

their own homes, or by people who are guests in the home of another.

(c) *Sales to be Made by Adults.*

All sales of liquor pursuant to this Chapter shall be made by persons twenty-one (21) years of age or older.

(d) *Evidence of Age and Identity.*

Evidence of age and identity of a purchaser of liquor must be shown by a current and valid driver's license or a United States passport, which contains the signature, birth date, and picture of the holder of the license or passport, or any other form of identification acceptable to the Commission.

(e) *Demand for Identification.*

Liquor establishments shall have the authority to demand of any person the production of proper evidence of age and identity before making a sale of liquor to such person.

(f) *Right/Duty to Refuse Sale.*

A liquor establishment shall have the authority and duty to refuse to sell liquor to any person who is unable to produce proper evidence of age and identity as prescribed by this Section, any person who the seller believes is already under the influence of liquor, or to anyone else if the seller reasonably believes that the transaction would lead to a violation of this Chapter. The operator of a liquor establishment shall have the authority to require that a person who the operator reasonably believes is already under the influence of liquor vacate the licensed premises.

(g) *Wholesale Liquor Distributors.*

A person holding a valid tribal liquor license may purchase liquor from any wholesale liquor distributor validly licensed in the jurisdiction of its principal place of business. Wholesale liquor distributors are expressly prohibited from selling liquor within tribal lands or for distribution within tribal lands to anyone not holding a tribal liquor license, subject to the exception set forth in Section 8(a) of this Chapter.

(h) *Sales Only to Be Made by Certified Servers; Alcohol Server Training Required for License Renewal.*

All sales of liquor authorized by this Chapter shall be made by persons who have successfully completed a liquor server training program approved by the Commission and are certified as having completed the course by the Commission or the entity that provides the training program. Any licensee seeking renewal of a license shall submit to the Commission, as a condition of license renewal, proof that each server employed by the licensee during the prior licensing year has completed an alcohol server program approved by the Commission.

(i) *Happy Hours.*

The Commission may adopt a policy on happy hours and on pricing schemes where liquor is sold on certain occasions or at certain times for a price that is substantially lower than the price it is sold for at other times. The Commission may at any time request from a liquor establishment a written description of its policies on such happy hours and pricing schemes and either approve or disapprove such policies. Disapproval of such a policy shall be appealable to the Tribal Council under the procedure set forth in Section 10 of this Chapter.

**§ 9. Suspension or Revocation of Liquor License; Special Restrictions; Monetary Sanctions.**

The Commission is authorized to revoke or suspend a tribal liquor license or to impose special restrictions on a license for a violation or violations of any provision of this Chapter, after the licensee is given at least seven (7) calendar days notice of the proposed action and the opportunity to appear and to be heard before the Commission, either in person or through a representative, and to submit such evidence as the Commission deems relevant to the matter at issue. Such suspensions, revocations, and imposition of special restrictions are appealable to the Tribal Council under Section 10 of this Chapter. In addition to any civil assessment provided by tribal law, the Commission may initiate an action in Tribal Court for the imposition of monetary sanctions against a Licensee for a violation of this Chapter, to compensate the Tribe for economic losses it suffers, directly or indirectly, as a result of the violation.

**§ 10. Appeal to Tribal Council.**

(a) *Appealable Actions.* Any person or entity who is denied a tribal liquor license, or whose tribal liquor license is suspended or revoked, or whose tribal liquor license has been limited by special restrictions may appeal the adverse action to the Tribal Council within thirty (30) days of final action by the Commission.

(b) *Record on Appeal.* The record on appeal shall consist of the final written decision of the Commission, all evidence presented to or relied on by the Commission, a taped or transcribed record of any hearing, and any other records of the Commission or any other information requested by the Tribal Council.

(c) *Stay Pending Appeal.* Suspension or revocation of a tribal liquor license may be stayed pending an appeal under this Section, at the discretion of the Tribal Council. The Tribal Council may

request that the appellant post an appeal bond in an amount set by the Council.

(d) *Decision of Council Final.* All decisions of the Tribal Council on appeals under this section shall be final.

**§ 11. Private Right of Action.**

Subject to the limitations of Section 12 of this Chapter, any person who suffers personal injury or property damage as a result of a violation of Section 7 or Section 8 of this Chapter shall have a right of action for money damages against the person or entity whose violation of Section 7 or Section 8 of this Chapter caused or contributed to his or her injury.

**§ 12. No Waiver of Sovereign Immunity.**

Nothing in this Chapter is intended to be or shall be construed as authorizing any waiver of the sovereign immunity of the Jicarilla Apache Tribe or any of its subdivisions or of any business entity owned in whole or in part by the Tribe.

**§ 13. Severability.**

If any provision of this Ordinance is found to be invalid or unenforceable, all remaining provisions shall be given full force and effect the fullest extent practicable.

[FR Doc. 03-3385 Filed 2-10-03; 8:45 am]

BILLING CODE 4310-4J-P

**DEPARTMENT OF THE INTERIOR**

**Bureau of Indian Affairs**

**Seneca Nation of Indians Liquor Ordinance**

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

**ACTION:** Notice.

**SUMMARY:** This notice publishes the Seneca Nation of Indians Liquor Ordinance governing the possession, consumption and sale of liquor on Seneca Nation Territory (Allegany Territory, except for excluded portions of the City of Salamanca, and Cattaraugus and Oil Springs Reservations) as well as the Seneca Nation Alcoholic Beverages Control Act, section 12 of the Ordinance, governing the possession, consumption and sale of liquor on restricted fee land acquired pursuant to the Seneca Nation Land Claims Settlement Act of 1990, 25 U.S.C. 1774f(c), in conformity with the laws of the State of New York, where applicable and necessary. Although the Ordinance, including section 12, was adopted on November 16, 2002, it does not become effective until published in the **Federal Register**, because the failure

to comply with the Ordinance may result in criminal charges.

**EFFECTIVE DATE:** This Ordinance, as well as the Alcoholic Beverages Control Act of the Seneca Nation of Indians, is effective on February 11, 2003.

**FOR FURTHER INFORMATION CONTACT:** Iris Drew, Office of Tribal Services, 1849 C Street, NW., MS 320—SIB, Washington, DC 20240—4001; 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 Seneca Nation of Indians Liquor Ordinance, including its Alcoholic Beverages Control Act (section 12 of the Ordinance), was duly adopted by the Seneca Nation Council, governing body of the Seneca Nation, on November 16, 2002. The Seneca Nation, in furtherance of its economic and social goals, has taken positive steps to regulate retail sales of alcohol and use revenue to combat alcohol abuse and its debilitating effects among individuals and family members within the jurisdiction of the Seneca Nation.

This notice is published in accordance with the authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 209 Departmental Manual 8.1.

I certify that the Seneca Nation Liquor Ordinance, including the Alcoholic Beverages Control Act, was duly adopted by the Seneca Nation Council, governing body of the Seneca Nation of Indians, on November 16, 2002.

Dated: January 31, 2003.

**Aurene M. Martin,**

*Acting Assistant Secretary—Indian Affairs.*

The Seneca Nation of Indians Liquor Ordinance, including its Alcoholic Beverages Control Act, reads as follows:

**Seneca Nation of Indians—Use and Distribution of Liquor Ordinance**

*Section 1.—Authority and Purpose*

(1) The authority for this Ordinance and its adoption by the Council of the Seneca Nation of Indians (Nation Council) is found in the Article XIII of the Constitution of the Seneca Nation of Indians of 1848, as amended, and in the Act of August 15, 1953, Public Law 83—277, 18 U.S.C. 1161.

(2) This Ordinance is for the purpose of:

(a) regulating the possession and prohibiting the sale of intoxicating beverages on Seneca Nation Territory; and

(b) regulating the purchase, introduction, possession, sale and consumption of alcoholic liquor on lands placed in restricted fee status for the Seneca Nation of Indians (the Nation) pursuant to the Seneca Nation Land Claims Settlement Act of 1990, 25 U.S.C. 1774f(c).

*Section 2.—Relation to Other Seneca Nation Regulations*

Nation Ordinance No. 89—01, duly adopted by the Nation on January 21, 1989, is hereby repealed and replaced. Any and all prior ordinances, resolutions, regulations or other form of control of the Nation, whether written or unwritten, which authorize, prohibit, or deal with the sale of alcohol are hereby repealed and have no further force and effect. No Nation ordinance or regulation shall be applied in a manner inconsistent with the provisions of this Ordinance.

*Section 3.—Application of Ordinance to Seneca Nation Territory and Restricted Fee Lands*

The Seneca Nation Territory to which this Ordinance applies is the Indian Country within the exterior boundaries of the Territory that is subject to the jurisdiction of the Nation, except for Allegany Territory which is within the City of Salamanca and is not included in the area set aside for Seneca Nation Housing Authority Project 40—9. For the purposes of this Ordinance, these lands shall be referred to as the Seneca Nation Territory. The restricted fee lands to which Section 12 of this Ordinance applies are those lands placed in restricted fee status for the Nation pursuant to the Seneca Nation Land Claims Settlement Act of 1990, 25 U.S.C. 1774f(c).

*Section 4.—Unlawful Sale and Introduction of Intoxicating Beverages Within Seneca Nation Territory*

The sale, and introduction for purposes of sale, of intoxicating beverages shall be unlawful within the Seneca Nation Territory.

*Section 5.—Unlawful Possession of Intoxicating Beverages Within Seneca Nation Territory*

The possession and consumption of intoxicating beverages shall be unlawful on the public lands of the Seneca Nation Territory, including public highways, bridges, Nation property, parking lots, driveways, and grounds surrounding Nation buildings.

*Section 6.—Possession by Minors Within Seneca Nation Territory*

It shall be unlawful for any person under the age of 21 to possess or consume intoxicating beverages, or for any person to give intoxicating beverages to any person under the age of 21, within the Seneca Nation Territory.

*Section 7.—Maintaining Premises Where Intoxicating Beverages are Consumed, Possessed or Served Within Seneca Nation Territory*

It shall be unlawful for any person to maintain premises within Seneca Nation Territory where intoxicating beverages are: (1) Consumed, possessed, or served to any person under the age of 21; or (2) consumed, possessed or served in violation of this Ordinance.

*Section 8.—Conformity With State Laws and This Ordinance*

The possession of intoxicating beverages shall be lawful within the Seneca Nation Territory provided that such possession is not prohibited by this Ordinance and is in conformity with the laws of the State of New York pursuant to 18 U.S.C. 1161.

*Section 9.—Violations Within Seneca Nation Territory—Remedies*

(a) The Nation may bring an action in the Peacemakers Courts against any person for violation of the provisions of this Ordinance regulating the possession and prohibiting the sale of intoxicating beverages on Seneca Nation Territory. The action shall be initiated by the filing of a written complaint with the court of the tribal prosecutor, sworn to by a person having personal knowledge of the charged violation, or by a Marshall or Seneca Nation law enforcement officer having personal knowledge of the charged violation. The complaint shall set forth the essential facts charging that a named individual has violated this Ordinance. Such action, including any appeal which is taken from the decision of the Peacemakers Court, shall be governed by the Seneca Nation Civil Procedure Rules.

(b) Any person found to have violated any of Sections 4 through 7 of this Ordinance shall pay a fine of:

(1) No more than \$5,000 and no less than \$0 for a Section 4 violation, plus court costs.

(2) No more than \$5,000 and no less than \$0 for a Section 5 violation, plus court costs.

(3) No more than \$5,000 and no less than \$0 for a Section 6 violation, plus court costs.

(4) No more than \$5,000 and no less than \$0 for a Section 7 violation, plus court costs.

In addition to the penalty described for such a violation, all intoxicating beverages confiscated from any person found to have violated this Ordinance shall be destroyed.

(c) In lieu of imposing a fine pursuant to subsection (b) above, the Peacemakers Court may employ the procedure provided in section 4-102(a), (b) of the Seneca Nation of Indians Civil Procedure Code.

(d) Any person found to have violated this Ordinance who is charged with a second subsequent violation may be referred to any other jurisdiction which the Peacemakers Court determines has concurrent jurisdiction over the charge.

(e) In addition to other remedies, the Peacemakers Court may enjoin any person in violation of this Ordinance.

#### *Section 10.—Enforcement Within Seneca Nation Territory*

The Marshals, the Seneca Nation Conservation Officers, and officers of the Seneca Nation Law Enforcement Department are authorized to enforce this Ordinance within the Seneca Nation Territory.

#### *Section 11.—Unlawful Intoxicating Beverages Within Seneca Nation Territory to be Confiscated*

The Marshals, the Seneca Nation Conservation Officers, and law enforcement officers shall confiscate and preserve as evidence all intoxicating beverages sold, introduced for purposes of sale, or possessed in violation of this Ordinance within the Seneca Nation Territory.

#### *Section 12.—Lawful Purchase, Introduction, Sale, Possession and Consumption of Liquor on Lands Placed in Restricted Fee Status Pursuant to the Seneca Nation Land Claims Settlement Act of 1990*

Pursuant to the inherent sovereignty of the Nation and in the exercise of the Nation powers for the purpose of protecting the welfare, health, peace, morals and safety of Nation members, the Nation adopts the following Seneca Nation Alcoholic Beverages Control Act for the purpose of regulating the purchase, introduction, sale, possession and consumption of liquor on lands placed in restricted fee status pursuant to the Seneca Nation Land Claims Settlement Act of 1990, 25 U.S.C. 1774f(c).

(1) *Title and Purpose.* This Seneca Nation Alcoholic Beverages Control Act is enacted for the purpose of regulating the purchase, introduction, sale,

possession, and consumption of liquor on lands placed in restricted fee status pursuant to the Seneca Nation Land Claims Settlement Act of 1990, 25 U.S.C. 1774f(c).

(2) *Definitions.* To the extent that definitions are consistent with Nation and federal law, terms used herein shall have the same meaning as defined in New York Consolidated Laws, Chapter 3-B (Alcoholic Beverage Control Law) and in Title 9, Subtitle B, Chapter I of the New York Regulations (Rules of the New York State Liquor Authority).

(a) *Alcohol.* Ethyl alcohol, hydrated oxide of ethyl or spirit of wine from whatever source or by whatever process produced.

(b) *Alcoholic Beverage.* Any liquid suitable for human consumption, which contains one-half of 1 percent or more of alcohol by volume.

(c) *Barter or Bartering.* The trading for any commodity, act or consideration whether or not there is intrinsic value in the item traded.

(d) *Beer.* Includes any fermented beverages of any name or description, manufactured from malt, wholly or in part, or from any substitute therefor.

(e) *Distilled Spirits.* Any alcoholic beverage that is not beer, wine, sparkling wine or alcohol.

(f) *Liquor.* Includes any and all distilled or rectified spirits, brandy, whiskey, rum, gin, cordials or similar distilled alcoholic beverages, including all dilutions and mixtures of one or more of the foregoing.

(g) *Minor.* Any person under 21 years of age.

(h) *Nation Council.* The duly elected governing body of the Seneca Nation of Indians, a federally recognized tribe.

(i) *Nation Enterprise.* For purposes of this Act only, this term shall mean those corporations chartered by the Nation and authorized to conduct Class III gaming and related commercial activities pursuant to the Seneca Nation Land Claims Settlement Act of 1990 and that is licensed by the Nation Council after paying the appropriate fee set forth by the Nation Council by Resolution at not less than two hundred (\$200) dollars and not more than five thousand (\$5,000) dollars annually.

(j) *Possession or Possessing.* The exercise of proprietorship or control over a thing or over property and includes constructive possession through control without regard to ownership.

(k) *Purchase.* The exchange, barter, traffic, receipt, with or without consideration, in any form.

(l) *Sale.* The exchange, barter, traffic, donation, with or without consideration, in addition to the selling,

supplying or distribution by any means, by any person to any person.

(m) *Transport.* The introduction of alcoholic beverage onto the Seneca Nation Territory by any means of conveyance for the purpose of sale, or distribution, to any licensed dealer.

(3) *Scope of Permissible Activity.* It shall be lawful for any Nation Enterprise, as defined by this Act, operating on lands placed in restricted fee status pursuant to the Seneca Nation Land Claims Settlement Act of 1990, 25 U.S.C. 1774f(c), to purchase liquor from duly licensed New York State wholesalers, to introduce and possess such liquor, and to sell such liquor on premises to persons over the age of 21. It shall also be lawful for persons over the age of 21 to possess and consume such liquor at any Nation Enterprise facility located on lands placed in restricted fee status pursuant to the Seneca Nation Land Claims Settlement Act of 1990, as set forth in this Act.

(4) *Prohibition.* The purchase, introduction, sale, possession and consumption of liquor on lands placed in restricted fee status pursuant to the Seneca Nation Land Claims Settlement Act of 1990, 25 U.S.C. 1774f(c), other than by a Nation Enterprise or person authorized pursuant to this Act is prohibited.

(5) *Penalties.* Any person or entity purchasing, introducing, possessing, selling, bartering, or otherwise trafficking in liquor in violation of this Act or any rule or regulation adopted pursuant to this ordinance shall be subject to a fine or forfeiture, as applicable, of not more than five thousand dollars (\$5,000) and may be barred from admission to a licensed Nation Enterprise facility or to Nation Territory or restricted fee lands through due process of law. In addition, persons or entities subject to the full jurisdiction of the Nation may be subject to such other appropriate actions as the Nation Council may determine. All contraband merchandise shall be confiscated by the Nation and disposed of as directed by the Nation Council.

(6) *Conformity With State Law.* Nation standards for the purchase, introduction, possession, sale and consumption of liquor on Seneca Nation Territory land pursuant to this Section 12 shall meet or exceed those required by the State of New York, pursuant to 18 U.S.C. 1161, including but not limited to:

(a) *Hours of Sale, Wine, Beer and Mixed Beverages.* A Nation Enterprise may sell or offer for sale wine, beer and mixed beverages at all times authorized.

(b) *Minor*. A minor is any person who has not celebrated his or her 21st birthday.

(c) *Purchase of Alcohol by a Minor*. Purchase of an alcoholic beverage by a minor on the premises of a Nation Enterprise facility is prohibited.

(d) *Sales to Minor*. Sale of an alcoholic beverage to a minor by a Nation Enterprise facility employee is prohibited.

(e) *Consumption of Alcohol by a Minor*. Consumption of an alcoholic beverage by a minor on the premises of a Nation Enterprise facility is prohibited.

(f) *Possession of Alcohol by a Minor*. Possession of an alcoholic beverage by a minor on a Nation Enterprise facility is prohibited unless such minor is in possession of the alcoholic beverage while in the course and scope of his employment and he is an employee of the Nation Enterprise.

(g) *Purchase of Alcohol for a Minor, Furnishing Alcohol to a Minor*. A person commits a violation of this Act if he knowingly purchases an alcoholic beverage for or knowingly gives or makes available an alcoholic beverage to a minor.

(h) *Misrepresentation of Age by a Minor*. A minor is in violation of this Ordinance if he falsely states that he or she is 21 years of age or older or presents any document that indicates he/she is 21 years of age or older to a person engaged in selling or serving alcoholic beverages at a Nation Enterprise facility.

(i) *Employment of Minors*. A Nation Enterprise shall not employ any person less than 18 years of age to sell, prepare, serve, or otherwise handle liquor, or to assist in doing so. A Nation Enterprise may, however, employ a person less than 18 years of age to work in any capacity other than the actual selling, preparing, serving or handling of liquor.

(7) *Prohibition of Sales During Emergencies or Dates and Times Established by the Nation Council*. The Nation Council President, by authority of Nation Council Resolution, may on an emergency basis and for a period of time not to exceed 5 business days, by written order, act, directive or notice, prohibit the sale of liquor at any Nation Enterprise facility until such emergency order can be considered by the Nation Council which may in its discretion, terminate or extend such order for any length of time it deems necessary, or may issue emergency rules, regulations, directions or orders concerning the sale of liquor which will be valid during the stated emergency period. The Nation Council may likewise issue orders prohibiting or limiting the sale of liquor

at any Nation Enterprise facility for any period not to exceed 72 consecutive hours.

(8) *Enforcement*. This Act shall be enforced by the Nation Council, or any other Agency vested with such enforcement authority pursuant to Nation Council Resolution.

#### *Section 13.—Sovereign Immunity Preserved*

Nothing in this Ordinance is intended nor shall be construed as a waiver of sovereign immunity by the Nation. No officer, manager or employee of a Nation enterprise shall be authorized nor shall attempt to waive the sovereign immunity of the Nation.

#### *Section 14.—Disclaimers*

Nothing in this Ordinance shall be construed to authorize or require the criminal trial and punishment of non-Indians by the Nation except to the extent allowed by an applicable present or future act of Congress or any applicable laws.

#### *Section 15.—Regulations*

The Nation Council shall have the exclusive authority to adopt and enforce rules and regulations to implement the purchase, introduction, possession, sale, and consumption of liquor on the Seneca Nation Territory and to further the purposes of this Ordinance. Such rules and regulations shall have the force of law upon promulgation by Nation Council Resolution.

#### *Section 16.—Severability*

If any clause, part or section of this Ordinance shall be adjudged invalid, such judgment shall not affect or invalidate the remainder of the ordinance but shall be confined in its operation to the clause, part or section directly involved in controversy in which such judgment was rendered.

#### *Section 17.—Effective Date*

This Ordinance shall be effective on February 11, 2003.

#### *Section 18.—Duration*

The duration of this Ordinance shall be perpetual until repealed or amended by Nation Council Resolution.

[FR Doc. 03-3386 Filed 2-10-03; 8:45 am]

BILLING CODE 4310-4J-P

## DEPARTMENT OF THE INTERIOR

### Bureau of Land Management

[WO-230-1020-PB-24 1A]

#### Extension of Approved Information Collection, OMB Control Number 1004-0058

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

**ACTION:** Notice and request for comments.

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995, the Bureau of Land Management (BLM) is requesting the Office of Management and Budget (OMB) to extend an existing approval to collect certain information from Federal timber purchasers to allow BLM to determine compliance with timber export restrictions. BLM uses Form 5460-17, Substitution Determination, to collect this information. This information allows BLM to administer export restrictions on BLM timber sales and to determine whether there was a substitution of Federal timber for exported private timber in violation of 43 CFR 5400.0-3(c).

**DATES:** You must submit your comments to BLM at the address below on or before April 14, 2003.

**ADDRESSES:** You may mail comments to: Bureau of Land Management, (WO-630), Eastern States Office, 7450 Boston Blvd., Springfield, Virginia 22153.

You may send comments via Internet to: [WOCComments@blm.gov](mailto:WOCComments@blm.gov). Please include "ATTN: 1004-0058" and your name and return address in your Internet message.

You may deliver comments to the Bureau of Land Management, Administrative Record, Room 401, 1620 L Street, NW., Washington, DC.

All comments will be available for public review at the L Street address during regular business hours (7:45 a.m. to 4:15 p.m.) Monday through Friday.

**FOR FURTHER INFORMATION CONTACT:** You may contact Michael J. Haske, WO-230, on (202) 452-7758 (Commercial or FTS). Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) on 1-800-877-8330, 24 hours a day, seven days a week, to contact Mr. Haske.

**SUPPLEMENTARY INFORMATION:** 5 CFR 1320.12(a) requires that we provide a 60-day notice in the **Federal Register** concerning a collection of information to solicit comments on:

(a) Whether the collection of information is necessary for the proper