

**NOTICE OF AGENCY RULE-MAKING ADOPTION**

**AGENCY:** Department of Marine Resources

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

**CONCISE SUMMARY:**

This rule 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.

**ADOPTED RULE NUMBER:**

(LEAVE BLANK-ASSIGNED BY SECRETARY OF STATE)

**EFFECTIVE DATE:**

(LEAVE BLANK-ASSIGNED BY SECRETARY OF STATE)

**AGENCY CONTACT PERSON:** Amanda Ellis (207) 624-6573  
**AGENCY NAME:** Department of Marine Resources  
**ADDRESS:** 21 State House Station  
Augusta, Maine 04333  
**WEB SITE:** <http://www.maine.gov/dmr/rulemaking/>  
**E-MAIL:** [dmr.rulemaking@maine.gov](mailto:dmr.rulemaking@maine.gov)  
**TELEPHONE:** (207) 624-6573  
**FAX:** (207) 624-6024  
**TTY:** (207) 633-9500 (Deaf/Hard of Hearing)

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

APPROVED FOR PAYMENT _____					DATE: _____
FUND	AGENCY	S-UNIT	APP	OBJT	AMOUNT
10	13A	1120	10	4946	regulations

*Please forward invoice to: Natural Resource Service Center, 155 SHS, Augusta*

## DEPARTMENT OF MARINE RESOURCES

### Chapter 32: EEL REGULATIONS

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

**Basis Statement**

This rule 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. DMR did not make any changes to the proposed rule.

**Summary of Comments**

On January 17, 2023, the rule was posted on the DMR website. Notice of the proposed rulemaking appeared on January 18, 2023, in the five major daily newspapers as published by the Secretary of State; and electronic messages were sent to individuals who subscribe to DMR’s rulemaking notices and sent to industry members who provided their email address to DMR. A public hearing was held both in-person and remotely at 5:00 p.m. on February 8, 2023. The in-person hearing was held at DMR’s Augusta office and the remote component was held via Microsoft Teams. Members of the public attended both in-person and remotely. The comment period closed February 19, 2023.

The hearing was attended by the following individuals:

<b>Name</b>	<b>Affiliation</b>
Deirdre Gilbert, Amanda Ellis, and Jeffrey Turcotte.	Maine Department of Marine Resources
Bill Sheldon, John Taylor, Suzanne Smith, Shelly Geidel, Lance Geidel, Allen Shank, and Dominick Spencer.	Members of the Public

No one provided public comment at the hearing or submitted written comment.

## 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 8<sup>th</sup> 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)]