

Notice of Agency Rule-making Proposal

AGENCY: 13-188-Department of Marine Resources

CHAPTER NUMBER AND TITLE: Chapter 32 Elver Quota System for the 2024 Season and Temporary Medical Transfers of Elver Quota

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 2024 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 2023 season. 2024 allocations for individuals who held a license in 2023 will be the same as their 2023 allocations, plus any quota associated with licenses not renewed in 2023, or licenses suspended for the duration of the 2023 season, in excess of that which is allocated to new license holders authorized through the lottery, which will be distributed evenly to all existing license holders. In addition, the proposed rulemaking specifies the parameters for a temporary medical transfer of elver quota.

Date, time and location of PUBLIC HEARING (*if any*): February 15, 2024: 4:00 p.m. at DMR's Augusta Office (Marquardt Building, 32 Blossom Lane, rm 118) and remotely via Microsoft Teams. If the February 15th hearing is cancelled due to inclement weather an alternate hearing will be held on February 16th at 3:00 pm in Room 224 of the same location, and Remotely via Microsoft Teams. Remote access information is posted to DMR's website under "Meetings."

COMMENT DEADLINE: February 26, 2024. 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: Deirdre.Gilbert@maine.gov

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

E-MAIL: dmr.rulemaking@maine.gov

TELEPHONE: 207-624-6553

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; §6575-L

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

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 ~~2023~~ 2024 Elver Season
- 32.36 Temporary Medical Transfer of Elver Quota
- 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 ~~2023~~ 2024 Elver Season

- A. The total allowable catch of elvers for ~~2023~~ 2024 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 ~~2023~~ 2024 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 ~~2023~~ 2024 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. ~~4287.29~~ 1281.23 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
- ~~69.03~~ 75.09 lbs. was deducted from the amount of quota allocated to the Passamaquoddy Tribe for ~~2023~~ 2024 to compensate for the overage in their ~~2022~~ 2023 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 ~~2022~~ 2023 fishing season.
 2. Deduct any quota associated with licenses that were suspended for the duration of the ~~2022~~ 2023 season, but which will be eligible to harvest in the ~~2023~~ 2024 season.
 3. Calculate the poundage that would be allocated to license holders suspended for the duration of the ~~2023~~ 2024 elver season and for licenses not renewed in ~~2022~~ 2023 that is in excess of the quota needed to allocate to any new license holders authorized to fish in 2024 through the elver license lottery, and distribute that poundage equally across all other license holders.
 4. Round to the nearest tenth of a pound.

32.36 Temporary Medical Transfer

Consistent with the requirements provided in 12 M.R.S. §6575-L, the Commissioner may authorize the holder of an elver fishing license to fish for, take and sell the elver quota allocated to another elver license holder, upon request of the license holder to whom that quota was originally allocated (the "transferor") when a substantial illness or medical condition prevents that individual from fishing.

- A. The transferor shall specify to the Commissioner whether they want their remaining quota to be transferred to the other license holder's quota, or whether they want the other license holder to harvest and sell the quota using the transaction card of the transferor.
- B. If the transferor selects to have another elver license holder harvest their elvers using the transferor's transaction card, that elver license holder must have that transaction card in their possession whenever they are harvesting elvers on behalf of the transferor.
- C. The transferor may designate only one other elver license holder to receive their quota or harvest their elvers.
- D. If the transferor's request to have another elver license holder receive the transferor's quota is approved, all of the transferor's quota that remains unharvested at the time the request was made will be transferred, in its entirety. If the transferor's request to have the other elver license holder harvest and sell their remaining quota using the transferor's transaction card is approved, all of the transferor's quota that remains unharvested at the time the request was made must be harvested by the other elver license holder.

Rule-Making Fact Sheet

(5 M.R.S., §8057-A)

AGENCY: Department of Marine Resources

NAME, ADDRESS, PHONE NUMBER OF AGENCY CONTACT PERSON:

Deirdre Gilbert, Department of Marine Resources, 21 State House Station, Augusta, Maine 04333-0021 Telephone: (207) 624-6553; web address: <http://www.maine.gov/dmr/rulemaking/>

CHAPTER NUMBER AND RULE: Chapter 32 Elver Quota System for the 2024 Season and Temporary Medical Transfers of Elver Quota

STATUTORY AUTHORITY: 12 M.R.S. §6505-A; §6575-L

DATE AND PLACE OF PUBLIC HEARING(S): February 15, 2024: 4:00 p.m. at DMR's Augusta Office (Marquardt Building, 32 Blossom Lane, rm 118) and remotely via Microsoft Teams. If the February 15th hearing is cancelled due to inclement weather an alternate hearing will be held on February 16th at 3:00 pm in Room 224 of the same location, and Remotely via Microsoft Teams. Remote access information is posted to DMR's website under "Meetings."

COMMENT DEADLINE: February 26, 2024

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, the Legislature has authorized the temporary medical transfer of elver quota, and this rule specifies the parameters under which such transfers may be requested.

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. License holders will understand the parameters of temporary medical transfers of elver quota.

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.