

especially certain wild birds and injured birds. How should the Service design the information requested and review of transfer requests to ensure birds are suitable for exhibition use without being unduly burdensome to exhibitors or the Service?

Compensation and Breeding

As part of this rulemaking, the Service is considering addressing two areas for which we frequently receive questions: compensation and breeding of exhibition birds. Service regulations currently do not specify whether compensation is authorized for exhibition activities. The Service is considering specifically authorizing compensation for exhibition activities, as increased compensation provides more funds to adequately pay staff and humanely care for birds. We are considering defining compensation to align with AWA regulations, where compensation includes payment of program fees, merchandise sales, donations, or any other economic benefits related to exhibition of migratory birds or eagles. The Service seeks feedback on this approach.

Question 5. Should there be restrictions on compensation for exhibition, and if so, under what circumstances and conditions?

Currently, the breeding of exhibition birds is prohibited. The Service seeks public comment on whether breeding of exhibition birds should be authorized, and if so, under what circumstances and conditions.

Question 6. Should the breeding of exhibition birds be authorized, and if so, under what circumstances and conditions?

Exhibition and Other Permit Types

Exhibition activities are occasionally conducted by those who hold migratory birds under other permit types, such as falconry, raptor propagation, and others. For circumstances where exhibition is not the primary use of the migratory bird, the Service is considering the following three approaches. (1) For State-licensed falconers, a regulatory authorization where no permit is required for State-licensed falconers who receive less than a set amount in compensation per calendar year for exhibition programs (e.g., \$1,000). (2) For falconry schools, if a falconry school holds an AWA license, then an MBTA exhibition permit is not required. If the falconry school does not hold an AWA license, an MBTA exhibition permit is required. (3) For other MBTA permittees who conduct exhibition activities, but exhibition is not the primary use of the migratory bird, the following would

apply: If the permittee holds an AWA license for exhibition, then an MBTA exhibition permit is not required. If the permittee does not qualify for an AWA license, exhibition authorization can be added to the existing MBTA permit (e.g., raptor propagation, waterfowl sale and disposal, etc.).

Question 7. Do the three approaches described above make sense for those unique use cases? Are there other unique cases we have not considered?

Question 8. Should the Service change practice and allow marked, individual migratory birds to be held under multiple permits? For example, a banded raptor could be authorized for falconry, raptor propagation, and exhibition.

Public Comments

Please consider the following when preparing your comments:

- a. Be as succinct as possible.
- b. Be specific. Comments supported by logic, rationale, and citations are more useful than opinions.
- c. State your suggestions and recommendations clearly with an expectation of what you would like the Service to do.

To promulgate a proposed rule, we will take into consideration all comments and any additional information we receive. Please note that submissions merely stating support for or opposition to the proposed action, without providing supporting information, will be noted but not considered by the Service in making a determination. We may hold workshops or informational sessions so that interested and affected people may provide further comments and input; if we do, we will provide notice of these workshops or sessions in the **Federal Register**, or on our website (<https://www.fws.gov/program/migratory-bird-permit>), or both.

Public Availability of Comments

Written comments we receive become part of the public record associated with this action. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that the entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so. Comments and materials we receive will be available for public inspection, by appointment, during normal business hours at the U.S. Fish

and Wildlife Service Headquarters (see **ADDRESSES**, above).

Authority

The authority for this action is the Migratory Bird Treaty Act of 1918 (16 U.S.C. 703–712) and the Bald and Golden Eagle Protection Act (16 U.S.C. 668–668d).

Shannon A. Estenoz,

Assistant Secretary for Fish and Wildlife and Parks.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 230525–0139]

RIN 0648–BM25

Control Date for the Northern Gulf of Maine Scallop Fishery; Atlantic Sea Scallop Fishery Management Plan

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Advance notice of proposed rulemaking (ANPR); request for comments.

SUMMARY: This document announces a new control date that may be used to determine future participation in the Limited Access General Category Northern Gulf of Maine Atlantic sea scallop fishery. This document is necessary to inform interested parties that the New England Fishery Management Council is considering a future action that may affect or limit the number of participants in this fishery and that participants should locate and preserve all fishing related documents. The control date is intended to discourage speculative entry or fishing activity in the Limited Access General Category Northern Gulf of Maine scallop fishery while the Council considers how participation in the fishery may be affected.

DATES: Written comments must be received on or before July 31, 2023. June 1, 2023, shall be known as the “control date” for the Northern Gulf of Maine Atlantic sea scallop fishery.

ADDRESSES: You may submit comments on this document, identified by NOAA–NMFS–2023–0046 by the following method:

- *Electronic Submission:* Submit all electronic public comments via the

Federal e-Rulemaking Portal. Go to <https://www.regulations.gov> and enter NOAA–NMFS–2023–0046 in the Search box. Click on the “Comment” icon, complete the required fields, and enter or attach your comments.

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on www.regulations.gov without change. All personal identifying information (e.g., name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter “N/A” in the required fields if you wish to remain anonymous).

FOR FURTHER INFORMATION CONTACT: Louis Forristall, Fishery Management Specialist, 978–281–9321.

SUPPLEMENTARY INFORMATION: This notification establishes June 1, 2023, as the new control date for potential use in determining historical or traditional participation in the Limited Access General Category (LAGC) Northern Gulf of Maine (NGOM) Atlantic sea scallop fishery. Interested participants should locate and preserve all records that substantiate and verify their participation in the NGOM scallop fishery. Consideration of a control date does not commit the Council to develop any particular management regime or criteria for eligibility in the fishery. Any action to determine eligibility for the NGOM scallop fishery would require a change to the Fishery Management Plan (FMP) and would be considered through the normal Council process, including rulemaking, that would allow additional opportunities for public comment.

In 2008, Amendment 11 to the Atlantic Sea Scallop FMP (73 FR 20090; April 14, 2008) established the LAGC program and the NGOM management area. Scallop permit holders who qualified under Amendment 11 received

LAGC A (Individual Fishing Quota) permits. Non-qualifiers that held a General Category permit by November 1, 2004, received LAGC B/C permits. A vessel issued an LAGC B permit (NGOM permit) could land up to 200 lb (90.8 kg) per day in the NGOM, until the NGOM total allowable catch had been reached, and a vessel issued an LAGC C permit (incidental permit) could land up to 40 lb (18.1 kg) per trip on non-scallop trips. Amendment 11 established that a vessel issued an LAGC A permit is allowed to permanently downgrade to an LAGC B/C. Further, a vessel issued an LAGC B/C can select to be issued either an LAGC B or an LAGC C permit on an annual basis.

In recent years, both scallop biomass and participation increased in the NGOM. In 2022, the Council addressed this growth by creating an 800,000-lb (362,873.9 mt) set-aside allocation for the LAGC fishery in the NGOM management area through Amendment 21 to the Scallop FMP (87 FR 1688; January 12, 2022). Amendment 21 allowed LAGC A and B permit holders to harvest up to 200 lb (90.8 kg) per day from the NGOM set-aside, and LAGC C permit holders are still allowed to harvest up to 40 lb (18.1 kg) per day while the NGOM is open for fishing. The vision statement for Amendment 21 stated that the LAGC component of the NGOM fishery would consist of “a fleet made up of relatively small vessels, with possession limits to maintain the historical character of this fleet and provide opportunities to various participants including vessels from smaller coastal communities” (87 FR 1688, 1693).

Following the implementation of Amendment 21, the number of LAGC vessels accessing the NGOM continued to increase, as was expected during the development of the amendment. In 2022, there were 26 LAGC permits that switched from Incidental (LAGC C) to NGOM permits (LAGC B), whereas there were no more than 5 of these category switches in any previous year. Also in 2022, 103 LAGC A and B permits were

active in the NGOM, while a total of 556 LAGC permits were issued (212 A, 159 B, and 185 C).

On January 24, 2023, the Council voted to request a control date for LAGC permit category changes in the NGOM. The Council is concerned that the number of potential permits that can switch to an LAGC B permit to access the NGOM set-aside is large compared to the number of vessels historically active in the area. The Council requested that we establish a control date as the date of publication of this Advanced Notice of Proposed Rulemaking. This action notifies the public and fishery participants of possible rulemaking, should the Council consider future action that may limit LAGC permit category changes in the NGOM.

The control date is intended to disincentivize speculative entry, investment, or fishing activity in the NGOM scallop fishery while the Council considers if and how LAGC permit category changes in the fishery may be affected. The Council may use this control date for entry or participation qualification, along with additional criteria. Performance or fishing effort after the date of publication may not be treated the same as performance or effort before the control date. The Council may choose to use different qualification criteria that do not incorporate this control date. The Council may change the control date. The Council may also choose to take no further action to limit LAGC permit category changes in the NGOM scallop fishery. This control date is only intended for use in limiting LAGC permit category changes in the NGOM scallop fishery.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: May 25, 2023.

Samuel D. Rauch, III,
*Deputy Assistant Administrator for
Regulatory Programs, National Marine
Fisheries Service.*

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