

**§6302-B. Elver quota for federally recognized Indian tribes in the State**

If the commissioner adopts an elver individual fishing quota system pursuant to section 6505-A, subsection 3-A, this section governs the allocation of the elver quota to federally recognized Indian tribes in the State. [PL 2013, c. 485, §3 (NEW).]

**1. Annual allocation.** In accordance with section 6505-A, the commissioner shall annually allocate 21.9% of the overall annual quota of elver fishery annual landings to the federally recognized Indian tribes in the State. If the Passamaquoddy Tribe, the Penobscot Nation, the Mi'kmaq Nation and the Houlton Band of Maliseet Indians reach an agreement regarding the division of this 21.9% portion of the overall annual quota among them and communicate in writing that agreement to the commissioner prior to March 1st of the year in which the quota is allocated, the commissioner shall allocate that portion of the quota in accordance with that agreement. If no agreement is reached, the commissioner shall allocate that portion of the quota in accordance with the following:

- A. To the Passamaquoddy Tribe, 14% of the overall annual quota; [PL 2013, c. 485, §3 (NEW).]
- B. To the Penobscot Nation, 6.4% of the overall annual quota; [PL 2013, c. 485, §3 (NEW).]
- C. To the Houlton Band of Maliseet Indians, 1.1% of the overall annual quota; and [PL 2013, c. 485, §3 (NEW); PL 2023, c. 369, Pt. A, §4 (REV); PL 2023, c. 369, Pt. A, §5 (AFF).]
- D. To the Mi'kmaq Nation, 0.4% of the overall annual quota. [PL 2013, c. 485, §3 (NEW).]

In making any allocations under this subsection, the commissioner shall reserve a portion no greater than 10% of each allocation in order to ensure that the quota is not exceeded.

[PL 2013, c. 485, §3 (NEW); PL 2023, c. 369, Pt. A, §4 (REV); PL 2023, c. 369, Pt. A, §5 (AFF).]

**2. Individual allocations.** The following provisions govern the allocation of the quotas established under subsection 1 to members of each of the federally recognized Indian tribes.

A. The commissioner may enter into an agreement with a federally recognized Indian tribe in the State that does not provide for individual allocations of the quota established under subsection 1 to members of that tribe, nation or band. If the commissioner enters into an agreement pursuant to this paragraph, the following provisions apply.

- (1) An elver transaction card under section 6305 must be issued to each person to whom the tribe, nation or band issues a license under section 6302-A, subsection 3.
- (2) The holder of a license issued under section 6302-A, subsection 3 must meet the reporting requirements established by rule pursuant to section 6173.
- (3) The quota established under subsection 1 applies to all elvers taken under licenses issued by the tribe, nation or band under section 6302-A, subsection 3.
- (4) When the quota established under subsection 1 is reached, the department shall notify the tribe, nation or band. The commissioner may use the data collected from the elver transaction cards issued under subparagraph (1) to determine whether the overall annual quota established under subsection 1 has been reached. When the quota established under subsection 1 is reached, the holder of a license issued by the tribe, nation or band under section 6302-A, subsection 3 may not thereafter take, possess or sell elvers. Taking, possessing or selling elvers after the quota established under subsection 1 is reached is deemed a violation by the license holder of the prohibition on fishing in excess of the person's individual quota in section 6505-A, subsection 3-A. [PL 2019, c. 642, §1 (AMD).]

B. This paragraph governs the allocation of the quotas established in subsection 1 to members of a federally recognized Indian tribe in the State when the commissioner has not entered into an

agreement with members of the tribe, nation or band under paragraph A that applies to members of that tribe, nation or band.

(1) If there is no agreement under paragraph A between the commissioner and the Passamaquoddy Tribe, the Passamaquoddy Tribe shall allocate to each person to whom it issues a license under section 6302-A, subsection 3, paragraph E-1 a specific amount of the quota allocated to the Passamaquoddy Tribe under subsection 1, paragraph A and shall provide documentation to the department of that allocation for each individual license holder. The Passamaquoddy Tribe shall allocate all of the quota that it has been allocated and may not alter any individual allocations once documentation has been provided to the department.

(2) If there is no agreement under paragraph A between the commissioner and the Penobscot Nation, the Penobscot Nation shall allocate to each person to whom it issues a license under section 6302-A, subsection 3, paragraph E a specific amount of the quota allocated to the Penobscot Nation under subsection 1, paragraph B and shall provide documentation to the department of that allocation for each individual license holder. The Penobscot Nation shall allocate all of the quota that it has been allocated and may not alter any individual allocations once documentation has been provided to the department.

(3) If there is no agreement under paragraph A between the commissioner and the Houlton Band of Maliseet Indians, the Houlton Band of Maliseet Indians shall allocate to each person to whom it issues a license under section 6302-A, subsection 3, paragraph G a specific amount of the quota allocated to the Houlton Band of Maliseet Indians under subsection 1, paragraph C and shall provide documentation to the department of that allocation for each individual license holder. The Houlton Band of Maliseet Indians shall allocate all of the quota that it has been allocated and may not alter any individual allocations once documentation has been provided to the department.

(4) If there is no agreement under paragraph A between the commissioner and Mi'kmaq Nation, the Mi'kmaq Nation shall allocate to each person to whom it issues a license under section 6302-A, subsection 3, paragraph F a specific amount of the quota allocated to the Mi'kmaq Nation under subsection 1, paragraph D and shall provide documentation to the department of that allocation for each individual license holder. The Mi'kmaq Nation shall allocate all of the quota that it has been allocated and may not alter any individual allocations once documentation has been provided to the department. [PL 2015, c. 391, §6 (NEW); PL 2023, c. 369, Pt. A, §4 (REV); PL 2023, c. 369, Pt. A, §5 (AFF).]

The department shall issue an elver transaction card under section 6305 to a person licensed by the Passamaquoddy Tribe under section 6302-A, subsection 3, paragraph E-1, the Penobscot Nation under section 6302-A, subsection 3, paragraph E, the Houlton Band of Maliseet Indians under section 6302-A, subsection 3, paragraph G or the Mi'kmaq Nation under section 6302-A, subsection 3, paragraph F only upon receipt of adequate documentation specifying the individual quota allocated to that person by the tribe, nation or band under this subsection.

[PL 2019, c. 642, §1 (AMD); PL 2023, c. 369, Pt. A, §4 (REV); PL 2023, c. 369, Pt. A, §5 (AFF).]

**3. Overage.** If the total weight of elvers sold by persons licensed by the Passamaquoddy Tribe, Penobscot Nation, Mi'kmaq Nation or Houlton Band of Maliseet Indians exceeds the quota allocated under subsection 1 to that tribe, nation or band, the commissioner shall deduct the amount of the overage from any future allocation to that tribe, nation or band. If the overage exceeds the overall annual quota allocated to that tribe, nation or band for the following year, the overage must be deducted from the overall annual quota allocations to that tribe, nation or band in subsequent years until the entire overage has been accounted for.

[PL 2013, c. 485, §3 (NEW); PL 2023, c. 369, Pt. A, §4 (REV); PL 2023, c. 369, Pt. A, §5 (AFF).]

**4. Emergency prohibition.** The commissioner may adopt emergency rules to prohibit the Passamaquoddy Tribe, the Penobscot Nation, the Mi'kmaq Nation or the Houlton Band of Maliseet Indians from fishing for elvers under a license issued under this Title if the commissioner finds that the tribe, nation or band has authorized fishing for elvers in a way that the commissioner determines will cause the tribe, nation or band to exceed the annual allocation set forth in subsection 1.

[PL 2015, c. 391, §7 (NEW); PL 2023, c. 369, Pt. A, §4 (REV); PL 2023, c. 369, Pt. A, §5 (AFF).]

#### SECTION HISTORY

PL 2013, c. 485, §3 (NEW). PL 2015, c. 391, §§6, 7 (AMD). PL 2019, c. 642, §1 (AMD). PL 2023, c. 369, Pt. A, §4 (REV). PL 2023, c. 369, Pt. A, §5 (AFF).

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