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First Nations Consultation on Guiding Territory Certificate Decisions			

## This Policy Replaces:

- Previous policy direction from Nancy Wilkin, 2005
- Previous policy "Provincial Policy for Consultation with First Nations", October 2002


## Staff, Organizations Directly Affected:

Director  
Regional Managers  
Fish and Wildlife Section Heads  
Wildlife Management Staff  
First Nation Consultation Specialists  
Guide Outfitters in BC  
First Nations

## POLICY STATEMENT

### It is the policy of the Ministry to

- meet the Province's legal duty to consult whenever the Ministry contemplates an action in relation to Guiding Territory Certificate decisions that could adversely impact Aboriginal Interests;
- consult with First Nations about Guiding Territory Certificate decisions in a manner consistent with the provincial Updated Procedures for Meeting Legal Obligations When Consulting First Nations (2010) (the "Updated Procedures Document");
- provide increased certainty for both the guide outfitting industry and First Nations;
- ensure that there is a balance between First Nations' Aboriginal Interests and other societal interests with regard to Guiding Territory Certificate decisions, as per the Updated Procedures Document;
- ensure that the consideration of Aboriginal Interests is appropriately incorporated into decision-making, including avoiding or minimizing potential impacts to Aboriginal Interests where appropriate;
- encourage positive working relationships with both the guide outfitting industry and First Nations; and

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7. coordinate between Ministries when decisions are requested about Guiding Territory Certificates. In particular, staff responsible for First Nation consultation will contact staff in Parks and Protected Areas and the Land Tenures Branch to ensure that consultation requirements are effectively coordinated, until such time as the Guiding Territory Certificates are included in the “one window” process provided by Front Counter BC.

## Purpose:

The purpose of this policy and the associated procedure is to provide guidance and provincial consistency in the Province’s consultations with First Nations on Guiding Territory Certificate decisions.

## Scope:

This policy and the associated procedure are not intended to limit the use of other knowledge of specific Aboriginal Interests of a First Nation. Additionally, they do not replace established protocols with a First Nation. Each proposed Guiding Territory Certificate authorization must be considered in the context of existing obligations or agreements. In areas that are not covered by an existing obligation or agreement, each proposed authorization should be carefully assessed and all available information should be considered prior to a decision being made.

This policy does not address decisions related to Guide Outfitter Licences, Annual Allowable Harvest or Allocation. Decisions related to Guide Outfitter Licences are made in a separate forum.

This policy does not address capacity building, interim measures, or linkages to treaty negotiations. However, it is important to note that those initiatives may offer additional important opportunities to address or accommodate Aboriginal Interests, where sound claims of Aboriginal rights or title are made.

## Definitions:

**“Aboriginal Interests”** – generally refers to claimed or proven Aboriginal Rights (including title) and Treaty Rights that require consultation. Where required, the specific right will be referenced.<sup>1</sup>

**“Aboriginal Rights”** – practices, customs or traditions integral to the distinctive culture of the First Nation claiming the right. A practice undertaken for survival purposes can be considered integral to a First Nations culture. Some examples of aboriginal rights are hunting, fishing and gathering plants for traditional medicines and spiritual ceremonies. Aboriginal Rights may be connected to a particular piece of land and are generally not exclusive.<sup>1</sup>

**“Aboriginal Title”** – a subcategory of aboriginal rights that has its own test for proof. It is a unique interest in land that encompasses a right to exclusive use and occupation of the land for a variety of

<sup>1</sup> [From the Updated Procedures Document](#)

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purposes. Those uses must not be inconsistent with the nature of First Nation's historical attachment to the land. A claimant must prove exclusive occupation of land prior to sovereignty.<sup>2</sup>

**"Allocation"** – the division of the Annual Allowable Harvest remaining after the legal rights of First Nations have been recognized and provided for, between resident hunters and guided hunters.

**"Annual Allowable Harvest"** – means the optimum number of animals that can be harvested annually by hunters from a herd or population which will be replenished through the population's natural reproduction to meet management objectives.

**"Guiding Territory"** – the area for which a Guiding Territory Certificate authorizes the activity of guided hunting.

**"Guiding Territory Certificate"** – a certificate issued by a Regional Manager, pursuant to section 59 of the *Wildlife Act*, that gives the certificate holder exclusive control over privileges to guide (for compensation) hunters in a particular area.

**"Guide Outfitter Licence"** – a licence that authorizes a guide outfitter to conduct the business of guiding in all or part of a guiding territory(s). The number of harvestable animals of some species is limited by a quota on the licence, which is based on an Allocation of the Annual Allowable Harvest.

**"Treaty Rights"** – rights held by a First Nation in accordance with the terms of a historic or modern treaty agreement with the Crown. Treaties may also identify obligations held by a First Nation and the Crown.<sup>2</sup>

#### Procedure Manual Cross-Reference:

Ministry Procedure Manual, Volume 4, Section 1

Subsection:

— 01.13 First Nations Consultation & Guiding Territory Certificates

#### Other Cross-References:

Ministry Policy Manual, Volume 4, Section 7

Subsection:

— 01.03 Harvest Allocation

<sup>2</sup> [From the Updated Procedures Document](#)

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