

**DEPARTMENT OF JUSTICE
MINISTÈRE DE LA JUSTICE**

Vol. III

PRIVY COUNCIL SECTION
SECTION DU CONSEIL PRIVÉ

SUBJECT: Regulations under paragraph 117(u) of the Firearms Act

Règlement fait en vertu de l'alinéa 117(u) de la
Loi sur les armes feu

FILE NO.: 96-0585-01 (see also 0/96-127) **N° DE DOSSIER**

FROM THE DEPARTMENT OF _____ **Justice**
MINISTÈRE D'ORIGINE

DATE RECEIVED August 1, 1996
DATE DE RÉCEPTION

ENGLISH VERSION Wendy Gordon
VERSION ANGLAISE

FRENCH VERSION **VERSION FRANÇAISE** **Gilles LeVasseur**

DATE

SENT TO
ENVOYÉ À

RETURNED
RETOURNÉ LE



Department of Justice
Canada

Ministère de la Justice
Canada

Ottawa, Canada
K1A 0H8
ROOM 634
Place 222
222 Queen Street

October 31, 1996

Mr. William Bartlett
Counsel
Canadian Firearms Centre
9th Floor
Constitution Square
360 Albert Street - Tower 1
Ottawa, Ontario
K1A 0H8

Dear Mr. Bartlett:

- RE: 96-216-02 - *Storage, Display, Transportation and Handling of Firearms by Individuals Regulations*
96-224-01 - *Non-Prohibited Ammunition Transfer Document Regulations*
96-242-02 - *Authorizations to Carry Restricted Firearms and Certain Handguns Regulations*
96-243-02 - *Authorizations to Transport Restricted Firearms and Prohibited Firearms Regulations*
96-458-01 - *Firearms Licences Regulations*
96-560-01 - *Authorizations to Export or Import Firearms Regulations (Businesses)*
96-564-01 - *Storage, Display and Transportation of Firearms and Other Weapons by Businesses Regulations*
96-566-01 - *Conditions of Transferring Firearms and other Weapons Regulations*
96-584-01 - *Firearms Records Regulations*
96-585-01 - *Aboriginal Peoples of Canada Adaptations Regulations (Firearms)*

Please find enclosed, in both official languages, two stamped copies of each of the above-noted instruments, which have been examined in accordance with the *Statutory Instruments Act*. Also enclosed is an automated version of the above-noted Regulations.

In addition to the above-noted Regulations, we have included a discussion draft, in both official languages, of

Canada

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the *Firearms Fees Regulations*. One version of these Regulations contains redlining to identify revisions.

If we can be of any further assistance, do not hesitate to contact the lawyers responsible for the individual files, making reference to the above-noted file numbers.



Wendy Gordon
Counsel
Regulations Section
(957-0068)
Fax 941-2322

Encls.

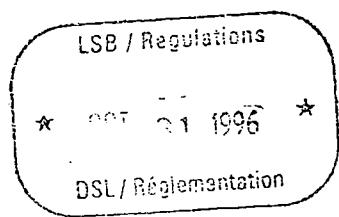
c.c. J. Martin
D. Nicholson
M.A. Roy
J. McIraith
J. Patenaude
G. LeVasseur

W616L
JUS-96-585-01
(SOR/DORS)

Whereas, pursuant to section 118 of *An Act respecting firearms and other weapons*^a, the Minister of Justice has had a copy of the proposed *Aboriginal Peoples of Canada Adaptations Regulations (Firearms)*, substantially in the form annexed hereto, laid before each House of Parliament on _____, 1996, which date is at least thirty sitting days before the date of this order;

Therefore, His Excellency the Governor General in Council, on the recommendation of the Minister of Justice, pursuant to paragraph 117(u) of an *An Act respecting firearms and other weapons*^a, hereby makes the annexed *Aboriginal Peoples of Canada Adaptations Regulations (Firearms)*.

^a S.C. 1995, c. 39



JUS-96-585-01
(SOR/DORS)

ABORIGINAL PEOPLES OF CANADA ADAPTATIONS REGULATIONS (FIREARMS)

INTERPRETATION

1. The definitions in this section apply in these Regulations.

"Aboriginal" includes Indian, Inuit and Métis. (*Autochtone*)

"Aboriginal community" means a traditional collectivity of Aboriginal people that has a distinctive culture that includes engaging in traditional hunting practices. (*collectivité autochtone*)

"elder" means an Aboriginal individual who has the following characteristics:

- (a) the individual is at least 45 years of age and is a member of an Aboriginal community; and
- (b) the individual is recognized by the members of the Aboriginal community as having extensive knowledge of the culture and traditional practices of that community. (*aîné*)

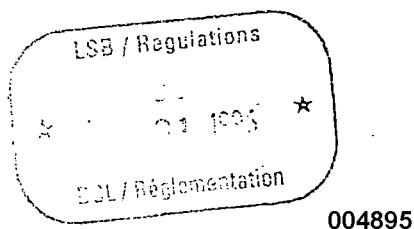
"leader" means an individual who is recognized by the members of an Aboriginal community as their representative. (*dirigeant*)

APPLICATION

2. Subject to sections 4 to 20 of these Regulations, the *Firearms Act* and any regulations made under that Act apply to Aboriginal individuals.

3. For the purposes of these Regulations, an Aboriginal individual is an individual who

- (a) is a member of one of the Aboriginal peoples of Canada;
- (b) is a member of an Aboriginal community;
- (c) engages in the traditional hunting practices of the individual's community; and
- (d) for the purposes of applying these Regulations, other than sections 17, 18 and 19 of these Regulations, has made an application in accordance with section 3, 8 or 9 of the *Firearms Licences Regulations*, as adapted by section 6 of these Regulations.



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ADAPTED PROVISIONS

4. For the purposes of paragraph 117(u) of the *Firearms Act*, sections 5 to 19 of these Regulations concern the manner in which certain provisions of the *Firearms Act* and the regulations made under that Act apply to any of the Aboriginal peoples of Canada, and adapt those provisions for the purpose of that application.

APPLICATION FOR A LICENCE

5. Sections 3, 8 and 9 of the *Firearms Licences Regulations* are adapted such that a statement made by an Aboriginal applicant or by another Aboriginal individual in accordance with any of those sections may be made

(a) orally, where the applicant or individual is unable to make a written statement, in which case the oral statement shall be transcribed by a person acting on behalf of the applicant or individual; and

(b) by means of an interpreter, where the applicant or individual is unable to communicate in English or French.

6. Sections 3, 8 and 9 of the *Firearms Licences Regulations* are adapted such that an application made by an individual who wishes to be subject to these Regulations must be accompanied by the following information:

(a) a declaration that the individual

(i) is a member of one of the Aboriginal peoples of Canada,

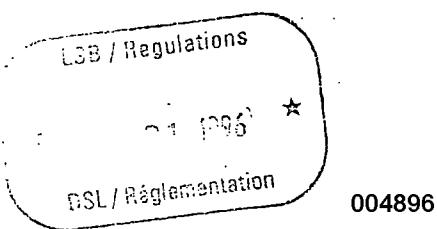
(ii) is a member of an Aboriginal community, and

(iii) engages in the traditional hunting practices of his or her community; and

(b) confirmation from a leader of the individual's Aboriginal community that the individual is a member of that community and engages in the traditional hunting practices of that community.

RECOMMENDATIONS

7. Sections 3, 8 and 9 of the *Firearms Licences Regulations* are adapted by adding the requirement that, where a chief firearms officer considers refusing to issue a licence to an Aboriginal applicant, the applicant shall be given an opportunity to submit to the chief firearms officer for consideration recommendations from any elder or leader of the applicant's Aboriginal community regarding the importance to the applicant of engaging in traditional hunting practices.



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8. Section 55 of the *Firearms Act* is adapted by adding the requirement that, in determining whether an Aboriginal applicant is eligible to hold a licence under section 5 of the *Firearms Act*, a chief firearms officer shall consider as relevant any recommendations submitted by the applicant from any elder or leader of the applicant's Aboriginal community regarding the importance to the applicant of engaging in traditional hunting practices.

9. (1) Subsection 58(1) of the *Firearms Act* is adapted by adding the requirement that, where a chief firearms officer considers attaching a condition to a licence for an Aboriginal applicant, the applicant shall be given an opportunity to submit to the chief firearms officer for consideration recommendations from any elder or leader of the applicant's Aboriginal community regarding the importance to the applicant of engaging in traditional hunting practices.

(2) Subsection (1) does not apply with respect to a condition referred to in section 14 of the *Firearms Licences Regulations*.

ISSUANCE OF A LICENCE TO ABORIGINAL INDIVIDUALS LESS THAN 18 YEARS OLD

10. Subsection 64(2) of the *Firearms Act* is adapted as follows:

(a) a licence that is issued to an Aboriginal individual who is less than 18 years old and who engages in the traditional hunting practices of the Aboriginal community of which the individual is a member expires on the earlier of

(i) the day on which the holder attains the age of 18 years, and

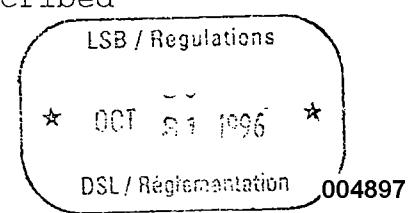
(ii) subject to paragraph (b), three years after the day on which it is issued; and

(b) where a chief firearms officer determines that it is desirable to do so, taking into account the applicant's circumstances, character and age, the chief firearms officer may issue a licence for a term that is less than three years.

11. Subsection 8(3) of the *Firearms Act* is adapted such that an Aboriginal individual who is less than 12 years old is eligible to hold a licence authorizing the individual to possess, in accordance with the conditions attached to the licence, a firearm for the purpose of engaging in the traditional hunting practices of the Aboriginal community of which the individual is a member.

ALTERNATIVE CERTIFICATION

12. Paragraph 7(4)(a) of the *Firearms Act* is adapted such that a chief firearms officer shall certify, in the prescribed



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circumstances, an Aboriginal individual who meets the prescribed criteria relating to the safe handling and use of firearms and the laws relating to firearms.

13. Section 16 of the *Firearms Licences Regulations* is adapted such that, for the purposes of paragraph 7(4)(a) of the *Firearms Act*, as adapted by section 12 of these Regulations, the circumstances are that

(a) the Aboriginal applicant is an elder who engages in traditional hunting practices; or

(b) the Aboriginal applicant engages in traditional hunting practices and

(i) the Canadian Firearms Safety Course or the tests that form part of that Course are not available

(A) to the applicant within a time, after the applicant has made the application, that is reasonable in the circumstances,

(B) in the applicant's Aboriginal community or at a location that can be reached from that community without undue cost or hardship to the applicant, or

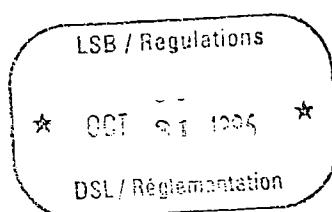
(C) at a cost that is reasonable in the circumstances, and

(ii) the chief firearms officer has received a recommendation from a leader of the applicant's Aboriginal community indicating that, in the leader's opinion, the applicant has the requisite knowledge to be certified under paragraph 7(4)(a) of the *Firearms Act*, as adapted by section 12 of these Regulations.

14. Section 17 of the *Firearms Licences Regulations* is adapted such that, for the purposes of paragraph 7(4)(a) of the *Firearms Act*, as adapted by these Regulations, with respect to an Aboriginal applicant who engages in traditional hunting practices, the criteria are

(a) basic knowledge of the safe storage, display, handling, transportation and use of firearms by individuals, including the operation of common hunting firearms; and

(b) basic knowledge of the laws that relate to the use of firearms and to the storage, display, handling and transportation of firearms by individuals.



POSSESSION OF FIREARMS

15. Paragraph 7(4)(c) of the *Firearms Act* is adapted such that, if an Aboriginal individual had, on the commencement day, in order to engage in traditional hunting practices, the use of a firearm that is neither a prohibited firearm nor a restricted firearm, the individual is deemed to possess a firearm for the purposes of that paragraph.

16. Subsection 7(2) of the *Firearms Licences Regulations* is adapted such that, if an Aboriginal individual has had, in order to engage in traditional hunting practices, the continuous use of a firearm that is neither a prohibited firearm nor a restricted firearm on the day on which paragraph 7(4)(c) of the *Firearms Act* came into force, that individual is deemed to possess a firearm for the purposes of that subsection.

AUTHORIZED LENDING

17. Subparagraph 33(a)(ii) of the *Firearms Act* is adapted such that a person may, without lending the Aboriginal individual the registration certificate for the firearm, lend a firearm to an Aboriginal individual who uses the firearm to engage in traditional hunting practices.

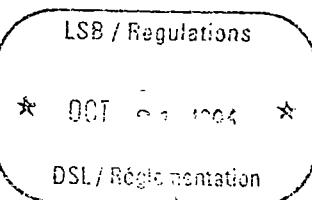
STORAGE AND TRANSPORTATION OF FIREARMS

18. Section 3 of the *Storage, Display, Transportation and Handling of Firearms by Individuals Regulations* is adapted such that an Aboriginal individual who uses a non-restricted firearm for traditional hunting practices in a location that is in a remote wilderness area that is not subject to any visible or otherwise reasonably ascertainable use incompatible with hunting may store the firearm if

- (a) the firearm is unloaded; and
- (b) ammunition is not readily accessible.

19. Subsection 8(2) of the *Storage, Display, Transportation and Handling of Firearms by Individuals Regulations* is adapted such that an Aboriginal individual who uses a non-restricted firearm for traditional hunting practices in a location that is in a remote wilderness area that is not subject to any visible or otherwise reasonably ascertainable use incompatible with hunting may transport the firearm in an unattended vehicle if the firearm

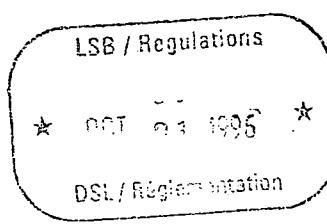
- (a) is unloaded; and
- (b) is not visible.



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TRANSFER OF TREATY AMMUNITION

20. Section 21 of the *Firearms Act* is adapted such that "transfer" does not include the provision of ammunition by Her Majesty in right of Canada or a province in fulfilment of a treaty obligation.



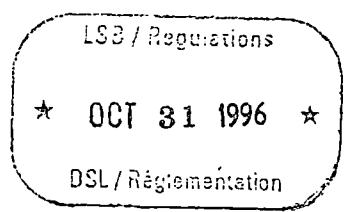
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(DORS/SOR)

Attendu que, conformément à l'article 118 de la *Loi concernant les armes à feu et certaines autres armes*^a, le ministre de la Justice a fait déposer le projet de règlement intitulé *Règlement d'adaptation visant les armes à feu des peuples autochtones du Canada*, conforme en substance au texte ci-après, devant chaque chambre du Parlement le _____ 1996, laquelle date est antérieure d'au moins 30 jours de séance à la date du présent décret,

À ces causes, sur recommandation du ministre de la Justice et en vertu de l'alinéa 117u) de la *Loi concernant les armes à feu et certaines autres armes*^a, Son Excellence le Gouverneur général en conseil prend le *Règlement d'adaptation visant les armes à feu des peuples autochtones du Canada*, ci-après.

^a L.C. 1995, ch. 39



JUS-96-585-01
(DORS/SOR)

RÈGLEMENT D'ADAPTATION VISANT LES ARMES À FEU DES PEUPLES AUTOCHTONES DU CANADA

DÉFINITIONS

1. Les définitions qui suivent s'appliquent au présent règlement.

« aîné » Autochtone qui, à la fois :

a) est âgé d'au moins 45 ans et est un membre d'une collectivité autochtone;

b) est considéré par les membres de la collectivité autochtone comme possédant une vaste connaissance de la culture et des traditions de la collectivité. (*elder*)

« Autochtone » S'entend notamment des Indiens, des Inuits et des Métis. (*Aboriginal*)

« collectivité autochtone » Collectivité traditionnelle des peuples autochtones possédant une culture distinctive qui comprend la pratique de la chasse ancestrale. (*Aboriginal community*)

« dirigeant » Particulier qui est reconnu par les membres de la collectivité autochtone comme étant leur représentant. (*leader*)

CHAMP D'APPLICATION

2. La *Loi sur les armes à feu* et ses règlements s'appliquent, sous réserve des articles 4 à 20 du présent règlement, aux Autochtones.

3. Pour l'application du présent règlement, un Autochtone est un particulier qui :

a) est un membre d'un des peuples autochtones du Canada;

b) est un membre d'une collectivité autochtone;

c) pratique la chasse ancestrale selon les traditions de sa collectivité;

d) pour l'application du présent règlement, à l'exception des articles 17, 18 et 19 du présent règlement, a présenté une demande en conformité avec les articles 3, 8 ou 9 du *Règlement sur les permis d'armes à feu*, dans sa version adaptée par l'article 6 du présent règlement.

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DISPOSITIONS ADAPTÉES

4. Pour l'application de l'alinéa 117a) de la *Loi sur les armes à feu*, les articles 5 à 19 du présent règlement prévoient les modalités selon lesquelles et la mesure dans laquelle des dispositions de la *Loi sur les armes à feu* et de ses règlements s'appliquent à tout peuple autochtone du Canada, et adaptent ces dispositions à cette application.

DEMANDE DE PERMIS

5. Les articles 3, 8 et 9 du *Règlement sur les permis d'armes à feu* sont adaptés de manière que toute attestation d'un demandeur autochtone ou d'un autre Autochtone visée à l'un de ces articles puisse être faite :

- a) de vive voix, lorsque l'intéressé ne peut la faire par écrit, auquel cas elle est transcrive par son mandataire;
- b) par l'intermédiaire d'un interprète, lorsque l'intéressé ne peut communiquer en français ou en anglais.

6. Les articles 3, 8 et 9 du *Règlement sur les permis d'armes à feu* sont adaptés de manière qu'un particulier qui présente une demande et qui désire que le présent règlement lui soit applicable, joigne à sa demande les informations suivantes :

- a) une déclaration qui indique qu'il :
 - (i) est un membre d'un des peuples autochtones du Canada,
 - (ii) est un membre d'une collectivité autochtone,
 - (iii) pratique la chasse ancestrale selon les traditions de sa collectivité;
- b) une confirmation d'un dirigeant de sa collectivité autochtone portant qu'il est en membre et qu'il pratique la chasse ancestrale selon les traditions de celle-ci.

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RECOMMANDATIONS

7. Les articles 3, 8 et 9 du *Règlement sur les permis d'armes à feu* sont adaptés par adjonction de l'exigence suivante : lorsque le contrôleur des armes à feu envisage de refuser de délivrer un permis à un demandeur autochtone, il doit donner à celui-ci la possibilité de lui soumettre pour examen les recommandations fournies par tout aîné ou dirigeant de sa collectivité autochtone, qui soulignent l'importance pour lui de pratiquer la chasse ancestrale.

8. L'article 55 de la *Loi sur les armes à feu* est adapté par adjonction de l'exigence suivante : lorsque le contrôleur des armes à feu détermine si un demandeur autochtone répond aux critères d'admissibilité à un permis visé à l'article 5 de la *Loi sur les armes à feu*, il doit tenir compte des recommandations fournies par tout aîné ou dirigeant de la collectivité autochtone dont le demandeur est membre, qui soulignent l'importance pour lui de pratiquer la chasse ancestrale.

9. (1) Le paragraphe 58(1) de la *Loi sur les armes à feu* est adapté par adjonction de l'exigence suivante : lorsque le contrôleur des armes à feu envisage d'assortir d'une condition le permis d'un demandeur autochtone, il doit donner à celui-ci la possibilité de lui soumettre pour examen les recommandations fournies par tout aîné ou dirigeant de sa collectivité autochtone, qui soulignent l'importance pour lui de pratiquer la chasse ancestrale.

(2) Le paragraphe (1) ne s'applique pas à une condition mentionnée à l'article 14 du *Règlement sur les permis d'armes à feu*.

DÉLIVRANCE DE PERMIS AUX AUTOCHTONES ÂGÉS DE MOINS DE 18 ANS

10. Le paragraphe 64(2) de la *Loi sur les armes à feu* est adapté de manière que :

a) le permis délivré à tout Autochtone âgé de moins de 18 ans qui pratique la chasse ancestrale selon les traditions de sa collectivité autochtone soit valide pour la période se terminant à celle des dates suivantes qui est antérieure à l'autre :

(i) la date où le titulaire atteint l'âge de 18 ans,

(ii) sous réserve de l'alinéa b), la date qui suit de trois ans la date de délivrance du permis;

b) le contrôleur des armes à feu puisse délivrer un permis pour une période inférieure à trois ans lorsqu'il le juge souhaitable, compte tenu de la situation, du caractère et de l'âge du demandeur.

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11. Le paragraphe 8(3) de la *Loi sur les armes à feu* est adapté de manière que l'Autochtone âgé de moins de 12 ans soit admissible à un permis de possession d'une arme à feu, conformément aux conditions précisées, pour pratiquer la chasse ancestrale selon les traditions de sa collectivité autochtone.

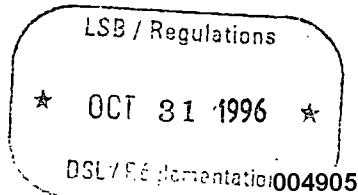
CERTIFICATION SUBSTITUTIVE

12. L'alinéa 7(4)a) de la *Loi sur les armes à feu* est adapté de manière que le contrôleur des armes à feu certifie comme étant conforme aux exigences réglementaires, dans les cas prévus par règlement, la compétence d'un Autochtone en matière de législation sur les armes à feu et de règles de sécurité relatives à leur maniement et à leur usage.

13. L'article 16 du *Règlement sur les permis d'armes à feu* est adapté de manière que les cas visés pour l'application de l'alinéa 7(4)a) de la *Loi sur les armes à feu*, dans sa version adaptée par l'article 12 du présent règlement, soient les suivants :

- a) le demandeur autochtone est un aîné qui pratique la chasse ancestrale;
- b) le demandeur autochtone pratique la chasse ancestrale et les conditions suivantes sont réunies :
 - (i) le Cours canadien de sécurité dans le maniement des armes à feu ou l'examen de contrôle de ce cours ne sont pas disponibles :
 - (A) soit dans un délai raisonnable après la présentation de sa demande, compte tenu des circonstances,
 - (B) soit dans sa collectivité autochtone ou à tout endroit qui lui est accessible sans frais excessifs ni grandes difficultés,
 - (C) soit à un coût raisonnable dans les circonstances;
 - (ii) le contrôleur des armes à feu a reçu des recommandations d'un dirigeant de la collectivité autochtone du demandeur qui indiquent qu'à son avis le demandeur possède les connaissances voulues pour que sa compétence soit certifiée aux termes de l'alinéa 7(4)a) de la *Loi sur les armes à feu*, dans sa version adaptée par l'article 12 du présent règlement.

14. L'article 17 du *Règlement sur les permis d'armes à feu* est adapté de manière que pour l'application de l'alinéa 7(4)a) de la *Loi sur les armes à feu*, dans sa version adaptée par le présent règlement, les exigences de compétence d'un demandeur autochtone qui pratique la chasse ancestrale soient les suivantes :



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- a) une connaissance élémentaire des règles de sécurité relatives à l'entreposage, à l'exposition, au maniement, au transport et à l'usage des armes à feu par des particuliers, y compris le fonctionnement des armes à feu usuelles pour la chasse;
- b) une connaissance élémentaire des lois relatives à l'usage des armes à feu et à leur entreposage, exposition, maniement et transport par des particuliers.

POSSESSION D'ARMES À FEU

15. L'alinéa 7(4)c) de la *Loi sur les armes à feu* est adapté de manière que, lorsqu'un Autochtone avait, à la date de référence, l'usage d'une arme à feu pour la pratique de la chasse ancestrale, laquelle arme n'est ni une arme à feu prohibée ni une arme à feu à autorisation restreinte, il est réputé posséder une arme à feu pour l'application de cet alinéa.

16. Le paragraphe 7(2) du *Règlement sur les permis d'armes à feu* est adapté de manière que, lorsqu'un Autochtone a eu, à la date d'entrée en vigueur de l'alinéa 7(4)c) de la *Loi sur les armes à feu*, l'usage sans interruption d'une arme à feu pour la pratique de la chasse ancestrale, laquelle arme n'est ni une arme à feu prohibée ni une arme à feu à autorisation restreinte, il est réputé posséder une arme à feu pour l'application de cet alinéa.

PRÊT

17. Le sous-alinéa 33a)(ii) de la *Loi sur les armes à feu* est adapté de manière que le prêteur puisse, sans en prêter le certificat d'enregistrement, prêter une arme à feu à un Autochtone pour pratiquer la chasse ancestrale.

ENTREPOSAGE ET TRANSPORT DES ARMES À FEU

18. L'article 3 du *Règlement sur l'entreposage, l'exposition, le transport et la manutention des armes à feu par des particuliers* est adapté de manière qu'un Autochtone qui utilise une arme à feu sans restrictions pour pratiquer la chasse ancestrale dans un lieu se trouvant dans une région sauvage qui ne fait l'objet d'aucun usage apparent – ou raisonnablement identifiable – qui soit incompatible avec la chasse puisse l'entreposer, si les conditions suivantes sont respectées :

- a) l'arme n'est pas chargée;
- b) des munitions ne se trouvent pas à proximité.

19. Le paragraphe 8(2) du *Règlement sur l'entreposage, l'exposition, le transport et la manutention des armes à feu par des particuliers* est adapté de manière qu'un

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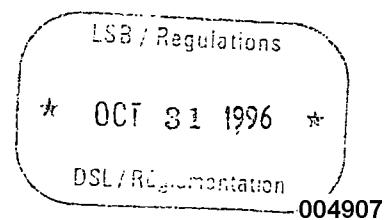
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Autochtone qui utilise une arme à feu sans restrictions pour pratiquer la chasse ancestrale dans un lieu se trouvant dans une région sauvage qui ne fait l'objet d'aucun usage apparent - ou raisonnablement identifiable - qui soit incompatible avec la chasse puisse la transporter dans un véhicule non surveillé, si les conditions suivantes sont respectées :

- a) l'arme n'est pas chargée;
- b) l'arme n'est pas visible.

TRANSFERT DES MUNITIONS

20. L'article 21 de la *Loi sur les armes à feu* est adapté de manière que « cession » ne vise pas la fourniture de munitions par Sa Majesté du chef du Canada ou d'une province en exécution d'une obligation prévue par un traité.



OCT 26 1996

JUS-96-585-01
(SOR/DORS)

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31.10.96

DRAFF/COAUGHE

Whereas, pursuant to section 118 of *An Act respecting firearms and other weapons^a*, the Minister of Justice has had a copy of the proposed *Aboriginal Peoples of Canada Adaptations Regulations (Firearms)*, substantially in the form annexed hereto, laid before each House of Parliament on _____, 1996, which date is at least thirty sitting days before the date of this order;

Therefore, His Excellency the Governor General in Council, on the recommendation of the Minister of Justice, pursuant to paragraph 117(u) of an *An Act respecting firearms and other weapons^a*, hereby makes the annexed *Aboriginal Peoples of Canada Adaptations Regulations (Firearms)*.

^a S.C. 1995, c. 39

JUS-96-585-01
(SOR/DORS)

ABORIGINAL PEOPLES OF CANADA ADAPTATIONS REGULATIONS (FIREARMS)

INTERPRETATION

1. The definitions in this section apply in these Regulations.

"Aboriginal" includes Indian, Inuit and Métis. (Autochtone)

"Aboriginal community" means a traditional collectivity of Aboriginal people that has a distinctive culture that includes engaging in traditional hunting practices. (collectivité autochtone)

"elder" means an Aboriginal individual who has the following characteristics:

- (a) the individual is at least 45 years of age and is a member of an Aboriginal community; and
- (b) the individual is recognized by the members of the Aboriginal community as having extensive knowledge of the culture and traditional practices of that community. (ainé)

"leader" means an individual who is recognized by the members of an Aboriginal community as their representative. (dirigeant)

APPLICATION

2. Subject to sections 4 to 20 of these Regulations, the Firearms Act and any regulations made under that Act apply to Aboriginal individuals.

3. For the purposes of these Regulations, an Aboriginal individual is an individual who

- (a) is a member of one of the Aboriginal peoples of Canada;
- (b) is a member of an Aboriginal community;
- (c) engages in the traditional hunting practices of the individual's community; and
- (d) for the purposes of applying these Regulations, other than sections 17, 18 and 19 of these Regulations, has made an application in accordance with section 3, 8 or 9 of the Firearms Licences Regulations, as adapted by section 6 of these Regulations.

ADAPTED PROVISIONS

- 2 -

4. For the purposes of paragraph 117(u) of the Firearms Act, sections 5 to 19 of these Regulations concern the manner in which certain provisions of the Firearms Act and the regulations made under that Act apply to any of the Aboriginal peoples of Canada, and adapt those provisions for the purpose of that application.

APPLICATION FOR A LICENCE

5. Sections 3, 8 and 9 of the Firearms Licences Regulations are adapted such that a statement made by an Aboriginal applicant or by another Aboriginal individual in accordance with any of those sections may be made

(a) orally, where the applicant or individual is unable to make a written statement, in which case the oral statement shall be transcribed by a person acting on behalf of the applicant or individual; and

(b) by means of an interpreter, where the applicant or individual is unable to communicate in English or French.

6. Sections 3, 8 and 9 of the Firearms Licences Regulations are adapted such that an application made by an individual who wishes to be subject to these Regulations must be accompanied by the following information:

(a) a declaration that the individual

(i) is a member of one of the Aboriginal peoples of Canada,

(ii) is a member of an Aboriginal community, and

(iii) engages in the traditional hunting practices of his or her community; and

(b) confirmation from a leader of the individual's Aboriginal community that the individual is a member of that community and engages in the traditional hunting practices of that community.

RECOMMENDATIONS

7. Sections 3, 8 and 9 of the Firearms Licences Regulations are adapted by adding the requirement that, where a chief firearms officer considers refusing to issue a licence to an Aboriginal applicant, the applicant shall be given an opportunity to ~~request~~ ^{discussed} that the chief firearms officer consider ~~their~~ ^{action} recommendations submitted by the applicant from any elder or leader of the applicant's Aboriginal community regarding the importance to the applicant of engaging in traditional hunting practices.

8. Section 55 of the Firearms Act is adapted by adding the requirement that, in determining whether an Aboriginal applicant

is eligible to hold a licence under section 5 of the *Firearms Act*, a chief firearms officer shall consider as relevant any recommendations submitted by the applicant from any elder or leader of the applicant's Aboriginal community regarding the importance to the applicant of engaging in traditional hunting practices.

9. (1) Subsection 58(1) of the *Firearms Act* is adapted by adding the requirement that, where a chief firearms officer considers attaching a condition to a licence for an Aboriginal applicant, the applicant shall be given an opportunity to submit recommendations from any elder or leader of the applicant's Aboriginal community regarding the importance to the applicant of engaging in traditional hunting practices.

(2) Subsection (1) does not apply with respect to a condition referred to in section 14 of the *Firearms Licences Regulations*.

ISSUANCE OF A LICENCE TO ABORIGINAL INDIVIDUALS LESS THAN 18 YEARS OLD

10. Subsection 64(2) of the *Firearms Act* is adapted as follows:

(a) a licence that is issued to an Aboriginal individual who is less than 18 years old and who engages in the traditional hunting practices of the Aboriginal community of which the individual is a member expires on the earlier of

(i) the day on which the holder attains the age of 18 years, and

(ii) subject to paragraph (b), three years after the day on which it is issued; and

(b) where a chief firearms officer determines that it is desirable to do so, taking into account the applicant's circumstances, character and age, the chief firearms officer may issue a licence for a term that is less than three years.

11. Subsection 8(3) of the *Firearms Act* is adapted such that an Aboriginal individual who is less than 12 years old is eligible to hold a licence authorizing the individual to possess, in accordance with the conditions attached to the licence, a firearm for the purpose of engaging in the traditional hunting practices of the Aboriginal community of which the individual is a member.

ALTERNATIVE CERTIFICATION

12. Paragraph 7(4)(a) of the *Firearms Act* is adapted such that a chief firearms officer shall certify, in the prescribed circumstances, an Aboriginal individual who meets the prescribed

criteria relating to the safe handling and use of firearms and the laws relating to firearms.

13. Section 16 of the *Firearms Licences Regulations* is adapted such that, for the purposes of paragraph 7(4)(a) of the *Firearms Act*, as adapted by section 12 of these Regulations, the circumstances are that

(a) the Aboriginal applicant is an elder who engages in traditional hunting practices; or

(b) the Aboriginal applicant engages in traditional hunting practices and

(i) the Canadian Firearms Safety Course or the tests that form part of that Course are not available

(A) to the applicant within a time, after the applicant has made the application, that is reasonable in the circumstances,

(B) in the applicant's Aboriginal community or at a location that can be reached from that community without undue cost or hardship to the applicant, or

(C) at a cost that is reasonable in the circumstances and

(ii) the chief firearms officer has received a recommendation from a leader of the applicant's Aboriginal community indicating that, in the leader's opinion, the applicant has the requisite knowledge to be certified under paragraph 7(4)(a) of the *Firearms Act*, as adapted by section 12 of these Regulations.

14. Section 17 of the *Firearms Licences Regulations* is adapted such that, for the purposes of paragraph 7(4)(a) of the *Firearms Act*, as adapted by these Regulations, with respect to an Aboriginal applicant who engages in traditional hunting practices, the criteria are

(a) basic knowledge of the safe storage, display, handling, transportation and use of firearms by individuals, including the operation of common hunting firearms; and

(b) basic knowledge of the laws that relate to the use of firearms and to the storage, display, handling and transportation of firearms by individuals.

POSSESSION OF FIREARMS

15. Paragraph 7(4)(c) of the *Firearms Act* is adapted such that, if an Aboriginal individual had, on the commencement day, in

order to engage in traditional hunting practices, the use of a firearm that is neither a prohibited firearm nor a restricted firearm, the individual is deemed to possess a firearm for the purposes of that paragraph.

16. Subsection 7(2) of the *Firearms Licences Regulations* is adapted such that, if an Aboriginal individual has had, in order to engage in traditional hunting practices, the continuous use of a firearm that is neither a prohibited firearm nor a restricted firearm on the day on which paragraph 7(4)(c) of the *Firearms Act* came into force, that individual is deemed to possess a firearm for the purposes of that subsection.

AUTHORIZED LENDING

17. Subparagraph 33(a)(ii) of the *Firearms Act* is adapted such that a person may, without lending the Aboriginal individual the registration certificate for the firearm, lend a firearm to an Aboriginal individual who uses the firearm to engage in traditional hunting practices.

STORAGE AND TRANSPORTATION OF FIREARMS

18. Section 3 of the *Storage, Display, Transportation and Handling of Firearms by Individuals Regulations* is adapted such that an Aboriginal individual who uses a non-restricted firearm for traditional hunting practices in a location that is in a remote wilderness area that is not subject to any visible or otherwise reasonably ascertainable use incompatible with hunting may store the firearm if

- (a) the firearm is unloaded; and
- (b) ammunition is not readily accessible.

19. Subsection 8(2) of the *Storage, Display, Transportation and Handling of Firearms by Individuals Regulations* is adapted such that an Aboriginal individual who uses a non-restricted firearm for traditional hunting practices in a location that is in a remote wilderness area that is not subject to any visible or otherwise reasonably ascertainable use incompatible with hunting may transport the firearm in an unattended vehicle if the firearm

- (a) is unloaded; and
- (b) is not visible.

TRANSFER OF TREATY AMMUNITION

20. Section 21 of the *Firearms Act* is adapted such that "transfer" does not include the provision of ammunition by Her

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Majesty in right of Canada or a province in fulfilment of a
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(DORS/SOR)

Attendu que, conformément à l'article 118 de la *Loi concernant les armes à feu et certaines autres armes*^a, le ministre de la Justice a fait déposer le projet de règlement intitulé *Règlement d'adaptation visant les armes à feu des peuples autochtones du Canada*, conforme en substance au texte ci-après, devant chaque chambre du Parlement le _____ 1996, laquelle date est antérieure d'au moins 30 jours de séance à la date du présent décret,

À ces causes, sur recommandation du ministre de la Justice et en vertu de l'alinéa 117u) de la *Loi concernant les armes à feu et certaines autres armes*^a, Son Excellence le Gouverneur général en conseil prend le *Règlement d'adaptation visant les armes à feu des peuples autochtones du Canada*, ci-après.

^a L.C. 1995, ch. 39

JUS-96-585-01
(DORS/SOR)

RÈGLEMENT D'ADAPTATION VISANT LES ARMES À FEU DES PEUPLES AUTOCHTONES DU CANADA

DÉFINITIONS

1. Les définitions qui suivent s'appliquent au présent règlement.

« aîné » Autochtone qui, à la fois :

a) est âgé d'au moins 45 ans et est un membre d'une collectivité autochtone;

b) est considéré par les membres de la collectivité autochtone comme possédant une vaste connaissance de la culture et des traditions de la collectivité. (*elder*)

« Autochtone » S'entend notamment des Indiens, des Inuits et des Métis. (*Aboriginal*)

« collectivité autochtone » Collectivité traditionnelle des peuples autochtones possédant une culture distinctive qui comprend la pratique de la chasse ancestrale. (*Aboriginal community*)

« dirigeant » Particulier qui est reconnu par les membres de la collectivité autochtone comme étant leur représentant. (*leader*)

CHAMP D'APPLICATION

2. La *Loi sur les armes à feu* et ses règlements s'appliquent, sous réserve des articles 4 à 20 du présent règlement, aux Autochtones.

3. Pour l'application du présent règlement, un Autochtone est un particulier qui :

a) est un membre d'un des peuples autochtones du Canada;

b) est un membre d'une collectivité autochtone;

c) pratique la chasse ancestrale selon les traditions de sa collectivité;

d) pour l'application du présent règlement, à l'exception des articles 17, 18 et 19 du présent règlement, a présenté une demande en conformité avec les articles 3, 8 ou 9 du *Règlement sur les permis d'armes à feu*, dans sa version adaptée par l'article 6 du présent règlement.

- 2 -

DISPOSITIONS ADAPTÉES

4. Pour l'application de l'alinéa 117a) de la *Loi sur les armes à feu*, les articles 5 à 19 du présent règlement prévoient les modalités selon lesquelles et la mesure dans laquelle des dispositions de la *Loi sur les armes à feu* et de ses règlements s'appliquent à tout peuple autochtone du Canada, et adaptent ces dispositions à cette application.

DEMANDE DE PERMIS

5. Les articles 3, 8 et 9 du *Règlement sur les permis d'armes à feu* sont adaptés de manière que toute attestation d'un demandeur autochtone ou d'un autre Autochtone visée à l'un de ces articles puisse être faite :

- a) de vive voix, lorsque l'intéressé ne peut la faire par écrit, auquel cas elle est transcrise par son mandataire;
- b) par l'intermédiaire d'un interprète, lorsque l'intéressé ne peut communiquer en français ou en anglais.

6. Les articles 3, 8 et 9 du *Règlement sur les permis d'armes à feu* sont adaptés de manière qu'un particulier qui présente une demande et qui désire que le présent règlement lui soit applicable, joigne à sa demande les informations suivantes :

- a) une déclaration qui indique qu'il :
 - (i) est un membre d'un des peuples autochtones du Canada,
 - (ii) est un membre d'une collectivité autochtone,
 - (iii) pratique la chasse ancestrale selon les traditions de sa collectivité;
- b) une confirmation d'un dirigeant de sa collectivité autochtone portant qu'il est en membre et qu'il pratique la chasse ancestrale selon les traditions de celle-ci.

RECOMMANDATIONS

7. Les articles 3, 8 et 9 du *Règlement sur les permis d'armes à feu* sont adaptés par adjonction de l'exigence suivante : lorsque le contrôleur des armes à feu envisage de refuser de délivrer un permis à un demandeur autochtone, il doit donner à celui-ci la possibilité de soumettre pour examen les recommandations fournies par tout aîné ou dirigeant de sa collectivité autochtone, qui soulignent l'importance pour lui de pratiquer la chasse ancestrale.

8. L'article 55 de la *Loi sur les armes à feu* est adapté par adjonction de l'exigence suivante : lorsque le contrôleur des armes à feu détermine si un demandeur autochtone répond aux critères d'admissibilité à un permis visé à l'article 5 de la *Loi sur les armes à feu*, il doit tenir compte des recommandations fournies par tout aîné ou dirigeant de la collectivité autochtone dont le demandeur est membre, qui soulignent l'importance pour lui de pratiquer la chasse ancestrale.

9. (1) Le paragraphe 58(1) de la *Loi sur les armes à feu* est adapté par adjonction de l'exigence suivante : lorsque le contrôleur des armes à feu envisage d'assortir d'une condition le permis d'un demandeur autochtone, il doit donner à celui-ci la possibilité de soumettre pour examen les recommandations fournies par tout aîné ou dirigeant de sa collectivité autochtone, qui soulignent l'importance pour lui de pratiquer la chasse ancestrale.

(2) Le paragraphe (1) ne s'applique pas à une condition mentionnée à l'article 14 du *Règlement sur les permis d'armes à feu*.

DÉLIVRANCE DE PERMIS AUX AUTOCHTONES ÂGÉS DE MOINS DE 18 ANS

10. Le paragraphe 64(2) de la *Loi sur les armes à feu* est adapté de manière que :

a) le permis délivré à tout Autochtone âgé de moins de 18 ans qui pratique la chasse ancestrale selon les traditions de sa collectivité autochtone soit valide pour la période se terminant à celle des dates suivantes qui est antérieure à l'autre :

(i) la date où le titulaire atteint l'âge de 18 ans,

(ii) sous réserve de l'alinéa b), la date qui suit de trois ans la date de délivrance du permis;

b) le contrôleur des armes à feu puisse délivrer un permis pour une période inférieure à trois ans lorsqu'il le juge souhaitable, compte tenu de la situation, du caractère et de l'âge du demandeur.

11. Le paragraphe 8(3) de la *Loi sur les armes à feu* est adapté de manière que l'Autochtone âgé de moins de 12 ans soit admissible à un permis de possession d'une arme à feu, conformément aux conditions précisées, pour pratiquer la chasse ancestrale selon les traditions de sa collectivité autochtone.

CERTIFICATION SUBSTITUTIVE

12. L'alinéa 7(4)a) de la *Loi sur les armes à feu* est adapté de manière que le contrôleur des armes à feu certifie comme étant conforme aux exigences réglementaires, dans les cas prévus par règlement, la compétence d'un Autochtone en matière de législation sur les armes à feu et de règles de sécurité relatives à leur maniement et à leur usage.

13. L'article 16 du *Règlement sur les permis d'armes à feu* est adapté de manière que les cas visés pour l'application de l'alinéa 7(4)a) de la *Loi sur les armes à feu*, dans sa version adaptée par l'article 12 du présent règlement, soient les suivants :

a) le demandeur autochtone est un aîné qui pratique la chasse ancestrale;

b) le demandeur autochtone pratique la chasse ancestrale et : *les conditions suivantes sont réunies*

(i) le Cours canadien de sécurité dans le maniement des armes à feu ou l'examen de contrôle de ce cours ne sont pas disponibles :

(A) soit dans un délai raisonnable après la présentation de sa demande, compte tenu des circonstances,

(B) soit dans sa collectivité autochtone ou à tout endroit qui lui est accessible sans frais excessifs ni grandes difficultés,

(C) soit à un coût raisonnable dans les circonstances;

(ii) le contrôleur des armes à feu a reçu des recommandations d'un dirigeant de la collectivité autochtone du demandeur qui indiquent qu'à son avis le demandeur possède les connaissances voulues pour que sa compétence soit certifiée aux termes de l'alinéa 7(4)a) de la *Loi sur les armes à feu*, dans sa version adaptée par l'article 12 du présent règlement.

14. L'article 17 du *Règlement sur les permis d'armes à feu* est adapté de manière que pour l'application de l'alinéa 7(4)a) de la *Loi sur les armes à feu*, dans sa version adaptée par le présent règlement, les exigences de compétence d'un demandeur autochtone qui pratique la chasse ancestrale soient les suivantes :

a) une connaissance élémentaire des règles de sécurité relatives à l'entreposage, à l'exposition, au maniement, au transport et à l'usage des armes à feu par des particuliers, y compris le fonctionnement des armes à feu usuelles pour la chasse;

b) une connaissance élémentaire des lois relatives à l'usage ~~des armes à feu et à l'entreposage, à l'exposition, au maniement et au transport des armes à feu~~ par des particuliers. *ancision*

POSSESSION D'ARMES À FEU

15. L'alinéa 7(4)c) de la *Loi sur les armes à feu* est adapté de manière que, lorsqu'un Autochtone avait, à la date de référence, l'usage d'une arme à feu pour la pratique de la chasse ancestrale, laquelle arme n'est ni une arme à feu prohibée ni une arme à feu à autorisation restreinte, il est réputé posséder une arme à feu pour l'application de cet alinéa.

16. Le paragraphe 7(2) du *Règlement sur les permis d'armes à feu* est adapté de manière que, lorsqu'un Autochtone a eu, à la date d'entrée en vigueur de l'alinéa 7(4)c) de la *Loi sur les armes à feu*, l'usage sans interruption d'une arme à feu pour la pratique de la chasse ancestrale, laquelle arme n'est ni une arme à feu prohibée ni une arme à feu à autorisation restreinte, il est réputé posséder une arme à feu pour l'application de cet alinéa.

PRÊT

17. Le sous-alinéa 33a)(ii) de la *Loi sur les armes à feu* est adapté de manière que le prêteur puisse, sans en prêter le certificat d'enregistrement, prêter une arme à feu à un Autochtone pour pratiquer la chasse ancestrale.

ENTREPOSAGE ET TRANSPORT DES ARMES À FEU

18. L'article 3 du *Règlement sur l'entreposage, l'exposition et le transport des armes à feu par des particuliers* est adapté de manière qu'un Autochtone qui utilise une arme à feu sans restrictions pour pratiquer la chasse ancestrale dans un lieu se trouvant dans une région sauvage qui ne fait l'objet d'aucun usage apparent – ou raisonnablement identifiable – qui soit incompatible avec la chasse puisse l'entreposer, si les conditions suivantes sont respectées :

a) l'arme n'est pas chargée;

b) des munitions ne se trouvent pas à proximité de celle-ci. *(D)*

19. Le paragraphe 8(2) du *Règlement sur l'entreposage, l'exposition et le transport des armes à feu par des particuliers* est adapté de manière qu'un Autochtone qui utilise une arme à feu sans restrictions pour pratiquer la

chasse ancestrale dans un lieu se trouvant dans une région sauvage qui ne fait l'objet d'aucun usage apparent — ou raisonnablement identifiable — qui soit incompatible avec la chasse puisse la transporter dans un véhicule non surveillé, si les conditions suivantes sont respectées :

- a) l'arme n'est pas chargée;
- b) l'arme n'est pas visible.

TRANSFERT DES MUNITIONS

20. L'article 21 de la *Loi sur les armes à feu* est adapté de manière que « cession » ne vise pas la fourniture de munitions par Sa Majesté du chef du Canada ou d'une province en exécution d'une obligation prévue par un traité.

ISSUANCE OF A LICENCE TO ABORIGINAL INDIVIDUALS LESS THAN 18 YEARS OLD

10. Subsection 64(2) of the *Firearms Act* is adapted as follows:

(a) a licence that is issued to an Aboriginal individual who is less than 18 years old and who engages in the traditional hunting practices of the Aboriginal community of which the individual is a member expires on the earlier of

(i) the day on which the holder attains the age of 18 years, and

(ii) subject to paragraph (b), three years after the day on which it is issued; and

(b) where a chief firearms officer determines that it is desirable to do so, taking into account the applicant's circumstances, character and age, the chief firearms officer may issue a licence for a term that is less than three years.

11. Subsection 8(3) of the *Firearms Act* is adapted such that an Aboriginal individual who is less than 12 years old is eligible to hold a licence authorizing the individual to possess, in accordance with the conditions attached to the licence, a firearm for the purpose of engaging in the traditional hunting practices of the Aboriginal community of which the individual is a member.

ALTERNATIVE CERTIFICATION

12. With respect to an Aboriginal individual who is at least 18 years of age, paragraph 7(4)(a) of the *Firearms Act* is adapted such that a chief firearms officer shall certify, in the prescribed circumstances, such an individual who meets the prescribed criteria relating to the safe handling and use of firearms and the laws relating to firearms.

13. With respect to an Aboriginal individual who is less than eighteen years old, subsection 7(4) of the *Firearms Act* is adapted such that subsection 7(1) of the *Firearms Act* does not apply to an Aboriginal individual who meets the requirements of paragraph 7(4)(a) as adapted by section 14 of these Regulations.

14. Paragraph 7(4)(a) of the *Firearms Act* is adapted such that subsection 7(1) of the *Firearms Act* does not apply to an Aboriginal individual who is less than eighteen years old and who, in the prescribed circumstances meets the prescribed criteria.

15. Section 16 of the *Firearms Licences Regulations* is adapted such that, for the purposes of paragraph 7(4)(a) of the *Firearms Act*, as adapted by section 12 of these Regulations, the circumstances are that

(a) the Aboriginal applicant is an elder who engages in

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traditional hunting practices; or

(b) the Aboriginal applicant engages in traditional hunting practices and

(i) the Canadian Firearms Safety Course or the tests that form part of that Course are not available

(A) to the applicant within a time, after the applicant has made the application, that is reasonable in the circumstances,

(B) in the applicant's Aboriginal community or at a location that can be reached from that community without undue cost or hardship to the applicant, or

(C) at a cost that is reasonable in the circumstances and

(ii) the chief firearms officer has received a recommendation from a leader of the applicant's Aboriginal community indicating that, in the leader's opinion, the applicant has the requisite knowledge to be certified under paragraph 7(4)(a) of the *Firearms Act*, as adapted by section 12 of these Regulations.

16. Section 16 of the *Firearms Licences Regulations* is adapted such that, for the purposes of paragraph 7(4)(a) of the *Firearms Act*, as adapted by section 13 and 14 of these Regulations, the circumstances are that

(a) the Aboriginal applicant engages in traditional hunting practices;

(b) the chief firearms officer has received a recommendation from any of the following people indicating that, in that person's opinion, the applicant has the requisite knowledge to be certified under paragraph 7(4)(a) of the *Firearms Act*, as adapted by sections 13 and 14 of these Regulations

(i) an elder in the applicant's Aboriginal community

(ii) a leader of the applicant's Aboriginal community, or

(iii) a person who is at least eighteen years of age, who has been certified by a chief firearms officer and has personal knowledge of the applicant within the 6 month period preceding the application.

17. Section 17 of the *Firearms Licences Regulations* is adapted such that, for the purposes of paragraph 7(4)(a) of the *Firearms Act*, as adapted by these Regulations, with respect to an Aboriginal applicant who engages in traditional hunting practices, the criteria are

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(a) basic knowledge of the safe storage, **display**, handling, transportation and use of firearms by individuals, including the operation of common hunting firearms; and

(b) basic knowledge of the laws that relate to the use of firearms and to the storage, **display**, handling and transportation of firearms by individuals.

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JUS-96-585-01
(SOR/DORS)

Whereas, pursuant to section 118 of *An Act respecting firearms and other weapons*^a, the Minister of Justice has had a copy of the proposed *Aboriginal Peoples of Canada Adaptations Regulations (Firearms)*, substantially in the form annexed hereto, laid before each House of Parliament on _____, 1996, which date is at least thirty sitting days before the date of this order;

Therefore, His Excellency the Governor General in Council, on the recommendation of the Minister of Justice, pursuant to paragraph 117(u) of an *An Act respecting firearms and other weapons*^a, hereby makes the annexed *Aboriginal Peoples of Canada Adaptations Regulations (Firearms)*.

^a S.C. 1995, c. 39

JUS-96-585-01
(SOR/DORS)

ABORIGINAL PEOPLES OF CANADA ADAPTATIONS REGULATIONS (FIREARMS)

INTERPRETATION

1. The definitions in this section apply in these Regulations.

"Aboriginal" includes Indian, Inuit and Métis. (*Autochtone*)

"Aboriginal community" means a traditional collectivity of Aboriginal people that has a distinctive culture that includes engaging in traditional hunting practices. (*collectivité autochtone*)

"elder" means an Aboriginal individual who has the following characteristics:

- (a) the individual is at least 45 years of age and is a member of an Aboriginal community; and
- (b) the individual is recognized by the members of the Aboriginal community as having extensive knowledge of the culture and traditional practices of that community. (*aîné*)

"leader" means an individual who is recognized by the members of an Aboriginal community as their representative. (*dirigeant*)

APPLICATION

2. Subject to sections 4 to 20 of these Regulations, the *Firearms Act* and any regulations made under that Act apply to Aboriginal individuals.

3. For the purposes of these Regulations, an Aboriginal individual is an individual who

- (a) is a member of one of the Aboriginal peoples of Canada;
- (b) is a member of an Aboriginal community;
- (c) engages in the traditional hunting practices of the individual's community; and
- (d) for the purposes of applying these Regulations, other than sections 17, 18 and 19 of these Regulations, has made an application in accordance with section 3, 8 or 9 of the *Firearms Licences Regulations*, as adapted by section 6 of these Regulations.

ADAPTED PROVISIONS

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4. For the purposes of paragraph 117(u) of the *Firearms Act*, sections 3 to 19 of these Regulations concern the manner in which certain provisions of the *Firearms Act* and the regulations made under that Act apply to any of the Aboriginal peoples of Canada, and adapt those provisions for the purpose of that application.

APPLICATION FOR A LICENCE

5. Sections 3, 8 and 9 of the *Firearms Licences Regulations* are adapted such that a statement made by an Aboriginal applicant or by another Aboriginal individual in accordance with any of those sections may be made

(a) orally, where the applicant or individual is unable to make a written statement, in which case the oral statement shall be transcribed by a person acting on behalf of the applicant or individual; and

(b) by means of an interpreter, where the applicant or individual is unable to communicate in English or French.

6. Sections 3, 8 and 9 of the *Firearms Licences Regulations* are adapted such that an application made by an individual who wishes to be subject to these Regulations must be accompanied by the following information:

(a) a declaration that the individual

(i) is a member of one of the Aboriginal peoples of Canada,

(ii) is a member of an Aboriginal community, and

(iii) engages in the traditional hunting practices of his or her community; and

(b) confirmation from a leader of the individual's Aboriginal community that the individual is a member of that community and engages in the traditional hunting practices of that community.

RECOMMENDATIONS

7. Sections 3, 8 and 9 of the *Firearms Licences Regulations* are adapted by adding the requirement that, where a chief firearms officer considers refusing to issue a licence to an Aboriginal applicant, the applicant shall be given an opportunity to request that the chief firearms officer consider recommendations submitted by the applicant from any elder or leader of the applicant's Aboriginal community regarding the importance to the applicant of engaging in traditional hunting practices.

8. Section 55 of the *Firearms Act* is adapted by adding the requirement that, in determining whether an Aboriginal applicant

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is eligible to hold a licence under section 5 of the *Firearms Act*, a chief firearms officer shall consider as relevant any recommendations submitted by the applicant from any elder or leader of the applicant's Aboriginal community regarding the importance to the applicant of engaging in traditional hunting practices.

9. (1) Subsection 58(1) of the *Firearms Act* is adapted by adding the requirement that, where a chief firearms officer considers attaching a condition to a licence for an Aboriginal applicant, the applicant shall be given an opportunity to request that the chief firearms officer consider recommendations submitted by the applicant from any elder or leader of the applicant's Aboriginal community regarding the importance to the applicant of engaging in traditional hunting practices.

(2) Subsection (1) does not apply with respect to a condition referred to in section 14 of the *Firearms Licences Regulations*.

ISSUANCE OF A LICENCE TO ABORIGINAL INDIVIDUALS LESS THAN 18 YEARS OLD

10. Subsection 64(2) of the *Firearms Act* is adapted as follows:

(a) a licence that is issued to an Aboriginal individual who is less than 18 years old and who engages in the traditional hunting practices of the Aboriginal community of which the individual is a member expires on the earlier of

(i) the day on which the holder attains the age of 18 years, and

(ii) subject to paragraph (b), three years after the day on which it is issued; and

(b) where a chief firearms officer determines that it is desirable to do so, taking into account the applicant's circumstances, character and age, the chief firearms officer may issue a licence for a term that is less than three years.

11. Subsection 8(3) of the *Firearms Act* is adapted such that an Aboriginal individual who is less than 12 years old is eligible to hold a licence authorizing the individual to possess, in accordance with the conditions attached to the licence, a firearm for the purpose of engaging in the traditional hunting practices of the Aboriginal community of which the individual is a member. stet

ALTERNATIVE CERTIFICATION

12. Paragraph 7(4)(a) of the *Firearms Act* is adapted such that a chief firearms officer shall certify, in the prescribed circumstances, an Aboriginal individual who meets the prescribed

criteria relating to the safe handling and use of firearms and the laws relating to firearms.

13. Section 16 of the *Firearms Licences Regulations* is adapted such that, for the purposes of paragraph 7(4)(a) of the *Firearms Act*, as adapted by section 12 of these Regulations, the circumstances are that

- (a) the Aboriginal applicant [is an elder who] engages in traditional hunting practices; or
- (b) the Aboriginal applicant engages in traditional hunting practices and
 - (i) the Canadian Firearms Safety Course or the tests that form part of that Course are not available
 - (A) to the applicant within a time, after the applicant has made the application, that is reasonable in the circumstances,
 - (B) in the applicant's Aboriginal community or at a location that can be reached from that community without undue cost or hardship to the applicant, or
 - (C) at a cost that is reasonable in the circumstances;
 - (ii) the chief firearms officer has received a recommendation from a leader of the applicant's Aboriginal community indicating that, in the leader's opinion, the applicant has the requisite knowledge to be certified under paragraph 7(4)(a) of the *Firearms Act*, as adapted by section 12 of these Regulations.

14. Section 17 of the *Firearms Licences Regulations* is adapted such that, for the purposes of paragraph 7(4)(a) of the *Firearms Act*, as adapted by these Regulations, with respect to an Aboriginal applicant who engages in traditional hunting practices, the criteria are

- (a) basic knowledge of the safe storage, display, handling, transportation and use of firearms by individuals, including the operation of common hunting firearms; and
- (b) basic knowledge of the laws that relate to the use of firearms and to the storage, display, handling and transportation of firearms by individuals.

POSSESSION OF FIREARMS

15. Paragraph 7(4)(c) of the *Firearms Act* is adapted such that, if an Aboriginal individual had, on the commencement day, in

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order to engage in traditional hunting practices, the use of a firearm that is neither a prohibited firearm nor a restricted firearm, the individual is deemed to possess a firearm for the purposes of that paragraph.

16. Subsection 7(2) of the *Firearms Licences Regulations* is adapted such that, if an Aboriginal individual has had, in order to engage in traditional hunting practices, the continuous use of a firearm that is neither a prohibited firearm nor a restricted firearm on the day on which paragraph 7(4)(c) of the *Firearms Act* came into force, that individual is deemed to possess a firearm for the purposes of that subsection.

AUTHORIZED LENDING

17. Subparagraph 33(a)(ii) of the *Firearms Act* is adapted such that a person may, without lending the Aboriginal individual the registration certificate for the firearm, lend a firearm to an Aboriginal individual who uses the firearm to engage in traditional hunting practices.

STORAGE AND TRANSPORTATION OF FIREARMS

18. Section 3 of the *Storage, Display, Transportation and Handling of Firearms by Individuals Regulations* is adapted such that an Aboriginal individual who uses a non-restricted firearm for traditional hunting practices in a location that is in a remote wilderness area that is not subject to any visible or otherwise reasonably ascertainable use incompatible with hunting may store the firearm if

- (a) the firearm is unloaded; and
- (b) ammunition is not readily accessible.

19. Subsection 8(2) of the *Storage, Display, Transportation and Handling of Firearms by Individuals Regulations* is adapted such that an Aboriginal individual who uses a non-restricted firearm for traditional hunting practices in a location that is in a remote wilderness area that is not subject to any visible or otherwise reasonably ascertainable use incompatible with hunting may transport the firearm in an unattended vehicle if the firearm

- (a) is unloaded; and
- (b) is not visible.

TRANSFER OF TREATY AMMUNITION

20. Section 21 of the *Firearms Act* is adapted such that "transfer" does not include the provision of ammunition by Her

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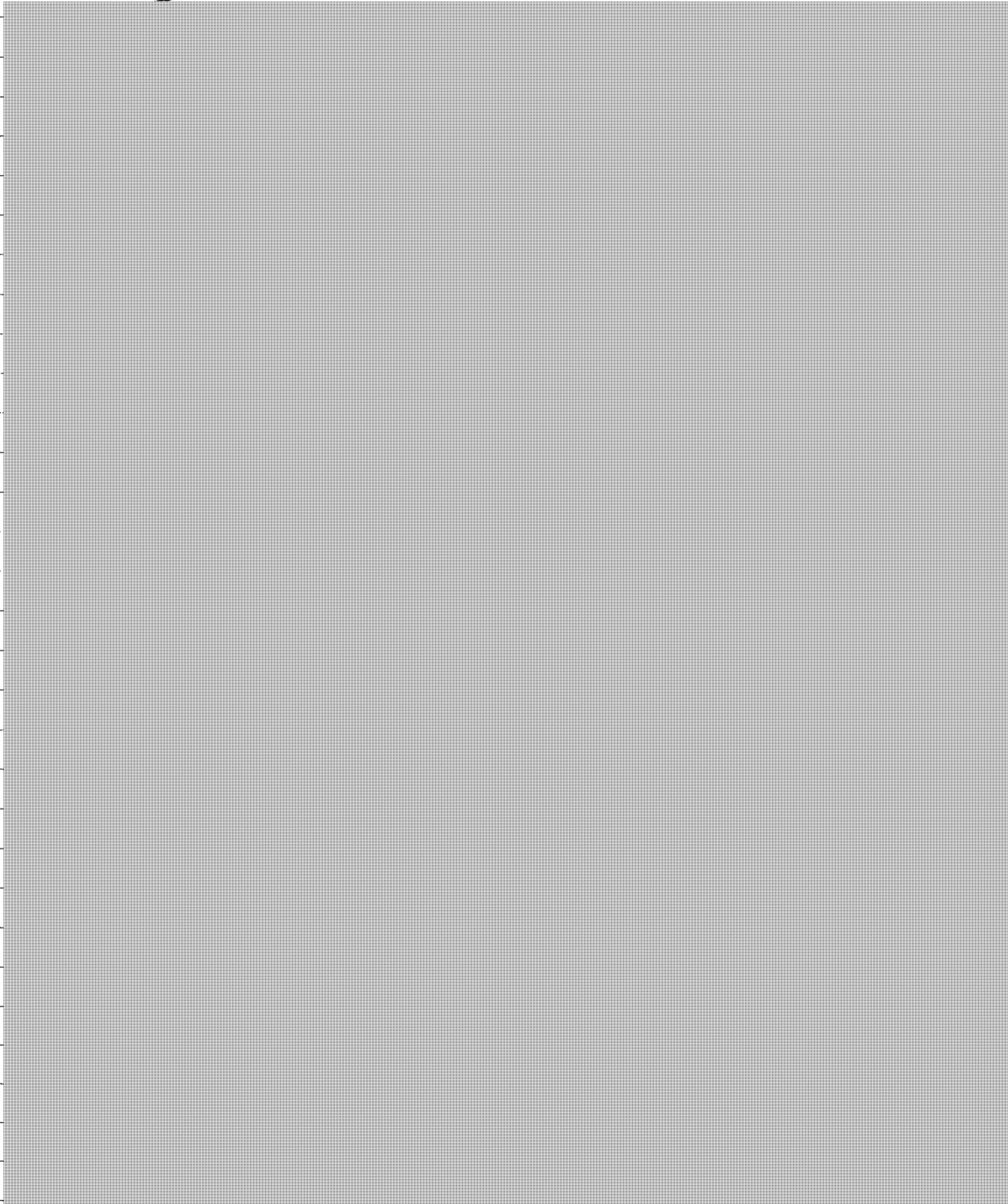
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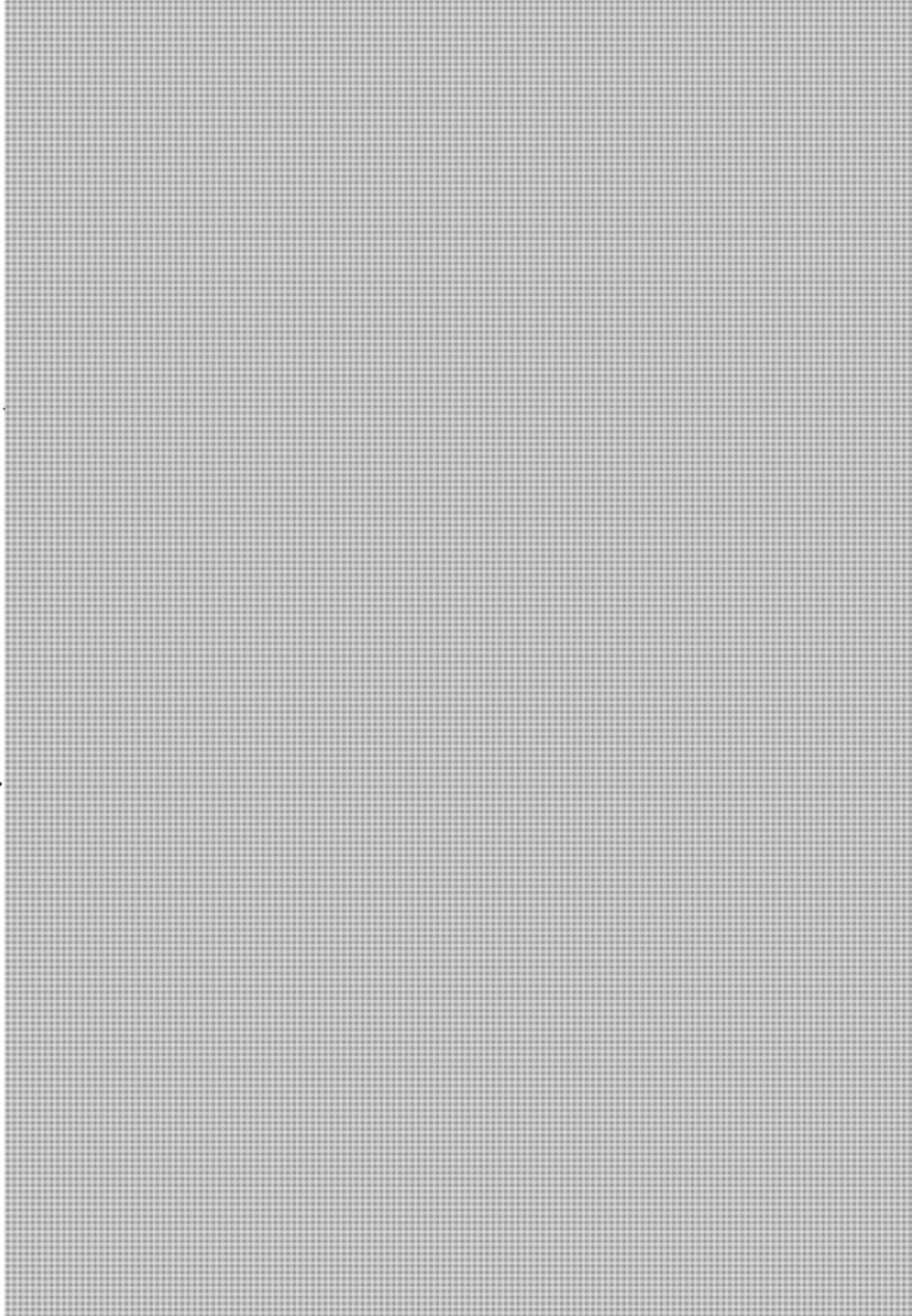
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Oct 29 1996.

TC Bill Battlett.

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