

Alaskan segment of the Northern population to a harvest rate (defined as the proportion/percentage of fledged young in a given year that are removed by falconers) greater than 5%, and to have a minimal impact on non-target populations by limiting take of peregrines from them to less than 1%.

In the DEA, we considered six alternatives to address potential take of migrant peregrine falcons in the United States and Alaska. Under the No-Action Alternative, no legal take of migrant peregrine falcons for falconry could occur. We also evaluated alternatives that would allow take in different locations and at different times.

Having reviewed the comments on the DEA, we have revised the assessment, have reanalyzed data on North American peregrine falcon migration, and have considered eight alternatives for the harvest of passage peregrines. We analyzed the likely effects of harvest under the eight alternatives using band recovery data for peregrines that had been banded as nestlings and re-encountered during their first year, and the best available conservative estimates of population size for each management population. From these data sets, we estimated the proportion of each management population's first-year cohort that potentially would be exposed to harvest risk annually under each alternative, and, assuming harvest was in proportion to availability, the likely makeup of harvest.

The preferred alternative in our FEA is to allow take of 116 nestling and post-fledging first-year peregrine falcons from the nesting period through 31 August west of 100 degrees W longitude (including Alaska), and allow a take of 36 first-year migrant peregrine falcons between 20 September and 20 October from anywhere in the U.S. east of 100 degrees W longitude. These harvest limits take into account an annual falconry harvest of up to two migrant peregrine falcons in Canada and up to 25 in Mexico, which we believe is consistent with the current harvest in the two countries.

We expect there to be extensive coordination through the flyway councils on matters of harvest allocation among participating States in the U.S. and Mexico, and Canadian provinces. We propose to work with the flyway councils to establish procedures for collection, housing, and assessment of feather samples, and to establish criteria for determining the sex of harvested peregrines. In addition, we propose to monitor the number, sex, and geographic distribution of peregrines that are harvested to ensure compliance with the frameworks in the proposed

action. We will work through the flyway councils, or take regulatory actions, to resolve issues of non-compliance.

Future population surveys may identify changes in population size or productivity values from those reported here. We will review population and harvest data for Canada, the U.S., and Mexico every five years, or at the request of the flyway councils, to reassess the allowable harvest limits. If, during one of these reviews, we determine that *F. p. anatum* is no longer formally considered threatened or endangered by the Canadian Wildlife Service in Canada, and if the Atlantic and Mississippi flyway councils have determined that peregrines from the Eastern management population no longer warrant special protection, we may consider a more liberal take of migrants.

Dated: November 20, 2008.

**Kenneth Stansell,**

*Director, U.S. Fish and Wildlife Service.*

[FR Doc. E8-29011 Filed 12-5-08; 8:45 am]

**BILLING CODE 4310-55-P**

## DEPARTMENT OF THE INTERIOR

### Bureau of Indian Affairs

#### Jena Band of Choctaw Indians Liquor Control Ordinance

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

**ACTION:** Notice.

**SUMMARY:** This notice publishes the Liquor Control Ordinance of the Jena Band of Choctaw Indians. The Ordinance regulates and controls the possession, sale, and consumption of liquor within the tribal lands. The tribal lands are located in Indian Country and this Ordinance allows for possession and sale of alcoholic beverages within their boundaries. This Ordinance will increase the ability of the tribal government to control the tribe's liquor sales, 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 Ordinance is effective January 7, 2009.

**FOR FURTHER INFORMATION CONTACT:**

Chanda M. Joseph, Tribal Operations Officer, Eastern Regional Office, 545 Marriott Drive, Suite 700, Nashville, TN 37214, Telephone (615) 564-6750; or Elizabeth Colliflower, Office of Tribal Services, 1849 C Street, NW., Mail Stop 4513-MIB, Washington, DC 20240;

Telephone (202) 513-7640; Fax (202) 501-0679.

**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 Tribal Council for the Jena Band of Choctaw Indians adopted this Liquor Code on June 14, 2007. The purpose of this Ordinance is to govern the sale, possession and distribution of alcohol within the tribal lands of the Jena Band of Choctaw Indians. This notice is published in accordance with the authority delegated by the Secretary of the Interior to the Assistant Secretary-Indian Affairs. I certify that this Liquor Control Ordinance of the Jena Band of Choctaw Indians was duly adopted by the Tribal Council for the Jena Band of Indians on June 14, 2007.

Dated: November 24, 2008.

**George T. Skibine,**

*Acting Deputy Assistant Secretary for Policy and Economic Development.*

The Jena Band of Choctaw Indians Liquor Control Ordinance reads as follows:

#### The Jena Band of Choctaw Indians

#### Liquor Control Ordinance

##### Article I—Title

This Ordinance shall be known as the "Jena Band of Choctaw Indians Liquor Control Ordinance."

##### Article II—Authority

This Ordinance is enacted pursuant to the Act of August 15, 1953 (Pub. L. 83-277, 67 Stat. 686, 18 U.S.C. 1161), the Constitution of the Jena Band of Choctaw Indians (the "Constitution"), and the Tribe's inherent sovereign authority. The Tribal Council, as the governing body of the Tribe, is empowered pursuant to Article VIII, Section 1(j) and Section 1(l), respectively, of the Constitution to "[p]romote and protect the health, peace, morals, education, and general welfare of the tribe and its members;" and to "[e]stablish policies relating to tribal economic affairs and enterprises consistent with this Constitution." Furthermore, the Tribal Council is empowered pursuant to Article VIII, Section 1(o) and Section 1(n), respectively, to "[p]ass any ordinance and/or resolution necessary or incidental to the exercise of any of the foregoing powers and duties" and to

"[t]ax and regulate the activities of all persons or entities within Indian Country as permitted by law and to provide for the raising of revenue to meet the needs of the Tribe or to support Tribal governmental operations."

### Article III—Public Policy and Purpose

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

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

### Article IV—Scope

This Ordinance applies to all Tribal Lands, as defined herein. This Ordinance shall extend to all Persons, as defined herein, receiving or requiring Licenses hereunder, or doing business on Tribal Lands, or having significant contacts within Tribal Lands, or residing within Tribal Lands, or entering into or coming within Tribal Lands, or consuming, possessing, manufacturing, or distributing Liquor within Tribal Lands. All such Persons shall be deemed to have consented to the jurisdiction of the Tribe, and shall, by virtue of such actions, be deemed to have waived all defenses to the jurisdiction and venue of the Tribe, the Tribal Gaming Commission, and the Tribal Court, notwithstanding that such Persons may be of non-Indian descent or character. Any sale or other commercial distribution of Liquor within Tribal Lands, other than sales and distribution in strict compliance with this Ordinance, is detrimental to the health, safety and welfare of the members of the Tribe and others and is therefore prohibited.

### Article V—Definitions

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

(a) *Alcohol* has the same meaning as the term "Liquor" as herein defined by this Ordinance.

(b) *Alcoholic Beverage or Beverages* has the same meaning as the term "Liquor" as herein defined by this Ordinance.

(c) *Bar* means any establishment with special space and accommodations for sale by the glass and for consumption on the premises, "Liquor", as herein defined.

(d) *Beer* means any beverage obtained by the alcoholic fermentation of an infusion or decoction of pure hops, or pure extract of hops and pure barley malt or other wholesome grain or cereal in pure water containing not more than four percent (4%) of Alcohol by volume. For the purpose of this Ordinance, any such beverage, including ale, stout, and porter, containing more than four percent (4%) of Alcohol by weight shall be referred to as "strong beer."

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

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

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

(h) *Liquor* means the four varieties of Liquor herein defined (Alcohol, Spirits, Wine and Beer), and all fermented spirituous, vinous, or malt liquor or combinations thereof and mixed liquor, or a part of which is fermented, spirituous, vinous, or malt liquor, or otherwise intoxicating; and every other liquid or solid or semisolid or other substance, patented or not, containing Alcohol, Spirits, Wine or Beer, and all drinks or drinkable liquids and all preparations or mixtures capable of human consumption, and any liquid, semisolid, solid, or other substances that contains more than one percent (1%) of Alcohol by weight, shall be conclusively deemed to be intoxicating.

(i) *Liquor Store* means any store at which Liquor is sold and, for the purpose of this Ordinance; including any store only a portion of which is devoted to the sale of Liquor or Beer.

(j) *Licensed Wholesaler* means a wholesale seller of Liquor that is duly licensed by the Tribe and the State.

(k) *Malt liquor* means Beer, strong beer, ale, stout and porter.

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

(m) *Ordinance* means this Jena Band of Choctaw Indians Liquor Control Ordinance.

(n) *Package* means any container or receptacle used for holding Liquor.

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

(p) *Person* means any natural person, partnership, corporation, limited liability company, association, other statutory business entity and any sovereign.

(q) *Public Place* means any location or premises on Tribal Lands to which the general public has unrestricted access and includes gaming facilities and commercial or community facilities of every nature which are open to and/or are generally used by the public and to which the public is permitted to have unrestricted access; public conveyances of all kinds and character; and all other places of like or similar nature to which the general public has unrestricted access, and which generally are used by the public.

(r) *Sale and Sell* means any exchange, barter, and traffic; and also includes the selling of or supplying or distributing, by any means whatsoever, of liquor, or of any liquid known or described as beer or by any name whatsoever commonly used to describe malt or brewed liquor, or of wine, by any person to any person.

(s) *Special Event* means any social, charitable or for-profit discreet activity or event conducted by the Tribal Council or any Tribal enterprise on Tribal Lands at which Liquor is sold or is proposed to be sold.

(t) *Spirits* means any beverage, which contains alcohol obtained by distillation; including wines exceeding seventeen percent (17%) of alcohol by weight.

(u) *State* means the State of Louisiana and any of its agencies or instrumentalities.

(v) *State Law* means the duly enacted applicable laws and regulations of the State of Louisiana, specifically, Title 26

and Title 55 of Louisiana Revised Statutes—Alcoholic Beverages, as amended from time to time.

(w) *Tribal Council* means the governing body of the Tribe as defined in the Constitution.

(x) *Tribal Court* means a court duly constituted under the Constitution of the Jena Band of Choctaw Indians, together with all tribunals provided for the appeal of the decisions of such court under Federal law.

(y) *Tribal Enterprise* means any business entity, operation or enterprise owned, in whole or in part, by the Tribe.

(z) *Tribal Gaming Commission* means the Jena Band Tribal Gaming Commission established pursuant to the Jena Band of Choctaw Indians Gaming Ordinance for the purpose of performing regulatory oversight and to monitor compliance with tribal, Federal, and State regulations, including this Ordinance.

(aa) *Tribal Lands* mean all land over which the Tribe exercises governmental power and that is held in trust by the United States for the benefit of either the Tribe or individual members of the Tribe.

(bb) *Tribe or Tribal* means or refers to the Jena Band of Choctaw Indians, which is recognized by the Secretary of the Department of the Interior of the United States as eligible for the special programs and services provided by the United States to Indians because of their status as Indians and recognized as possessing powers of self-government.

(cc) *Wine* means any alcoholic beverage obtained by fermentation of any fruits (grapes, berries, apples, etc.), or fruit juice, and containing not more than seventeen percent (17%) of alcohol by weight, including sweet wines fortified with wine spirits, such as port, sherry, muscatel and angelica, not exceeding seventeen percent (17%) of alcohol by weight.

#### Article VI—Powers of Enforcement

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

(a) To promulgate, publish and enforce such reasonable rules and regulations regarding the purchase, sale, consumption and distribution of alcoholic beverages in public places on Tribal Lands, as the Tribal Gaming Commission deems necessary.

(b) To employ managers, accountants, security personnel, inspectors and such other persons as shall be reasonably necessary to allow the Tribal Gaming

Commission or its designee(s) to perform its functions and exercise its authority as set forth in this Ordinance, and such employees shall be tribal employees.

(c) To issue Licenses permitting the introduction, possession, sale and/or distribution of Liquor on Tribal Lands.

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

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

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

(g) To publish notices and, in the case of any Tribal Council designee(s), make such reports to the Tribal Council as may be appropriate;

(h) To collect sales taxes and fees levied or set by the Tribal Council on liquor sales and the issuance of liquor licenses, and to keep accurate records, books and accounts;

(i) To take or facilitate all action necessary to follow or implement applicable provisions of the laws of the State as required;

(j) To cooperate with appropriate State of Louisiana authorities for purposes of prosecution of any violation of any criminal law of the State of Louisiana; and

(k) To exercise such other powers as may be necessary and appropriate, and in the case of any Tribal Council designee(s), delegated from time to time by the Tribal Council, to implement and enforce this Ordinance.

In the exercise of its powers and duties under this Ordinance, the Tribal Gaming Commission and its individual members, employees and agents shall not:

(a) Accept any gratuity, compensation or other thing of value from any liquor wholesaler, retailer or distributor, or from any licensee; or

(b) Waive the immunity of the Tribe from suit except by express resolution of the Tribal Council, such waiver being subject to the following limitations: The waiver must be transaction specific, limited as to duration and beneficiary, include a provision that limits recourse only to specified assets or revenues of the Tribe or a Tribal entity, and specify the process and venue for dispute resolution, including applicable law.

#### Article VII—Application Requirements

In order to control the proliferation of establishments within Tribal Lands that sell or provide Liquor, all persons or

entities that desire to sell Liquor, whether wholesale or retail, within the exterior boundaries of the Tribal Lands must apply to the Tribal Gaming Commission for a license to sell or provide Liquor; provided, however, that no License is necessary to provide Liquor within a private single-family residence on the Tribal Lands for which no money is requested or paid.

Any person applying for a License to sell or provide Liquor on Tribal Lands shall complete and submit an application provided for this purpose by the Tribal Gaming Commission and pay such application fee as may be set from time to time by the Tribal Gaming Commission, and approved by the Tribal Council, for this purpose. An incomplete application will not be considered.

An application to sell or provide Liquor within Tribal Lands shall be submitted to the Tribal Gaming Commission, in triplicate; and application forms shall consist of the following:

(a) The application shall set forth the name of the applicant organization; and

(b) The application shall attach the ordinance(s) and resolution(s) under which the applicant organization is chartered and regulated; and

(c) The application shall describe specifically the land or building where the applicant organization will sell intoxicating beverages or beer; and

(d) The application shall conform to the requirements of the laws of the State as they relate to obtaining of liquor licenses elsewhere in the State.

The Tribal Gaming Commission may reject any application for a License, or for a renewal of a License, under this Ordinance, if the applicant previously has committed acts which have resulted in the suspension or revocation of a License under this Ordinance.

#### Article VIII—Licensing

In the event dual Tribal and State licenses are required by State Law, no person shall be allowed or permitted to sell or provide Liquor on the Tribal Lands unless such person is also licensed by the State, as required, to sell or provide such Liquor. If any such license from the State is revoked or suspended, any applicable Tribal License shall automatically be revoked or suspended.

Licenses for the sale of Liquor issued by the Tribal Gaming Commission shall contain the following requirements:

(a) Each license shall require its holder to conform its operations to State Law that relate to the sale or possession of Liquor;

(b) No license shall be effective for a term more than one year from the date of its issuance, and each renewal thereof shall be subject to the same procedures that apply the initial issuance of a license;

(c) Each license shall explicitly state that its continued validity is dependent upon the compliance of its holder with all provisions of this Ordinance and State Law that relates to the sale or possession of Liquor and, if applicable, a Tribal-State Gaming Compact or Class III Gaming Procedures issued by the Secretary of the Department of the Interior.

The Tribal Gaming Commission may issue a License if it believes such issuance is in the best interests of the Tribe, the residents of the Tribal Lands, and the surrounding community. Licensure is a privilege, not a right, and the decision to issue any License rests in the sole discretion of the Tribal Gaming Commission. Licenses issued by the Tribal Gaming Commission shall not be transferable and may only be utilized by the person or entity in whose name it was issued.

The public places on or within which Liquor is sold or distributed on Tribal Lands shall be open for inspection by the Tribal Gaming Commission or its designee(s) at all reasonable times for the purposes of ascertaining compliance with this Ordinance and other regulations promulgated pursuant hereto.

#### **Article IX—Liquor Sales**

All Liquor sales shall be on Tribal Land, including leases thereon and shall be on a cash only basis. No credit shall be extended to any person, organization or entity, except that this provision does not prevent the payment for purchases with the use of cashiers or personal checks, payroll checks, debit credit cards or credit cards issued by any financial institution.

Except for sales by Licensed Wholesalers, all sales shall be for the personal use and consumption of the purchaser or members of the purchaser's household, including guests, who are over the age of twenty-one (21). Resale of any Alcoholic Beverage purchased within the exterior boundaries of the Tribal Lands is prohibited. Any person who is not licensed pursuant to this Ordinance who purchases an Alcoholic Beverage within the Tribal Lands and re-sells it, whether in the original container or not, shall be guilty of a violation of this Ordinance and shall be subject to exclusion from the Tribal Lands or liability for money damages of up to five hundred dollars (\$500), as determined by the Tribal Gaming

Commission after notice and an opportunity to be heard.

All distribution, sale and consumption of Liquor within the Tribal Lands shall be in compliance with this Ordinance and all applicable provisions of State Law.

#### **Article X—Revocation Authority**

The Tribal Gaming Commission shall have the authority to revoke any License issued under this Ordinance, under the following procedures:

(a) Upon receiving information that the holder of a License under this Ordinance may have violated the terms of the License or applicable State Law or Tribal Law, the Tribal Gaming Commission shall give the License holder written notice that the Tribal Gaming Commission intends to suspend or revoke the holder's License. Such notice shall be sent by certified mail, return receipt requested, to the License holder, and shall specify the grounds for the proposed suspension or revocation.

(b) Any License holder who receives notice of a proposed suspension or revocation may request a hearing by the Tribal Gaming Commission, by sending a written request therefore by certified mail, return receipt requested, to the Chairman of the Tribal Gaming Commission at the Tribal Gaming Commission Office, within seven (7) days of the License holder's receipt of notice.

(c) Upon receipt of a request for hearing under this Ordinance, the Tribal Gaming Commission shall set a date for a hearing, which shall be no later than thirty (30) days from the date of the receipt of the hearing request.

(d) At a hearing held under this Ordinance, the holder of a License under this Ordinance shall be permitted to present evidence with respect to its compliance with the terms of its License and applicable State Law and Tribal Law. In reaching its decision, the Tribal Gaming Commission may consider such evidence, together with all other evidence it deems relevant. Following a hearing, if in the judgment of the Tribal Gaming Commission, the License holder has not complied with the terms of its License and applicable State Law and Tribal Law, the Tribal Gaming Commission shall suspend or revoke its License; and if in the judgment of a Tribal Court, and if not yet established the Tribal Council, the terms of the License and applicable State Law and Tribal Law have been complied with, the proceedings shall be dismissed. In either case, the decision of the Tribal Gaming Commission shall be final.

#### **Article XI—Taxes**

The Tribal Gaming Commission shall have the authority to impose a sales tax on all wholesale and retail Liquor sales that take place within the Tribal Lands. Such tax may be implemented by duly enacted resolution of the Tribal Gaming Commission, as supplemented by regulations adopted by the Tribal Gaming Commission pursuant to this Ordinance. Any tax imposed by authority of this Article shall apply to all retail and wholesale sales of Liquor Tribal Lands, and to the extent permitted shall preempt any tax imposed on such Liquor sales by the State of Louisiana.

All taxes imposed pursuant to this Article XI shall be paid over to the Jena Band of Choctaw Indians and be subject to distribution by the Tribal Council in accordance with its usual appropriation procedures for essential governmental functions and social services, including administration of this Ordinance.

#### **Article XII—Use of Proceeds**

The gross proceeds collected by the Tribe from all Licensing of the sale of Alcoholic Beverages within the Tribal Lands and from fines imposed as a result of violations of this Ordinance, shall be applied as follows:

(a) First, for the payment of all necessary personnel, administrative costs, and legal fees incurred in the enforcement of this Ordinance; and

(b) Second, the remainder shall be turned over to the General Fund of the Tribe and expended by the Tribal Council for governmental services and programs on the Reservation.

#### **Article XIII—Miscellaneous Provisions**

If any provision or application of this Ordinance is determined by judicial review to be invalid, such provision shall be deemed ineffective and void, but shall not render ineffectual the remaining portions of this Ordinance, which shall remain in full force and effect.

This Ordinance shall be effective as of the date on which the Secretary of the Department of the Interior certifies this Ordinance and publishes the same in the **Federal Register**.

Any and all prior resolutions, laws, regulations or ordinances pertaining to the subject matter set forth in this Ordinance are hereby rescinded and repealed in their entirety.

All acts and transactions under this Ordinance shall be in conformity with the laws of the State of Louisiana to the extent required by 18 U.S.C. 1161 and with all federal laws regarding alcohol in Indian Country.

**Article XIV—Amendments**

This Ordinance may be amended only pursuant to a duly enacted Tribal Council Resolution with certification by the Secretary of the Department of the Interior and publication in the **Federal Register**, if required.

**Article XV—Sovereign Immunity**

Nothing contained in this Ordinance is intended to nor does it in any way limit, alter, restrict, or waive the Tribe's sovereign immunity from unconsented suit or action.

[FR Doc. E8-29024 Filed 12-5-08; 8:45 am]

BILLING CODE 4310-4J-P

**DEPARTMENT OF THE INTERIOR****Bureau of Indian Affairs****Skokomish Liquor Control Ordinance**

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

**ACTION:** Notice.

**SUMMARY:** This notice publishes an amendment to the Skokomish Indian Tribe's Liquor Control Ordinance published in the **Federal Register** November 3, 1983 (48 FR 50797). The amendment regulates and controls the possession and consumption of liquor within the tribal lands. The tribal lands are located in Indian country and this amended Ordinance allows for possession of alcoholic beverages within their boundaries. This Ordinance will increase the ability of the tribal government to control liquor sales, possession and consumption by the community and its members.

**DATES:** *Effective Date:* This Ordinance is effective on January 7, 2009.

**FOR FURTHER INFORMATION CONTACT:** Betty Scissons, Tribal Government Services Officer, Northwest Regional Office, 911 NE 11th Ave., 8th Floor, Portland, OR 97232, Telephone: (503) 231-6723, Fax (503) 231-2189; or Elizabeth Colliflower, Office of Indian Services, 1849 C Street, NW., Mail Stop 4513-MIB, Washington, DC 20240, Telephone: (202) 513-7640.

**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 or amended liquor ordinances for the purpose of regulating liquor transactions in Indian country. The Skokomish Indian Tribe amended its Tribal Liquor Control

Ordinance by Resolution No. 08-011 on February 20, 2008. The purpose of this Ordinance is to govern the sale and possession of alcohol within tribal lands of the Tribe. This notice is published in accordance with the authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs. I certify that the amended Skokomish Indian Tribe's Liquor Control Ordinance was duly adopted by the Skokomish Indian Tribe's Tribal Council on February 20, 2008.

Dated: November 24, 2008.

**George T. Skibine,**

*Acting Deputy Assistant Secretary for Policy and Economic Development.*

The amended Skokomish Indian Tribe's Liquor Control Ordinance reads as follows:

**Skokomish Liquor Control Ordinance***General Provisions*

## 4.05.001 Title

This Ordinance shall be known as the Skokomish Liquor Control Ordinance.

## 4.05.002 Authority

This Ordinance is enacted by the Skokomish Tribal Council, the governing body of the Skokomish Indian Tribe, which has the authority to enact laws and ordinances governing the conduct of individuals and defining offenses against the Tribe; to maintain order and to protect the safety and welfare of all persons within the Skokomish Tribe's jurisdiction pursuant to the Constitution of the Skokomish Indian Tribe Article IV, Section 1; Article V, Section 1(j).

## 4.05.003 Findings

(a) The introduction, possession and sale of Liquor on Indian reservations have, since Treaty time, been clearly recognized as matters of special concern of Indian tribes and the United States Federal Government. The control of Liquor on reservations and federal trust land remains exclusively subject to their legislative enactments.

(b) Federal law currently prohibits the introduction of Liquor into Indian Country (18 U.S.C. 1154), and expressly delegates to tribes the decision regarding when and to what extent Liquor transactions shall be permitted (18 U.S.C. 1161).

(c) Present day circumstances make a complete ban on Liquor within the Skokomish Indian Reservation ineffective and unrealistic. However, a need still exists for strict regulation and control over Liquor transactions within the Reservation because of the many potential problems associated with the

unregulated or inadequately regulated sale, possession and consumption of Liquor. The Tribal Council finds that exclusive tribal control and regulation of Liquor is necessary to achieve maximum economic benefit to the Tribe, to protect the health and welfare of the tribal members, and to address specific tribal concerns relating to Alcohol use on the Reservation.

(d) The enactment of a tribal ordinance governing Liquor sales on the Skokomish Indian Reservation and providing for exclusive purchase and sale through a tribally owned and operated establishment will enhance the ability of the tribal government to control Reservation Liquor distribution and possession, and, at the same time, will provide an important source of revenue for the continued operation of the tribal government and the delivery of essential tribal social services.

## 4.05.004 Purpose

Tribal regulation of the sale, possession, and consumption of Liquor on the Skokomish Indian Reservation is necessary to protect the health, security, and general welfare of the Skokomish Indian Tribe. In order to further these goals and to provide for an urgently needed additional source of governmental revenue, the Skokomish Tribal Council adopts this Liquor Ordinance to be known as the "Skokomish Liquor Control Ordinance." This Ordinance shall be liberally construed to fulfill the purposes for which it has been adopted.

## 4.05.005 Jurisdiction

(a) *General Jurisdiction.* The provisions of this Ordinance shall apply to the fullest extent of the sovereign jurisdiction of the Skokomish Indian Tribe as authorized by the Tribe's Constitution, the Treaty of Point No Point and applicable federal law.

(b) *Civil Jurisdiction.* The Skokomish Tribal Court shall have exclusive jurisdiction to enforce the provisions of this Ordinance.

(c) *Disclaimer.* Nothing in this Ordinance shall be construed to require or authorize the criminal trial and punishment by the Skokomish Tribal Court of any non-Indian except to the extent allowed by any applicable present or future Act of Congress or any applicable decision of the United States Supreme Court.

## 4.05.006 Severability

If any provision or application of this Ordinance is determined by review to be invalid, such adjudication shall not be held to render ineffectual the remaining portions of this Ordinance or