



***2022 Bi-annual Report***  
**On The Tribal-State**  
**Implementation Act**

**Bi-annual Report to the 131<sup>st</sup> Joint Standing Committee  
on Inland Fisheries & Wildlife**

Provided by: Inland Fisheries & Wildlife

Authors/Presenters:

Jim Connolly, IFW Resource Management Director  
& Christl Theriault, IFW Assistant to the Commissioner

February 1, 2023



This report is submitted pursuant to 5 M.R.S. 11055(2), which requires the Department of Inland Fisheries & Wildlife (IFW) to file biennial reports with this Committee describing our implementation of the Tribal-State Implementation Act.

### **Background:**

In 2022, representatives of the Houlton Band of Maliseet Indians, the Passamaquoddy Tribe, the Penobscot Nation, and the Governor's Office negotiated the terms of legislation intended to expand economic opportunities for, and improve the welfare of, the Wabanaki Nations and their citizens, and to make structural changes in certain state agency decision-making to promote government-to-government dialogue with the Wabanaki Nations. That legislation, enacted as Public Law 2022, c. 681, contains three parts. First, it amends Maine's tax laws both to provide financial benefits to Tribal citizens residing on Tribal lands, and to encourage economic development on Tribal lands. Second, it provides each of the four Wabanaki Nations located in Maine the exclusive opportunity to conduct mobile sports wagering operations within the state. Third, it establishes in law a Tribal-State collaboration process designed to promote meaningful communication on issues of particular significance to the Tribes and their citizens.

### **The Tribal-State Collaboration Act:**

The Tribal-State Collaboration Act, 5 M.R.S. 11051 *et seq.*, requires 15 agencies identified in the statute to engage in a Tribal collaboration process regarding contemplated programs, rules, or services that substantially and uniquely affect Maine's four federally recognized Tribes or their citizens. It is intended to be a user-friendly process free from unnecessary bureaucracy that will be implemented within existing resources.

Title 5 M.R.S. 11053(1) requires each agency covered by the statute to adopt a collaboration policy. The Department of Inland Fisheries & Wildlife adopted its collaboration policy, which is appended to this report, on December 6, 2022. The Department's Tribal liaison, as required by 5 M.R.S. 11053(3), is Christl Theriault who can be reached at 207-287-1197. On December 6, 2022, the Governor's Office provided training on how to implement the statute in a manner that promotes effective communication and positive government-to-government relations with the Tribes. The Governor's Office has also requested that the Maine Indian Tribal State Commission (MITSC) help to facilitate training of state agency Tribal liaisons on issues of cultural competency, and MITSC has agreed to do so. We look forward to that training as soon as it can be arranged in 2023.

The Tribal-State Collaboration Act became law on August 8, 2022. The Department of Inland Fisheries & Wildlife has had a longstanding relationship with Maine Tribes on a peer-to-peer level.

Our fisheries biologists already collaborate currently with tribal fisheries staff when our agency is conducting population surveys, habitat improvement projects, or when considering a change to management goals and objectives (including rule or stocking program changes) that may impact tribal lands.

Our wildlife biologists who work near Tribal lands also have a working relationship with the tribal wildlife biologists. They work collaboratively on a number of projects and wildlife issues. For over 15 years, IFW's deer and moose biologists have worked with both Penobscot and Passamaquoddy tribal biologists on deer and moose management. Specifically, IFW has engaged in management and research discussions regarding state permit levels/allocations, survey work and disease surveillance (e.g., Chronic Wasting Disease, lungworm, winter tick). More recently IFW has worked closely with the Penobscot Nation on aerial surveys for moose acting as consultants as well as directly participating in flights. Lee Kantar, Maine's state moose biologist has given presentations at two EPA/Tribal Summits in 2018 and 2022. Tribal Biologists have also participated jointly with New England states, the Provincial Deer Technical Committee, and the Northeast Moose Group. We have the same level of management and involvement with other species including bear, furbearers and threatened and endangered species. Our wildlife biologists have also worked Downeast, in the field with Passamaquoddy biologists snowmobiling an active deer wintering area to assess potential land acquisitions for a new law that directs the agency to seek land for deer wintering area. Additionally, through the coordination between tribal and state wildlife biologists, state land acquisition efforts are being considered in areas of the state that are adjacent to tribal lands, which will ultimately help conserve wildlife resources found on or near tribal lands.

The U.S. Fish & Wildlife Service has a Native American Policy and additional guidance provided under Executive Order 13175 which requires consultation with Tribes before making decisions on matters that affect American Indians. The department receives grant funding from the USFWS through the Wildlife and Sport Fish and Restoration Program. The responsibility for consultation remains with the USFWS and the USFWS works with Tribes and state agencies to expedite review of state projects and approval by requiring States to notify Tribes of grant projects that may affect tribal interests. This provides opportunities for Tribes to comment on these grants early in the process. The USFWS assists in determining when Tribes should be notified of a grant activity. These notifications are completed annually for grants that support the Department's wildlife and fisheries management activities as well as land acquisition and water access site development.

From an enforcement perspective, Maine Warden Service field wardens work with wardens from the tribes' conducting joint investigations on or around tribal lands. The Warden Service Advanced School has tribal wardens who are trained alongside our game wardens which helps establish a collaborative working relationship between Maine Game Wardens and tribal wardens at the field level. The tribal wardens are normally deputized as State of Maine Game Wardens in accordance with Title 12 §10401 which states: *Officials with full powers of game wardens Sheriffs, deputy sheriffs, police officers, constables, marine patrol officers, Baxter Park rangers, wardens of the Penobscot Indian Nation within the Penobscot Indian Territory, as defined by Title 30, section 6205, subsection 2, wardens of the Passamaquoddy Tribe within the Passamaquoddy Indian Territory, as defined by Title 30, section 6205, subsection 1, and law enforcement personnel employed by the United States Department of the Interior have the powers of game wardens.*

While our agency has not yet had occasion to engage in Tribal collaboration under this new statute, we will continue to look for opportunities to do so in the coming biennium.

We have no recommendations for changes to the statute at this time.