

Notice of Agency Rule-making Proposal

AGENCY: 13-188-Department of Marine Resources

CHAPTER NUMBER AND TITLE: Chapter 32 Elver Quota System for the 2023 season

TYPE OF RULE (*check one*): Routine Technical Major Substantive

PROPOSED RULE NUMBER (*leave blank; to be assigned by Secretary of State*):

BRIEF SUMMARY:

This proposed rulemaking establishes the elver quota allocations for the 2023 season for individuals licensed under §§6505-A and 6302-A, and the method of calculating individual elver quota allocations for individuals licensed under §6505-A. The quota for the Passamaquoddy Tribe has been adjusted in accordance with their overage in the 2022 season. For individuals licensed under §6505-A, 2023 allocations for individuals will be the same as their 2022 allocations, plus any quota associated with licenses not renewed in 2022, or licenses suspended for the duration of the 2023 season, which will be distributed evenly to all existing license holders.

Date, time and location of PUBLIC HEARING (*if any*): February 8, 2023: 5:00 p.m. at DMR's Augusta Office (Marquardt Building, 32 Blossom Lane, rm 118) and remotely via Microsoft Teams. If the February 8th hearing is cancelled due to inclement weather an alternate hearing will be held on February 9, 2023, at the same time, location, and format. Remote access information is posted to DMR's website under "Meetings."

COMMENT DEADLINE: February 19, 2023. Written comments can be mailed, emailed, or faxed to DMR using the contact information below.

CONTACT PERSON FOR THIS FILING (*include name, mailing address, telephone, fax, TTY, e-mail*):

NAME: Amanda Ellis

MAILING ADDRESS: 21 State House Station, Augusta, Maine 04333-0021

E-MAIL: dmr.rulemaking@maine.gov

TELEPHONE: 207-624-6573

FAX: 207-624-6024

TTY: 207-624-6500 (Deaf/Hard of Hearing)

Hearing facilities: If you require accommodations due to disability, please contact Meredith Mendelson at 207-624-6553.

CONTACT PERSON FOR SMALL BUSINESS IMPACT STATEMENT (*if different*): Same

FINANCIAL IMPACT ON MUNICIPALITIES OR COUNTIES (*if any*): None

STATUTORY AUTHORITY FOR THIS RULE: 12 M.R.S. §6505-A

SUBSTANTIVE STATE OR FEDERAL LAW BEING IMPLEMENTED (*if different*): Same

AGENCY WEBSITE: <http://www.maine.gov/dmr/rulemaking/>

E-MAIL FOR OVERALL AGENCY RULE-MAKING LIAISON: dmr.rulemaking@maine.gov

* Check one of the following two boxes.

X The summary provided above is for publication in both the newspaper and website notices.

The summary provided above is for the newspaper notice only. Title 5 §8053, sub-§5 & sub-§7, ¶D. A more detailed summary is attached for inclusion in the rule-making notice posted on the Secretary of State's website. Title 5 §8053, sub-§3, ¶D & sub-§6.

Please approve bottom portion of this form and assign appropriate AdvantageME number.

APPROVED FOR PAYMENT _____ DATE: _____
(authorized signature)

FUND	AGENCY	ORG	APP	OBJ	PROGRAM	FUNDING Profile JVC	FUND Pri JVC	FUND Line JVC
010	13A	1120	10	4946				

DEPARTMENT OF MARINE RESOURCES

Chapter 32: EEL REGULATIONS

TITLE INDEX

- 32.01 Definitions
- 32.02 Elver Harvest Reporting Requirements
- 32.03 Harvesting Regulations
- 32.04 Eel Harvest Reporting Requirements
- 32.05 Area Closures – Eel Fishing
- 32.07 Elver Harvesting Limitations; Gear
- 32.35 Elver Quota System for ~~2022~~ 2023 Elver Season
- 32.40 Elver Transaction Cards
- 32.41 Elver Dealer Transaction Card
- 32.42 Elver Dealer Limitations and Requirements
- 32.43 Elver Exporter Requirements
- 32.45 Elver Dealer Record Keeping
- 32.50 Elver Dealer Meeting to Prepare for the Elver Season
- 32.60 Transport of Elvers Through the State of Maine

32.35 Elver Quota System for ~~2022~~ 2023 Elver Season

- A. The total allowable catch of elvers for ~~2022~~ 2023 for individuals licensed to fish for elvers under 12 M.R.S. §§ 6505-A and 6302-A is 9,688 lbs.
- B. The total allowable catch of elvers for individuals licensed to fish for elvers established in accordance 12 M.R.S. §6505-A(3-A)(B) for ~~2022~~ 2023 is 7,566 lbs.
- C. The total allowable catch of elvers for individuals licensed to fish for elvers under §6302-A, established in accordance with 12 M.R.S. §6505-A(3-A)(C) for ~~2022~~ 2023 is 2,122 lbs. A total of 2,122 lbs. allowable catch is allocated pursuant to 12 M.R.S. §6302-B, subsection 1 as follows:
1. ~~4002.38~~ 1287.29 lbs. to the Passamaquoddy Tribe
 2. 620 lbs. to the Penobscot Nation
 3. 107 lbs. to the Houlton Band of Maliseet Indians
 4. 39 lbs. to the Aroostook Band of Micmac Indians
- ~~353.94~~ 69.03 lbs. was deducted from the amount of quota allocated to the Passamaquoddy Tribe for ~~2022~~ 2023 to compensate for the overage in their ~~2021~~ 2022 quota, in accordance with §6302-B.
- D. An individual licensed to fish for elvers under 12 M.R.S. §6505-A(1) will be allocated an elver individual fishing quota based on the following process. The Department will:
1. Determine each license holder's allocation for the ~~2021~~ 2022 fishing season.
 2. Deduct any quota associated with licenses that were suspended for the duration of the ~~2021~~ 2022 season, but which will be eligible to harvest in the ~~2022~~ 2023 season.
 3. Calculate the poundage that would be allocated to license holders suspended for the duration of the ~~2022~~ 2023 elver season and for licenses not renewed in ~~2021~~ 2022 that is in excess of the quota needed to allocate to any new license holders authorized to fish in 2022 through the elver license lottery, and distribute that poundage equally across all other license holders.
 4. Round to the nearest tenth of a pound.

Rule-Making Fact Sheet

(5 M.R.S., §8057-A)

AGENCY: Department of Marine Resources

NAME, ADDRESS, PHONE NUMBER OF AGENCY CONTACT PERSON:

Amanda Ellis, Department of Marine Resources, 21 State House Station, Augusta, Maine 04333-0021 Telephone: (207) 624-6573; web address: <http://www.maine.gov/dmr/rulemaking/>

CHAPTER NUMBER AND RULE: Chapter 32 Elver Quota System for the 2023 Season

STATUTORY AUTHORITY: 12 M.R.S. §6505-A

DATE AND PLACE OF PUBLIC HEARING(S): February 8, 2023: 5:00 p.m. at DMR's Augusta Office (Marquardt Building, 32 Blossom Lane, rm 118) and remotely via Microsoft Teams. If the February 8th hearing is cancelled due to inclement weather an alternate hearing will be held on February 9, 2023, at the same time, location, and format.

COMMENT DEADLINE: February 19, 2023

PRINCIPAL REASON(S) OR PURPOSE FOR PROPOSING THIS RULE: [*see* §8057-A(1)(A)&(C)]

Each year, the method of calculating annual elver quota must be specified for the upcoming season.

IS MATERIAL INCORPORATED BY REFERENCE IN THE RULE? ___ YES ___ NO [§8056(1)(B)]

ANALYSIS AND EXPECTED OPERATION OF THE RULE: [*see* §8057-A(1)(B)&(D)]

The elver quota will be allocated amongst licensing authorities and individuals.

BRIEF SUMMARY OF RELEVANT INFORMATION CONSIDERED DURING DEVELOPMENT OF THE RULE (including up to 3 primary sources relied upon) [*see* §§8057-A(1)(E) & 8063-B]: The Interstate Fisheries Management Plan for American Eel and 12 MRS 6302-B which specifies how elver quota is distributed.

ESTIMATED FISCAL IMPACT OF THE RULE: [*see* §8057-A(1)(C)]

Enforcement of these proposed amendments will not require additional activity in this agency. Existing enforcement personnel will monitor compliance during their routine patrols.

FOR EXISTING RULES WITH FISCAL IMPACT OF \$1 MILLION OR MORE, ALSO INCLUDE:

ECONOMIC IMPACT, WHETHER OR NOT QUANTIFIABLE IN MONETARY TERMS:

[*see* §8057-A(2)(A)]

INDIVIDUALS, MAJOR INTEREST GROUPS AND TYPES OF BUSINESSES AFFECTED AND HOW THEY WILL BE AFFECTED: [*see* §8057-A(2)(B)]

BENEFITS OF THE RULE: [*see* §8057-A(2)(C)]