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**Report to the Joint Standing Committee on the Environment and
Natural Resources
132nd Legislature; First Regular Session**

Report: Implementation of the Tribal- State Collaboration Act Pursuant to P.L. 2021 Chapter 681

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Contact: Bill Sheehan, DEP Tribal Liaison
Phone: (207) 760-3136



MAINE DEPARTMENT OF ENVIRONMENTAL PROTECTION
17 State House Station | Augusta, Maine 04333-0017
www.maine.gov/dep

Purpose:

This report is submitted pursuant to 5 M.R.S. §11055(2), which requires the Department of Environmental Protection to file biennial reports with the Joint Standing Committee on Environment and Natural Resources describing our implementation of the Tribal-State Collaboration 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 2021, 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.

Tribal-State Collaboration Act Implementation

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 Environmental Protection adopted its collaboration policy, which is appended to this report, on December 22, 2022. No changes have been made to the policy since its adoption. The Department's Tribal liaison, as required by 5 M.R.S. §11053(3), is Bill Sheehan, who can be reached at bill.j.sheehan@maine.gov and 207-760-3136.

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. To facilitate implementation of the policy, the Department's Tribal liaison provided training to the Office of Commissioner and Bureau leadership on December 7, 2022. 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. That training has yet to be arranged and offered to the agency liaisons. Staff have attended other sessions detailing Wabanaki culture and governance as they have become available.

Since passage of the Tribal-State Collaboration Act, no programs, rules, or services that would substantially and uniquely affect one or more of the Tribes have been proposed, in order to initiate the formal collaboration process. As a result, the Department of Environmental Protection has not yet had occasion to engage in the formal tribal collaboration process under the statute.

The Department has continued to work with representatives of the Tribes regularly in the course of implementing existing programs. This includes partnering on habitat restoration projects, providing support for ambient air monitoring, joint exercises for emergency oil and chemical spill response on tribal waters, surface water toxics monitoring on designated sustenance fishing waters, and environmental permitting activities both on and off tribal lands.

The Department sought to meet with the Penobscot Nation to hear tribal members' concerns regarding the Public Benefit Determination application for the proposed expansion of the Juniper Ridge Landfill in Old Town. Though the Tribe chose not to meet with the Department directly, tribal members and representatives offered testimony at public meetings and submitted written comments regarding the application.

The Department welcomes opportunities to work with Maine's Tribes on projects of shared interest, to protect Maine's water and air quality and to adapt to our changing climate. The Department will continue to look for opportunities to do so in the coming biennium.

The Department has no recommendations for changes to the statute at this time.