

## Amendment 21:

### Potential Control Date to Address Movement of LAGC Permits between Categories

**Background:** At their September 2019 meetings, Scallop AP and Scallop Committee discussed establishing a control date that could be used to determine eligibility criteria for switching between LAGC permit categories and access to the Northern Gulf of Maine fishery. If the Committee passes a motion recommending that the Council consider a control date, the Council would likely discuss this under the Scallop Report at their December 2019 meeting in Newport, RI.

***Tabled Committee Motion from September 19<sup>th</sup>, 2019:***

Recommend that the Council establish a control date that could be used to restrict movement between LAGC B (NGOM)/C (Incidental) permits.

*Rationale:* The LAGC B permit is the NGOM permit, the LAGC C permit is the incidental permit. If individuals are considering getting into the NGOM fishery they should be notified that Council may change the rules in the future.

Currently, LAGC B (NGOM) and LAGC C (Incidental) permit holders may move between these two permit categories annually, or mid-season when a permit is transferred to a new owner. LAGC A (IFQ) permit holders can make a one-time transition from IFQ to NGOM/Incidental.

#### LAGC Permit Information

The PDT reviewed the following information about movement between LAGC permit categories, focusing on the switching permanently from LAGC A (IFQ) to LAGC B (NGOM), and switching between LAGC B (NGOM) and LAGC C (Incidental) permits at the time of renewal.

As of May 21, 2019, there were a total of 425 NGOM/Incidental rights (LAGC Category B/C). At the end of the 2018 fishing year (March 31, 2019), there were 107 Category B (NGOM) and 237 Category C (Incidental) active permits (not in CPH). Summary of permit movement from 2009-2019 (11 years) is shown in Table 1.

- 17 permits converted from IFQ (A) to NGOM/Inc (B/C)
- 13 permits moved from Incidental to NGOM
- 4 moved from NGOM to incidental

The number of LAGC IFQ (A) permits that have zero allocation are shown in Table 2.

Table 1 - Summary of LAGC conversions and switches between FY 2008 and FY 2019.

Year	Conversion from A to B/C	From B to C Within a year	From C to B Within a year	From B to C Across Years	From C to B Across Years
2008	-	-	-	-	-
2009	0	0	0	0	3
2010	0	0	0	0	1
2011	1	0	0	0	0
2012	1	0	0	2	2
2013	2	0	0	0	0
2014	6	1	1	1	0
2015	0	0	2	0	0
2016	0	0	0	0	0
2017	3	0	0	0	1
2018	3	0	0	0	1
2019	1	0	1	0	1

Table 2 - Number of Scallop LAGC IFQ (A) MRIs with zero base allocation.

FY	MRI
2011	7
2012	5
2013	28
2014	46
2015	49
2016	66
2017	88
2018	87
2019	94

Table 3 – LAGC permits held by LA vessels. (Source – Framework 30)

CALENDAR_YEAR	'LA+IFQ'	'LA+NGOM'	'LA+INCI'
2009	41	26	112
2010	40	27	113
2011	40	27	113
2012	41	27	111
2013	38	27	112
2014	40	27	113
2015	40	27	113
2016	40	27	113
2017	40	27	113

## What is a Control Date?

A control date is a date that may be used by a fishery management council, fisheries commission or by NOAA Fisheries in establishing eligibility criteria for determining levels of future access to fisheries, or sectors of fisheries. Establishing a control date does not commit the Councils, Commission, or NOAA Fisheries to develop any particular management system or criteria for participation in these fisheries. The Council may choose a different control date, or may choose to establish a management program that does not make use of such a date.

An example timeline for setting a control date that limits LAGC permit movement is shown in Table 4. Note that it is required that the public be noticed two weeks in advance of a Council meeting where a control date is being considered.

Table 4. Example timeline if the Committee recommends that the Council consider a control date at the December 2019 meeting.

Date	Action
24-Oct-19	Committee recommends that the Council consider a control date for LAGC permit movement at the December 2019 meeting.
19-Nov-19	FR notices that the Council will be considering a control date at December 2019 meeting
3-Dec-19	Council moves to establish control date for LAGC permit movement.
Feb-20	FR publishes advanced notice of proposed rulemaking, establishing the control date. The control date is set for the same day as the FR publishes advanced notice of proposed rulemaking (ANPR).
1-Apr-20	FY2020 NGOM fishery opens

## Control Date Considerations

Control date language can be specific or vague. Being very descriptive can strengthen the justification for alternatives developed in the future; however, being specific could also potentially constrain the range of alternatives that the Council may consider. The control date motions offered at the September 18<sup>th</sup>, 2019 AP meeting could be considered examples of specific control date language.

*“...recommend the Committee recommend that the Council establish a control date that could be used to restrict movement between LAGC B/C permits.”*

*“...recommend the Committee recommend that the Council establish a control date that could be used to restrict permanent movement from a LAGC A (IFQ) permit to a LAGC B (NGOM) or C (Incidental) permit.”*

The control dates recommended by the AP were aimed at preventing a surge of latent effort in the NGOM in the future, and the motions prescribed the method in which that goal could be accomplished (i.e. restrict movement between LAGC B/C permits and movement of LAGC A to LAGC B/C permits). While limiting permit movement could prevent an increase in active permits in the NGOM in the future, a control date based on this language would restrict the Council to only considering this approach in the future.

An example of a less descriptive control date could read something like this:

“...establish a control date that could be used to determine eligibility criteria for participation in the NGOM management area, including movement between LAGC permit categories.”

This approach could leave the door open for a wider range of approaches to limiting increases of latent effort in the NGOM in the future, including restrictions on permit movement as described in the September 18<sup>th</sup>, 2019 AP motions.

#### Control Date Example: Northeast Multispecies Charter/Party Fishery

The Council established a control date in 2006 to control future access to the Northeast multispecies charter/party fishery if an action were developed to limit the number of participants in this sector of the fishery. The Federal Register notice for this control date can be viewed at the following link, and is provided here to serve as an example of relevant control date language and information on how a control date may or may not be used:

<https://www.federalregister.gov/documents/2006/03/30/E6-4665/fisheries-of-the-northeastern-united-states-northeast-multispecies-fishery-notice-of-a-control-date>

In the past, NOAA Fisheries has developed a list of frequently asked questions for permit holders or prospective permit holders regarding future eligibility for participation in a fishery with a control date. A recent example of this frequently asked questions list for Northeast multispecies charter/party fishery permit holders can be viewed at:

<https://greateratlantic.fisheries.noaa.gov/nr/2018/March/18mulpccdphl.html>