

§7206. Regulation of natural resources

1. Adoption of hunting, trapping and fishing ordinances by Mi'kmaq Nation. Subject to the limitations of subsection 5, the Mi'kmaq Nation has exclusive authority within Mi'kmaq Nation Jurisdiction Land to enact ordinances regulating:

- A. Hunting, trapping or other taking of wildlife; and [PL 1989, c. 148, §§3, 4 (NEW); PL 2023, c. 369, Pt. A, §§2, 5 (AFF).]
- B. Taking of fish on any pond in which all the shoreline and all submerged lands are wholly within Mi'kmaq Nation Jurisdiction Land and that is less than 10 acres in surface area. [PL 1989, c. 148, §§3, 4 (NEW); PL 2023, c. 369, Pt. A, §§2, 5 (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 Mi'kmaq Nation except that, subject to the limitations of subsection 5, ordinances under this subsection may include special provisions for the sustenance of the individual members of the Mi'kmaq Nation. In addition to the authority provided by this subsection, the Mi'kmaq Nation, subject to the limitations of subsection 5, may exercise within Mi'kmaq Nation Trust Land all the rights incident to ownership of land under the laws of the State. [PL 1989, c. 148, §§3, 4 (NEW); PL 2023, c. 369, Pt. A, §§2, 5 (AFF).]

2. Registration stations. The Mi'kmaq Nation shall establish and maintain registration stations for the purpose of registering bear, moose, deer and other wildlife killed within Mi'kmaq Nation 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 Mi'kmaq Nation shall report the deer, moose, bear and other wildlife killed and registered within Mi'kmaq Nation Jurisdiction Land to the Commissioner of Inland Fisheries and Wildlife at such times as the commissioner considers appropriate. The records of registration of the Mi'kmaq Nation must be available, at all times, for inspection and examination by the commissioner.

[PL 1989, c. 148, §§3, 4 (NEW); PL 2023, c. 369, Pt. A, §§2, 5 (AFF).]

3. Sustenance fishing within Mi'kmaq Nation Jurisdiction Land. Subject to the limitations of subsection 5 and notwithstanding any other provision of state law to the contrary, the members of the Mi'kmaq Nation may take fish for their individual sustenance within the boundaries of Mi'kmaq Nation Jurisdiction Land to the same extent as authorized under section 6207, subsection 4.

[PL 1989, c. 148, §§3, 4 (NEW); PL 2023, c. 369, Pt. A, §§2, 5 (AFF).]

4. Posting. Lands or waters subject to regulation by the Mi'kmaq Nation 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 those lands or waters.

[PL 1989, c. 148, §§3, 4 (NEW); PL 2023, c. 369, Pt. A, §§2, 5 (AFF).]

5. 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 Mi'kmaq Nation Jurisdiction Land to the same extent as the commissioner is authorized to conduct such surveys in other areas of the State. Before conducting any such survey, the commissioner shall provide reasonable advance notice to the Mi'kmaq Nation and afford the nation a reasonable opportunity to participate in that survey. If the commissioner, at any time, has reasonable grounds to believe that a tribal ordinance adopted under this section, or the absence of such a tribal ordinance, is adversely affecting or is likely to adversely affect the stock of any fish or wildlife on lands or waters outside the boundaries of lands or waters subject to regulation by the Mi'kmaq Nation, the commissioner shall inform the governing body of the nation of the commissioner's opinion and attempt to develop appropriate remedial standards in consultation with the nation. 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 a hearing, the commissioner determines that any such tribal ordinance or the absence of a tribal ordinance 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 Mi'kmaq Nation, the commissioner may adopt appropriate remedial measures including rescission of any such tribal ordinance 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 Mi'kmaq Nation Jurisdiction Land.

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 1989, c. 148, §§3, 4 (NEW); PL 2023, c. 369, Pt. A, §§2, 5 (AFF).]

6. Transportation of game. Fish lawfully taken within Mi'kmaq Nation Jurisdiction Land and wildlife lawfully taken within Mi'kmaq Nation Jurisdiction Land and registered pursuant to ordinances adopted by the Mi'kmaq Nation may be transported within the State. [PL 1989, c. 148, §§3, 4 (NEW); PL 2023, c. 369, Pt. A, §§2, 5 (AFF).]

7. Fish. As used in this section, "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 1989, c. 148, §§3, 4 (NEW); PL 2023, c. 369, Pt. A, §§2, 5 (AFF).]

8. Regulation of drinking water. Unless the Mi'kmaq Nation, in its discretion, enters into an intergovernmental agreement authorizing the State to exercise concurrent jurisdiction over specific drinking water-related issues within Mi'kmaq Nation Jurisdiction Land:

A. The Mi'kmaq Nation has exclusive authority to enact ordinances regulating drinking water within Mi'kmaq Nation Jurisdiction Land; [PL 1989, c. 148, §§3, 4 (NEW); PL 2023, c. 369, Pt. A, §§2, 5 (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 Mi'kmaq Nation Jurisdiction Land; and [PL 1989, c. 148, §§3, 4 (NEW); PL 2023, c. 369, Pt. A, §§2, 5 (AFF).]

C. The Mi'kmaq Nation 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 Mi'kmaq Nation Jurisdiction Land. [PL 1989, c. 148, §§3, 4 (NEW); PL 2023, c. 369, Pt. A, §§2, 5 (AFF).]

Notwithstanding any other provision of this subsection, the Mi'kmaq Nation's jurisdiction does not extend beyond Mi'kmaq Nation Jurisdiction Land.

[PL 1989, c. 148, §§3, 4 (NEW); PL 2023, c. 369, Pt. A, §§2, 5 (AFF).]

SECTION HISTORY

PL 1989, c. 148, §§3, 4 (NEW). PL 2023, c. 369, Pt. A, §§2, 5 (AFF).

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