

§6207-C. Regulation of natural resources on Houlton Band Jurisdiction Land

1. Adoption of hunting, trapping and fishing ordinances by the Houlton Band of Maliseet Indians. Subject to the limitations of subsection 6, the Houlton Band of Maliseet Indians has exclusive authority within Houlton Band Jurisdiction Land to enact ordinances regulating:

A. Hunting, trapping or other taking of wildlife; and [PL 2023, c. 369, Pt. D, §4 (NEW); PL 2023, c. 369, Pt. D, §8 (AFF).]

B. Taking of fish on any pond in which all the shoreline and all submerged lands are wholly within Houlton Band Jurisdiction Land and that is less than 10 acres in surface area. [PL 2023, c. 369, Pt. D, §4 (NEW); PL 2023, c. 369, Pt. D, §8 (AFF).]

Ordinances under this subsection must be equally applicable, on a nondiscriminatory basis, to all persons regardless of whether a person is a member of the Houlton Band of Maliseet Indians except that, subject to the limitations of subsection 6, ordinances under this subsection may include special provisions for the sustenance of the individual members of the Houlton Band of Maliseet Indians. In addition to the authority provided by this subsection, the Houlton Band of Maliseet Indians, subject to the limitations of subsection 6, may exercise within Houlton Band Trust Land all the rights incident to ownership of land under the laws of the State.

[PL 2023, c. 369, Pt. D, §4 (NEW); PL 2023, c. 369, Pt. D, §8 (AFF).]

2. Registration stations. The Houlton Band of Maliseet Indians shall establish and maintain registration stations for the purpose of registering bear, moose, deer and other wildlife killed within Houlton Band Jurisdiction Land and shall adopt ordinances requiring registration of such wildlife to the extent and in substantially the same manner as such wildlife are required to be registered under the laws of the State. These ordinances requiring registration must be equally applicable to all persons without distinction based on tribal membership. The Houlton Band of Maliseet Indians shall report the deer, moose, bear and other wildlife killed and registered within Houlton Band Jurisdiction Land to the Commissioner of Inland Fisheries and Wildlife at such times as the commissioner considers appropriate. The records of registration of the Houlton Band of Maliseet Indians must be available, at all times, for inspection and examination by the commissioner.

[PL 2023, c. 369, Pt. D, §4 (NEW); PL 2023, c. 369, Pt. D, §8 (AFF).]

3. Adoption of regulations by commission. Subject to the limitations of subsection 6, the commission has exclusive authority to adopt fishing rules or regulations on:

A. Any pond other than those specified in subsection 1, paragraph B, 50% or more of the linear shoreline of which is within Houlton Band Jurisdiction Land; [PL 2023, c. 369, Pt. D, §4 (NEW); PL 2023, c. 369, Pt. D, §8 (AFF).]

B. Any section of a river or stream, both sides of which are within Houlton Band Jurisdiction Land; and [PL 2023, c. 369, Pt. D, §4 (NEW); PL 2023, c. 369, Pt. D, §8 (AFF).]

C. Any section of a river or stream one side of which is within Houlton Band Jurisdiction Land for a continuous length of 1/2 mile or more. [PL 2023, c. 369, Pt. D, §4 (NEW); PL 2023, c. 369, Pt. D, §8 (AFF).]

In adopting such rules or regulations the commission shall consider and balance the need to preserve and protect existing and future sport and commercial fisheries, the historical non-Indian fishing interests, the needs or desires of the band to establish fishery practices for the sustenance of the band or to contribute to the economic independence of the band, the traditional fishing techniques employed by and ceremonial practices of Indians in the State and the ecological interrelationship between the fishery regulated by the commission and other fisheries throughout the State. Such regulation may include, without limitation, provisions on the method, manner, bag and size limits and season for fishing.

Said rules or regulations must be equally applicable on a nondiscriminatory basis to all persons regardless of whether such person is a member of the Houlton Band of Maliseet Indians. Rules and regulations adopted by the commission may include the imposition of fees and permits or license requirements on users of such waters other than members of the Houlton Band of Maliseet Indians. In adopting rules or regulations pursuant to this subsection, the commission shall comply with the Maine Administrative Procedure Act.

In order to provide an orderly transition of regulatory authority, all fishing laws and rules and regulations of the State remain applicable to all waters specified in this subsection until the commission certifies to the Commissioner of Inland Fisheries and Wildlife that the commission has met and voted to adopt its own rules and regulations in substitution for such laws and rules of the State.

[PL 2023, c. 369, Pt. D, §4 (NEW); PL 2023, c. 369, Pt. D, §8 (AFF).]

4. Sustenance fishing within Houlton Band Jurisdiction Land. Subject to the limitations of subsection 6 and notwithstanding any other provision of state law to the contrary, the members of the Houlton Band of Maliseet Indians may take fish for their individual sustenance within the boundaries of Houlton Band Jurisdiction Land to the same extent as authorized under section 6207, subsection 4.

[PL 2023, c. 369, Pt. D, §4 (NEW); PL 2023, c. 369, Pt. D, §8 (AFF).]

5. Posting. Lands or waters subject to regulation by the commission or the Houlton Band of Maliseet Indians must be conspicuously posted in such a manner as to provide reasonable notice to the public of the limitations on hunting, trapping, fishing or other use of the lands or waters.

[PL 2023, c. 369, Pt. D, §4 (NEW); PL 2023, c. 369, Pt. D, §8 (AFF).]

6. Supervision by Commissioner of Inland Fisheries and Wildlife. The Commissioner of Inland Fisheries and Wildlife, or the commissioner's successor, is entitled to conduct fish and wildlife surveys within Houlton Band Jurisdiction Land and on waters subject to the jurisdiction of the commission to the same extent as the commissioner is authorized to conduct surveys in other areas of the State. Before conducting any such survey, the commissioner shall provide reasonable advance notice to the Houlton Band of Maliseet Indians and afford it a reasonable opportunity to participate in such survey. If the commissioner, at any time, has reasonable grounds to believe that a tribal ordinance or commission rule adopted under this section, or the absence of such a tribal ordinance or commission rule, is adversely affecting or is likely to adversely affect the stock of any fish or wildlife on lands or waters outside the boundaries of land or waters subject to regulation by the commission or the Houlton Band of Maliseet Indians, the commissioner shall inform the governing body of the band or the commission, as is appropriate, of the commissioner's opinion and attempt to develop appropriate remedial standards in consultation with the band or the commission. If such efforts fail, the commissioner may call a public hearing to investigate the matter further. Any such hearing must be conducted in a manner consistent with the laws of the State applicable to adjudicative hearings. If, after hearing, the commissioner determines that any such ordinance or rule, or the absence of an ordinance or rule, is causing, or there is a reasonable likelihood that it will cause, a significant depletion of fish or wildlife stocks on lands or waters outside the boundaries of lands or waters subject to regulation by the Houlton Band of Maliseet Indians or the commission, the commissioner may adopt appropriate remedial measures including rescission of any such ordinance or rule and, in lieu thereof, order the enforcement of the generally applicable laws or rules of the State. In adopting any remedial measures the commissioner shall use the least restrictive means possible to prevent a substantial diminution of the stocks in question and shall take into consideration the effect that non-Indian practices on non-Indian lands or waters are having on those stocks. The remedial measures adopted by the commissioner may not be more restrictive than those that the commissioner could impose if the area in question was not within Houlton Band Jurisdiction Land or waters subject to commission regulation.

In any administrative proceeding under this section the commissioner has the burden of proof. The decision of the commissioner may be appealed in the manner provided by the laws of the State for judicial review of administrative action and may be sustained only if supported by substantial evidence.

[PL 2023, c. 369, Pt. D, §4 (NEW); PL 2023, c. 369, Pt. D, §8 (AFF).]

7. Transportation of game. Fish lawfully taken within Houlton Band Jurisdiction Land or in waters subject to commission regulation and wildlife lawfully taken within Houlton Band Jurisdiction Land and registered pursuant to ordinances adopted by the Houlton Band of Maliseet Indians, may be transported within the State.

[PL 2023, c. 369, Pt. D, §4 (NEW); PL 2023, c. 369, Pt. D, §8 (AFF).]

8. Fish and wildlife on non-Indian lands. The commission shall undertake appropriate studies, consult with the Houlton Band of Maliseet Indians and landowners and state officials, and make recommendations to the commissioner and the Legislature with respect to implementation of fish and wildlife management policies on non-Indian lands in order to protect fish and wildlife stocks on lands and water subject to regulation by the Houlton Band of Maliseet Indians or the commission.

[PL 2023, c. 369, Pt. D, §4 (NEW); PL 2023, c. 369, Pt. D, §8 (AFF).]

9. Fish. As used in this section, the term "fish" means a cold-blooded, completely aquatic vertebrate animal having permanent fins, gills and an elongated streamlined body usually covered with scales and includes inland fish and anadromous and catadromous fish when in inland water.

[PL 2023, c. 369, Pt. D, §4 (NEW); PL 2023, c. 369, Pt. D, §8 (AFF).]

10. Regulation of drinking water. Unless the Houlton Band of Maliseet Indians, in its discretion, enters into an intergovernmental agreement authorizing the State to exercise concurrent jurisdiction over specific drinking water-related issues within Houlton Band Jurisdiction Land:

A. The Houlton Band of Maliseet Indians has exclusive authority to enact ordinances regulating drinking water within Houlton Band Jurisdiction Land; [PL 2023, c. 369, Pt. D, §4 (NEW); PL 2023, c. 369, Pt. D, §8 (AFF).]

B. The State may not exercise primary enforcement authority from the United States Environmental Protection Agency to implement the federal Safe Drinking Water Act and its implementing regulations, as amended, within Houlton Band Jurisdiction Land; and [PL 2023, c. 369, Pt. D, §4 (NEW); PL 2023, c. 369, Pt. D, §8 (AFF).]

C. The Houlton Band of Maliseet Indians may seek to be treated as a state and to obtain primary enforcement authority from the United States Environmental Protection Agency to implement the federal Safe Drinking Water Act and its implementing regulations, as amended, within Houlton Band Jurisdiction Land. [PL 2023, c. 369, Pt. D, §4 (NEW); PL 2023, c. 369, Pt. D, §8 (AFF).]

Notwithstanding any other provision of this subsection, the Houlton Band of Maliseet Indians' jurisdiction does not extend beyond Houlton Band Jurisdiction Land.

[PL 2023, c. 369, Pt. D, §4 (NEW); PL 2023, c. 369, Pt. D, §8 (AFF).]

SECTION HISTORY

PL 2023, c. 369, Pt. D, §4 (NEW). PL 2023, c. 369, Pt. D, §8 (AFF).

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