

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from electronic originals
(may include minor formatting differences from printed original)

This report is submitted pursuant to 5 M.R.S. 11055(2), which requires the Department of Marine Resources (DMR) 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 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.

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 Marine Resources (DMR) adopted its collaboration policy, which is appended to this report, on December 21, 2022. The Department's Tribal liaison, as required by 5 M.R.S. 11053(3), is Deirdre Gilbert, Director of State Marine Policy, who can be reached at Deirdre.Gilbert@maine.gov or (207) 592-9311. 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. At this time, two trainings specifically for DMR employees centered around Wabanaki-Maine shared history have been scheduled to occur in February and March 2025. They are both offered and designed by Wabanaki REACH and are being offered to Maine state employees by the Permanent Commission on the Status of Racial, Indigenous, and Tribal Populations.

The Bureau of Sea Run Fisheries and Habitat has numerous opportunities to work directly with the Tribes on projects to restore sea-run fisheries of mutual interest and importance, which DMR notes below.

DMR worked with the Passamaquoddy Tribe in furthering the goals of the Skutik River Statement of Cooperation, a historic agreement signed by the State of Maine, Passamaquoddy Tribe, and federal and international partners on May 26, 2022 to restore the St. Croix/Skutik

River. Actions taken by DMR and the Tribe and other partners affirmed the commitment of DMR to the restoration of the St. Croix/Skutik River and its ecosystem, committing to assist the Passamaquoddy Tribe. Since Jan. 2023 DMR has coordinated the Woodland Fish Lift project, the Grand Falls fish ladder replacement project, and supported the Tribe in pursuing the removal of Milltown Dam., which was completed in 2024. DMR has supported and encouraged the role of the Tribe as equal negotiator at all Woodland and Grand Falls meetings and as an equal partner in all restoration endeavors. DMR has supported the Passamaquoddy Tribe in seeking federal funding for projects the Tribe has deemed important, including providing assistance with four grant proposals to NOAA for funding that will pay for aspects of the Woodland and Grand Falls projects. Successful proposals have accumulated funds that allowed the Tribe to hire project managers for research and coordination aspects of the Woodland and Grand Falls projects and secure supplies and equipment to help measure the efficacy of the fish passage projects. A highlight of these projects is the \$12M award the Passamaquoddy Tribe received from NOAA Fisheries, with the Tribe and the State of Maine managing the construction of new fishways at Woodland dam starting in the summer of 2025. This project and collaboration was highlighted by The White House CEQ [Historic Conservation Progress: Transformational Fish Passage Projects to Rejuvenate Ecosystems, Bolster Climate Resilience, and Support Cleaner Water for Communities Across the Nation | CEQ | The White House](#) and NOAA Fisheries [Collaboration on St. Croix Fish Passage Projects May Create Largest Alewife Run in North America | NOAA Fisheries.](#)

DMR has also worked with the Passamaquoddy Tribe to improve passage into Meddybemps Lake. Meddybemps means “place of many alewives” in the language of the Passamaquoddy Tribe. This work has resulted in the removal of a derelict powerhouse structure. DMR and the Passamaquoddy Tribe are currently seeking funding to remove the last impediment which is located at the site of a historic, archeologically rich fishing village. DMR supports the Tribe in seeking funding and has supported the transfer of State lands in the area to the Tribe. Efforts to date have resulted in alewife runs of over 1 million fish annually.

DMR has also provided assistance to the Passamaquoddy Tribe and Penobscot Nation in applying for federal grants through the Federal Highways Aquatic Organism Passage Program. In 2023, DMR worked with the Passamaquoddy Tribe to identify four road-stream crossings in Downeast Maine that were high priority restoration projects for the Tribe, including one project that is adjacent to the Tribe’s main water supply. DMR continued to assist the Tribe in crafting the application to the Federal Highways grant program, which was ultimately successful, and the Tribe was awarded \$7,741,450 to complete the projects. By design, the funding request included a new position, travel, equipment, and technical support for the Tribe. Following the successful application in 2023, DMR undertook a similar process with the Penobscot Nation, jointly identifying six high priority projects. DMR assisted with writing the application, which was submitted in September 2024. An award has not been announced for this funding round, but the federal request was for \$13,149,962, which includes support for a new FTE, and partial support for two existing employees at the Tribe. The proposal also includes funds for travel, including the purchase of a vehicle by the Tribe. DMR anticipates providing technical support to the Tribe as funded projects continue to progress and is actively seeking opportunities to work with the Tribes in Maine on upcoming rounds of the Federal Highways Program.

DMR and Passamaquoddy Tribe continue to work together on biological and technical data collection programs on two important river herring watersheds Downeast. In 2023, DMR, Maine Sea Grant and Passamaquoddy Tribe funded, installed and monitored an electronic video data collection station on the Pennamaquan River in Pembroke, Maine. Video data were uploaded and analyzed using crowd source data analysis to obtain river herring run counts on the Pennamaquan River to develop a sustainable fisheries management plan which would be accepted by the Atlantic States Marine Fisheries Commission (ASMFC) and allow the commercial fishery to reopen. This initiative was successful and ASMFC will allow a commercial fishery for river herring on the Pennamaquan River in 2025, reopening the fisheries for the first time since 2012.

The Passamaquoddy Tribe continues to assist DMR and Maine Sea Grant with river herring counts on the Little River in Perry, Maine. These counts provide data that is used to manage the river harvest and monitor water flows in the fishway which lead to spawning habitat above the harvest location. The Passamaquoddy Tribe is currently leading efforts to monitor the stream to Boyden Lake to ensure safe upstream passage after the fish ascend the fishway on Little River. DMR met with the Tribal representatives to review monitoring efforts, fishway function, and population status during 2023 and 2024.

DMR participates in a management strategy with the Penobscot Indian Nation and federal partners in managing endangered Atlantic Salmon. This strategy involves a number of working groups that further recovery of Atlantic salmon and involves partnership between the State and the Tribe on a number of specific projects and a forum for discussion and dispute resolution. More information on this effort can be found at [Collaborative Management Strategy for the Gulf of Maine Atlantic Salmon Recovery Program | NOAA Fisheries](#)

DMR, USDA Natural Resources Conservation Service, and Maine IF&W, have spearheaded the Bay of Fundy Aquatic Connectivity Project of which the Passamaquoddy Tribe is the primary partner. This effort has worked to identify and prioritize barriers to aquatic organism passage within the waters that flow into the Bay of Fundy/Gulf of Maine area. This project will now look to draft an Environmental Document to unlock millions of dollars to fix the identified passage issues. As an added benefit to this large effort there has been coordinated (between the Tribe, State and Federal agencies) fish monitoring efforts for multiple species and combined work forces to maintain and clean the current fishways in the Downeast area.

DMR worked with the Penobscot Nation to release Native Atlantic salmon into Sam Ayers Stream and Mattamiscontis Stream in 2023, located within Tribal Trust lands, and into the culturally important East Branch Penobscot River in 2022 and 2023 as part of the Salmon for Maine's Rivers program. Over multiple days in 2022 and 2023, staff from the Penobscot Nation Department of Natural Resources (DNR) and Penobscot Nation citizens travelled to the University of Maine Center for Cooperative Aquaculture Research to help DMR in loading salmon into trucks for transport. Penobscot Nation DNR staff and Penobscot Nation citizens joined DMR staff streamside to release salmon into the rivers. DMR worked closely with Penobscot Nation DNR biologists to select the release sites and Chuck Loring, Director of the Penobscot Nation DNR organized a ceremonial welcome for the salmon. Tribal elders Butch Phillips, Ronnie Bear, and Vice Chief Mark Sockbeson were present to welcome the fish home

with a smudging ceremony along with traditional song and drums. DMR worked with Sunlight Media Collective before, during, and after the salmon releases on their documentary production about salmon recovery efforts on Tribal Trust Land. With the release of salmon onto Penobscot Nation Tribal Trust Lands, this project and endangered GOM DPS salmon reached a national audience via the [Washington Post](#) and [Sierra Magazine](#). DMR has continued to work with the Penobscot Nation DNR to assess the salmon releases, conducting redd counts in Sam Ayers Stream and Mattamiscontis Stream in 2023 and 2024, and training new DNR fisheries biologists and technicians on redd count protocols in 2024.

Finally, since 2020, DMR has worked with Water Resources Scientists from the Penobscot Nation Department of Natural Resources on a project to assess stream ecosystem responses (i.e., primary and secondary productivity) to salmon spawning in the East Branch Penobscot River. This effort has employed using a modified BACI (Before After Control Impact) study design and is also being conducted with the Maine Department of Environmental Protection (DEP) and University of Southern Maine (USM). Sampling was conducted at three sites in the East Branch Penobscot River before (2020, 2021, 2022) and after (2022, 2023, 2024) salmon were released as part of Salmon for Maine's Rivers program in 2022 and 2023. This project has moved into the data analysis phase. The results will add to our understanding of the role of Atlantic Salmon in riverine food webs and productivity.

In addition to the work of the Bureau of Sea Run Fisheries and Habitat, the elver season that occurs annually from March 22 to June 7 requires close communication with all Tribes during the licensing process. For the Passamaquoddy Tribe, the Department works to communicate the information regarding daily landings because of their decision to fish under an overall quota rather than assign specific quotas to individual license holders. This communication is critical for the Tribe to make a decision on when to close the fishery to minimize any overage in their elver quota.

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