

tamarin (*Leontopithecus rosalia*), cotton-top tamarin (*Saguinus Oedipus*), Asian dhole (*Cuon alpinus*), Asian wild horse (*Equus Przewalski*), Amur leopard (*Panthera pardus orientalis*), Siberian tiger (*Panthera tigris altaica*), White-cheeked gibbon (*Hylobates leucogenys*), Ring-tailed lemur (*Lemur catta*), Malayan tapir (*Tapirus indicus*), Rothschild's mynah (*Leucopsar rothschildi*), African penguin (*Spheniscus demersus*), West African dwarf crocodile (*Osteolaemus tetraspis tetraspis*), and komodo monitor (*Varanus komodoensis*). This notification covers activities to be conducted by the applicant over a 5-year period.

Applicant: Cord Offermann, Austin, TX; Permit No. 05160B

The applicant requests renewal of a captive-bred wildlife registration under 50 CFR 17.21(g) for the following species to enhance the propagation or survival of the species: Radiated tortoise (*Astrochelys radiata*), Galapagos giant tortoise (*Chelonoidis niger*), and spotted pond turtle (*Geoclemys hamiltonii*). This notification covers activities to be conducted by the applicant over a 5-year period.

Applicant: Chicago Zoological Society dba Brookfield Zoo, Brookfield, IL; Permit No. 84889C

The applicant requests renewal of a captive-bred wildlife registration under 50 CFR 17.21(g) for the following species to enhance the propagation or survival of the species: Grevy's zebra (*Equus grevyi*), Siberian tiger (*Panthera tigris altaica*), lesser slow loris (*Nycticebus pygmaeus*), African dwarf crocodile (*Osteolaemus tetraspis*), and clouded leopard (*Neofelis nebulosa*). This notification covers activities to be conducted by the applicant over a 5-year period.

Applicant: Uno Mas Ranch, Bandera, TX; Permit No. 02149D

The applicant requests a permit authorizing the culling of excess Arabian oryx (*Oryx leucoryx*) from the captive herd maintained at their facility, to enhance the species' propagation and survival. This notification covers activities to be conducted by the applicant over a 5-year period.

Applicant: Gary Reeder, Flagstaff, AZ; Permit No. 09831D

The applicant requests a permit to import a sport-hunted trophy of one male bontebok (*Damaliscus pygargus pygargus*) culled from a captive herd maintained under the management program of the Republic of South Africa, for the purpose of enhancing the propagation or survival of the species.

B. Endangered Marine Mammals and Marine Mammals

Applicant: ABR, Inc.—Environmental Research and Services, Fairbanks, AK; Permit No. 75595C

The applicant requests a permit for authorization to conduct aerial and boat surveys of northern sea otters (*Enhydra lutris kenyoni*) in Kamishak Bay of Cook Inlet. This notification covers activities to be conducted by the applicant over a 5-year period.

Applicant: USGS Alaska Science Center, Anchorage, AK; Permit No. 85339C

The applicant requests a permit for authorization to conduct research on captive polar bears (*Ursus maritimus*) housed in various U.S. zoological facilities. This notification covers activities to be conducted by the applicant over a 5-year period.

IV. Next Steps

If we issue permits to any of the applicants listed in this notice, we will publish a notice in the **Federal Register**. You may locate the notice announcing the permit issuance by searching <http://www.regulations.gov> for the permit number listed above in this document. For example, to find information about the potential issuance of Permit No. 12345A, you would go to [regulations.gov](http://www.regulations.gov) and search for "12345A".

V. Authority

We issue this notice under the authority of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*), and its implementing regulations, and the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), and its implementing regulations.

Monica Thomas,

Management Analyst, Branch of Permits, Division of Management Authority.

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DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

[190A2100DD/AAKC001030/
AOA501010.999900253G]

Indian Gaming; Approval of Tribal-State Class III Gaming Compact Amendment in the State of Oklahoma

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice.

SUMMARY: The State of Oklahoma entered into an amendment with the Osage Nation governing certain forms of

class III gaming; this notice announces the approval of the Osage Nation and State of Oklahoma Gaming Compact: Non-house-banked Table Games Supplement.

DATES: The amendment takes effect on December 4, 2018.

FOR FURTHER INFORMATION CONTACT: Ms. Paula L. Hart, Director, Office of Indian Gaming, Office of the Deputy Assistant Secretary—Policy and Economic Development, Washington, DC 20240, (202) 219–4066.

SUPPLEMENTARY INFORMATION: Under section 11 of the Indian Gaming Regulatory Act (IGRA), 25 U.S.C. 2701 *et seq.*, the Secretary of the Interior shall publish in the **Federal Register** notice of approved Tribal-State compacts for the purpose of engaging in Class III gaming activities on Indian lands. As required by IGRA and 25 CFR 293.4, all compacts and amendments are subject to review and approval by the Secretary. The amendment authorizes the Tribe to engage in certain additional class III gaming activities, provides for the application of existing revenue sharing agreements to the additional forms of class III gaming, and designates how the State will distribute revenue sharing funds.

Dated: November 16, 2018.

Tara Sweeney,

Assistant Secretary—Indian Affairs.

[FR Doc. 2018–26298 Filed 12–3–18; 8:45 am]

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DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

[190A2100DD/AAKC001030/
AOA501010.999900]

HEARTH Act Approval of Prairie Band Potawatomi Nation Regulations

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice.

SUMMARY: On September 18, 2018, the Bureau of Indian Affairs (BIA) approved the Prairie Band Potawatomi Nation Business Site Leasing Ordinance under the Helping Expedite and Advance Responsible Tribal Homeownership Act of 2012 (HEARTH Act). With this approval, the Tribe is authorized to enter into business and other authorized purposes leases without further BIA approval.

FOR FURTHER INFORMATION CONTACT: Ms. Sharlene Round Face, Bureau of Indian Affairs, Division of Real Estate Services, 1849 C Street NW, MS–4642–MIB

Washington, DC 20240, or by telephone at (202) 208–3615.

SUPPLEMENTARY INFORMATION:

I. Summary of the HEARTH Act

The HEARTH Act makes a voluntary, alternative land leasing process available to Tribes, by amending the Indian Long-Term Leasing Act of 1955, 25 U.S.C. 415. The HEARTH Act authorizes Tribes to negotiate and enter into agricultural and business leases of Tribal trust lands with a primary term of 25 years, and up to two renewal terms of 25 years each, without the approval of the Secretary of the Interior (Secretary).

The HEARTH Act also authorizes Tribes to enter into leases for residential, recreational, religious or educational purposes for a primary term of up to 75 years without the approval of the Secretary. Participating Tribes develop tribal leasing regulations, including an environmental review process, and then must obtain the Secretary's approval of those regulations prior to entering into leases. The HEARTH Act requires the Secretary to approve Tribal regulations if the Tribal regulations are consistent with the Department of the Interior's (Department) leasing regulations at 25 CFR part 162 and provide for an environmental review process that meets requirements set forth in the HEARTH Act. This notice announces that the Secretary, through the Assistant Secretary—Indian Affairs, has approved the Tribal regulations for the Prairie Band Potawatomi Nation.

II. Federal Preemption of State and Local Taxes

The Department's regulations governing the surface leasing of trust and restricted Indian lands specify that, subject to applicable Federal law, permanent improvements on leased land, leasehold or possessory interests, and activities under the lease are not subject to State and local taxation and may be subject to taxation by the Indian Tribe with jurisdiction. See 25 CFR 162.017. As explained further in the preamble to the final regulations, the Federal government has a strong interest in promoting economic development, self-determination, and Tribal sovereignty. 77 FR 72,440, 72,447–48 (December 5, 2012). The principles supporting the Federal preemption of State law in the field of Indian leasing and the taxation of lease-related interests and activities applies with equal force to leases entered into under Tribal leasing regulations approved by the Federal government pursuant to the HEARTH Act.

Section 5 of the Indian Reorganization Act, 25 U.S.C. 5108, preempts State and local taxation of permanent improvements on trust land.

Confederated Tribes of the Chehalis Reservation v. Thurston County, 724 F.3d 1153, 1157 (9th Cir. 2013) (citing *Mescalero Apache Tribe v. Jones*, 411 U.S. 145 (1973)). Similarly, section 5108 preempts state taxation of rent payments by a lessee for leased trust lands, because “tax on the payment of rent is indistinguishable from an impermissible tax on the land.” See *Seminole Tribe of Florida v. Stranburg*, No. 14–14524, *13–*17, n.8 (11th Cir. 2015). In addition, as explained in the preamble to the revised leasing regulations at 25 CFR part 162, Federal courts have applied a balancing test to determine whether State and local taxation of non-Indians on the reservation is preempted. *White Mountain Apache Tribe v. Bracker*, 448 U.S. 136, 143 (1980). The *Bracker* balancing test, which is conducted against a backdrop of “traditional notions of Indian self-government,” requires a particularized examination of the relevant State, Federal, and Tribal interests. We hereby adopt the *Bracker* analysis from the preamble to the surface leasing regulations, 77 FR at 72,447–48, as supplemented by the analysis below.

The strong Federal and Tribal interests against State and local taxation of improvements, leaseholds, and activities on land leased under the Department's leasing regulations apply equally to improvements, leaseholds, and activities on land leased pursuant to Tribal leasing regulations approved under the HEARTH Act. Congress's overarching intent was to “allow Tribes to exercise greater control over their own land, support self-determination, and eliminate bureaucratic delays that stand in the way of homeownership and economic development in Tribal communities.” 158 Cong. Rec. H. 2682 (May 15, 2012). The HEARTH Act was intended to afford Tribes “flexibility to adapt lease terms to suit [their] business and cultural needs” and to “enable [Tribes] to approve leases quickly and efficiently.” *Id.* at 5–6.

Assessment of State and local taxes would obstruct these express Federal policies supporting Tribal economic development and self-determination, and also threaten substantial Tribal interests in effective Tribal government, economic self-sufficiency, and territorial autonomy. See *Michigan v. Bay Mills Indian Community*, 134 S. Ct. 2024, 2043 (2014) (Sotomayor, J., concurring) (determining that “[a] key goal of the Federal Government is to render Tribes more self-sufficient, and better

positioned to fund their own sovereign functions, rather than relying on Federal funding”). The additional costs of State and local taxation have a chilling effect on potential lessees, as well as on a Tribe that, as a result, might refrain from exercising its own sovereign right to impose a Tribal tax to support its infrastructure needs. See *id.* at 2043–44 (finding that State and local taxes greatly discourage Tribes from raising tax revenue from the same sources because the imposition of double taxation would impede Tribal economic growth).

Similar to BIA's surface leasing regulations, Tribal regulations under the HEARTH Act pervasively cover all aspects of leasing. See 25 U.S.C. 415(h)(3)(B)(i) (requiring Tribal regulations be consistent with BIA surface leasing regulations). Furthermore, the Federal government remains involved in the Tribal land leasing process by approving the Tribal leasing regulations in the first instance and providing technical assistance, upon request by a Tribe, for the development of an environmental review process. The Secretary also retains authority to take any necessary actions to remedy violations of a lease or of the Tribal regulations, including terminating the lease or rescinding approval of the Tribal regulations and reassuming lease approval responsibilities. Moreover, the Secretary continues to review, approve, and monitor individual Indian land leases and other types of leases not covered under the Tribal regulations according to the Part 162 regulations.

Accordingly, the Federal and Tribal interests weigh heavily in favor of preemption of State and local taxes on lease-related activities and interests, regardless of whether the lease is governed by Tribal leasing regulations or Part 162. Improvements, activities, and leasehold or possessory interests may be subject to taxation by the Prairie Band Potawatomi Nation.

Dated: September 18, 2018.

Tara Sweeney,

Assistant Secretary—Indian Affairs.

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