that are repugnant or inconsistent to any provision of this Title are hereby repealed.

##### **Section 8-5-3. Amendment or Repeal of Title**

This Title may be amended or repealed only by majority vote of the Tribal Council in regular session.

*History:* Omaha Tribal Council Resolution No. 85-89 (11-7-85) forbids the sale of alcohol within the exterior boundaries of the Omaha Tribal Reservation, but it is now repealed.

[FR Doc. E6-2764 Filed 2-27-06; 8:45 am]

**BILLING CODE 4310-4J-P**

## **DEPARTMENT OF THE INTERIOR**

### **Bureau of Land Management**

[UT-910-06-1120-PH-24-1A]

#### **Notice of Utah Resource Advisory Council Meeting**

**AGENCY:** Bureau of Land Management, Department of Interior.

**ACTION:** Notice of Utah Resource Advisory Council (RAC) Meeting.

**SUMMARY:** In accordance with the Federal Land Policy and Management Act (FLPMA) and the Federal Advisory Committee Act of 1972 (FACA), the U.S. Department of the Interior, Bureau of Land Management's (BLM) Utah Resource Advisory Council (RAC) will meet as indicated below.

**DATES:** The Utah Resource Advisory Council (RAC) will meet March 23, 2006 from 9 a.m. until 5 p.m., and from 8:30 a.m. until 2 p.m., on March 24, 2006 in Wayne County, Utah.

**ADDRESSES:** On March 23, the Utah BLM Resource Advisory Council meet at the parking area on Factory Bench Road near the Highway 24 turn-off for a field tour of the Factory Butte area. On March 24, the RAC will be meeting at the Civic Center, 90 West Center, in Loa, Utah.

#### **FOR FURTHER INFORMATION CONTACT:**

Sherry Foot, Special Programs Coordinator, Utah State Office, Bureau of Land Management, P.O. Box 45155, Salt Lake City, Utah, 84145-0155; phone (801) 539-4195.

**SUPPLEMENTARY INFORMATION:** On March 23, 2006, the RAC will be taking a field tour with its Factory Butte RAC subcommittee to look at OHV-related issues in the Factory Butte area, including possible open-use areas under the Resource Management Plan now being updated for the Richfield Field Office. The RAC is planning stops on the field trip at Swing Arm City, Neilson Wash, the Pinnacles, Skyline Rim Overlook, Salt Wash, Lower Blue Hills, Notom Road, and possibly other points of interest (weather permitting). On March 24, the RAC will be meeting in Loa to hear status information and reporting from its Factory Butte RAC subcommittee. The Factory Butte RAC subcommittee has been meeting periodically since July 2005 examining OHV-related issues in the Factory Butte area, including possible recommendations to the RAC on future designation of open-use areas near Factory Butte. A public comment period, where members of the public may address the RAC, is scheduled from 12:30 p.m. until 2 p.m. Written comments may be sent to the Bureau of Land Management address listed above. All meetings are open to the public; however, transportation, lodging, and meals are the responsibility of the participating public.

Dated: February 14, 2006.

**Gene R. Terland,**

*Acting, State Director.*

[FR Doc. E6-2753 Filed 2-27-06; 8:45 am]

**BILLING CODE 4310-DK-P**

## **DEPARTMENT OF THE INTERIOR**

### **National Park Service**

#### **Oil and Gas Management Plan, Final Environmental Impact Statement, Big Thicket National Preserve, TX**

**AGENCY:** National Park Service, Department of the Interior.

**ACTION:** Notice of Availability of a Record of Decision on the Final Environmental Impact Statement for the

Oil and Gas Management Plan, Big Thicket National Preserve.

**SUMMARY:** Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, 83 Stat. 852, 853, codified as amended at 42 U.S.C 4332(2)(C), the National Park Service announces the availability of the Record of Decision on the Final Environmental Impact Statement for the Oil and Gas Management Plan, Big Thicket National Preserve, Texas. On February 3, 2006, the Director, Intermountain Region approved the Record of Decision for the project. As soon as practicable, the National Park Service will begin to implement the Preferred Alternative contained in the FEIS issued on December 16, 2006. The following course of action will occur under the preferred alternative: An oil and gas management plan will be implemented that clearly articulates the Current Legal and Policy Requirements applicable to the exploration, production, and transportation of nonfederal oil and gas resources in the Preserve; performance standards, mitigation measures, and operating stipulations will be developed and applied Preserve-wide to protect resources and values; and Special Management Areas will be formally designated and will include timing and surface use stipulations for different types of nonfederal oil and gas operations. This course of action and 2 alternatives were analyzed in the Draft and Final Environmental Impact Statements. The full range of foreseeable environmental consequences was assessed, and appropriate mitigating measures were identified.

The Record of Decision includes a description of the background of the project, statement of the decision made, mitigation measures/monitoring, synopses of other alternatives considered, the basis for the decision, a finding on impairment of park resources and values, a description of the environmentally preferred alternative, and an overview of public and agency involvement in the decision-making process.

#### **FOR FURTHER INFORMATION CONTACT:**

Linda Dansby, P.O. Box 728, Santa Fe, New Mexico 87504-0728; 505-988-6095.

**SUPPLEMENTARY INFORMATION:** Copies of the Record of Decision may be obtained from the contact listed above or online at <http://parkplanning.nps.gov>.