

Maine Indian Tribal-State Commission (94-409)

Chapter 201: Fishing on Waters under Jurisdiction of Maine Indian Tribal-State Commission

RULES

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Summary Statement

This chapter regulates fishing on waters within Passamaquoddy and Penobscot Territory that are under the exclusive jurisdiction of the Maine Indian Tribal-State Commission, as specified in the Maine Indian Claims Settlement of 1980 (30 MRSA §6207(3)).

Section 1: Overview

A. Purpose

This chapter regulates fishing on certain inland waters within Passamaquoddy and Penobscot Territory pursuant to the Maine Indian Claims Settlement Act of 1980.

B. Authority

1. Exclusive Authority to Promulgate Rules. Pursuant to 30 MRSA §6207(3), the Maine Indian Tribal-State Commission has exclusive authority to promulgate fishing rules on any:
 - a. Ponds. Any pond with 50% or more of shoreline within Passamaquoddy or Penobscot Territory, except those specified in section 1(B)(2).
 - b. Rivers, Brooks, or Streams. Section of a river, brook, or stream:
 - i. Both sides of which are within Passamaquoddy or Penobscot Territory; or
 - ii. One side of which is within Passamaquoddy or Penobscot Territory for a continuous length of 1/2 mile or more.
2. Authority to Enforce Rules. Pursuant to 30 MRSA §6207(1) and §6210:
 - a. Exclusive Tribal Authority. The Passamaquoddy Tribe and the Penobscot Nation have exclusive authority within their respective Territories to enact and enforce ordinances regarding the taking of fish on any pond of 10 acres or less located wholly within Indian Territory.

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- b. Shared Authority. Passamaquoddy and Penobscot law enforcement officers have the authority within their respective Territories and state and county law enforcement officers have the authority within both Indian Territories to enforce this chapter.

Section 2: General Provisions

A. Applicability

Unless otherwise provided in Sections 3 and 4, these general provisions in section 2 apply to fishing on MITSC waters.

B. Definitions

Unless the context indicates otherwise, the following terms have the following meanings as used in this chapter.

1. Artificial Lure. The term “artificial lure” means any fishing lure constructed by humans as an imitation or substitute for natural bait or fish forage. It includes but is not limited to artificial flies; spinners; spoons; poppers; plugs; jigs; and plastic, rubber, or other artificial imitations of natural bait. An “artificial lures only” rule prohibits the use of any live, dead or chemically preserved natural or organic bait or food.
2. Brook Trout. The term “brook trout” includes both brook trout and splake.
3. To Fish. The term “to fish” means to take, catch, kill, molest, or destroy, or attempt to take, catch, kill, molest, or destroy any fish.
4. Fly. The term “fly” means a single pointed hook dressed with feathers, hair, thread, tinsel, or any similar material to which no additional weight, hook, spinner, spoon, or similar device is added.
5. Fly Fishing. The term “fly fishing” means casting upon water and retrieving in the usual and ordinary manner not more than 3 unbaited artificial flies individually attached to a line to which no extra weight has been added. It is unlawful to troll a fly in waters restricted to fly fishing only.
6. Hook. The term “hook” means a single fishhook constructed with 1, 2, or 3 points.
7. MITSC. The term “MITSC” means Maine Indian Tribal-State Commission.
8. MITSC Waters. The term “MITSC waters” means all waters within Passamaquoddy and/or Penobscot Territory that are above the rise and fall of the tide and are subject to regulation by the Maine Indian Tribal-State Commission pursuant to 30 MRSA §6207(3).
9. Open Season. The term “open season” means the time during which it is lawful to fish for or possess any fish, as specified and limited by rule.
10. Salmon. The term “salmon”, when used alone, means landlocked salmon.

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11. Set Line. The term “set line” means a line extending into the water and rigged to catch fish that has one end secured to the shore or to a fixed or buoyant object and that is not personally attended.
12. Single-Baited Hook. The term “single-baited hook” means up to 3 hooks attached together or in tandem to the end of a line and baited as a single apparatus designed to catch only one fish at a time.
13. Snagging. The term “snagging” means to fish by manipulating a hook or hooks in such a manner as to pierce or snag the fish in a part of the body other than the mouth.
14. Togue. The term “togue” means lake trout.
15. Tributary. The term “tributary” means a brook, stream, or river flowing directly or indirectly into a lake, pond, or another brook, stream, or river. A lake or a great pond shall not be construed to mean a tributary. The tributary to a great pond shall not be considered a tributary to the outlet of that great pond.
16. Troll. The term “troll” means to fish by trailing a line rigged to catch fish through or over the water behind a watercraft being propelled by mechanical, wind, or manual power.
17. Trout. When used alone, the term “trout” includes only brook trout, brown trout, rainbow trout, sunapee trout, blueback trout, and splake.
18. Water Thoroughfare. The term “water thoroughfare” means a waterway, without flowage, connecting two bodies of water.

C. General Provisions Applying to Both Open Water and Ice Fishing

1. Bag Limits. In addition to bag limits spelled out elsewhere in this chapter, the following provisions apply:
 - a. Whenever any waters have a special bag limit, no person shall possess more than one day’s bag limit taken from those waters.
 - b. In waters where the bag limit on black bass has been removed by special rule, the season on black bass and the method of fishing for them shall be the same as for trout and salmon.
2. Bait. The following provisions apply to bait:
 - a. Advance Baiting. It is unlawful to deposit any meat, bones, dead fish, or other food material for the purpose of luring fish.
 - b. Eggs as Bait. The eggs of Atlantic sea run salmon, landlocked salmon, and other species that occur naturally in Maine may not be used as bait in fishing. However, commercially prepared eggs from species that do not occur naturally in Maine may be used for bait.

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- c. Live Fish as Bait. It is unlawful to use or possess as bait, dead or alive, any species of fish other than the following: smelt, lake chub, eastern silvery minnow, golden shiner, emerald shiner, bridle shiner, common shiner, blacknose shiner, spottail shiner, northern redbelly dace, finescale dace, fathead minnow, blacknose dace, longnose dace, creek chub, fallfish, pearl dace, banded killifish, mummichog, longnose sucker, white sucker, creek chubsucker, American eel, and blackchin shiner.
 - d. Taking and Sale of Bait. State laws and rules regulating the taking and sale of bait apply to MITSC waters.
- 3. Closed Season. It is unlawful to fish for any fish during the closed season on that species or to possess any fish taken during the closed season on that species.
 - 4. Closed Waters. It is unlawful to fish at any time in waters which are closed to fishing.
 - 5. Explosive, Poisonous, or Stupefying Substance. It is unlawful to take or destroy any fish by use of an explosive, poisonous, or stupefying substance.
 - 6. Failure to Label Fish. It is unlawful to keep black bass, salmon, togue, or trout at any sporting camp, hotel, or public lodging place without attaching to the fish the name and address of the person who caught the fish.
 - 7. Fish Hatcheries. Except as otherwise provided by special rule, all waters within 200 feet of any fish hatchery or rearing station are closed to fishing at all times.
 - 8. Fishway Dams. The area within 150 feet of any dam in which a fishway is located is closed to fishing. This does not restrict the taking of alewives and smelts in accordance with laws regulating marine resources.
 - 9. Illegal Fishing. Except as otherwise specifically provided, it is unlawful to fish other than by the use of the single baited hook and line, artificial flies, artificial lures, and spinners, except that smelts may be taken in accordance with rules promulgated with regard to the taking of smelts. Tandem flies are permitted when trolling on open waters.
 - 10. Illegal Implements. Except as otherwise specifically provided it is unlawful to fish with fish spawn, grapnel, spear, spear gun, trawl, weir, gaff, seine, gill net, trap or set lines or electronic, sonic or battery powered devices (electronic fish finders are legal).
 - 11. Legal Length. The term "legal length" is the total length of a fish measured from the tip of the snout to the tip of the tail with the lobes of the tail squeezed together.
 - 12. Marking Fish. Except for staff of the Passamaquoddy Tribe, Penobscot Nation, and Maine Department of Inland Fisheries and Wildlife who are conducting biological studies, it is unlawful for any person to tag, fin clip, or otherwise mark any fish to be released alive into MITSC waters without the expressed written consent of MITSC.
 - 13. Number, Amount, Weight, or Size Limits. It is unlawful to fish for or possess fish in violation of the number, amount, weight, or size limits of any rule adopted by MITSC relating to fishing on inland waters.
 - 14. Possession Limit. At any time, a person may not possess more fish than one daily bag limit.

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15. Release or Kill. Any legal fish, except baitfish and smelts, taken from inland waters must be released alive immediately into the water from which it was taken or must be killed at once. Any fish that is killed becomes part of the daily bag limit.
16. Sale of Certain Fish Prohibited. It is unlawful to buy or sell, directly or indirectly, any landlocked salmon, trout, togue, black bass, white perch, or pickerel.
17. Smelts. Smelts may be taken at any time by use of a dip net, in the usual and ordinary way, from inland waters or portions of inland waters which are naturally free of ice, and where the taking of smelts is not prohibited by rule.
18. Snagging. Except as otherwise provided in section 2(D)(7)(d), it is unlawful to fish for any fish by snagging.
19. Species Identification. Unless fish are being prepared for immediate cooking, it is unlawful to possess or transport fish dressed in such a manner that the species of the fish cannot be identified or to alter the length of salmon, trout, togue, and black bass. Smoking does not constitute cooking.
20. Thoroughfares and Bogs. The general fishing provisions in section 2 which govern lakes and ponds also apply to thoroughfares and bogs.

D. General Provisions Applying to Open Water Fishing

1. Season. The open water fishing season is from April 1 through September 30. All dates are inclusive. However, it is unlawful to fish into inland waters while positioned on ice. Waters must be naturally free of ice.
2. Method on Rivers, Brooks, and Streams. From August 16 through September 30, all rivers, brooks, and streams are restricted to the use of artificial lures only.
2. Two Line Restriction. It is unlawful to fish with more than 2 lines at any one time during the open water season.
3. Night Fishing. Except as otherwise provided by special rule, all waters are open to fishing at night during the open water season.
4. Alewives. A licensed fisherman may take one bushel of alewives daily from MITSC waters by use of a dip net or single hook and line for consumption by himself or members of his family, except that alewives may not be taken from waters where a municipality or individual has been granted exclusive rights under laws regulating marine resources.
5. Salmon, Trout, and Togue. The following provisions apply to salmon, trout, and togue.
 - a. Bag Limit. The daily bag limit is 5 fish in the aggregate. This may include not more than 2 salmon, 2 rainbow trout, 2 togue, 2 brown trout, and 5 brook trout, except from August 16 through September 30 on rivers, brooks, and streams, the daily bag limit may include in the aggregate not more than 1 salmon, trout, or togue.
 - b. Length. On lakes and ponds, the minimum legal lengths are 14 inches for salmon, 18 inches for togue, 12 inches for brown trout, 12 inches for rainbow trout, and 6 inches for brook trout. On rivers, brooks, and streams, the minimum legal lengths are 14

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inches for salmon, 18 inches for togue, 6 inches for brown trout, 6 inches for rainbow trout, and 6 inches for brook trout.

6. Bass. The following provisions apply to largemouth and smallmouth bass.
 - a. Bag Limit. From April 1 through June 20, the daily bag limit is 1 fish. From June 21 through September 30, the daily bag limit is 3 fish, only 1 of which may exceed 14 inches.
 - b. Length. The minimum legal length limit for bass is 12 inches in Franklin, Penobscot, and Somerset Counties and 10 inches in Hancock, Piscataquis, and Washington Counties.
 - c. Method. From April 1 through June 20, artificial lures only are permitted.
7. Other Species. The following provisions apply to other species of fish.
 - a. Pickereel. For pickereel, the daily bag limit is 10. There is no length limit.
 - b. Whitefish. For whitefish, the daily bag limit is 8. There is no length limit.
 - c. Smelts. For smelts, the daily bag limit is 2 quarts. There is no length limit.
 - d. Suckers. Any person who has a valid fishing license may take suckers between April 1 and June 30 from all rivers, brooks, and streams which are open to fishing by use of a hand spear, bow and arrow, or by snagging. If suckers are taken by bow and arrow, the arrow must have a barbed or pronged point and must be attached to the bow with a line.
 - e. No Limit. There are no bag limits or length restrictions on species not mentioned.

E. General Provisions Applying to Ice Fishing

1. Waters Closed. All MITSC waters are closed to ice fishing unless specifically opened by a special provision in section 3 or 4 of this chapter.
2. Five Line Restriction. Unless otherwise provided by rule, a person may fish through the ice with not more than 5 lines, all of which must be under the immediate supervision of the person who set them.
3. Night Fishing. Ice fishing at night (1/2 hour after sunset until 1/2 hour before sunrise) is prohibited except as provided by special rule.
4. Cusk Lines. All lines set at night for cusk must be visited at least once every hour by the person who set them.
5. Salmon, Trout, and Togue. The following provisions apply to ice fishing for salmon, trout, and togue.
 - a. Bag Limit. The daily bag limit is 5 fish in the aggregate. This may include not more than 2 salmon, 2 rainbow trout, 2 togue, 2 brown trout, and 5 brook trout.

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- b. Length. On lakes and ponds, the minimum legal lengths are 14 inches for salmon, 18 inches for togue, 12 inches for brown trout, 12 inches for rainbow trout, and 6 inches for brook trout. On rivers, brooks, and streams, the minimum legal lengths are 14 inches for salmon, 18 inches for togue, 6 inches for brown trout, 6 inches for rainbow trout, and 6 inches for brook trout.
- 6. Bass. The following provisions apply to ice fishing for bass, including largemouth and smallmouth bass.
 - a. Bag Limit. The bag daily bag limit is 1 fish.
 - b. Length. The minimum legal length limit is 12 inches, except that in Hancock, Piscataquis, and Washington Counties, the minimum legal length is 10 inches.
- 7. Other Species. The following provisions apply to other species of fish.
 - a. Pickereel. For pickereel, the daily bag limit is 10. There is no length limit.
 - b. Whitefish. For whitefish, the daily bag limit is 8. There is no length limit.
 - c. Smelts. For smelts, the daily bag limit is 2 quarts. There is no length limit.
 - d. No Limit. There are no bag limits or length restrictions on species not mentioned.

Section 3: Passamaquoddy Waters

A. Passamaquoddy Waters Subject to General Provisions

The following waters in Passamaquoddy Territory are subject to the general provisions specified in section 2 of this chapter.

- 1. T4 ND (Hancock County)
Middle Pistol Lake
Upper Pistol Lake
- 2. T3 ND (Hancock County)
Side Pistol Lake
- 3. Rivers, Brooks, and Streams
All rivers, brooks, and streams, unless otherwise indicated in section 3(B).

B. Passamaquoddy Waters Subject to Special Provisions

The following waters in Passamaquoddy Territory are subject to the special provisions listed in this section. Whenever these are different from the general provisions specified in section 2, the special

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provisions supersede the general provisions. All other applicable general provisions are also in effect for the waters listed in this section.

1. Ponds in Lowelltown Township, T1 R8 WBKP (Franklin County). The following special provisions apply to ponds in Lowelltown Township, including Clear Pond, Elaine Pond, Big Indian Pond, Little Indian Pond, Trout Pond, and Twin Island Ponds:
 - a. Bag Limit. The daily bag limit is 2 brook trout.
 - b. Length. The minimum legal length for brook trout is 10 inches.
2. Killman Pond, T4 ND (Hancock County):
 - a. Length. The minimum legal length for brook trout is 10 inches.
3. Middle Chain Lake and Upper Chain Lake, T4 ND (Hancock County):
 - a. Ice Fishing Permitted. These lakes are open to ice fishing for all fish except salmon, trout, togue, and bass from the time ice forms until December 31 and open to ice fishing for all fish from January 1 through March 31.
 - b. Bag Limit on Bass. During ice fishing season, the daily bag limit on bass is 2 fish.
4. Lower Pistol Lake, T3 ND (Hancock County):
 - a. Ice Fishing Permitted. The lake is open to ice fishing for all fish from January 1 through March 31.
 - b. Bag Limit on Bass. During ice fishing season, the daily bag limit on bass is 2 fish.
5. Little Fish Pond and Grassy Pond, Holeb Township, T6 R1 NBKP (Somerset County):
 - a. Bag Limit. The daily bag limit on brook trout is 2 fish.
 - b. Length. The minimum legal length for brook trout is 10 inches.
6. Fish Pond (aka Big Fish Pond) and thoroughfare upstream to Little Fish Pond and Grassy Pond, Holeb Township, T6 R1 NBKP (Somerset County):
 - a. Bag Limit. The daily bag limit on brook trout is 2 fish.
 - b. Length. The minimum legal length for brook trout is 14 inches.
 - c. Method. Fly fishing only is permitted.

Note: Pursuant to rules of the Maine Department of Inland Fisheries and Wildlife, the use of motors of over 10 horsepower is prohibited on Fish Pond.
7. Cape Horn Pond, Prentiss Township, T4 R4 NBKP (Somerset County):
 - a. Bag Limit. The daily bag limit on brook trout is 2 fish.

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- b. Length. The minimum legal length is 10 inches for brook trout.
 - c. Method. Fly fishing only is permitted.
8. Duncan Pond, Prentiss Township, T4 R4 NBKP (Somerset County):
- a. Bag Limit. The daily bag limit on brook trout is 2 fish.
 - b. Length. The minimum legal length is 10 inches for brook trout.
 - c. Method. Artificial lures only are permitted.
 - d. Smelts. Duncan Pond and an unnamed inlet stream from Hall Pond will be closed to smelting in 1998 and every other year thereafter. The daily bag limit for smelts is one quart.
9. Hall Pond, Prentiss Township, T4 R4 NBKP (Somerset County):
- a. Bag Limit. The daily bag limit on brook trout is 2 fish.
 - b. Length. The minimum legal length for brook trout is 10 inches.
 - c. Method. Fly fishing only is permitted.
10. Lower Welman Pond, Prentiss Township, T4 R4 NBKP (Somerset County):
- a. Bag Limit. The daily bag limit on brook trout is 2 fish.
 - b. Length. The minimum legal length for brook trout is 10 inches.
 - c. Method. Artificial lures only are permitted.
11. South Branch Penobscot River, Prentiss Township, T4 R4 NBKP, and Hammond Township (Somerset County): The following special provisions apply to the South Branch Penobscot River located within Passamaquoddy Territory:
- a. Bag Limit. From April 1 through August 15, the daily bag limit on trout is 2 fish. From August 16 through September 30, the daily bag limit on trout is 1 fish.
 - b. Length. From April 1 through August 15, the minimum legal length for trout is 6 inches, only one of which may exceed 12 inches. From August 16 through September 30, the minimum legal length is 6 inches.
 - c. Method. From August 16 through September 30, artificial lures only are permitted.
12. Grassy Pond, T19 MD BPP (Washington County):
- a. Ice Fishing Permitted. This pond is open to ice fishing for all fish except salmon, trout, togue, and bass from the time ice forms until December 31 and open to ice fishing for all fish from January 1 through March 31.
 - b. Bag Limit on Bass. During ice fishing season, the daily bag limit on bass is 2 fish.

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13. Lower Chain Lake, T5 ND BPP (Washington County):

- a. Ice Fishing Permitted. This lake is open to ice fishing for all fish except salmon, trout, togue, and bass from the time ice forms until December 31 and open to ice fishing for all fish from January 1 through March 31.
- b. Bag Limit on Bass. During ice fishing season, the daily bag limit for bass is 2 fish.

14. Sysladobsis Lake (Lower), T5 ND BPP (Washington County):

- a. Ice Fishing Permitted. This lake is open to ice fishing for all fish from January 1 through March 31.
- b. Bag Limit on Bass. During ice fishing season, the daily bag limit on bass is 2 fish.

15. Mill Privilege Lake, T5 R1 NBPP (Penobscot County):

- a. Ice Fishing Permitted. This lake is open to ice fishing for all fish except salmon, trout, togue, and bass from the time ice forms until December 31 and open to ice fishing for all fish from January 1 through March 31.
- b. Bag Limit on Bass. During ice fishing season, the daily bag limit on bass is 2 fish.

Section 4: Penobscot Waters

A. Penobscot Waters Subject to General Provisions

The following waters in Penobscot Territory are subject to the general provisions specified in section 2 of this rule, unless otherwise indicated in section 4(B).

1. T2&3 R9 NWP (Penobscot County)

Mattamiscontis Lake	<i>ice fishing is permitted; see section 4(B)(6)</i>
Little Mattamiscontis Lake	<i>ice fishing is permitted; see also section 4(B)(6)</i>

2. Rivers, Brooks, and Streams

All rivers, brooks, and streams, unless otherwise indicated in section 4(B).

B. Penobscot Waters Subject to Special Provisions

The following waters in Penobscot Territory are subject to the special provisions listed in this section. Whenever these are different from the general provisions specified in section 2, the special provisions supersede the general provisions. All other applicable general provisions are also in effect for the waters listed in this section.

1. Round Mountain Pond, Alder Stream Township, T2 R5 WBKP (Franklin County):

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- a. Season. The opening date of open water season is May 1.
 - b. Bag Limit. The daily bag limit is 2 trout.
 - c. Length. The minimum size limit on trout is 10 inches.
 - d. Method. Fly fishing only is permitted.
2. Alder Stream, Little Alder Stream, and Their Tributaries, Alder Stream Township, T2 R5 WBKP (Franklin County):
 - a. Method: Part of Alder Stream. The following special provisions apply on the part of Alder Stream from the confluence of Alder Stream and Little Alder Stream downstream to the Penobscot Territory boundary lines.
 - i. From April 1 through August 15, anglers age 15 and under may use single-pointed artificial lures and anglers age 16 and older are restricted to fly fishing only.
 - ii. From August 16 through September 30, all anglers are restricted to fly fishing only.
 - b. Method: Rest of Alder Stream, Little Alder Stream, and Tributaries. On all remaining sections of Alder Stream and its tributaries in Penobscot Territory, including Little Alder Stream, anglers are restricted to fly fishing only.
3. North Branch Dead River, Alder Stream Township, T2 R5 WBKP (Franklin County):
 - a. Method. Fly fishing only is permitted.
4. East Branch Lake, T2&3 R9 NWP (Penobscot County):
 - a. Season. From April 1 through June 20, the lake is closed to the taking of bass.
 - b. Bag Limit and Length. From June 21 through September 30, there is a daily limit on bass of 1 fish at a minimum legal length of 12 inches, except that all bass between 16 inches and 20 inches must immediately be released alive.
 - c. Ice Fishing. The lake is open to ice fishing from January 1 through March 31, except that the taking of bass is prohibited.
5. First Lake Mattagamon, T6 R8 WELS (Penobscot County):
 - a. Bag Limit. The daily bag limit is 2 trout.
 - b. Length. The minimum legal length for brook trout is 10 inches.
 - c. Ice Fishing. The lake is open to ice fishing for all fish from January 1 through March 31. In addition, ice fishing at night for cusk is permitted.
6. Mattamiscontis Lake and Little Mattamiscontis Lake, T2&3 R9 NWP (Penobscot County):

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- a. Ice Fishing. These lakes are open to ice fishing for all fish except salmon, trout, togue, and bass from the time ice forms until December 31, and are open to ice fishing for all fish from January 1 through March 31.
7. Mountain Catcher Pond, T6 R8 WELS (Penobscot County):
 - a. Bag Limit. The daily bag limit is 2 trout.
 - b. Length. The minimum legal length for brook trout is 10 inches.