

Frequency: Quarterly and Annually.

Estimated Number and Description of Respondents: Approximately 2,000 producers of industrial minerals and metals.

Annual burden hours: 612.

Estimated Reporting and Recordkeeping "Non-Hour Cost"

Burden: We have not identified any "non-hour cost" burdens associated with this collection of information.

Public Disclosure Statement: The PRA provides that an agency may not conduct or sponsor, and you are not required to respond to, a collection of information unless it displays a currently valid OMB control number.

Comments: Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3501, *et seq.*) requires each agency " * * * to provide notice * * * and otherwise consult with members of the public and affected agencies concerning each proposed collection of information * * *."

Agencies must specifically solicit comments to: (a) Evaluate whether the proposed collection of information is necessary for the agency to perform its duties, including whether the information is useful; (b) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) enhance the quality, usefulness, and clarity of the information to be collected; and (d) minimize the burden on the respondents, including the use of automated collection techniques or other forms of information technology.

To comply with the public consultation process, on December 8, 2006, we published a **Federal Register** notice (71 FR 71186) announcing that we would submit this ICR to OMB for approval. The notice provided the required 60-day public comment period. We have received no comments in response to the notice.

Bureau clearance officer: Alfred Travnicek, 703-648-7231.

John H. DeYoung, Jr.,

Chief Scientist, Minerals Information Team.
[FR Doc. 07-2071 Filed 4-26-07; 8:45 am]

BILLING CODE 4311-AM-M

DEPARTMENT OF THE INTERIOR

Geological Survey

Agency Information Collection Activities: Submitted for Office of Management and Budget (OMB) Review; Comment Request

AGENCY: U.S. Geological Survey (USGS), Interior.

ACTION: Notice of an extension of an information collection (1028-0059).

SUMMARY: To comply with the Paperwork Reduction Act of 1995 (PRA), we are notifying the public that we have submitted to OMB an information collection request (ICR) to renew approval of the paperwork requirements for "Comprehensive Test Ban Treaty, USGS Form 9-4040-A." This notice also provides the public a second opportunity to comment on the paperwork burden of this form.

DATES: Submit written comments by May 29, 2007.

ADDRESSES: You may submit comments on this information collection directly to the Office of Management and Budget (OMB), Office of Information and Regulatory Affairs, Attention: Desk Officer for the Department of the Interior via OMB e-mail: (OIRA_DOCKET@omb.eop.gov); or by fax (202) 395-6566; identify with (1028-0059).

Submit a copy of your comments to the Department of the Interior, USGS, via:

- E-mail: atravnic@usgs.gov. Use Information Collection Number 1028-0059 in the subject line.
- Fax: (703) 648-7069. Use Information Collection Number 1028-0059 in the subject line.
- Mail or hand-carry comments to the Department of the Interior; USGS Clearance Officer, U.S. Geological Survey, 807 National Center, Reston, VA 20192. Please reference Information Collection 1028-0059 in your comments.

FOR FURTHER INFORMATION CONTACT:

Deborah A. Kramer at (703) 648-7719. Copies of the full Information Collection Request and the form can be obtained at no cost at www.reginfo.gov or by contacting the USGS clearance officer at the phone number listed below.

SUPPLEMENTARY INFORMATION:

Title: Comprehensive Test Ban Treaty.

OMB Control Number: 1028-0059.

Form Number: 9-4040-A.

Abstract: The information, required by the Comprehensive Test Ban Treaty (CTBT), will provide the CTBT Technical Secretariat with geographic locations of sites where chemical explosions greater than 300 tons TNT-equivalent have occurred. Respondents to the information collection request are U.S. nonfuel minerals producers. Responses are voluntary. No questions of a "sensitive" nature are asked.

Frequency: Annual.

Estimated Number and Description of Respondents: Approximately 3,000 companies that have conducted in the

last calendar year, or that will conduct in the next calendar year, explosions with a total charge size of 300 tons of TNT-equivalent, or greater.

Annual Burden Hours: 750.

Estimated Reporting and Recordkeeping "Non-Hour Cost"

Burden: We have not identified any "non-hour cost" burdens associated with this collection of information.

Public Disclosure Statement: The PRA (44 U.S.C. 3501, *et seq.*) provides that an agency may not conduct or sponsor, and you are not required to respond to, a collection of information unless it displays a currently valid OMB control number.

Comments: Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3501, *et seq.*) requires each agency " * * * to provide notice * * * and otherwise consult with members of the public and affected agencies concerning each proposed collection of information * * *."

Agencies must specifically solicit comments to: (a) Evaluate whether the proposed collection of information is necessary for the agency to perform its duties, including whether the information is useful; (b) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) enhance the quality, usefulness, and clarity of the information to be collected; and (d) minimize the burden on the respondents, including the use of automated collection techniques or other forms of information technology.

To comply with the public consultation process, on August 29, 2006, we published a **Federal Register** notice (71 FR 51209) announcing that we would submit this ICR to OMB for approval. The notice provided the required 60-day public comment period. We have received no comments in response to the notice.

Bureau clearance officer: Alfred Travnicek, 703-648-7231.

John H. DeYoung, Jr.,

Chief Scientist, Minerals Information Team.
[FR Doc. 07-2082 Filed 4-26-07; 8:45 am]

BILLING CODE 4311-AM-M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Kiowa Indian Tribe of Oklahoma Liquor Control Ordinance of 2006

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice.

SUMMARY: This notice publishes the Liquor Control Ordinance of the Kiowa

Indian Tribe of Oklahoma (Tribe). The Ordinance regulates and controls the possession, sale, and consumption of liquor within the tribal lands. The tribal lands are located in Indian country and this Ordinance allows for possession and sale of alcoholic beverages within their boundaries. 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.

EFFECTIVE DATE: This Ordinance is effective on April 27, 2007.

FOR FURTHER INFORMATION CONTACT:

Suzanne Chaney, Tribal Government Services Officer, Southern Plains Regional Office, WCD Office Complex, PO Box 368, Anadarko, OK 73005, Telephone: (405) 247-1537, Fax (405) 247-9240; or Elizabeth Colliflower, Office of Indian Services, 1849 C Street, NW., Mail Stop 4513-MIB, Washington, DC 20240, Telephone: (202) 513-7627.

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 Kiowa Business Committee (Committee) adopted its Liquor Ordinance by Resolution No. CY-2007-702 on January 6, 2007. This Liquor Ordinance will be the first published in the **Federal Register** for the Tribe. The purpose of this Ordinance is to govern the sale, possession, and distribution of alcohol 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 Liquor Control Ordinance of the Kiowa Indian Tribe of Oklahoma was duly adopted by the Committee on January 6, 2007.

April 19, 2007.

Carl J. Artman,

Assistant Secretary—Indian Affairs.

The Kiowa Tribe of Oklahoma Liquor Control Ordinance reads as follows:

**Kiowa Indian Tribe of Oklahoma
Liquor Control Ordinance of 2006**

**An Ordinance To Authorize and
Regulate the Introduction, Possession
and Sale of Liquor on Tribal Lands**

Be it enacted by the Kiowa Indian Council as follows:

Article 1 Title

This Ordinance shall be known as the “Kiowa Indian Tribe of Oklahoma Liquor Control Ordinance of 2006.”

Article 2 Authority

This Ordinance is enacted pursuant to the Act of August 15, 1953 (Pub. L. 83-277, 67 Stat. 586, 18 U.S.C. 1161), the Constitution and Bylaws of the Kiowa Indian Tribe of Oklahoma, and the Tribe's inherent sovereign authority. Pursuant to Article V, Section 2(g) of the Constitution and Bylaws of the Kiowa Indian Tribe of Oklahoma, the Kiowa Business Committee (“Tribal Business Committee”) is empowered to act on a variety of matters including taking necessary action “to promulgate and enforce ordinances and codes governing law and order to protect the peace, health, safety, and general welfare, on land determined to be within tribal jurisdiction subject to the approval of the Assistant Secretary for Indian Affairs or his authorized representative.”

Article 3 Purpose

The purpose of this Ordinance is to authorize, regulate, and control the introduction, possession, and sale of Liquor on the Tribal Lands of the Kiowa Indian Tribe of Oklahoma in accordance with Federal law, Oklahoma State law, and the laws of the Kiowa Indian Tribe of Oklahoma. The enactment of this Ordinance will enhance the ability of the Tribal government to control all Liquor related activities within the jurisdiction of the Tribe. This Ordinance is enacted in conjunction with the laws of the State of Oklahoma applicable to the sale and distribution of Liquor pursuant to 18 U.S.C. 1161.

Article 4 Scope

In order to protect the health, safety, and social welfare of the members of the Kiowa Indian Tribe of Oklahoma and the patrons of businesses located on Tribal Lands, and be consistent with the principles enunciated by the United States Supreme Court in *United States v. Montana*, 101 S. Ct. 1245 (1981), the Tribe as an exercise of sovereign authority and self-determination has enacted this Ordinance to regulate the introduction, possession, and sale of Liquor on Tribal Lands.

This Ordinance applies to all Tribal Lands, as defined herein. This Ordinance shall extend to all Persons, as defined herein, receiving or requiring Licenses hereunder, or doing business on Tribal Lands, or having significant contacts within Tribal Lands, or residing within Tribal Lands, or entering into or coming within Tribal Lands, or consuming, possessing, manufacturing, or distributing Liquor within Tribal Lands. All such Persons shall be deemed to have consented to the jurisdiction of the Tribe and to the provisions of this Ordinance, the operation thereof, and to the jurisdiction and authority of the Tribe, and shall, by virtue of such actions, be deemed to have waived all defenses to the jurisdiction and venue of the Tribe, the Tribal Gaming Commission, and the Tribal Court, notwithstanding that such Persons may be of non-Indian descent or character.

Article 5 Definitions

As used in this Ordinance, the following definitions shall apply:

(a) “*Alcohol*” has the same meaning as the term “Liquor” as herein defined in this Ordinance.

(b) “*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 containing not more than four percent of Alcohol by volume. For the purpose of this Ordinance, any such beverage, including ale, stout, and porter, containing more than four percent of Alcohol by weight shall be referred to as “strong Beer.”

(c) “*Gaming Facility*” means a building or buildings and accessory improvements located on Tribal Land, as defined herein, and used in the operation of Class II or Class III Gaming, as applicable, including all land upon which the building or buildings are situated that is appropriated for the use of the Gaming Facility, together with all parts of the Gaming Site and all related appurtenances and fixtures, including any ancillary or related hotel, resort or entertainment facilities.

(d) “*Gaming Site*” or “*Site*” means the tract or tracts of Tribal Land upon which a Gaming Facility is located.

(e) “*License*” means a liquor license duly issued by the Tribal Gaming Commission pursuant to this Ordinance.

(f) “*Liquor*” means the four varieties of liquor herein defined (Alcohol, Spirits, Wine and Beer), and all fermented spirituous, vinous, or malt liquor or combinations thereof, and mixed liquor, or a part of which is

fermented, spirituous, vinous, or malt liquor, or otherwise intoxicating; and every other liquid or solid or semisolid or other substance, patented or not, containing Alcohol, Spirits, Wine or Beer, and all drinks or drinkable liquids and all preparations or mixtures capable of human consumption, and any liquid, semisolid, solid, or other substances that contains more than 1 percent of Alcohol by weight shall be conclusively deemed to be intoxicating.

(g) “*Management Contractor*” means a Person (other than the Tribe) holding a management contract entered into pursuant to 25 U.S.C. 2710(d)(9) or 2711 and approved by the National Indian Gaming Commission pursuant to Part 532 (Approval of Management Contracts), Title 25, Code of Federal Regulations.

(h) “*Ordinance*” means this Kiowa Indian Tribe of Oklahoma Liquor Control Ordinance of 2006.

(i) “*Patron*” means a person visiting premises licensed pursuant to this Ordinance and having the intent to purchase any goods or services for sale to the general public therein.

(j) “*Person*” means any natural person, partnership, corporation, limited liability company, association, other statutory business entity and any sovereign. The term also includes any Tribal Gaming Operations Authority duly constituted pursuant to the laws of the Tribe.

(k) “*Public Place*” means any location or premises on Tribal Lands to which the general public has unrestricted access.

(l) “*Sale and Sell*” means any exchange, barter, gift or traffic; and also includes the selling of 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 and also includes giving away Liquor, Wine, Beer, or Spirits.

(m) “*Spirits*” means any beverage, which contains Alcohol obtained by distillation, including wines exceeding 17 percent of Alcohol by weight.

(n) “*State*” means the State of Oklahoma and any of its agencies or instrumentalities.

(o) “*Tribal Business Committee*” means the Kiowa Business Committee as described in the Constitution and Bylaws of the Kiowa Indian Tribe of Oklahoma.

(p) “*Tribal Court*” means a court duly constituted under the Constitution and Bylaws of the Kiowa Indian Tribe of Oklahoma, or so long as there be no such court, the Court of Indian Offenses

sitting in Anadarko, Oklahoma, together with all tribunals provided for the appeal of the decisions of such court under Federal law.

(q) “*Tribal Gaming Commission*” or “*Commission*” means the Kiowa Tribal Gaming Commission established pursuant to the Kiowa Indian Tribe of Oklahoma Gaming Ordinance for the purpose of performing regulatory oversight and to monitor compliance with tribal, Federal, and State regulations, including this Ordinance.

(r) “*Tribal Gaming Operation*” means each economic unit that is licensed by the Tribe and owned, operated and managed through a Tribal Gaming Operations Authority duly constituted by the Tribal Business Committee or by a Management Contractor.

(s) “*Tribal Gaming Operations Authority*” means a profit-making business unit of the Tribe pursuant to the laws of the Tribe and conducting Gaming on Tribal Lands under the authority of licenses granted by the Tribal Gaming Commission, including the Kiowa Casino Operations Authority, as such term is defined in the Kiowa Indian Tribe of Oklahoma Gaming Ordinance.

(t) “*Tribal Lands*” means all land over which the Tribe exercises governmental power and that is either held in trust by the United States for the benefit of the Tribe or individual members of the Tribe and located within the boundaries of the Kiowa, Comanche, and Apache Tribes’ original reservation as established in the Treaty of October 21, 1867.

(u) “*Tribal Manager*” means a natural person hired by the Tribal Gaming Operations Authority as a regular employee of the Tribe with overall management responsibility for a Tribal Gaming Operation and in the case of a Tribal Gaming Operations Authority each member of the Board of Trustees thereof.

(v) “*Tribe*” means the Kiowa Indian Tribe of Oklahoma which is recognized by the United States Secretary of the Interior as eligible for the special programs and services provided by the United States to Indians because of their status as Indians and recognized as possessing powers of self-government.

(w) “*Wine*” means any Liquor obtained by fermentation of any fruits (grapes, berries, apples, etc.), or fruit juice and containing not more than 17 percent of Alcohol by weight, including sweet wines fortified with wine spirits, such as port, sherry, muscatel, and angelica, not exceeding 17 percent of Alcohol by weight.

Article 6 Powers of Enforcement

(a) The Tribal Gaming Commission is hereby delegated primary regulatory authority over the subject matter of this Ordinance. The Tribal Gaming Commission, in furtherance of this Ordinance, has the following powers and duties:

(1) To promulgate and publish such reasonable regulations regarding the sale of Liquor pursuant to this Ordinance as the Tribal Gaming Commission may from time to time deem to be appropriate;

(2) To employ managers, accountants, security personnel, inspectors, and other such persons as may be reasonably necessary to allow the Tribal Gaming Commission to perform its functions, and such employees shall be tribal employees;

(3) To issue Licenses permitting introduction, possession, and sale of Liquor on Tribal Lands;

(4) To hold hearings on violations of this Ordinance or for the issuance, suspension, or revocation of Licenses for the sale of Liquor on Tribal Lands issued pursuant to this Ordinance;

(5) To bring suit in the Tribal Court in the name of the Tribe to enforce this Ordinance, as the Tribal Gaming Commission may deem to be necessary;

(6) To seek damages and collect civil fines imposed by the Tribal Gaming Commission for violations of this Ordinance;

(7) To make reports, as may be required, of any violations under this Ordinance;

(8) To collect License fees and fines set by the Tribal Gaming Commission under this Ordinance, and to keep accurate records, books and accounts of all such receipts; and

(9) To exercise such other powers as are necessary and appropriate to fulfill the purposes of this Ordinance.

(b) Civil Enforcement.

The Tribal Gaming Commission may take any one or a combination of the following actions with respect to any person who violates any provision of this Ordinance:

(1) Impose a civil fine not to exceed Five Hundred Dollars (\$500) for each violation, and if such violation is a continuing violation, for each day of such violation;

(2) Suspend or revoke any License issued by the Tribal Gaming Commission; and

(A) The Tribal Gaming Commission may suspend or revoke a License for reasonable cause upon notice and hearing by the Tribal Gaming Commission at which the licensee shall be given at least twenty (20) days’ prior

written notice, served upon the licensee by first-class mail or certified mail return receipt requested, at the notice address stated in the licensee's most recent application, and stating the date and nature of the violation, the date, time and place of the hearing and the section or sections of this Ordinance that have been violated.

(B) At such hearing, the licensee shall have the right to be represented by an attorney at law licensed in any state and shall have the opportunity to respond to any charges against it, to present evidence under oath, to cross-examine all witnesses and otherwise to demonstrate why the License should not be suspended or revoked. At such hearings, the Federal Rules of Evidence in effect at the time of the hearing shall be applied, hearsay evidence shall in any event not be competent, and the burden of persuasion shall be that of the Tribal Gaming Commission, by a preponderance of the evidence.

(C) A decision of the Tribal Gaming Commission pursuant to such hearing may be appealed to the Tribal Court within thirty (30) days of such decision.

(3) Bring an action in the Tribal Court for imposition of civil fines and remedial relief, including (but not limited to):

(A) Restriction on the sale of liquor on Tribal Lands;

(B) Suspension, revocation, or termination of the License and issuing an order suspending further commercial activities on Tribal Lands;

(C) Seizure of any business assets, contraband, inventory, proceeds, or other property located on Tribal Lands;

(D) In the case of any non-member of the Tribe, expulsion and debarment of such persons from Tribal Lands;

(E) Collection of any unpaid fees together with interest at the rate of two percent (2%) per month or fraction of a month; or

(F) Execution of any nonexempt property of a violator located within the exterior boundaries of Tribal Lands.

(c) Due Process Procedures for Imposition of Fine or Remedial Relief.

(1) Imposition of fines or remedial relief by the Tribal Gaming Commission under Article 6(b)(3) shall require reasonable cause upon notice and a hearing held by the Tribal Gaming Commission at which the licensee shall be given at least twenty (20) days' prior written notice, served upon the licensee by first-class mail or certified mail return receipt requested, at the notice address stated in the licensee's most recent application, and stating the date and nature of the violation, the date, time and place of the hearing and the

section or sections of this Ordinance that have been violated.

(2) At such hearing, the licensee shall have the right to be represented by an attorney at law licensed in any state and shall have the opportunity to respond to any charges against it, to present evidence under oath, to cross-examine all witnesses and otherwise to demonstrate why such fine or remedial relief should not be imposed. At such hearing, the Federal Rules of Evidence in effect at the time of the hearing shall be applied, hearsay evidence shall in any event not be competent, and the burden of persuasion shall be that of the Tribal Gaming Commission, by a preponderance of the evidence.

(3) A decision of the Tribal Gaming Commission pursuant to such hearing may be appealed to the Tribal Court within thirty (30) days of such decision.

(d) Tribal Court Jurisdiction.

The Tribal Court shall have jurisdiction over any civil action brought by the Tribal Gaming Commission under this Ordinance, any appeal of a decision of the Tribal Gaming Commission regarding suspension, revocation, fine, or remedial relief arising out of a violation of this Ordinance, and also shall have the authority to impose any and all sanctions that may be imposed by the Tribal Gaming Commission pursuant to this Ordinance. Upon a finding that a violation of this Ordinance has occurred, the Tribal Court may impose a civil penalty as provided in this Article for each separate violation in addition to any or all actual damages, administrative costs, court costs, and attorneys fees.

(e) Inspection Rights.

The Public Places on or within which Liquor is sold or distributed shall be open for inspection by the Tribal Gaming Commission at all reasonable times for the purposes of ascertaining compliance with this Ordinance and other regulations promulgated thereto.

(f) Limitations on Powers.

In the exercise of its powers and duties under this Ordinance, the Tribal Gaming Commission and its individual members shall not accept gratuity, compensation, or other things of value from any Liquor producer, wholesaler, retailer, or distributor or from any Liquor licensee, other than the License fees and penalties established pursuant to this Ordinance.

(g) Prohibitions.

(1) In any proceeding under this Article, proof of one unlawful sale or distribution of Liquor shall suffice to establish prima facie intent or purpose of unlawfully keeping Liquor for sale,

selling Liquor, or distributing Liquor in violation of this Ordinance.

(2) Any Person who shall sell or offer for sale or distribute or transport in any manner any Liquor in violation of this Ordinance, shall be guilty of violation of this Ordinance. Nothing in this Ordinance shall apply to the possession or transportation of any quantity of Liquor not purchased or otherwise acquired at any retail establishment on Tribal Lands and intended only by members of the Tribe for their personal or other non-commercial use. The possession, transportation, sale, consumption, or other disposition of Liquor outside of Tribal Lands shall be governed solely by the laws of the State of Oklahoma or other sovereign having jurisdiction.

(3) Any Person who, in a Public Place, buys Liquor from any Person other than at a valid holder of a Liquor License issued by the Tribal Gaming Commission pursuant to this Ordinance, shall be guilty of a violation of this Ordinance.

(4) Any Person who shall sell or offer for sale or distribute or transport in any manner, any Liquor in violation of this Ordinance, or who shall operate or shall have Liquor in his possession with intent to sell or distribute without a License or permit shall be guilty of a violation of this Ordinance.

(5) No Person under the age of twenty-one (21) shall consume, acquire or have in his/her possession any Liquor. Any Person violating this section in a Public Place shall be guilty of a separate violation of this Ordinance for each and every drink so consumed, acquired, or possessed.

(6) Any Person who, in a Public Place, shall sell or provide any Liquor to any Person under the age of twenty-one (21) shall be guilty of a violation of this Ordinance for each such sale or drink provided.

(7) Any Person who transfers in any manner an identification of age to a minor for the purpose of permitting such minor to obtain Liquor shall be guilty of a violation of this Ordinance, provided that corroborative testimony of a witness other than the minor shall be a requirement of a finding of a violation of this Ordinance.

(8) Any Person who attempts to purchase Liquor through the use of a false or altered identification shall be guilty of a violation of this Ordinance.

(9) Possession of Alcohol that has been brought by a Patron into a Public Place shall result in ejection of a Patron from the Public Place.

(10) Liquor that is possessed contrary to the terms of this Ordinance are declared to be contraband. Any tribal

agent, employee or officer who is authorized by the Commission to enforce this Ordinance shall have the authority to, and shall, seize all contraband. Any officer seizing contraband shall preserve the contraband in accordance with applicable law of the Tribe or State law. Upon being found in violation of this Ordinance by the Tribal Gaming Commission, the Person shall forfeit all right, title, and interest in the items seized and they shall become the property of the Tribe.

(h) Penalties for Violations of the Ordinance.

Any Person guilty of a violation of this Ordinance shall be liable to pay the Tribal Gaming Commission a civil fine not to exceed \$500 per violation. In assessing the amount of such civil fine, the Tribal Gaming Commission may consider the licensee's record of violations of this Ordinance involving the sale of Liquor, extenuating circumstances found upon the basis of credible evidence presented by the licensee at a hearing, and any adequacy found by the Tribal Gaming Commission of assurances of the licensee's future compliance with this Ordinance with respect of the sale of Liquor and otherwise. Any person found guilty of a violation of this Ordinance may be assessed any costs associated with the collection and enforcement of the civil fine, including court costs and attorneys fees.

Article 7 Sale of Liquor

(a) Licenses Required.

No sale of Liquor shall be made on or within a Public Place without a Liquor License issued by the Tribal Gaming Commission pursuant to this Ordinance.

(b) Sales for Cash.

All Liquor sales at on Tribal Lands shall be on a cash only basis and no credit shall be extended to any Person, except that this provision does not prevent the payment for purchases with the use of cashiers or personal checks, payroll checks, debit cards or credit cards issued by any financial institution.

(c) Sale for Personal Consumption.

All sales shall be for the on-premise personal use and consumption by the purchaser or members of the purchaser's household, including guests, who are over the age of twenty-one (21).

(d) Resale of any Liquor purchased on Tribal Land.

Any Person who is not licensed pursuant to this Ordinance who purchases Liquor on Tribal Lands and resells it, whether in the original container or not, shall be guilty of a violation of this Ordinance and shall be

subjected to civil fines of up to five hundred dollars (\$500.00) per sale, as determined by the Tribal Gaming Commission after notice and an opportunity to be heard.

Article 8 Licensing

(a) No Person subject to the jurisdiction of the Tribe shall sell, barter, deal in or give away any Liquor on Tribal Lands unless duly licensed to do so by the Tribal Gaming Commission pursuant to this Ordinance.

(b) Any Person desiring to sell Liquor on Tribal Lands shall before doing so apply to the Tribal Gaming Commission for a License to sell Liquor. Such application shall be made on forms prescribed by the Tribal Gaming Commission or, if no such forms have at the time of such application yet been prescribed, by letter providing all of the information required in respect of such application under Article 8(d) of this Ordinance, submitted together with payment of the non-refundable application fee. Such fee shall be in an amount to be prescribed by the Tribal Gaming Commission by rule.

(c) State Licensing.

No Person shall be allowed or permitted to sell Liquor on Tribal Lands unless such Person is also duly licensed to sell and possess Liquor under the applicable laws of the State of Oklahoma.

(d) Application.

Any Person applying for a License to sell Liquor on Tribal Lands shall complete and submit an application provided for this purpose by the Tribal Gaming Commission and pay such application fee as under this Ordinance may be set from time-to-time by the Tribal Gaming Commission for this purpose. An incomplete application will not be considered. License fees submitted pursuant to this Ordinance shall neither be refundable nor proratable. Such application shall at a minimum require the following:

(1) Satisfactory proof that the applicant is duly licensed by the State to sell Liquor;

(2) Satisfactory completion of a background investigation, including, but not limited to, a determination that the applicant is of good character and reputation and that the applicant is financially responsible;

(3) The description and location of the Public Place in which the Liquor is 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;

(4) Agreement by the applicant to accept and abide by all conditions of the License, including consent to the

jurisdiction and regulatory authority of the Tribe;

(5) Payment of a fee established by the Commission; and

(6) Satisfactory proof that neither the applicant, nor the applicant's spouse, nor any principal owner, officer, shareholder, or director of the applicant, has ever been convicted of a felony or a crime of moral turpitude as defined by the laws of the State.

(e) Kinds of Licenses-Fees.

The Licenses issued by the Tribal Gaming Commission and the biannual fees therefore shall be as follows:

(1) On-Premise Retail License—\$2000.00.

For retail on-premise sale of Liquor for on-premise consumption.

(2) Caterer License—\$2000.00.

For sale of Liquor for on-premise consumption at catered events.

(3) Annual Special Event License—\$100.00.

For sale of Liquor for on-premise consumption at a special event.

(4) Hotel/Club Beverage License—\$2000.00

For sale of Liquor for on-premise consumption on hotel or club premises.

Each License granted shall be valid for two (2) years from the date of issuance plus or minus any such period of less than one year as may be necessary to conform to a date for the renewal of all Licenses issued pursuant to this Ordinance, as established from time to time by rule of the Tribal Gaming Commission. Pursuant to the authority granted to the Tribal Gaming Commission under this Ordinance, the Tribal Gaming Commission may revise these License types and fees as appropriate from time to time at their discretion. The Tribal Gaming Commission may also assess an administrative fee for processing each License application, which shall be in addition to the License fee.

(f) Issuance of License.

The Tribal Gaming Commission may issue a License if it believes that; (1) the issuance of such a License would be in the best interest of the Tribe; and (2) the applicant is competent, eligible for a License under this Ordinance, and has demonstrated a substantial working understanding of this Ordinance and any other relevant State, Federal or Tribal laws applicable to the applicant's sale of Liquor on Tribal Lands.

Licensure under this Ordinance is a privilege, not a right, and the decision to issue any License rests in the sole discretion of the Tribal Gaming Commission. No member of the Tribal Gaming Commission shall be a part of the decision making process of an application submitted by a Tribal

Gaming Commission member or any Person in the immediate family of a Tribal Gaming Commission member.

(g) Conditions of License.

(1) Any License issued under this Ordinance shall be subject to such reasonable conditions as the Tribal Gaming Commission shall fix, including, but not limited to, the following:

(A) Term of License. Each License shall be for a term of two years from the date of issuance plus or minus any such period of less than one year as may be necessary to conform to a date for the renewal of all Licenses issued pursuant to this Ordinance, as established from time to time by rule of the Tribal Gaming Commission.

(B) Temporary License. The Tribal Gaming Commission may grant a temporary permit for the sale of Liquor for a period not to exceed three days to any Persons applying for the same in connection with a tribal or community activity provided that the application requirements under this Ordinance have been satisfied. Each temporary permit issued shall specify the type of Liquor to be sold, the time, date and location permitted. A separate fee, set by the Tribal Gaming Commission, will be assessed for temporary permits.

(C) Renewal of License. A licensee may renew its License(s) for successive periods of no more than 24 calendar months if it has complied in full with this Ordinance and has maintained all other licenses required by applicable law, provided however, the Tribal Gaming Commission may refuse to renew a License if it finds that doing so would not be in the best interests of the Tribe or the health and safety of Patrons. This subparagraph (C) shall not apply to Temporary Licenses issued under subparagraph (B) which shall not be subject to renewal.

(D) Liquor shall be sold, served, disposed of, delivered, or given to any Person and consumed on the licensed premises in conformity with the hours and days prescribed by the laws of the State of Oklahoma and in accordance with the hours fixed by the Tribal Gaming Commission.

(E) All acts and transactions under authority of a License shall be in conformity with State and Federal law, and shall be in accordance with this Ordinance and any License issued pursuant to this Ordinance.

(h) Transferability of Licenses.

Unless authorized in writing by the Tribal Gaming Commission, a License issued by the Tribal Gaming Commission shall not be transferable Person to Person or place to place and

may only be utilized by the Person in whose name it was issued.

Article 9 Licensee Prohibitions

(a) No licensee shall sell Liquor for consumption off the licensed premises.

(b) No Person under the age of twenty-one (21) shall be sold, served, delivered, given, or allowed to consume Liquor on a licensed premises.

(1) In any alleged violation arising out of sale of Liquor to a Person under the age of twenty one years, it shall be an affirmative defense that the licensee reasonably relied upon an apparently valid form of identification specified in Article 9(b).

(2) Whenever it reasonably appears to a licensee's employee duly dispensing Liquor pursuant to this Ordinance that a Person seeking to purchase Liquor is under the age of (27) years, the prospective purchaser shall not be served unless such Person exhibits at the time and place of sale, apparently and facially valid forms of the following documentary forms of identification which shows his/her correct age and bears his/her signature and photograph:

(A) Driver's license of any state or identification card issued by any State Department of Motor Vehicles;

(B) United States Active Duty Military identification card;

(C) United States Passport; or

(D) A foreign passport accompanied by an entrance visa issued by the United States Department of State.

(c) No licensee shall allow Liquor to be served by a barkeeper, wait staff or other Person employed by or working in a licensed premises who is under the age of twenty-one (21).

(d) No Liquor shall be sold at any form of a discounted price such as (as non-limiting examples) two for one during certain times, half price during certain times, or consumption promoted by free food or by other complimentary goods or services provided in the vicinity of an in conjunction with the sale of Liquor.

(e) No Liquor shall be given away.

(f) No Person licensed to sell Liquor shall permit any gambling to occur on the licensed premises other than gambling permitted by the Gaming Ordinance of the Tribe at a Gaming Facility and pursuant to appropriate licenses granted therefor.

(g) No licensee shall serve Liquor to any Patron or other Person who is visibly intoxicated or to any employee of the licensee. All licensees shall be privileged to refuse to serve Liquor to any Patron.

Article 10 Taxes and Collection of Fees; Records

(a) The Tribe hereby levies a tax of (three percent) on each retail sale of Liquor on Tribal Lands. The Tribe reserves the right to adjust such tax from time to time by resolution as may be required and will provide written notice to the Tribal Gaming Commission of any changes in the amount of such retail tax. The tax imposed by this section shall apply to all retail sales of Liquor on Tribal Lands. Such tax shall be in addition to any required Oklahoma State Alcohol tax on retail sales occurring on Tribal Lands.

(b) Payment of Retail Liquor Tax to the Tribe.

All tax from the retail sale of Liquor on Tribal Lands under this Ordinance shall be collected by licensees and paid to the Kiowa Tax Commission.

(c) Taxes Due; Returns.

All fees upon the retail sale of Liquor shall be due and payable by licensees to the Kiowa Tax Commission on the first day of the month following the end of each calendar quarter during the term of the License. Past due taxes shall accrue interest at two percent (2%) per month or fraction thereof, which interest shall be deemed to be an addition to the tax. With each payment of the tax, the licensee shall submit on forms prescribed by the Kiowa Tax Commission, a return duly completed and certified as accurate.

(d) Licensee's Duty to Keep Records; Tribal Gaming Commission's Prerogative to Audit Records.

(1) Each licensee shall keep reasonable written records of its purchase of Liquor at wholesale, its sale of Liquor at retail and its payment of taxes imposed under this Ordinance. Such records shall conform to generally accepted accounting principles and to any regulations from time to time duly promulgated by the Tribal Gaming Commission, pursuant to this Ordinance.

(2) Such records shall in any event include complete files of records of original entry, journals upon which all relevant transactions are recorded, and bank statements reflecting all purchases and sales of Liquor.

(3) By the act of applying for a License to sell Liquor under this Ordinance, the applicant shall by operation of law be deemed to have irrevocably agreed to submit to the Tribal Gaming Commission and Kiowa Tax Commission for review or audit the licensee's books and records relating to the sale of Liquor. Said review or audit may be done periodically by the Tribal Gaming Commission or Kiowa Tax

Commission through its agents or employees whenever in the discretion of the Tribal Gaming Commission or Kiowa Tax Commission such a review or audit is necessary or otherwise appropriate to verify the accuracy of reports.

(4) The Tribal Business Committee and the Kiowa Tax Commission shall have access to all written records required to be maintained by Licensees under this Ordinance.

(e) Disposition of Funds Collected by the Tribal Gaming Commission in respect of the Licensing and Sale of Liquor.

(1) The gross proceeds collected by the Tribal Gaming Commission from the issuance of Licenses for the sale of Liquor and from proceedings involving violations of this Ordinance shall be distributed to the Tribal Gaming Commission for the payment of all necessary personnel, administrative costs, and legal fees incurred in the enforcement of this Ordinance, including, but not limited to, reasonable reserves in aggregate amounts of up to the full amount of the annual budget of the Tribal Gaming Commission plus \$300,000, and any surplus over such amounts and reserves shall as received be promptly paid over to the Kiowa Tax Commission for use for the purposes of the Tribe.

(2) The Tribal Gaming Commission shall provide an annual report to the Tribal Business Committee setting forth an accounting of the funds received and expended under this Ordinance.

Article 11 Abatement

(a) Any Public Place where Liquor is sold, manufactured, bartered, exchanged, given away, furnished, or otherwise disposed of in violation of the provisions of this Ordinance, and all property kept in and used in maintaining such place, is hereby declared to be a public nuisance.

(b) The Tribal Gaming Commission by its representative duly authorized by resolution by the Tribal Gaming Commission shall have standing, power and authority to institute and prosecute in an action in the Tribal Court or at the election of the Tribal Gaming Commission and subject to the jurisdictional rules that may apply, in the Federal District Court for the Western District of Oklahoma, a civil action to abate and enjoin any nuisance declared by the Tribal Gaming Commission under this Ordinance.

(1) Upon establishment that probable cause exists to find that a nuisance exists, the court may grant restraining orders, temporary injunctions, and permanent injunctions in the case as in

other injunction proceedings. Upon final judgment against the defendant, the court may also order the room, structure, or place closed for a period of one year or (if a lesser period is warranted) until the owner, lessee, tenant, or occupant thereof shall give bond of sufficient sum but not less than ten thousand dollars \$10,000, payable to the Tribal Gaming Commission, (A) The bond must be, in form acceptable to the Tribal Gaming Commission, and (B) conditioned that Liquor will not be thereafter manufactured, kept, sold, bartered, exchanged, given away, furnished, or otherwise disposed of thereof in violation of the provision of this Ordinance, and that the defendant will pay all fines, costs and damages assessed against him/her for any violation of this Ordinance.

(2) The Commission will return the bond to the owners, lessee, tenant, or occupant one year after submission of such bond to the Tribal Gaming Commission if the Commission has determined that there have been no further violations of the Ordinance within such period by the defendant.

(3) If any conditions of the bond are violated, the whole amount may be forfeit and available for the use of Tribal Gaming Commission.

(4) In all cases where any Person has been found responsible for a violation of this Ordinance relating to manufacture, importation, transportation, possession, distribution, and sale of Liquor: (A) An action may be brought to abate as a public nuisance the use of any real estate or other property involved in the violation of this Ordinance; and (B) proof of 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.

Article 12 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 tribal laws, resolutions or statutes of the Kiowa Indian Tribe of Oklahoma which are inconsistent with the provisions of this Ordinance are hereby rescinded and repealed to the extent inconsistent with this Ordinance.

Article 13 Application of 18 U.S.C. 1161

Federal law requires that any authorization for the sale of Liquor 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 Ordinance shall be in conformity with Federal law and the laws of the State of Oklahoma as applicable.

Article 14 Effective Date

This Ordinance shall be effective after the Secretary of the Interior certifies the Ordinance and on the date it is published in the **Federal Register**.

Article 15 Sovereign Immunity

Nothing contained in this Ordinance is intended to, nor does it in any way, limits, alters, restricts, or waives the sovereign immunity of the Tribe or its agencies and instrumentalities from unconsented suit or action of any kind.

Article 16 Duration

This Ordinance shall be perpetual until repealed or amended by the Kiowa Indian Tribe of Oklahoma.

Article 17 Limitations

Notwithstanding anything contained herein to the contrary, until this Ordinance is further amended as provided in Article 16, no sale of Liquor shall be permitted on Tribal Lands other than at a Gaming Facility.

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BILLING CODE 4310-4J-P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[ID-210-1220-MA]

Notice of Emergency Temporary Closure of Certain Public Lands, to Motorized Vehicles, in Owyhee County ID, Under Sailor Cap Emergency and Rehabilitation Plan

AGENCY: Bureau of Land Management, Interior.

SUMMARY: The Bureau of Land Management (BLM) Jarbidge Field Office, in order to protect natural resources and stabilization treatments conducted following the 2006 Sailor Cap Fire, is implementing an emergency temporary closure to all motorized vehicle traffic off established roads which are capable of being traveled by full size vehicles (e.g. all-terrain vehicles, pickups, motorcycles, sport utility vehicles, snowmobiles, etc.) within the fire perimeter and along fenced livestock allotments. The closure area follows the most logical boundaries according to transportation routes (please refer to supplementary information for description of closure area). The purpose of the closure is to