

# Notice of Agency Rule-making Proposal

MAPA-3 revised 2-2016

AGENCY: Department of Marine Resources

CHAPTER NUMBER AND TITLE: Chapter 32 Elver Quota System for the 2018 season. Proposed Rule-making.

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

## BRIEF SUMMARY:

This proposed rulemaking establishes the elver quota allocations for the 2018 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. 2018 allocations for individuals who held a license in 2017 will be the same as their 2017 allocations, plus any quota associated with licenses not renewed in 2017, or licenses suspended for the duration of the 2018 season, which will be distributed evenly to all license holders with an allocation of less than 50 lbs in 2017. Individuals who become eligible to purchase an elver license in the 2018 elver license lottery will receive a quota of 4 lbs. The rule-making also deletes language that has been moved to Chapter 55.

Date, time and location of PUBLIC HEARING (*if any*):

January 17, 2018 4:00 PM DMR Offices, Rm 118 Marquardt Building, 32 Blossom Lane, Augusta, Maine. If the January 17, 2018 hearing is canceled due to inclement weather, the alternate date and location will be: January 18, 2018 at 4:30PM, DMR Offices, Rm 118 Marquardt Building, 32 Blossom Lane, Augusta, Maine. Weather related cancellations will be posted to the DMR website at: <http://www.maine.gov/dmr/>

COMMENT DEADLINE: January 29, 2018

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

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AGENCY: Department of Marine Resources

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TTY: (207) 633-9500 (Deaf/Hard of Hearing)

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 MRS § 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](mailto:DMR.rulemaking@maine.gov)

# DEPARTMENT OF MARINE RESOURCES

## Chapter 32 - Eel Regulations

### 32.05 Area Closures – Eel Fishing

- ~~1. Sheepscot River – It shall be unlawful to use any type of net or seine in the Sheepscot River and its tributaries between the Wiscasset-North Edgecomb Bridge and the so-called Headtide Dam at Alna.~~
2. Kennebec River and Cobbosseecontee Stream – It shall be unlawful to fish for or take eels from the Kennebec River bounded on the northern side by the northern side of the Gardiner-Randolph bridge, and on the southern side by the southernmost end of the Gardiner seawall to a red painted post located on eastern shore of the Kennebec River directly across from the seawall. Cobbosseecontee Stream is closed to fishing for, taking, or possessing eels from its confluence with the Kennebec River and all waters upstream.

#### Exceptions:

- ~~A. The fishing of lamprey eels within these waters shall be under the direction of the Commissioner of Marine Resources who may issue permits to take lamprey eels at places and by means designated by him or her.~~
- ~~B. This section does not apply to the taking of river herring under any other law or regulation.~~
- ~~C. Elver fyke or dip nets may be fished in the Sheepscot River for the harvest of elvers only. Persons issued an elver license in accordance with 12 M.R.S. §6505-A or §6302-A and who fish in accordance with current elver laws and regulations are not in violation of this regulation.~~

### 32.35 Elver Quota System for 2017 2018 Elver Season

- A. The total allowable catch of elvers for 2017 2018 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 2017 2018 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 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. ~~4284.3~~ 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

~~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 2016 2017 fishing season.

2. Calculate the poundage that would be allocated to license holders suspended for the duration of the 2017-2018 elver season and for licenses not renewed in 2016-2017 that is in excess of the quota needed to allocated to new license holders authorized to fish in 2018 through the elver license lottery, and distribute that poundage equally across all other license holders whose 2017 quota allocation was less than 50 lbs.
3. Round to the nearest tenth of a pound.

D-1 An individual licensed to fish for elvers under 12 MRS 6505-A(1) as a result of winning a license through the 2018 elver license lottery will be allocated 4 lbs of quota.

## 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

STATUTORY AUTHORITY: 12 MRS § 6505-A

DATE AND PLACE OF PUBLIC HEARING:

January 17, 2018 4:00 PM DMR Offices, Rm 118 Marquardt Building, 32 Blossom Lane, Augusta, Maine

COMMENT DEADLINE: January 29, 2018

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 2018 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. 2018 allocations for individuals who held a license in 2017 will be the same as their 2017 allocations, plus any quota associated with licenses not renewed in 2017, or licenses suspended for the duration of the 2018 season, which will be distributed evenly to all license holders with an allocation of less than 50 lbs in 2017. Individuals who become eligible to purchase an elver license in the 2018 elver license lottery will receive a quota of 4 lbs. The rule-making also deletes language that has been moved to Chapter 55.

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 2018 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, input from the elver industry.

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)]