

## 6. State Law Applicable

The Forest County Potawatomi Community recognizes the applicability of general State law governing the sales of alcohol beverages.

## 7. State Law Adopted

The Forest County Potawatomi Community hereby adopts for purpose of Tribal enforcement against any entity licensed by the Tribe under this Ordinance that following provisions of Chapter 125 of the Wisconsin Statutes, as modified below:

125.02 Definitions. Except as otherwise provided, in this Ordinance:

125.02(1) "Alcohol beverages" means fermented malt beverages and intoxicating liquor. Wine defined below is included in this definition.

125.02(6) "Fermented malt beverage" means any beverage made by the alcohol fermentation of an infusion in potable water of barley malt and hops, with or without unmalted grains or decorticated and degerminated grains or sugar containing 0.5% or more alcohol by volume.

125.02(8) "Intoxicating liquor" means all ardent, spirituous, distilled or vinous liquors, liquids or compounds, whether medicated, proprietary, patented or not, and by whatever named called, containing 0.5% or more of alcohol by volume, which are beverages, but does not include "fermented malt beverages".

125.02(8m) "Legal drinking age" means 21 years of age.

125.02(14) "Person" means a natural person, sole proprietorship, partnership, corporation or association.

125.02(14m) "Premises" means the area described in a license.

125.02(17) "Regulation" means any rule adopted by the Tribal Executive Council or Ordinance adopted by the Tribal General Council.

125.02(20) "Sell", "sold", "sale" or "selling" means any transfer of alcohol beverages with consideration or any transfer without consideration if knowingly made for purposes of evading the law relating to the sale of alcohol beverages or any shift, devise, scheme or transaction for obtaining alcohol beverages, including the solicitation of orders for, or the sale for future delivery of, alcohol beverages.

125.02(20m) "Underage person" means a person who has not attained the legal drinking age.

125.02(22) "Wine" means products obtained from the normal alcohol fermentation of the juice or must of sound, ripe grapes, other fruits or other agricultural products, imitation wine, compounds sold as wine, vermouth, cider, perry, mead and sake, if such products contain 0.5% or more of alcohol by volume.

125.04(1) General licensing requirements. No person may sell, manufacture, rectify, brew or engage in any other activity for which this Ordinance provides a license without holding an appropriate license issued under this Ordinance.

125.04(2) Licenses issued in violation of this Ordinance. No license may be issued

to any person except as provided in this Ordinance. Any license issued in violation of this ordinance is void.

125.04(10) License framed and posted. (a) Frame. Licenses for the sale of alcohol beverages, shall be enclosed in a frame having a transparent front which allows the license to be clearly read. (b) Display. All licenses shall be conspicuously displayed for public inspection at all times in the room or place where the activity subject to licensure is carried on.

125.07 Underage and intoxicated persons; presence on licensed premises; possession; penalties.

125.07(1) Restrictions.

1. No person may procure for, sell, dispense or give away any alcohol beverages to any underage person not accompanied by his or her parent, guardian or spouse who has attained the legal drinking age.

2. No licensee may sell, vend, deal or traffic in alcohol beverages to or with any underage person not accompanied by his or her parent, guardian or spouse who has attained the legal drinking age.

3. No adult may knowingly permit or fail to take action to prevent the illegal consumption of alcohol beverages by an underage person on premises owned by the adult or under the adult's control.

4. No adult may intentionally encourage or contribute to a violation of this section.

125.07(2) Sales of alcohol to intoxicated persons. Restrictions. 1. No person may procure for, sell, dispense or give away alcohol beverages to a person who is intoxicated. 2. No licensee or may sell, vend, deal or traffic in alcohol beverages to or with a person who is intoxicated.

125.07(3) Presence in places of sale; penalty. An underage person not accompanied by his or her parent, guardian or spouse who has attained the legal drinking age may not enter, knowingly attempt to enter or be on any premises for which a license for the retail sale of alcohol beverages has been issued.

125.085 Proof of age.

(1) Definition. In this section, "official identification card" means a valid operator's license issued under chapter 343 of the Wisconsin Statutes that contains the photograph of the holder, an identification card issued under section 343.50 or an identification card issued under section 125.08, of the statutes.

(2) Use. No card other than the identification card authorized under this section may be recognized as an official identification card in premises licensed under this ordinance.

## 8. Closing Hours

Every entity licensed by the Forest County Potawatomi Community shall observe the closing hours established by Wisconsin Statutes governing the type of State license which is similar to the Tribal license which the entity holds. Failure to do so shall be the basis for the revocation of licenses issued by the Tribal Executive Council.

[FR Doc. 05-321 Filed 1-6-05; 8:45 am]

BILLING CODE 4310-4J-P

## DEPARTMENT OF THE INTERIOR

## Bureau of Indian Affairs

## Kickapoo Tribe of Oklahoma—Liquor and Beer Ordinance

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

**ACTION:** Notice.

**SUMMARY:** This notice publishes the Kickapoo Tribe of Oklahoma Liquor and Beer Ordinance. The Ordinance regulates and controls the possession, sale and consumption of liquor within the Kickapoo Tribe of Oklahoma Indian Country. The land is located on trust land and this Ordinance allows for the possession and sale of alcoholic beverages within the Kickapoo Tribe of Oklahoma's Indian Country and will increase the ability of the tribal government to control the tribe's liquor distribution and possession, and at the same time will provide an important source of revenue for the continued operation and strengthening of the tribal government and the delivery of tribal services.

**DATES:** *Effective Date:* This Act is effective on January 7, 2005.

**FOR FURTHER INFORMATION CONTACT:**

Terry Bruner, Community Services Officer, Southern Plains Regional Office, Bureau of Indian Affairs, WCK Office Complex, P.O. Box 368, Anadarko, OK 73005, Phone: (405) 247-1668; Fax: (405) 247-5611 or 247-9240; or Ralph Gonzales, Office of Tribal Services, Bureau of Indian Affairs 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. 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 Kickapoo Council adopted its Liquor and Beer Ordinance by Resolution No. 02-78 on October 11, 2002. The purpose of this Ordinance is to govern the sale, possession and distribution of alcohol within the Kickapoo Tribe of Oklahoma Indian Country.

This notice is published in accordance with the authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs.

I certify that the Council of the Kickapoo Tribe of Oklahoma adopted its Liquor and Beer Ordinance by

Resolution No. 02–78 on October 11, 2002.

Dated: December 23, 2004.

**David W. Anderson,**

*Assistant Secretary—Indian Affairs.*

The Kickapoo Tribe of Oklahoma's Liquor and Beer Ordinance reads as follows:

**Kickapoo Tribe of Oklahoma Liquor and Beer Ordinance**

Be it Enacted by the Council of the Kickapoo Tribe of Oklahoma the Kickapoo Tribe of Oklahoma Liquor and Beer Ordinance of 2002:

*Section 1. Title and Purpose*

This title shall be known as the Kickapoo Tribe of Oklahoma Liquor and Beer Ordinance ("Ordinance"). This law is enacted to regulate the sale and distribution of liquor and beer products on all properties under the jurisdiction of the Kickapoo Tribe of Oklahoma, and to generate revenue to fund needed tribal programs and services.

*Section 2. Authority*

This Ordinance is enacted pursuant to Article XV—Tribal Legislation of the Constitution and By-Laws of the Kickapoo Tribe of Oklahoma and the Congressional Act of August 15, 1953 (Pub. L. 83–277, 67 Stat. 588, 18 U.S.C. Section 1161).

*Section 3. Definitions*

Unless otherwise required by the context, the following words and phrases shall have the designated meanings:

(a) "Nation" or "Tribe" shall mean the Kickapoo Tribe of Oklahoma.

(b) "Business Committee" shall mean the Kickapoo Tribe of Oklahoma Business Committee as constituted by Article V, Section 1, of the Kickapoo Tribe of Oklahoma Constitution and By-Laws.

(c) "Commission" shall mean the Kickapoo Tribe of Oklahoma Liquor and Beer Control Commission established pursuant to Section 201 of this Ordinance.

(d) "Kickapoo Tribe of Oklahoma Indian Country" shall mean Indian Country as defined by 18 U.S.C. Section 1151 subject to the jurisdiction of the Kickapoo Tribe of Oklahoma, including but not limited to, any lands and waters held in Federal trust by the United States Federal government within the jurisdiction of the Kickapoo Tribe of Oklahoma.

(e) "Sale" shall mean the transfer, exchange or barter, in any or by any means whatsoever, for a consideration, by any person, association, partnership, or corporation, of liquor or beer products.

(f) "Wholesale Price" shall mean the established price for which liquor and beer products are sold to the Kickapoo Tribe of Oklahoma or any Operator by the manufacturer or distributor or other reduction.

(g) "Alcohol" is that substance known as ethyl alcohol, hydrated oxide of ethyl, or spirit of wine, which is

produced by the fermentation or distillation of grain, starch, molasses, or sugar, or other substances including all dilutions and mixtures of this substance.

(h) "Liquor" shall mean the four varieties of liquor, commonly referred to as alcohol, spirits, wine, and beer in excess of 5 percent of alcohol, and all fermented, spirituous, vinous or malt liquor or any other intoxicating liquid, solid, semi-solid or other substance patented or not, containing alcohol, spirits, wine, or beer, in excess of 5 percent of alcohol, and is intended for oral consumption.

(i) "Beer" shall mean any beverage obtained by the alcohol fermentation of an infusion or decoction of pure hops, or pure extract of hops, malt, and sugar in pure water containing not more than 5 percent of alcohol by weight.

(j) "Liquor Outlet" shall mean a tribal licensed retail sale business selling liquor within the Kickapoo Tribe of Oklahoma Indian Country, including all related and associated facilities under the control of the Licensee. Moreover, where a Licensee's business is carried on as part of the operation of an entertainment or recreation facility, the "Liquor Outlet" shall be deemed to include the entertainment or recreation facility and associated areas.

(k) "Beer Outlet" shall remain a tribal licensed retail sale business selling beer within the Kickapoo Tribe of Oklahoma Indian Country, including all related and associated facilities under the control of the Licensee. Moreover, where a Licensee's business is carried on as part of the operation of an entertainment or recreation facility, the "Beer Outlet" shall be deemed to include the entire entertainment or recreation facility and associated areas.

(l) "Operator" or "Licensee" shall mean any person twenty-one (21) years of age or older, properly licensed by the Tribe to operate a liquor and/or beer outlet.

**Chapter One—Prohibition and Conformity with the Laws of the State of Oklahoma**

*Section 101. General Prohibition*

It shall be unlawful to buy, sell, give away, consume, furnish, or possess any liquor or beer or product containing alcohol for ingestion by human beings, or to appear or be found in a place where liquor or beer are sold and/or consumed except as allowed by the Kickapoo Tribe of Oklahoma Liquor and Beer Ordinance and regulations promulgated thereunder.

*Section 102. Possession for Personal Use*

Possession of liquor or beer for personal use by persons over the age of twenty-one (21) years shall, unless otherwise prohibited by Federal law or Tribal law or regulation, be lawful within the Kickapoo Tribe of Oklahoma Indian Country, so long as such liquor or beer was lawfully purchased from an establishment duly licensed to sell such beverages, whether on or off the Kickapoo Tribe of Oklahoma Indian Country and consumed within a private residence or location, or at a location or facility specifically licensed for the public consumption of liquor or beer.

*Section 103. Conformity with the Laws of the State of Oklahoma*

Federal law prohibits the introduction, possession and sale of liquor in Indian Country (18 U.S.C. Section 1154 and other statutes), except when same is in conformity both with the laws of the State and Tribe (18 U.S.C. Section 1161). As such, compliance with this Ordinance shall be in addition to, and not a substitute for, compliance with the laws of the State of Oklahoma. Operators acting pursuant to this ordinance shall comply with the State of Oklahoma liquor and beer laws to the extent required by 18 U.S.C. Section 1161. However, the Kickapoo Tribe of Oklahoma shall have the fullest jurisdiction allowed under Federal law over the sale of liquor and beer products, and related products or activities, within the boundaries of the Kickapoo Tribe of Oklahoma.

**Chapter Two—Licensing**

*Section 201. Licensing of Liquor and Beer Outlets*

The Business Committee of the Kickapoo Tribe of Oklahoma shall appoint three (3) qualified persons to serve as the Kickapoo Tribe of Oklahoma Liquor and Beer Commission. The initial Liquor and Beer Control Commission will have the Chairman to serve a term of three (3) years, the Vice-Chairman a term two (2) years, and the Secretary/Treasurer to serve a term of one (1) year. After the initial terms have expired each position will then serve a term of three (3) years each. The appointments and/or removal of any of the Commissioners shall be discretionary with the Business Committee. The Commission is empowered to:

(a) Administer this Ordinance by exercising general control, management, and supervision of all liquor and beer sales, places of sales and sales outlets as well as exercising all powers necessary

to accomplish the purposes of this Ordinance.

(b) Adopt and enforce rules and regulations in furtherance of the purposes of this Ordinance and in the performance of its administrative functions.

*Section 202. Application for Liquor and Beer Outlet Licenses*

(a) Application. Any person twenty-one (21) years of age or older, may apply to the Commission for a liquor and/or beer outlet license.

(b) Licensing Requirements. The person applying for such permit must make a showing once a year and must satisfy the Commission that:

(1) He/she is a person of good moral character;

(2) He/she has never been convicted of violating any of the laws prohibiting the traffic in any spirituous, vinous, fermented or malt liquors, or of any of the gambling laws of the Tribe, State of Oklahoma, or any other Tribe or any State of the United States, within three (3) years immediately preceding the date of his/her petition;

(3) He/she has never violated the laws commonly called the "prohibition laws";

(4) He/she has not had any permit or license to sell non-intoxicating liquors revoked by any governmental authority within the previous twelve (12) months.

(c) Processing of Application. The Commission's Secretary shall receive and process applications and be the official representative of the Tribe and Commission in matters relating to receipt of applications, liquor and beer excise tax collections, and related matters. If the Commission or its authorized representative is satisfied that the applicant is suitable and a responsible person, the Commission, or its authorized representative may issue a license for the sale of liquor and/or beer products.

(d) Application fee. Each application shall be accompanied by an application fee to be set by regulation of the Commission.

(e) Discretionary Licensing. Nothing herein shall be deemed to create a duty or requirement to issue a license. Issuance of a license is discretionary upon the Commission's determination of the best interests of the Kickapoo Tribe of Oklahoma, and the license grants a privilege, but not a property right, to sell liquor and/or beer within the jurisdiction of the Kickapoo Tribe of Oklahoma.

*Section 203. Liquor and Beer Outlet Licenses*

(a) Upon approval of an application, the Commission shall issue the applicant a liquor and/or beer outlet license, valid for one (1) year from the date of issuance, which shall entitle the Operator to establish and maintain only the type of outlet being permitted. This license shall not be transferable. The Licensee must properly and publicly display the license in the place of business. It shall be renewable at the discretion of the Commission by the submission of the Licensee of a subsequent application form and payment of application fee as provided in Section 202(d).

*Section 204. Other Business by Operator*

An Operator may conduct another business simultaneously with managing a liquor and/or beer outlet; PROVIDED, if such other business is in any manner affiliated or related to the liquor and/or beer outlet it must be approved by majority vote of the Commission prior to initiation. Said other business may be conducted on the same premise as a liquor and/or beer outlet, but the Operator shall be required to maintain separate books of account for the other business.

*Section 205. Revocation of Operator's License*

(a) Failure of an Operator to abide by the requirements of this Ordinance and any additional regulations or requirements imposed by the Commission will constitute grounds for revocation of the Operator's license as well as enforcement of the penalties provided in Section 601 of this Ordinance.

(b) Upon determining that any person licensed by the Kickapoo Tribe of Oklahoma to sell liquor and/or beer is, for any reason, no longer qualified to hold such license or reasonably appears to have violated any terms of the license or tribal regulations, including failure to pay taxes when due and owing, or have been found by any forum of competent jurisdiction, including the Commission, to have violated the terms of a tribal or state license or of any provision of this Ordinance, the Chairperson of the Commission shall immediately serve written notice upon the Licensee that he/she show cause within ten (10) days why his or her license should not be revoked or restricted. The notice shall state the grounds relied upon for the proposed revocation or restriction.

(c) If the Licensee fails to respond to the notice within ten (10) days of service, the Chairperson may issue an

order revoking the license as the Chairperson deems appropriate, effective immediately. The Licensee may, within the ten (10) day period, file with the Office of the Chairperson, or the Secretary of the Business Committee, a written response and request for hearing before the Commission.

(d) At the hearing, the Licensee may present evidence and argument directed at the issue of whether or not the asserted grounds for the proposed revocation or restriction are in fact true, and whether such grounds justify the revocation or modifications of the license. The Tribe may present other evidence as it deems appropriate.

(e) The Commission after considering all of the evidence and arguments, shall issue a written decision either upholding the license, revoking the license or imposing some lesser penalty (such as temporary suspension or fine), and such decision shall be final and conclusive with regard to the Commission.

(f) The Commission's final decision, upon posting a bond with the Tribal District Court sufficient to cover the Commission's final hearing assessment or ruling, may be appealed by the Licensee to the Tribal District Court of the Kickapoo Tribe of Oklahoma. Any findings of fact of the Commission are conclusive upon the Tribal District Court unless clearly contrary to law. The purposes of the Tribal District Court review are not to substitute the Court's finding of facts or opinion for the Commission's, but to guarantee due process of law. If the Tribal District Court should rule for the appealing party, the Tribal District Court may order a new hearing giving such guidance for the conduct of such as it deems necessary for a fair hearing. In the event the appealing party loses before the Tribal District Court they may exercise such appeal rights as available before the Tribal Supreme Court. No damage or monies may be awarded against the Commission, its members, nor the Tribe, and its agents, officers, and/or employees in such an action.

*Section 206. Discretionary Refusal*

The Commission may refuse to grant a license for the sale of liquor and/or beer if the Commission has reasonable cause to believe that:

(a) The proximity of the outlet will have a detrimental effect upon any social or governmental institution as established by the Kickapoo Council or Business Committee; or

(b) Any residential area; or

(c) There is any other reason as provided by tribal law, ordinance, or regulation; or

(d) The license required by this Ordinance has been obtained by fraud or misrepresentation, the Commission, upon proof that such license was so obtained, shall, upon hearing had, revoke the same, and all funds paid therefor shall be forfeited.

### **Chapter Three—Liquor and Beer Sales and Transportation**

#### *Section 301. Sales by Liquor and Beer Wholesalers and Transport of Liquors and Beers Upon Kickapoo Tribe of Oklahoma Indian Country*

(a) Right of Commissioners to Scrutinize Suppliers. The Operator of any licensed outlet shall keep the Commission informed, in writing, of the identity of the suppliers and/or wholesalers who supply or are expected to supply liquor and/or beer stocks to the outlet(s). The Commission may, at its discretion, limit or prohibit the purchases of said stock from a supplier or wholesaler for the following reasons: non-payment of Tribal taxes, bad business practices; or sale of unhealthy supplies. A ten (10) day notice of stopping purchases ("Stop Purchase Order") will be given by the Commission whenever purchases from a supplier are to be discontinued unless there is a health emergency, in which case the Stop Purchase Order may take effect immediately.

(b) Freedom of Information from Suppliers. Operators shall in their purchase of stock and in their business relations with suppliers cooperate with and assist the free flow of information and data to the Commission from suppliers relating to the sales and business arrangements between suppliers and Operators. The Commission may, at its discretion, require the receipts from the suppliers of all invoices, bills of lading, billings or documentary receipts of sales to the Operators. All records shall be kept according to Section 302(g) of this Ordinance.

#### *Section 302. Sales by Retail Operators*

(a) Commission Regulations. The Commission shall adopt regulations which shall supplement these laws and facilitate their enforcement. These regulations shall include prohibitions on sales to minors, where liquor and/or beer may be consumed, persons not allowed to purchase liquor and/or beer, hours and days when outlets may be open for business, and other appropriate matters and controls.

(b) Sales to Minors. No person shall give, sell, or otherwise supply any liquor and/or beer to any person under the age of twenty one (21) years of age either for his or her own use or for the use of any other person.

(c) Consumption of Liquor and/or Beer upon Licensed Premises. No Operator shall permit any person to open or consume liquor or beer on his or her premises or any premises adjacent thereto and in his or her control until the Commission allows the consumption of liquor and/or beer and identifies where liquor and/or beer may be consumed on the Kickapoo Tribe of Oklahoma Indian Country.

(d) Conduct on Licensed Premises.

(1) No Operator shall be disorderly, boisterous, or intoxicated on the licensed premises or on any public premises adjacent thereto which are under his or her control, nor shall he or she permit any disorderly, boisterous, or intoxicated person to be thereon; nor shall he or she use or allow the use of profane or vulgar language thereon.

(2) No Operator shall permit suggestive, lewd, or obscene conduct or acts on his or her premises. For the purpose of this section, suggestive, lewd, or obscene acts or conduct shall be those acts or conduct identified as such by the laws of the Tribe and/or the State of Oklahoma.

(e) Employment of Minors. No person under the age of twenty-one (21) years of age shall be employed in any service in connection with the sale or handling of liquor, or beer, either on a paid or voluntary basis.

(f) Operator's Premises Open to Commission Inspection. The premises of all Operators, including vehicles used in connection with liquor and/or beer sales, shall be open during business hours and at all reasonable times to inspection by the Commission or its designated representatives.

(g) Operator's Records. The originals or copies of all sales slips, invoices, and other memoranda covering all purchases of liquor and/or beer by Operators shall be kept on file in the retail premises of the Operator purchasing the sale at least five (5) years after each purchase, and shall be filed separately and kept apart from all other records, and as nearly as possible, shall be filed in consecutive order and each month's records kept separate so as to render the same readily available for inspection and checking. All canceled checks, bank statements and books of accounting covering or involving the purchase of liquor and/or beer, and all memoranda, if any, showing payment of money for liquor and/or beer other than by check, shall

be likewise preserved for availability for inspection and checking.

(h) Records Confidential. All records of the Commission showing the purchase of liquor by any individual or group shall be confidential and shall not be inspected except by members of the Commission, or its authorized representative.

#### *Section 303. Transportation Through the Reservation Not Affected*

Nothing herein shall pertain to the otherwise lawful transportation of liquor or beer through the Kickapoo Tribe of Oklahoma Indian Country by persons remaining upon public highways and where such beverages are not delivered or sold or offered for sale to anyone within the Kickapoo Tribe of Oklahoma Indian Country.

### **Chapter Four—Taxation and Audits**

#### *Section 401. Excise Tax Imposed Upon Distribution of Liquor and/or Beer and Use of Such Tax*

(a) General Taxation Authority. The Commission shall have the authority, provided by Tribal law, to assess and collect tax on sales of liquor and beer products to the consumer or purchaser. This tax shall be collected and paid to the Commission upon all liquor and/or beer products sold within the jurisdiction of the Tribe. The Kickapoo Council does establish such a rate of five percent (5%), and may establish differing rates for any given class of merchandise, which shall be paid prior to the time of retail sale and delivery thereof.

(b) Added to Retail Price. An excise tax, to be set by the Kickapoo Council, on the wholesale price shall be added to the retail selling price of liquor and/or beer products to be sold to the ultimate consumer or purchaser in the three and one-half percent (3½%). All taxes paid pursuant to this Ordinance shall be conclusively presumed to be direct taxes on the retail consumer pre-collected for the purposes of convenience and facility.

(c) Within seventy-two (72) hours after receipt of any liquor and/or beer by any wholesaler or retailer subject to this Ordinance, a Tribal tax stamp shall be securely affixed thereto denoting the Tribal tax thereon. Retailers or sellers of liquor and/or beer within the Tribe's jurisdiction may buy and sell or have in their possession only liquor and/or beer which have the Tribal tax stamp affixed to each package.

(d) Use of Tax Revenue. The revenue generated by the excise levied hereunder shall be used exclusively for the establishment and maintenance of

drug and alcohol prevention and treatment programs within the Indian Country of the Kickapoo Tribe of Oklahoma.

#### *Section 402. Audits and Inspections*

(a) All of the books and other business records of the outlet shall be available for inspection and audit by the Commission, or its authorized representative, during normal business hours and at all other reasonable times, as may be requested by the Commission.

(b) Bond for Excise Tax. The excise tax together with reports on forms to be supplied by the Commission shall be remitted to the Commission on a monthly basis unless otherwise specified in writing by the Commission. The Operator shall furnish a satisfactory bond to the Commission in an amount to be specified by the Commission guaranteeing his or her payment of excise taxes.

#### **Chapter Five—Liability, Insurance, and Sovereign Immunity**

##### *Section 501. Liability for Bills*

The Kickapoo Tribe of Oklahoma and the Commission shall have no legal responsibility for any unpaid bills owed by a liquor and/or beer outlet to a wholesaler supplier or any other person.

##### *Section 502. Tribal Liability and Credit*

(a) Unless explicitly authorized by Tribal statute or regulation, Operators are forbidden to represent or give the impression to any supplier or person with whom he or she does business that he or she is an official representative of the Tribe or the Commission authorized to pledge tribal credit or financial responsibility for any of the expenses of his or her business operation. The Operator shall hold the Tribe harmless from all claims and liability of whatever nature. The Commission shall revoke an Operator's outlet license(s) if said outlet(s) is not operated in a businesslike manner or if it does not remain financially solvent or does not pay its operating expenses and bills before they become delinquent.

(b) Insurance. The Operator shall maintain at his or her own expense adequate insurance covering liability, fire, theft, vandalism, and other insurable risks. The Commission may establish as a condition of any license, the required insurance limits and any additional coverage deemed advisable, proof of which shall be filed with the Commission.

##### *Section 503. Sovereign Immunity Preserved*

Nothing in this statute shall be construed as a waiver or limitation of

the sovereign immunity of the Kickapoo Tribe of Oklahoma, or its agencies, nor their officers or employees. To the fullest extent possible the Kickapoo Tribe of Oklahoma expressly retains its Tribal sovereign immunity for the purposes of enactment of this Ordinance.

#### **Chapter Six—Violations and Penalties**

##### *Section 601. Violations and Penalties*

(a) Any person who violates this Ordinance or elicits, encourages, directs or causes to be violated this Ordinance, or laws in support of this Ordinance, or regulations of the Commission shall be guilty of an offense and subject to fine. Failure to have a current, valid or proper license shall not constitute a defense to an alleged violation of the licensing laws and/or regulations. The judicial system of the Kickapoo Tribe of Oklahoma shall have exclusive jurisdiction over such proceeding(s).

(1) Any person convicted of committing any violation of this Ordinance shall be subject to punishment of up to one (1) year imprisonment and/or a fine not to exceed Five Thousand Dollars (\$5,000.00).

(2) Additionally, any person upon committing any violation of any provision of this Ordinance may be subject to civil action for trespass, and upon having been determined by the judicial system of the Kickapoo Tribe of Oklahoma to have committed the violation, shall be found to have trespassed upon lands of the Kickapoo Tribe of Oklahoma, and shall be assessed such damages as the judicial system of the Kickapoo Tribe of Oklahoma deems appropriate in the circumstances.

(3) Any person suspected of having violated any provision of this Ordinance shall, in addition to any other penalty imposed hereunder, be required to surrender any liquor and/or beer in person's possession to the officer making the complaint. The surrendered beverages, if previously unopened, shall only be returned upon a finding of the Tribal judicial system, after trial, or proper judicial proceeding, that the individual committed no violation of this Ordinance.

(4) Any Operator who violates the provisions set forth herein shall forfeit all of the remaining stock in the outlet(s). The Commission shall be empowered to seize forfeited products.

(5) Any stock, goods, or other items subject to this Ordinance that have not been registered, licensed, or taxes paid shall be contraband and subject to immediate confiscation by the

Commission or its employees or agents, PROVIDED, that within fifteen (15) days of the seizure the Commission shall cause to be filed an action against such property alleging the reason for the seizure or confiscation, and upon proof, the Kickapoo Tribe of Oklahoma judicial system shall order the property forfeited and vested with the Kickapoo Tribe of Oklahoma.

#### **Chapter Seven—Miscellaneous Provisions**

##### *Section 701. Severability*

If any provision of this Ordinance in its application to any person or circumstance is held invalid, the remainder of this Ordinance and its application to other persons or circumstances is not affected.

##### *Section 702. Repealer*

Upon enactment by the Kickapoo Council any and all previous Liquor and Beer Ordinance(s) of the Kickapoo Tribe of Oklahoma are hereby repealed and this Ordinance as enacted shall have the full force and effect as Tribal law.

##### *Section 703. Effective Date*

This Ordinance shall become effective upon publication of the Secretary of the Interior's certification notice in the **Federal Register**.

[FR Doc. 05-322 Filed 1-6-05; 8:45 am]

BILLING CODE 4310-4J-P

#### **DEPARTMENT OF THE INTERIOR**

##### **Bureau of Land Management**

[WY-920-1320-EL, WYW160394]

##### **Notice of Intent To Prepare an Environmental Impact Statement, Pit 14 Lease by Application, Sweetwater County, WY**

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

**ACTION:** Notice of Intent (NOI) to prepare an Environmental Impact Statement (EIS), to initiate scoping for a coal lease application received from Black Butte Coal Company for Federal coal in the decertified Green River/Hams Fork Coal Production Region, Wyoming. The EIS may result in amendment of the Green River Resource Management Plan. If analysis shows that a plan amendment is necessary, the Green River Resource Management Plan may be amended.

**SUMMARY:** The Bureau of Land Management (BLM) received a competitive coal lease application from Black Butte Coal Company (BBCC) for a maintenance tract adjacent to its