

Notice of Agency Rule-making Proposal

AGENCY: 13-188-Department of Marine Resources

CHAPTER NUMBER AND TITLE: Chapter 32 Elver Quota System for the 2020 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 2020 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. 2020 allocations for individuals who held a license in 2019 will be the same as their 2019 allocations, plus any quota associated with licenses not renewed in 2019, or licenses suspended for the duration of the 2020 season, in excess of that which is allocated to new license holders, which will be distributed evenly to all existing license holders. Finally, the proposed rule establishes a \$500 fee for the inspection of elver export events by Maine Marine Patrol.

Date, time and location of PUBLIC HEARING (*if any*): 5:00 PM January 21, 2020 Rm 118 DMR Offices, Marquardt Building, Augusta, ME (Snow date 5:00 PM January 24, 2020, Rm 118 DMR Offices, Marquardt Building, Augusta, ME)

COMMENT DEADLINE: February 3, 2020

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

NAME: Amanda Ellis

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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; 12 M.R.S. §6865

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.

DEPARTMENT OF MARINE RESOURCES

CHAPTER 32 - EELS

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 ~~2018~~ 2020 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 ~~Mandatory~~ Elver Dealer Meeting to Prepare for the ~~2019~~ Elver Season
- 32.60 Transport of Elvers Through the State of Maine

32.35 Elver Quota System for ~~2019~~ 2020 Elver Season

- A. The total allowable catch of elvers for ~~2019~~ 2020 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 ~~2019~~ 2020 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 ~~2019~~ 2020 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. ~~1304.3~~ 1356 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

~~51.7 lbs was deducted from the amount of quota allocated to the Passamaquoddy Tribe for 2019 to compensate for the overage in their 2018 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 ~~2018-2019~~ fishing season.
 2. Deduct any quota associated with licenses that were suspended for the duration of the ~~2018-2019~~ season, but which will be eligible to harvest in the ~~2019~~ 2020 season.
 3. Calculate the poundage that would be allocated to license holders suspended for the duration of the ~~2019~~ 2020 elver season and for licenses not renewed in ~~2018-2019~~ that is in excess of the quota needed to allocate to any new license holders authorized to fish in 2020 through the elver license lottery, and distribute that poundage equally across all other license holders.
 4. Round to the nearest tenth of a pound

32.43 Elver Exporter Requirements

1. Forty-eight (48) hours prior to preparing elvers for export out of the state, the elver export license holder must notify the Maine Marine Patrol of their intention to prepare a shipment of elvers for export.
2. The elver export license holder must make arrangements for Maine Marine Patrol to be present when they are preparing the elvers for shipment. A Maine Marine Patrol Officer must be present to witness the weighing and packing of the elvers for export.
3. Upon completion of the packing of the elvers for export out of the state of Maine, the Marine Patrol Officer will seal the shipment of elvers. Seals must remain intact and untampered with until the elvers reach their destination for shipment out of the country. The absence of a seal, or a seal that has been broken or otherwise shows signs of having been tampered with is prima facie evidence that the elvers are illegal and subject to seizure.
4. The Marine Patrol Officer will mark the package of elvers with weight of the elvers contained within the package and the total weight of the package. If this information is not on the package, it is prima facie evidence that the elvers are illegal and subject to seizure.

5. The fee for the inspection of a shipment of elvers for export is \$500 per export event. The elver export license holder requesting the inspection must pay the fee to DMR within 2 business days of the completion of the elver export inspection. No additional exports may be authorized until the fee from the prior export event has been paid in full.

32.50 ~~Mandatory~~ Elver Dealer Meeting to Prepare for the ~~2019~~ Elver Season

The commissioner may hold a mandatory elver dealer meeting in advance of the elver season. If a meeting is held, any An individual licensed under 12 M.R.S. §6864 or §6865, and any authorized representative of a license holder must attend a meeting held at the Department offices in Augusta. Notice of the date and time of the meeting will be emailed to the address provided by the license holder on their license application and posted to the DMR website. If an individual licensed under 12 M.R.S. §6864 does not attend the meeting, a marine patrol officer may seize any recording equipment issued by the Department to the individual licensed under 12 M.R.S. §6864.

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/>

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STATUTORY AUTHORITY: 12 M.R.S. §6505-A; 12 M.R.S. §6865

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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. In addition, this rule-making establishes a fee for inspecting elver export events that is authorized in statute.

IS MATERIAL INCORPORATED BY REFERENCE IN THE RULE? ___ YES ___ X 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 and a fee for the inspection of elver export events will be established.

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, input from Maine Marine Patrol regarding enforcement needs.

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)]

Note: If necessary, additional pages may be used.