

# NOTICE OF AGENCY RULE-MAKING ADOPTION

**AGENCY:** Department of Marine Resources

**CHAPTER NUMBER AND TITLE:** Chapter 32 Elver Quota System for the 2017 Season

**ADOPTED RULE NUMBER:**

(LEAVE BLANK - ASSIGNED BY SECRETARY OF STATE)

**CONCISE SUMMARY:**

This rulemaking establishes the elver quota allocations for the 2017 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. 2017 allocations will be the same as the 2016 allocations, plus any quota associated with licenses not renewed in 2016 or suspended for the duration of 2017. Finally, the regulation clarifies that an individual may not possess or sell in any combination an amount of elvers that exceeds that individual's individual elver individual fishing quota, and that a transaction card may only be used to sell elvers that individual has taken.

**EFFECTIVE DATE:**

(TO BE FILLED IN BY SECRETARY OF STATE)

**AGENCY CONTACT PERSON:** Deirdre Gilbert  
**AGENCY NAME:** Department of Marine Resources  
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Augusta, Maine 04333-0021  
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# DEPARTMENT OF MARINE RESOURCES

## Chapter 32 - Eel Regulations

### 32.35 Elver Quota System for ~~2016~~ 2017 Elver Season

- A. The total allowable catch of elvers for ~~2016~~ 2017 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 ~~2016~~ 2017 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 ~~2016~~ 2017 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. ~~4,356~~ 1284.3 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

71.7 lbs was deducted from the amount of quota allocated to the Passamaquoddy Tribe for 2017 to compensate for the overage in their 2016 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 ~~2015~~ 2016 fishing season.
  - 2. ~~Deduct any quota that was allocated from license holders that were suspended for the duration of the 2015 season.~~
  - 3. Calculate the poundage that would be allocated to license holders suspended for the duration of the ~~2016~~ 2017 elver season and for licenses not renewed in ~~2015~~ 2016, and distribute that poundage equally across all other license holders.
  - 4. Round to the nearest tenth of a pound
- E. An individual licensed under 12 M.R.S. §§6505-A and 6302-A must be present to receive his or her transaction card, and must produce a valid, government-issued photo identification card at the time of receipt. The license holder will be notified of his individual quota, both verbally by a law enforcement officer and in writing, at the time of receipt and will be deemed to have received notice of his or her quota upon signing the written notification document. Failure to sign the written notification document will result in ineligibility to obtain the transaction card.
- F. An individual licensed under 12 M.R.S. §§6505-A and 6302-A may not possess or sell in any combination, an amount of elvers that exceeds that individual's elver individual fishing quota.
- F. G. The Department will deactivate the transaction card of any individual who has ~~met sold or~~ possessed in any combination an amount of elvers equal to or in excess of ~~or exceeded~~ the elver individual fishing quota that individual has been allocated.

H. A law enforcement officer may seize the transaction card of any individual who has exceeded their elver individual fishing quota by possessing or selling in any combination an amount of elvers that exceeds that individual's elver fishing quota.

#### 32.40 Elver Transaction Cards

1. Eligibility:

In order to be eligible for an elver transaction card, the individual must be licensed according to 12 M.R.S. §6505-A or 12 M.R.S. §6302-A. Valid transaction cards may only be issued by the Department of Marine Resources.

2. Use:

It shall be unlawful for a licensed elver harvester to sell or transfer elvers (or glass eels) the license holder has caught to an elver dealer licensed under 12 M.R.S. §6864, unless he/she presents a DMR-issued transaction card to the elver dealer during each transaction. Transaction cards may only be used to sell elvers which were harvested by the individual identified on the transaction card. A law enforcement officer may seize the transaction card of an individual who has used their transaction card to sell elvers they did not harvest.

#### 32.50 Mandatory Elver Dealer Meeting to Prepare for the ~~2016~~ 2017 Elver Season

An individual licensed under 12 M.R.S. §6864 must attend a meeting held at the Department offices in Augusta ~~in order to ensure that the transaction card system is properly understood and implemented for the 2016 elver season.~~ Notice of the date and time of the meeting will be ~~mailed~~ 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.

## **Basis Statement**

This rulemaking establishes the elver quota allocations for the 2017 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. 2017 allocations will be the same as the 2016 allocations, plus any quota associated with licenses not renewed in 2016 or suspended for the duration of 2017. Finally, the proposed regulation clarifies that an individual may not possess or sell in any combination an amount of elvers that exceeds that individual's individual elver individual fishing quota, and that a transaction card may only be used to sell elvers that individual has taken.

## **Summary of Comments**

### **Attendees at Public Hearing in Augusta on 2/14/17**

Bruce Steeves

George Williams

Bill Sheldon

John Sheldon

Shelly Geidel

Lance Geidel

Suzanne Smith

John Taylor

No comments were provided in support, opposition, or neither for nor against.

# Rule-Making Fact Sheet

(5 M.R.S., §8057-A)

AGENCY: Department of Marine Resources

NAME, ADDRESS, PHONE NUMBER OF AGENCY CONTACT PERSON:

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CHAPTER NUMBER AND RULE: Chapter 32.35, 32.40 and 32.50

STATUTORY AUTHORITY: §12 MRS §§ 6505-A, 6302-B

DATE AND PLACE OF PUBLIC HEARING:

February 14, 2017 5:00 PM DMR Offices, Marquardt Building, 32 Blossom Lane, Augusta, Maine

COMMENT DEADLINE: February 24, 2017

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

This proposed rulemaking establishes the elver quota allocations for the 2017 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. 2017 allocations will be the same as the 2016 allocations, plus any quota associated with licenses not renewed in 2016 or suspended for the duration of 2017. Finally, the proposed regulation clarifies that an individual may not possess or sell in any combination an amount of elvers that exceeds that individual's individual elver individual fishing quota, and that a transaction card may only be used to sell elvers that individual has taken.

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 rule will provide for allocation of elver quota for the 2017 elver fishing season.

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; Maine statute; input from Maine Marine Patrol.

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

No fiscal impact is anticipated.

**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)]