

**NOTICE OF AGENCY RULE-MAKING ADOPTION****AGENCY:** Department of Marine Resources**CHAPTER NUMBER AND TITLE:** Chapter 32 Elver Quota System for the 2022 season**CONCISE SUMMARY:**

This rulemaking establishes the elver quota allocations for the 2022 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 2021 season. 2022 allocations for individuals who held a license in 2021 are the same as their 2021 allocations, plus any quota associated with licenses not renewed in 2021, or licenses suspended for the duration of the 2022 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. Existing requirements around the distribution of transaction cards have been eliminated so that cards may be distributed whatever manner is appropriate and most protective of public health.

**ADOPTED RULE NUMBER:**

(LEAVE BLANK-ASSIGNED BY SECRETARY OF STATE)

**EFFECTIVE DATE:**

(LEAVE BLANK-ASSIGNED BY SECRETARY OF STATE)

**AGENCY CONTACT PERSON:** Amanda Ellis (207) 624-6573**AGENCY NAME:** Department of Marine Resources**ADDRESS:** 21 State House Station

Augusta, Maine 04333

**WEB SITE:** <http://www.maine.gov/dmr/rulemaking/>**E-MAIL:** [dmr.rulemaking@maine.gov](mailto:dmr.rulemaking@maine.gov)**TELEPHONE:** (207) 624-6573**FAX:** (207) 624-6024**TTY:** (207) 633-9500 (Deaf/Hard of Hearing)

## 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 ~~2021~~ 2022 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 Elver Dealer Meeting to Prepare for the Elver Season
- 32.60 Transport of Elvers Through the State of Maine

## 32.01 Definitions

5. Transaction card means a physical device or other Department approved technology provided for the purpose of recording elver transactions.

### 32.35 Elver Quota System for ~~2021~~ 2022 Elver Season

- A. The total allowable catch of elvers for ~~2021-2022~~ 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 ~~2020~~ 2022 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 ~~2021~~ 2022 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. ~~1288.7~~ 1002.38 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
- ~~67.3~~ 353.94 lbs. was deducted from the amount of quota allocated to the Passamaquoddy Tribe for ~~2021-2022~~ to compensate for the overage in their ~~2020~~ 2021 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 ~~2020~~ 2021 fishing season.
  2. Deduct any quota associated with licenses that were suspended for the duration of the ~~2020~~ 2021 season, but which will be eligible to harvest in the ~~2021-2022~~ season.
  3. Calculate the poundage that would be allocated to license holders suspended for the duration of the ~~2021-2022~~ elver season and for licenses not renewed in ~~2020~~ 2021 that is in excess of the quota needed to allocate to any new license holders authorized to fish in ~~2021-2022~~ through the elver license lottery, 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 or her individual quota, both verbally by a law enforcement officer and in writing, and~~

~~transaction cards distributed in a manner determined by the Department, 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.~~

**Basis Statement**

This rulemaking establishes the elver quota allocations for the 2022 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 2021 season. 2022 allocations for individuals who held a license in 2021 are the same as their 2021 allocations, plus any quota associated with licenses not renewed in 2021, or licenses suspended for the duration of the 2022 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. Existing requirements around the distribution of transaction cards have been eliminated so that cards may be distributed whatever manner is appropriate and most protective of public health.

### Summary of Comments

On December 13, 2021, the rule was posted on the DMR website. Notice of the proposed rulemaking appeared on December 15, 2021 in the five major daily newspapers as published by the Secretary of State; and electronic messages were sent to individuals who subscribe to DMR's rulemaking notices and sent to industry members who provided their email address to DMR. A public hearing was held both in-person and remotely at 5:00 p.m. on January 4, 2022. The in-person hearing was held at DMR's Augusta office and the remote component was held via Microsoft Teams. Members of the public attended both in-person and remotely. The comment period closed January 16, 2022.

The hearing was attended by the following individuals:

Name	Affiliation
Deirdre Gilbert and Amanda Ellis	Maine Department of Marine Resources
Bill Sheldon, Frank Sprague, John Taylor, Suzanne Smith, Shelly Geidel, Lance Geidel John Sheldon, and Travis Atwood [Mr. Atwood was the only remote participant].	Members of the Public

### January 4, 2022 Public Hearing Comments

#### John Sheldon

I would just like to say that maybe the Commissioner could look into opening up Cobbossee again since you're not using it for the stock assessment anymore.

#### John Taylor

[Agrees with John Sheldon] I would like to see Cobbossee stream reopened. That would be a big help to everyone.

#### Suzanne Smith

I agree with John Sheldon and John Taylor.

**The comment period closed on January 16, 2022. DMR did not receive any written comments on the proposal.**

**DMR's response to comments:** Cobbossee Stream was originally closed to elver fishing because that was the original location of the Department's mandatory life cycle study of American eels. After several years of work, it was determined that the life cycle study should be moved to another location. However, the closure of this area had resolved a conflict between

elver fishermen and recreational fishermen using this same area in the spring. In addition, the Department has ongoing passage work that will benefit by a higher population/density of 1+ year old eels in the stream below the dam. For these reasons, the Department determined to continue the existing closure of this stream.

## 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/>

CHAPTER NUMBER AND RULE: Chapter 32 Elver Quota System for the 2022 season

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

DATE AND PLACE OF PUBLIC HEARING(S): January 4, 2022, 5:00 p.m., in-person at the Marquardt Building, room 118, 32 Blossom Lane, Augusta; or remotely via Microsoft Teams. Remote access information is posted to DMR's website under "Meetings." An alternate public hearing may be held at 6:00 p.m. on January 6, 2022 at the same location/format. Notice of a cancellation would be posted to DMR's website.

COMMENT DEADLINE: January 16, 2022

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.

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 elver quota will be allocated amongst licensing authorities and individuals.

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.

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)]