

## NOTICE OF AGENCY EMERGENCY RULE-MAKING

**AGENCY:** Department of Marine Resources

**CHAPTER NUMBER AND TITLE:** Chapter 32.03 Elver Harvesting Regulations Area Closures

**CONCISE SUMMARY:** The Commissioner adopts this emergency rulemaking to close the coastal waters of the state to the fishing for, or taking of elvers. The elver fishery is undertaken in a manner that causes fishermen to be in close proximity on Maine's rivers, which could result in the continued spread of COVID-19. Early in the season, fishermen will be concentrated in the southern part of the State, where the number of cases and evidence of community spread is highest. In order to protect public health, the Commissioner is closing the coastal waters of the State to the fishing for and taking of elvers for a minimum of two weeks. Conditions will be reassessed at that time, and the emergency regulation repealed when appropriate. For these reasons, the Commissioner hereby adopts an emergency closure of the coastal waters of the state to the fishing for or taking of elvers to protect public health as authorized by 12 MRS §6171-A.

**EFFECTIVE DATE:** March 22, 2020

**AGENCY CONTACT PERSON:** Deirdre Gilbert (207-624-6576)

**AGENCY NAME:** Department of Marine Resources

**ADDRESS:** 21 State House Station

Augusta, Maine 04333-0021

**WEB SITE:** <http://www.maine.gov/dmr/rulemaking/>

**E-MAIL:** DMR.rulemaking@maine.gov

**FAX:** (207) 624-6024

**TTY:** (888) 577-6690 (Deaf/Hard of Hearing)

DEPARTMENT OF MARINE RESOURCES

CHAPTER 32 EELS AND ELVERS

32.03 Harvesting Regulations

1. Elvers

A. Area Closures

Effective March 22, 2020 it shall be unlawful to fish for or take or possess elvers from coastal waters of the state.

~~It shall be unlawful to fish for, take or possess elvers in the following areas:-~~

- ~~1) Camden Harbor—upstream of a line drawn from the northernmost point of the granite pier of the Camden Town Landing, to the southernmost point of the granite wall that borders on the northern side of the Megunticook River.~~
- ~~2) Franklin—by any means other than dip net, from May 1 to May 31 of any year within 327 feet (109 yards) downstream of the bridge that crosses Mill Brook on the Grist Mill Road in the town of Franklin.~~
- ~~3) Bangor—in the Penobscot River upstream of a line approximately 3100 feet downstream of where the Veazie dam once existed. The line will run on the downstream side of the Bangor Water District Pipeline crossing and will be identified by red posts on both sides of the river. The eastern end of the closure line will be identified by a red post located in front of the Eddington Salmon Club. The closure line will run in a westerly direction across the river and be identified by a second red post located in the town of Veazie.—~~
- ~~4) Brewer—in the Sedgeunkedunk Stream upstream of the Route 15 crossing.~~
- ~~5) Bangor—in the Kenduskeag Stream upstream of the Harlow Street bridge.~~
- ~~6) Bangor—in the Peniajawoc Stream upstream of the Route 2 crossing~~
- ~~7) Ellsworth—in Card's Brook upstream of the Route 230 crossing.~~
- ~~8) Tremont—in Seal Cove upstream of the Route 102-A bridge.~~
- ~~9) Gardiner—within 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 elvers from its confluence with the Kennebec River and all waters upstream.—~~

### **Basis Statement**

The Commissioner adopts this emergency rulemaking to close the coastal waters of the state to fishing for, taking, or possessing elvers. The elver fishery is typically undertaken in a manner that causes fishermen to be in close proximity on Maine's rivers, which would support the continued spread of COVID-19. Early in the season, fishermen will be concentrated in the southern part of the State, where the number of cases and evidence of community spread is highest. In order to protect public health, the Commissioner is closing the coastal waters of the State to fishing for, taking, and possessing elvers for a minimum of two weeks. Conditions will be reassessed at that time, and the emergency regulation repealed when appropriate.

As of March 19, 2020, COVID-19 has been found in eight of Maine's 16 counties, with nearly half of the 52 cases reported in Cumberland County. All Mainers have been asked to follow social distancing recommendations, including maintaining 6 feet from other people to reduce the spread of the virus. Following this recommendation is critically important to avoid overwhelming our health care system.

The elver season typically starts on March 22<sup>nd</sup>. However, in the current situation, the typical crowded conditions both on the rivers and in shops could not only allow transmission, but also speed the spread of the disease throughout the state as fishermen travel along the coast to harvest and sell elvers, and then return to their homes. An area closure of the coastal waters of the state is necessary to mitigate this risk.

For these reasons, the Commissioner hereby adopts an emergency closure of the coastal waters of the state to the fishing for or taking of elvers to protect public health as authorized by 12 MRS §6171-A.

# 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; E-mail: amanda.ellis@maine.gov, web address: <http://www.maine.gov/dmr/rulemaking/>

CHAPTER NUMBER AND RULE: **32.03 Harvesting Regulations Area Closures**

STATUTORY AUTHORITY: **12 M.R.S. §6171-A**

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)]

Early in the season, elver fishermen will be concentrated in the southern part of the State, where the number of cases of COVID-19 and evidence of community spread is highest. In order to protect public health, the Commissioner is closing the coastal waters of the State to the fishing for and taking of elvers for a minimum of two weeks. This delay is intended to help limit the spread of COVID-19, a global pandemic that has reached Maine. As of 12:15pm on March 19, 2020, Maine had 42 confirmed cases, and 10 presumptive positive cases of the virus.

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 rule will close the coastal waters of the state to elver fishing for a minimum of two weeks beginning on March 22, 2020.

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]

Guidance issued by the Maine Center for Disease Control and Prevention (MECDC); COVID-19 testing data issued by MECDC; and consultation with industry leaders, tribal leadership, and Marine Patrol.

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.*