

WHAT IS THE INTERIM ENFORCEMENT POLICY?

The interim policy will minimize instances where traditional harvest of fish and game by aboriginal people will be in conflict with such acts as the Game and Fish Act, the Fisheries Act and the Migratory Birds Convention Act. The policy will be in effect until it is replaced by specific negotiated agreements with aboriginal people.

Under the interim enforcement policy, status Indian people harvesting wildlife and fish for personal consumption and for social and ceremonial purposes will not be subject to enforcement procedures, except in certain circumstances.

THE INTERIM POLICY APPLIES TO:

- Status Indian people who are fishing or hunting for food in the area that is covered by their treaty.
- Status Indian people who are hunting and fishing in the area where they have traditionally harvested. Where such areas are different from existing treaty areas or are not set out in treaties, the boundaries of such traditional areas will be clarified through negotiation.

The interim policy also provides a framework for working toward arrangements with Métis and non-status Indian communities where harvesting wildlife and fish is integral to the lifestyle of the community. The provisions of the Game and Fish Act, the Fisheries Act and the Migratory Birds Convention Act will continue to apply to Métis and non-status Indian communities until agreements have been entered into with these communities.

In addition, agreements will need to be developed before aboriginal people may hunt and fish in provincial parks, unless they already have such rights.

THE ALGONQUINS OF GOLDEN LAKE

The interim enforcement policy will apply to the unique circumstances surrounding game and fish harvest by the Algonquins of Golden Lake in Algonquin Provincial Park. These aboriginal people have filed a substantial land claim that includes Algonquin Park.

The province is committed to negotiating a land claim with the Algonquins of Golden Lake. This commitment includes agreement to negotiate interim arrangements regarding the aboriginal right to hunt and fish in the park.

The interim arrangements which the province seeks to negotiate will include sub-agreements on deer and moose hunting and fishing that will specify seasons and areas for hunting and

fishing, harvest levels and measures to protect park values, ensure enforcement and conservation, and to protect public safety.

THE REASON FOR THE INTERIM POLICY

The interim policy reflects the guarantee of aboriginal rights in Section 35 of the Constitution and responds to recent decisions by the Supreme Court of Canada that help define those rights. In particular, the Sparrow decision of 1990 says that aboriginal rights to fish for food for personal and community use take first priority after conservation and resource management concerns have been satisfied.

THE INTENT OF THE INTERIM POLICY

The interim policy clarifies current government practice regarding aboriginal rights to hunt and fish for food for personal and community use. Through the interim policy, the rationale of the Sparrow decision is being applied to hunting wildlife for personal and community use, as well as to fishing for such use.

The Sparrow decision also provides that the relationship between governments and aboriginal people should not be adversarial. To promote this non-adversarial climate, the Government of Ontario is prepared to negotiate agreements with aboriginal people regarding their aboriginal rights to hunt and fish for food. The interim enforcement policy provides a basis of operation until individual agreements are developed.

Furthermore, the interim policy goes a step beyond the Sparrow decision, reflecting the province's commitment to deal fairly with aboriginal peoples of Ontario.

EXCEPTIONS TO THE INTERIM POLICY

The policy allows aboriginal people to hunt and fish for food for personal and community use, but it does not allow for:

- *hunting in an unsafe manner;*
- *taking wildlife and fish for commercial purposes, except where a specific, recognized right exists;*
- *taking wildlife and fish in a manner which puts conservation objectives at risk; and*
- *hunting and fishing on privately owned or occupied land, unless there is permission from the landowner.*

Activities that could put conservation objectives at risk include:

- *destruction or harmful alteration of fish or wildlife habitat;*
- *in certain circumstances, fishing in sanctuaries or waters that are closed at all times of the year, or hunting in waterfowl sanctuaries;*
- *taking rare, threatened or endangered species;*
- *taking wildlife while they are nursing their young.*

THE SCREENING PROCESS AND LAYING OF CHARGES

Alleged violations of the principles of conservation or public safety will be reviewed through the normal screening process in the Ministry of Natural Resources, with the Deputy Minister deciding whether or not charges should be laid.

Before proceeding with charges, MNR will consult the Chief, or designate, of the affected First Nation to discuss concerns about harvesting of fish and wildlife. The Attorney General may intervene in this screening process.

The Deputy Minister must give written approval to planned enforcement procedures into commercial harvesting by native people. When reviewing recommendations to lay charges regarding commercial fishing, consideration will be given to whether or not there exists a right to harvest wildlife and fish for commercial purposes.

A SHARED APPROACH TO ENFORCEMENT

Two new consultation committees will be set up. A conservation committee, with representatives from the province and from the aboriginal and treaty organizations, will meet quarterly to discuss decisions to proceed with charges against native persons. Regional conservation committees in MNR's administration regions will meet to discuss activities that might put conservation objectives at risk; the necessity of existing and future fish sanctuaries; the rare and endangered species of the region; and areas in the region that require special attention.

For more information, or for a copy of the interim enforcement policy on the aboriginal right to hunt and fish for food, please contact your local MNR office or the ministry's Public Information Centre, Room 1640, Whitney Block, 99 Wellesley Street West, Toronto M7A 1W3, telephone (416) 965-4251

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