

examples of documentation to be completed.

## II. Request for Comments

A 60-day notice requesting comments was published on May 7, 2007 (Vol. 72, FR 25774). There were no comments received regarding that notice. You are invited to comment on the following items to the Desk Officer at OMB at the citation in **ADDRESSES** section.

(a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(b) The accuracy of the agencies' estimate of the burden (including the hours and cost) of the proposed collection of information, including the validity of the methodology and assumption used;

(c) Ways to enhance the quality, utility, and clarity of the information to be collected;

(d) Ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other collection techniques or forms of information technology.

Comments submitted in response to this notice will be summarized and become a matter of public record.

OMB has up to 60-days to make a decision, but may decide after 30-days; therefore your comments will receive maximum consideration if received during the 30-day period.

We will not request nor sponsor a collection of information, and you need not respond to such a request, if there is no valid Office of Management and Budget Control Number.

## III. Data

**Title:** No Child Left Behind Regulations, 25 CFR parts 30, 37, 39, 42, 44, and 47.

**OMB Control Number:** 1076-0163.

**Type of review:** Reinstatement.

**Brief Description of Collection:** This collection is mandatory according to statutory regulations, and the benefit to the respondents is continued supplementary Title programs funding.

**Respondents:** Bureau-funded schools, tribal governing bodies, and school boards are the respondents, and submission is mandatory.

**Number of Respondents:** 184 Bureau-funded schools.

**Estimated Time per Response:** The range of time can vary from 1 hour to an average of 48 hours for one item.

**Frequency of Response:** Annually and sometimes quarterly.

**Total Annual Hourly Burden to Respondents:** 1332 (number of

responses)  $\times$  9.02 (average hourly burden per response) = 12018 total annual hours of burden.

Dated: September 25, 2007.

**Carl J. Artman,**

*Assistant Secretary—Indian Affairs.*

[FR Doc. E7-19453 Filed 10-2-07; 8:45 am]

**BILLING CODE 4310-XN-P**

## DEPARTMENT OF THE INTERIOR

### Bureau of Indian Affairs

#### Pueblo of Picuris Liquor Code

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

**ACTION:** Notice.

**SUMMARY:** This notice publishes the Pueblo of Picuris Liquor Code. The Act regulates and controls the possession, sale, and consumption of liquor within the Pueblo of Picuris Indian Reservation. The Reservation is located on trust land and this Act allows for the possession and sale of alcoholic beverages within the exterior boundaries of the Pueblo of Picuris Indian Reservation. This Act will increase the ability of the tribal government to control the distribution and possession of liquor within their reservation and at the same time will provide an important source of revenue and strengthening of the tribal government and the delivery of tribal services.

**DATES:** *Effective Date:* This Act is effective as of October 3, 2007.

**FOR FURTHER INFORMATION CONTACT:** Iris A. Drew, Tribal Government Services Officer, Southwest Regional Office, 1001 Indian School Road, Albuquerque, New Mexico 87104; Telephone (505) 563-3530; Fax (505) 563-3060; or Elizabeth Colliflower, Office of Tribal Services, 1849 C Street, NW., Mail Stop 4513-MIB, Washington, DC 20240; Telephone (202) 513-7627; Fax (202) 208-5113.

**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 Pueblo of Picuris Tribal Council adopted this Liquor Code by Resolution No. 07-13 on May 1, 2007. The purpose of this Code is to govern the sale, possession and distribution of alcohol within the Pueblo of Picuris Indian Reservation.

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 Code of the Pueblo of Picuris was duly adopted by the Tribal Council on May 1, 2007.

Dated: September 25, 2007.

**Carl J. Artman,**

*Assistant Secretary—Indian Affairs.*

The Pueblo of Picuris Liquor Code reads as follows:

#### Pueblo of Picuris Liquor Code

##### *Subchapter One: General Provisions*

##### Section 101: Findings

The Tribal Council finds as follows:

A. The introduction, possession and sale of alcoholic beverages into Picuris Pueblo Indian Lands has long been regarded as a matter of special concern to the Pueblo, that bears directly on the health, welfare and security of the Pueblo and its members; and

B. Under federal law and New Mexico state law, and as a matter of inherent Tribal sovereignty, the question of to what extent and under what circumstances alcoholic beverages may be introduced into and sold or consumed within Picuris Pueblo Indian Lands is to be decided by the governing body of the Tribe; and

C. It is desirable that the Tribal Council legislate comprehensively on the subject of the sale and possession of alcoholic beverages within Picuris Pueblo Indian Lands, both to establish a consistent and reasonable Tribal policy on this important subject, as well as to facilitate economic development projects within Picuris Pueblo Indian Lands that may involve outlets for the sale and consumption of alcoholic beverages; and

D. It is the policy of the Tribal Council that the introduction, sale and consumption of alcoholic beverages within Picuris Pueblo Indian Lands be carefully regulated so as to protect the public health, safety and welfare, and that licensees be made fully accountable for violations of conditions of their licenses and the consequences thereof.

##### Section 102: Definitions

As used in this chapter, the following words shall have the following meanings:

A. "Pueblo" or "Tribe" means the Pueblo of Picuris.

B. "Tribal Council" or "Council" means the Tribal Council of the Pueblo of Picuris.

C. "Governor" means the Governor of the Pueblo of Picuris.

D. "Person" means any natural person, partnership, corporation, joint venture, association, or other legal entity.

E. "Sale" or "sell" means any exchange, barter, or other transfer of goods from one person to another for commercial purposes, whether with or without consideration.

F. "Liquor" or "Alcoholic Beverage" means any of the four varieties of liquor commonly referred to as alcohol, spirits, wine and beer, and all fermented, spirituous, vinous or malt liquors or combinations thereof, mixed liquor, any part of which is fermented, spirituous, vinous, or malt liquor, or any otherwise intoxicating liquid, including every liquid or solid or semi-solid or other substance, patented or not, containing alcohol, spirits, wine or beer and intended for oral consumption.

G. "Licensee" means a person who has been issued a license to sell alcoholic beverages on the licensed premises under the provisions of this Liquor Code.

H. "Licensed Premises" means the location within Picuris Pueblo Indian Lands at which a licensee is permitted to sell and allow the consumption of alcoholic beverages, and may, if requested by the applicant and approved by the Tribal Council, include any related or associated areas or facilities under the control of the licensee, or within which the licensee is otherwise authorized to conduct business (but subject to any conditions or limitations as to sales within such area that may be imposed by the Governor in issuance of the license).

I. "Picuris Pueblo Indian Lands" means all lands within the exterior boundaries of the Picuris Pueblo Grant, and all other lands owned by the Pueblo subject to federal law restrictions on alienation or held by the United States for the use and benefit of the Pueblo.

J. "Special Event" means a bona fide special occasion such as a fair, fiesta, show, tournament, contest, meeting, picnic or similar event held on Picuris Pueblo Indian Lands that is sponsored by an established business or non-governmental organization, lasting no more than three days. A special event may be open to the public or to a designated group, and it may be a one-time event or periodic, provided, however, that such events held more than four times a year by the same business or organization shall not be deemed special events for purposes of this Liquor Code.

K. "Server" means an individual who sells, serves or dispenses alcoholic beverages for consumption on or off licensed premises, and including

persons who manage, direct or control the sale or service of such beverages.

L. "Liquor Code" means the Picuris Pueblo Liquor Code, this chapter.

#### Section 103: Sovereign Immunity Preserved

Nothing in the Liquor Code shall be construed as a waiver or limitation of the sovereign immunity of the Pueblo.

#### Section 104: Initial Compliance

No person shall be disqualified from being issued a license under the provisions of this Liquor Code, or shall be found to have violated any provision of this Liquor Code, solely because such person, having been duly authorized to engage in the sale of alcoholic beverages within Picuris Pueblo Indian Lands under the law as it existed prior to enactment of this Liquor Code, continues to engage in such business without a license issued under the provisions of this Liquor Code after the effective date hereof, so long as such person complies with the provisions of this Section. Within 90 days after the effective date of this Liquor Code (or within 30 days after receiving written notice from the Pueblo of the enactment of the Liquor Code, whichever is later) any person who is licensed to sell alcoholic beverages within Picuris Pueblo Indian Lands under the law as it existed prior to the enactment of this Liquor Code shall submit an application for a license under the provisions of this Liquor Code. Upon the issuance of a license under the provisions of this Liquor Code to such person, or upon the rejection of an application for such license by such person, no license issued by the State of New Mexico or issued under the provisions of any prior law of the Pueblo that is held by such person, or that purports to authorize the possession, sale or consumption of alcoholic beverages on premises covered by a license issued (or a license application rejected) under the provisions of this Liquor Code, shall have any further validity or effect within Picuris Pueblo Indian Lands.

#### Section 105: Severability

In the event any provision of this Liquor Code is held invalid or unenforceable by any court of competent jurisdiction, the remainder of the Code shall continue in full force and effect, notwithstanding the invalidity or unenforceability of such provision, to the fullest extent practicable.

#### Section 106: Issuance of Regulations

The Tribal Council shall have the authority to issue such regulations, consistent with the provisions of this

Liquor Code, as may be helpful to the effective administration of the Liquor Code.

#### *Subchapter Two: Sale, Possession and Consumption of Alcoholic Beverages*

##### Section 121: Prohibition

The sale, introduction for sale, purchase, or other commercial dealing in alcoholic beverages, except as is specifically authorized by the Liquor Code, is prohibited within Picuris Pueblo Indian Lands.

##### Section 122: Possession for Personal Use

Possession of alcoholic beverages for personal use shall be lawful within Picuris Pueblo Indian Lands only if such alcoholic beverages were lawfully purchased from an establishment duly licensed to sell such beverages, whether on or off Picuris Pueblo Indian Lands, and are possessed by a person or persons 21 years of age or older. Such possession is otherwise prohibited.

##### Section 123: Transportation Through Reservation Not Affected

Nothing herein shall pertain to the otherwise lawful transportation of alcoholic beverages through Picuris Pueblo Indian Lands by persons remaining upon public highways (or other paved public facilities for motor vehicles) and where such beverages are not delivered, sold or offered for sale to anyone within Picuris Pueblo Indian Lands.

##### Section 124: Requirement of Pueblo License

No person shall sell any alcoholic beverage within Picuris Pueblo Indian Lands, or offer any such beverage for sale, unless such person holds a license issued by the Pueblo under the provisions of this chapter that is in effect, or unless such person holds a license authorizing such sales issued by the State of New Mexico that is in effect, and such person has not received notice of the enactment of this Liquor Code under the provisions of Section 104 of this chapter.

##### Section 125: All Sales for Personal Use

No person licensed to sell alcoholic beverages within Picuris Pueblo Indian Lands shall sell any such beverage for resale, but all such sales shall be for the personal use of the purchaser. Nothing herein shall prohibit a wholesale dealer in alcoholic beverages that is duly licensed by the State of New Mexico from selling and delivering such beverages to properly licensed retailers within Picuris Pueblo Indian Lands, so long as such sales and deliveries are otherwise in conformity with the laws

of the State of New Mexico and this Liquor Code.

#### Section 126: Package Sales and Sales of Liquor by the Drink Permitted

Sales of alcoholic beverages on Picuris Pueblo Indian Lands may be in package form or for consumption on the premises, or both, so long as the seller is properly licensed by the Pueblo to make sales of that type. No seller of alcoholic beverages shall permit any person to consume, on premises where liquor by the drink is authorized to be sold, any alcoholic beverages purchased elsewhere by the consumer.

#### Section 127: No Sales to Minors

No alcoholic beverages may be sold within Picuris Pueblo Indian Lands to any person under the age of 21 years.

#### Section 128: Hours and Days of Sale

A. Alcoholic beverages may be sold, offered for sale, delivered or consumed on licensed premises within Picuris Pueblo Indian Lands, other than at gaming establishments, only during the following days and hours:

- i. On Mondays through Fridays between the hours of 10 a.m. and 12 midnight;
- ii. On Saturdays, from 12:01 a.m. until 2 a.m., and from 10 a.m. until 12 midnight;
- iii. On Sundays, from 12:01 a.m. until 2 a.m., and from 2 p.m. until midnight; provided, however, that between midnight and 10 a.m. such sales shall only be for consumption on the premises, regardless of what type of license is held by the establishment.

B. At any gaming establishment licensed as such by Picuris Pueblo Gaming Commission, that is also a licensed premises within the meaning of this Liquor Code, alcoholic beverages may be sold, offered for sale, delivered or consumed on Mondays through Saturdays from 10 a.m. until 2 a.m. of the following morning (provided, however, that after midnight such sales shall only be for consumption on the premises, regardless of what type of license is held by the gaming establishment), and on Sundays from 12 noon until midnight (except that the Tribal Council may authorize such sales for consumption on the premises from 12:01 a.m. until 2 a.m. on a Monday following a Sunday that is a recognized holiday).

#### Section 129: Sales on Election Day

No sales of alcoholic beverages shall be permitted to any person within Picuris Pueblo Indian Lands on any Tribal election day, from closing time

the night before until one (1) hour after the polls are closed.

#### Section 130: Other Prohibitions on Sales

The Tribal Council may, by duly enacted resolution, establish other days on which or times at which sales or consumption of alcoholic beverages are not permitted within Picuris Pueblo Indian Lands, or specified portions thereof. The Council shall give notice of any such enactment promptly to all licensees within Picuris Pueblo Indian Lands. In addition, the Governor of the Pueblo may, in the event of a bona fide emergency, and by written order, prohibit the sale of any alcoholic beverages within Picuris Pueblo Indian Lands, or any specified portions thereof, for a period of time not to exceed 48 hours. The Governor shall give prompt notice of such emergency order to all licensees within Picuris Pueblo Indian Lands. No such emergency order may extend beyond 48 hours, unless during that time the Tribal Council meets and determines by resolution that the emergency requires a further extension of such order.

#### Section 131: Location of Sales

No person licensed to sell alcoholic beverages within Picuris Pueblo Indian Lands shall make such sales except at the licensed premises specifically designated in such license. No person holding only a premises license shall permit alcoholic beverages purchased from such licensee for consumption on the premises to be consumed off of the licensed premises.

#### Section 132: Sales To Be Made by Adults

No person shall take any order, make any delivery, or accept payment for any sale of alcoholic beverages within Picuris Pueblo Indian Lands, or otherwise have any direct involvement in any such sale, who is less than 21 years of age.

#### Section 133: All Sales Cash

No licensee shall make any sale of any alcoholic beverages within Picuris Pueblo Indian Lands without receiving payment therefor by cash, check or credit card at or about the time the sale is made; provided, that nothing herein shall preclude a licensee from receiving a delivery of alcoholic beverages from a duly authorized wholesaler where arrangements have been made to pay for such delivery at a different time; and provided further that nothing herein shall preclude a licensee from allowing a customer to purchase more than one alcoholic beverage in sequence, and to pay for all such purchases at the

conclusion thereof, so long as payment is made in full before the customer has left the licensed premises; and provided further that nothing herein shall prevent a licensee from distributing alcoholic beverages to customers without charge, so long as such distribution is not otherwise in violation of any provision of this Liquor Code.

#### Section 134: Nuisances Prohibited

No licensee shall knowingly conduct its business in such a location, or in such a manner, or at such times of day or night, as to amount to a nuisance, in that such activity is injurious to public health, safety or morals, or interferes with the exercise and enjoyment of public rights, including the right to use public property.

#### *Subchapter Three: Licensing and Regulation*

#### Section 151: Requirement of License

Any person proposing to sell, offer for sale, store or possess, for commercial purposes, any alcoholic beverages, or to maintain commercial premises for the consumption of alcoholic beverages, within Picuris Pueblo Indian Lands, who is not licensed to engage in such business under the laws of the State of New Mexico and has not received notice of the enactment of this Liquor Code under the provisions of Section 104 of this chapter, must be duly licensed under the provisions of this Liquor Code.

#### Section 152: Classes of Licenses

The following types or classes of licenses for the sale or distribution of alcoholic beverages within Picuris Pueblo Indian Lands shall be permitted:

A. Package license, which shall authorize the licensee to store, possess, sell and offer for sale alcoholic beverages in sealed containers, for consumption only off of the licensed premises.

B. Premises license, which shall authorize the licensee to store, possess and sell alcoholic beverages in open containers, for consumption on the licensed premises only, and to permit such consumption on the licensed premises only.

C. Special event license, which shall authorize the licensee to possess, distribute, sell and offer for sale alcoholic beverages for consumption only on the licensed premises, and to permit such consumption on the licensed premises only, but only for a bona fide special event, and only during the period or periods specified in such license, which period or periods shall be limited to the periods during which

the special event is occurring and from beginning to end shall not exceed 72 hours.

#### Section 154: Qualifications for License

A. No person shall be entitled to be issued a license under the provisions of this Liquor Code who has previously been the subject of any proceeding resulting in the revocation of any license for the sale of alcoholic beverages issued by the Pueblo or by any state or other jurisdiction, or who has been convicted of any felony in any jurisdiction involving theft, dishonesty, corruption, embezzlement or violation of laws regulating the sale, possession and use of alcoholic beverages, or who (if a natural person) has not at the time the application for license is submitted attained the age of 25 years, or who is otherwise determined by the Pueblo to be unfit to be licensed to sell alcoholic beverages, or (if a natural person) whose spouse is a person not qualified to hold a license under the provisions of this section.

B. No partnership, corporation or other legal entity shall be entitled to be issued a license under the provisions of this Liquor Code if any individual occupying any management or supervisory position within such entity, or who sits on the management committee or board of directors or trustees thereof, or who holds or controls a financial interest of ten percent or more in such entity, is a person who would not be entitled to be issued a license under the provisions of this section.

C. No person shall be entitled to be issued a package or premises license hereunder unless such person owns, or has an approved lease or other valid interest in, land within Picuris Pueblo Indian Lands, is lawfully entitled to engage in a business on such land with which such license would be compatible, and can demonstrate that such person is otherwise capable of complying with all of the requirements imposed on licensees by this Liquor Code.

D. An applicant for a package or premises license hereunder, including, if the applicant is not a natural person, each principal in the applicant entity who will have any direct involvement in the proposed business, must have successfully completed within the three years preceding the date of the application an alcohol server education program and examination that is approved by the director of the New Mexico Alcohol and Gaming Division.

E. Notwithstanding anything in this section to the contrary, the Pueblo and its wholly owned commercial entities

shall be entitled to be issued licenses hereunder upon application therefor to the Tribal Council, provided that all other provisions of this Liquor Code are complied with.

#### Section 155: Package and Premises License Application; Procedure; Fees

A. Every person seeking a package or premises license under the provisions of this Liquor Code (other than the Pueblo or any of its wholly owned commercial entities) shall submit to the Tribal Council a written application, under oath, in the form prescribed by and containing the information required by this section.

B. If the applicant is a natural person, the application shall contain, at a minimum, all of the following information:

i. The full legal name of the applicant, plus any other names under which the applicant has been known or done business during the previous 20 years, and the applicant's date and place of birth, as shown by a certified copy of the applicant's birth certificate.

ii. The applicant's current legal residence address and business address, if any, and every residence address that the applicant has maintained during the previous ten years, with the dates during which each such address was current.

iii. The trade name, business address and description of every business in which the applicant has engaged or had any interest (other than stock ownership or partnership interest amounting to less than five percent of total capital) during the previous ten years, and the dates during which the applicant engaged in or held an interest in any such business.

iv. A listing of every other jurisdiction in which the applicant has ever applied for a license to sell or distribute alcoholic beverages, the date on which each such application was filed, the name of the regulatory agency with which the application was filed, the action taken on each such application, and if any such license was issued, the dates during which it remained in effect, and as to each such license a statement whether any action was ever taken by the regulatory body to suspend or revoke such license, with full dates and details of any such incident.

v. A listing of every crime with which the applicant has ever been charged, other than routine traffic offenses (but including any charge of driving while intoxicated or the like), giving as to each the date on which the charge was made, the location, the jurisdiction, the court in which the matter was heard, and the outcome or ultimate disposition thereof.

vi. The name and address of every person or entity holding any security interest in any of the assets of the business to be conducted by the applicant, or in any of the proceeds of such business.

vii. A detailed plat of the applicant's business premises within Picuris Pueblo Indian Lands including the floor plans of any structure and the details of any exterior areas intended to be part of the licensed premises, together with evidence of the applicant's right to conduct business on such premises.

viii. A detailed description of the business conducted or intended to be conducted on the licensed premises, and including (but not limited to) hours of operation and number of employees.

ix. The type(s) of license(s) requested.

C. If the applicant is a corporation, the corporation, each officer of the corporation and every person holding 10% or more of the outstanding stock in the corporation shall submit an application complying with the provisions of paragraph B of this section, and in addition, the applicant shall also submit the following:

i. A certified copy of its articles of incorporation and bylaws.

ii. The names and addresses of all officers and directors and those stockholders owning 5% or more of the voting stock of the corporation, and the amount of stock held by each such stockholder.

iii. The name of the resident agent of the corporation who would be authorized to accept service of process, including orders and notices issued by the Pueblo, and who will have principal supervisory responsibility for the business to be conducted on the licensed premises.

iv. Such additional information regarding the corporation as the Tribal Council may require to assure a full disclosure of the corporation's structure and financial responsibility.

D. If the applicant is a partnership, the partnership, the managing partner and every partner having an interest amounting to 10% or more of the total equity interest in the partnership shall submit an application complying with the provisions of paragraph B of this section, and in addition, the applicant shall submit the following:

i. A certified copy of the Partnership Agreement.

ii. The names and addresses of all general partners and of all limited partners contributing 10% or more of the total value of contributions made to the limited partnership or who are entitled to 10% or more of any distributions of the limited partnership.

iii. The name and address of the partner, or other agent of the partnership, authorized to accept service of process, including orders and notices issued by the Pueblo, and who will have principal supervisory responsibility for the business to be conducted in the licensed premises.

iv. Such additional information regarding the partnership as the Tribal Council may require to assure a full disclosure of the partnership's structure and financial responsibility.

E. Every applicant who is a natural person, and every person required by paragraphs C or D of this section to comply with the provisions of paragraph B, shall also submit with the application a complete set of fingerprints, taken under the supervision of and certified to by an officer of an authorized law enforcement agency located within the State of New Mexico.

F. The applicant shall also submit proof that applicant, if a natural person, and every person who will be directly involved in the sale or service of alcoholic beverages as part of the applicant's business, has successfully completed, within the three years next preceding the date of the application, an alcohol server education program and examination approved by the director of the New Mexico Alcohol and Gaming Division.

G. Every applicant for either a package license or a premises license shall submit with the completed license application a non-refundable license processing fee, in the amount set forth below:

Package license, \$5,000.00

Premises license, \$1,000.00

In addition, each such applicant shall pay a fee to cover the cost of a background investigation, in an amount to be set by the Tribal Council from time to time, but which shall not exceed the sum of \$1,000.00.

H. Upon receiving a completed license application together with the required fees, the Tribal Council shall cause a background investigation to be performed of the applicant, to determine whether the applicant is qualified to be licensed under the provisions of this Liquor Code. Upon the written recommendation of the Tribal Council (if requested by the applicant), the Tribal Council may, in its discretion, approve the issuance of a preliminary license to the applicant effective for a period of no more than 90 days, but which shall be renewable for one additional period of 90 days in the event the background investigation cannot be completed within the first 90-day period; provided, however, that in no

event shall the issuance of a preliminary license, or the renewal of such license for an additional 90-day period, entitle the applicant to favorable consideration with respect to the application for a package or premises license.

I. The Pueblo or any of its wholly owned commercial entities may apply for a package or premises license by submitting an application to the Tribal Council identifying the applicant, describing in detail the purpose of the license, including a detailed description of the proposed licensed premises, and including the appropriate fee as set forth in Paragraph (G) of this section.

#### Section 156: Action on Application

A. Upon making a determination that an applicant for a package or premises license satisfies the requirements of this chapter, the Governor shall prepare a written recommendation for the issuance of such license, setting forth sufficient information about the applicant, the proposed business, and any other matters deemed relevant by the Governor, to enable the Tribal Council to evaluate the merits of the license, together with any and all supporting data deemed suitable by the Governor. The recommendation shall include a detailed description of the proposed leased premises, and any limitations or conditions the Governor recommends be included in the license. The Governor shall place the matter on the agenda for the Tribal Council's next regular meeting, and shall give written notice thereof to the Tribal Council and the applicant, and to the public. The Governor shall provide a complete copy of the Governor's recommendation, with all supporting documentation, to each member of the Tribal Council, by no later than ten days before the meeting at which the matter is to be heard.

B. The Tribal Council shall take up the application at its next regular meeting. The Governor shall explain the application and the basis for his or her recommendation, and the applicant shall be permitted to speak in favor of the application. Any interested member of the public may also be heard on the matter. The Tribal Council shall vote either to approve or deny the application, and if it votes to approve the license, it shall specify whether the Governor's recommendations as to the description of the licensed premises and any limitations or conditions on the license are accepted, rejected, or modified, and may add any additional limitations or conditions it deems appropriate.

C. If the Tribal Council concludes that the applicant is not qualified for a license under the provisions of Section

154 of this chapter, or that the application is otherwise not allowable under the provisions of this chapter, he or she shall give written notice to the applicant that the license is rejected, by certified mail, return receipt requested.

D. In the event the Tribal Council approves the issuance of a license, the Governor shall issue the license forthwith, incorporating therein any limitations or conditions thereon approved by the Tribal Council.

#### Section 157: Term; Renewal; Fee

A. Each package or premises license issued hereunder shall have a term of one (1) year from the date of issuance, provided that such license shall be renewable for additional periods of one year each by any licensee who has complied fully with the terms and provisions of the license and of this Liquor Code during the term of the license, and who remains fully qualified to be licensed under the provisions of Section 154 of this Chapter. A licensee who is eligible for renewal of his or her license shall submit to the Tribal Council an application for renewal on a form specified by the Tribal Council, together with proof that the licensee and each person employed by the licensee as a server has successfully completed, within the past five years, an alcohol server education program and examination approved by the director of the New Mexico Alcohol and Gaming Division, and a license renewal fee in the amount of \$500.00, no less than thirty (30) days prior to the expiration date of the license.

B. The failure to submit a timely renewal application, with the required fee, may subject the licensee to a late charge of \$500.00. If the renewal application is not submitted prior to expiration of the license, the Tribal Council may treat the license as having expired, and may require the licensee to file a new application in compliance with Section 155 of this chapter.

C. The Tribal Council may, in its discretion, conduct an update on the applicant's background investigation prior to acting on any renewal application, and the Tribal Council shall update such investigation prior to issuing a third renewal of a license since the last such investigation was performed, or if the Tribal Council has acquired information indicating that the applicant is not qualified for a license under the provisions of Section 154 of this chapter. Whenever any such investigation is performed, the Tribal Council shall require the applicant to pay an additional fee to cover the costs of such investigation, in an amount to be determined by the Tribal Council but

in no event in excess of the sum of \$1,000.00.

D. The Tribal Council may refuse to approve a renewal of a license in the event a background investigation reveals facts that would disqualify the applicant from being licensed under this Liquor Code, or if the Tribal Council determines that the licensee has operated in a manner violative of the provisions of this chapter. In that event, the applicant shall have the right to appeal the Tribal Council's decision to the Tribal Council, which appeal shall be governed by and conducted in accordance with the same requirements and procedures that apply an appeal of a denial of an original application, as set forth in Section 156(C), (D), and (E) of this chapter.

#### Section 158: Conditions of License

No licensee shall have any property interest in any license issued under the provisions of this Liquor Code, and every such license shall be deemed to confer a non-transferable privilege, revocable by the Pueblo in accordance with the provisions of this Chapter. The continued validity of every package and premises license issued hereunder shall be dependent upon the following conditions:

A. Every representation made by the licensee and any of its officers, directors, shareholders, partners or other persons required to submit information in support of the application, shall have been true at the time such information was submitted, and shall continue to be true, except to the extent the licensee advises the Tribal Council in writing of any change in any such information, and notwithstanding any such change, the licensee shall continue to be qualified to be licensed under the provisions of this Liquor Code.

B. The licensee shall at all times conduct its business on Picuris Pueblo Indian Lands in full compliance with the provisions of this Liquor Code and with the other laws of the Pueblo.

C. The licensee shall maintain in force, public liability insurance covering the licensed premises, insuring the licensee and the Pueblo against any claims, losses or liability whatsoever for any acts or omissions of the licensee or of any business invitee on the licensed premises resulting in injury, loss or damage to any other party, with coverage limits of at least \$1 million per injured person, and the Tribal Council shall at all times have written evidence of the continued existence of such policy of insurance.

D. The licensee shall be lawfully entitled to engage in business within

Picuris Pueblo Indian Lands, and shall have paid all required rentals, assessments, taxes, or other payments due the Pueblo.

E. The business conducted on the licensed premises shall be conducted by the licensee or its employees directly, and shall not be conducted by any lessee, sublessee, assignee or other transferee, nor shall any license issued hereunder or any interest therein be sold, assigned, leased or otherwise transferred to any other person.

F. All alcoholic beverages sold on the licensed premises shall have been obtained from a New Mexico licensed wholesaler.

G. No person shall be employed by the licensee as a server who has not, within the past five years, successfully completed an alcohol server education program and examination approved by the director of the New Mexico Alcohol and Gaming Division.

H. No licensee shall sell, serve or deliver any alcoholic beverage to a customer through a drive-up window, or otherwise to a customer who at the time of the transaction is in a motor vehicle.

I. By having applied for and obtained a license hereunder, the licensee shall be deemed to have submitted to the jurisdiction of the Tribal Court of the Pueblo with respect to any action brought by the Pueblo or any of its agencies or offices to enforce the provisions of this Liquor Code or any other provision of tribal law, or by any person claiming to have suffered loss or damage due to any act or omission of the licensee in the course of the conduct of its business on Picuris Pueblo Indian Lands.

#### Section 159: Sanctions for Violation of License

A. Upon determining that any person licensed by the Pueblo to sell alcoholic beverages under the provisions of the Liquor Code is for any reason no longer qualified to hold such license under the provisions of Section 154 of the Liquor Code, or has violated any of the conditions set forth in Section 158, the Tribal Council shall immediately serve written notice upon such licensee directing that he show cause within ten calendar days why his license should not be suspended or revoked, or a fine imposed, or both. The notice shall specify the precise grounds relied upon and the action proposed.

B. If the licensee fails to respond to such notice within ten calendar days of service of such notice, the Tribal Council shall issue an order suspending the license for such period as the Tribal Council deems appropriate, or revoking the license, effective immediately, or

imposing a fine, in such amount as the Tribal Council deems reasonable. The licensee may request a hearing on such notice, by filing a written response and a request for hearing, within the ten-day period, with the Tribal Council and with the Clerk of the Picuris Pueblo Tribal Court. The hearing shall be held before the Tribal Court, no later than 30 calendar days after receipt of such request, unless the Court for good cause extends such time period.

C. At the hearing, the Tribal Council shall have the burden to prove facts supporting the contentions set forth in the notice, and justifying the sanctions proposed in the notice. The licensee shall have the right to present its evidence in response.

D. The Court after considering all of the evidence and arguments shall issue a written decision, within fifteen days after the hearing concludes, either upholding the proposed action of the Tribal Council, modifying such action by imposing some lesser penalty, or ruling in favor of the licensee, and such decision shall be final and conclusive.

#### Section 160: Special Event License

A. Any established business or any non-governmental organization that includes any member of the Pueblo, that has authority to conduct any activities within Picuris Pueblo Indian Lands and that is not a licensee hereunder, may apply to the Tribal Council for a special event license, which shall entitle the applicant to distribute alcoholic beverages, whether or not for consideration, in connection with a bona fide special event to be held by the applicant within Picuris Pueblo Indian Lands. Any such application must be filed in writing, in a form prescribed by the Tribal Council, no later than 45 calendar days prior to the event, must be accompanied by a fee in the amount of \$50.00, and must contain at least the following information:

i. The nature and purpose of the event, the identity of the applicant and its relationship to the event, and a description of the persons who are invited to participate in the event, including their ages;

ii. The precise location within Picuris Pueblo Indian Lands where the event will occur, and where alcoholic beverages will be distributed;

iii. The exact days and times during which the event will occur (provided, that in no event shall any license be in effect for a period exceeding 72 hours, from the beginning of the first day of the event until the end of the last day);

iv. The nature of any food and beverages to be distributed, and the

manner in which such distribution shall occur;

v. Details of all provisions made by the applicant for sanitation, security and other measures to protect the health and welfare of participants at the event;

vi. Certification that the event will be covered by a policy of public liability insurance as described in Section 158(C) of this Liquor Code, that includes the Pueblo as a co-insured.

vii. Any other information required by the Tribal Council relative to the event.

B. The Tribal Council shall consider the application at its next meeting after the application is submitted, and shall vote to approve or reject the application. If the Council votes to approve the application, it shall also decide whether the license should be conditioned or limited in any fashion. If the application is approved, the Governor shall issue the license, including any conditions or limitations approved by the Council, and specifying the hours during which and the premises within which sales, distribution and consumption of alcoholic beverages may occur.

C. Alcoholic beverages may be sold or distributed pursuant to a special event license only at the location and during the hours specified in such license, in connection with the special event, only to participants in such special event, and only for consumption on the premises described in the license. Such sales or distribution must comply with any conditions imposed by the license, and with all other applicable provisions of this Liquor Code. All such alcoholic beverages must have been obtained from a New Mexico licensed wholesaler or retailer.

#### Section 161: Display of License

Every person licensed by the Pueblo to sell alcoholic beverages within Picuris Pueblo Indian Lands shall prominently display the license on the licensed premises during hours of operation.

#### *Subchapter Four: Offenses*

#### Section 181: Purchase From or Sale to Unauthorized Persons

Within Picuris Pueblo Indian Lands, no person shall purchase any alcoholic beverage at retail except from a person licensed by the Pueblo under the provisions of this title; no person except a person licensed by the Pueblo under the provisions of this title shall sell any alcoholic beverage at retail; nor shall any person sell any alcoholic beverage for resale within Picuris Pueblo Indian Lands to any person other than a person properly licensed by the Pueblo under the provisions of this chapter.

#### Section 182: Sale to Minors

A. No person shall sell or provide any alcoholic beverage to any person under the age of 21 years.

B. It shall be a defense to an alleged violation of this Section that the purchaser presented to the seller an apparently valid identification document showing the purchaser's age to be 21 years or older, and that the seller had no actual or constructive knowledge of the falsity of the identification document and relied in good faith on its apparent validity.

#### Section 183: Purchase by Minor

No person under the age of 21 years shall purchase, attempt to purchase or possess any alcoholic beverage.

#### Section 184: Sale to Person Under the Influence of Alcohol

No person shall sell any alcoholic beverage to a person who the seller has reason to believe is under the influence of alcohol or who the seller has reason to believe intends to provide such alcoholic beverage to a person under the influence of alcohol.

#### Section 185: Purchase by Person Under the Influence of Alcohol

No person under the influence of alcohol shall purchase any alcoholic beverage.

#### Section 186: Bringing Liquor Onto Licensed Premises

No person shall bring any alcoholic beverage for personal consumption onto any premises within Picuris Pueblo Indian Lands where liquor is authorized to be sold by the drink, unless such beverage was purchased on such premises, or unless the possession or distribution of such beverages on such premises is otherwise licensed under the provisions of this Liquor Code.

#### Section 187: Use of False or Altered Identification

No person shall purchase or attempt to purchase any alcoholic beverage by the use of any false or altered identification document that falsely purports to show the individual to be 21 years of age or older.

#### Section 188: Penalties

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

B. Any person not a member of a federally recognized Indian tribe, upon committing any violation of any

provision of this Chapter, may be subject to a civil action for trespass, and upon having been determined by the court to have committed the alleged violation, shall be found to have trespassed upon the Lands of the Pueblo, and shall be assessed such damages as the court deems appropriate in the circumstances.

C. Any person suspected of having violated any provision of this Chapter shall, in addition to any other penalty imposed hereunder, be required to surrender any alcoholic beverages in such person's possession to the officer making the arrest or issuing the complaint.

#### Section 189: Jurisdiction

Any and all actions, whether civil or criminal, pertaining to alleged violations of this title, or seeking any relief against the Pueblo or any officer or employee of the Pueblo with respect to any matter addressed by this Liquor Code, shall be brought in the Tribal Court of the Pueblo, which court shall have exclusive jurisdiction thereof.

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## DEPARTMENT OF THE INTERIOR

### Bureau of Land Management

[OR-930-07-5870-EU; OR-63956; HAG-07-0135]

#### Notice of Realty Action; Non-Competitive (Direct) Sale of Public Land; Harney County, OR

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

**ACTION:** Notice of Realty Action.

**SUMMARY:** A 240-acre parcel of public land in Harney County, Oregon, is being considered for direct sale to resolve an inadvertent occupancy trespass. The parcel is the minimum size possible to resolve the encroachment. The parcel proposed for sale is identified as suitable for disposal in the BLM Andrews and Drewsey Management Framework Plan, dated September 1987, and the BLM Andrews Resource Management Plan and Record of Decision, dated July 15, 2005.

**DATES:** Submit comments on or before November 16, 2007. Only written comments will be accepted.

**ADDRESSES:** Address all written comments to Karla Bird, Andrews Resource Area Field Manager, Burns District Office, Bureau of Land Management, 28910 Hwy 20 West, Hines, Oregon 97738. Comments