

NOTICE OF AGENCY EMERGENCY RULE-MAKING

AGENCY: Department of Marine Resources

CHAPTER NUMBER AND TITLE: Chapter 32.65 Closure of 2018 Elver Season

CONCISE SUMMARY:

The Commissioner adopts this emergency rulemaking to implement the closure of the 2018 elver season, effective at 6 am, May 24. The holder of an elver fishing license may not fish for or take elvers after 6 am on May 24, but may possess and sell elvers until noon on May 24. The Department is aware of significant illegal sales of elvers for cash that were not recorded through the swipe card system as required. The Department believes that if these sales had been recorded, the 2018 elver quota would have already been reached or exceeded. For this reason, an immediate closure of the fishery is necessary to prevent unusual damage and imminent depletion of the elver resource, caused by exceeding the 2018 elver fishing quota. The Commissioner hereby adopts an emergency closure of Maine's elver fishery as authorized by 12 M.R.S. §6171(3)(A).

EFFECTIVE DATE: May 24, 2018

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DEPARTMENT OF MARINE RESOURCES

CHAPTER 32 EELS AND ELVERS

32.65 Closure of the 2018 Elver Season

It is unlawful to fish for or take elvers after 6:00 am on May 24, 2018. It is unlawful for an individual licensed under §6505-A or §6302-A to possess, sell, or transport elvers after noon on May 24, 2018. It is unlawful for a person licensed under §6864 to buy elvers after noon on May 24, 2018 or to possess elvers after 6:00 am on May 29, 2018.

Basis Statement

The sustainable management of Maine's elver fishery relies on adherence to the overall annual quota established by the Atlantic States Marine Fisheries Commission (ASMFC). For 2018, the overall quota was 9,688 lbs. Because the fishery is managed under this quota, other management measures have been eliminated in recent years, including weekly closed periods to allow passage, and limitations on gear type. As of 6:00 pm May 21, 2018, DMR was aware of 9,030.81 lbs of elvers that had been legally reported through the swipe card system. However, an investigation by Maine Marine Patrol has revealed that there have been significant illegal sales of elvers for cash that have not been recorded through the swipe card system. Based on the extent of this activity, it is very likely that the 2018 quota has already been met or exceeded. For this reason, an immediate closure of the fishery is necessary to prevent unusual damage and imminent depletion of the elver resource, caused by further exceeding the 2018 elver fishing 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: **32.65 Closure of the 2018 Elver Season**

STATUTORY AUTHORITY: **12 M.R.S. §6171(3)**

DATE AND PLACE OF PUBLIC HEARING: NA; Emergency Rulemaking

COMMENT DEADLINE: NA; Emergency Rulemaking

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

An investigation by Maine Marine Patrol has revealed that there have been significant illegal sales of elvers for cash that have not been recorded through the swipe card system. Based on the extent of this activity, it is very likely that the 2018 quota has already been met or exceeded. For this reason, an immediate closure of the fishery is necessary to prevent unusual damage and imminent depletion of the elver resource, caused by further exceeding the 2018 elver fishing quota.

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 close the elver fishery for the 2018 to minimize the extent to which the 2018 quota is exceeded.

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]

Information from the Maine Marine Patrol investigation and landings information provided through the swipe card system.

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

Enforcement of this amendment would 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.