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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 151211999–6343–02; RTID 0648-XX021]

**Fisheries of the Northeastern United States; Northeast Multispecies Fishery;
Closure of the Regular B Days-at-Sea Program for the Remainder of Fishing Year
2019**

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

ACTION: Temporary rule; inseason closure.

SUMMARY: This action closes the Regular B Days-at-Sea Program and prohibits the use of Regular B Days-at-Sea for all Northeast multispecies vessels for the remainder of fishing year 2019, through April 30, 2020. This action is being taken because the common pool fishery is projected to have caught 77 percent of the Incidental Catch Total Allowable Catch for Gulf of Maine Cod. We have projected that continuation of the program would undermine the achievements of the objectives of the Northeast Multispecies Fishery Management Plan and the Regular B Days-at-Sea Program.

DATES: This action is effective [*insert date of filing for public inspection with the Office of the Federal Register*], through April 30, 2020.

FOR FURTHER INFORMATION CONTACT: Spencer Talmage, Fishery Management Specialist, (978) 281-9232.

SUPPLEMENTARY INFORMATION: Federal regulations at 50 CFR

648.85(b)(6)(vi) authorize the Regional Administrator to close the Regular B Days-at-Sea (DAS) program by prohibiting the use of Regular B DAS when the continuation of the program would undermine the achievement of the objectives of the Northeast Multispecies Fishery Management Plan (FMP) or the Regular B DAS Program.

Framework Adjustment 58 to the Northeast Multispecies FMP (84 FR 34799, July 19, 2019) implemented Common Pool Incidental Catch Total Allowable Catches (TAC) for the Regular B DAS Program for the 2019 and 2020 fishing years, listed in Table 1 below. The Incidental Catch TAC for Gulf of Maine (GOM) Cod is very small, at 242.5 lb (110 kg).

Table 1 -- Fishing Years 2019-2020 Incidental Catch TACs for the Regular B DAS Program (mt, live weight)

Stock	2019	2020
Georges Bank (GB) Cod	0.54 (1,190.5 lb)	0.67 (1477.1 lb)
GOM Cod	0.11 (242.5 lb)	0.11 (242.5 lb)
GB Yellowtail Flounder	0.02 (44.1 lb)	0.04 (88.2 lb)
Cape Cod/GOM Yellowtail Flounder	0.21 (463.0 lb)	0.21 (463.0 lb)
American Plaice	1.57 (3,461.3 lb)	1.46 (3,218.7 lb)
Witch Flounder	1.15 (2,535.3 lb)	1.15 (2,535.3 lb)
Southern New England/Mid-Atlantic Winter Flounder	0.74 (1,631.4 lb)	0.74 (1,631.4 lb)

Based on information reported through October 12, 2019, the common pool fishery is projected to have caught approximately 186 lb (84.4 kg), or 77 percent of the 242.5-lb (110-kg) Incidental Catch Total Allowable Catch (TAC) for GOM cod.

The trip limit for GOM cod for common pool vessels participating in the Regular B DAS Program is 25 lb per trip. At this trip limit, the common pool fishing has only two trips remaining before it achieves the Incidental Catch TAC.

Given the current trip limit, and past fishing behavior, the common pool may achieve or exceed the GOM Cod Incidental Catch TAC in a very short amount of time. Additionally, this may happen sooner if effort in the Regular B DAS Program increases. Even at the current low level of effort in the Regular B DAS Program, we may not be able to close the program in time to prevent the common pool from exceeding the GOM Cod Incidental Catch TAC, which would be detrimental to the fishery.

As a result, it is unlikely that we can effectively limit catch to the GOM Cod Incidental Catch TAC during the remainder of fishing year 2019. We project that continuation of the Regular B DAS program would undermine the achievement of the objectives of the Northeast Multispecies FMP and the Regular B DAS Program. Effective *[insert date of filing for public inspection with the Office of the Federal Register]*, the Regular B DAS Program is closed and use of Regular B DAS is prohibited for the remainder of the 2019 fishing year, through April 30, 2020. This applies to all vessels issued a limited access Northeast multispecies permit.

If a vessel declared its trip under a Regular B DAS through the Vessel Monitoring System (VMS) or the interactive voice response system, and crossed the VMS demarcation line prior to *[insert date of filing for public inspection at the Office of the Federal Register]*, it may complete its trip.

Weekly quota monitoring reports for the Northeast Multispecies fishery are on our website at:
<https://www.greateratlantic.fisheries.noaa.gov/ro/fso/reports/h/nemultispecies.html>. We will continue to monitor catch through vessel trip reports, dealer-reported landings, VMS catch reports, and other available information and, if necessary, we will make additional

adjustments to common pool management measures.

Classification

This action is required by 50 CFR part 648 and is exempt from review under Executive Order 12866.

The Assistant Administrator for Fisheries, NOAA, finds good cause pursuant to 5 U.S.C. 553(b)(B) and 5 U.S.C. 553(d)(3) to waive prior notice and the opportunity for public comment and the 30-day delayed effectiveness period because it would be impracticable and contrary to the public interest.

The regulations authorize the Regional Administrator to close the Regular B DAS Program when the continuation of the program would undermine the achievement of the objectives of the Northeast Multispecies Fishery Management Plan (FMP) or the Regular B DAS Program. The public had prior notice and opportunity to comment on these regulations and the potential for in-season closures. Updated catch information only recently became available indicating that the common pool fishery is projected to have caught 77 percent of the Incidental Catch TAC for GOM cod as of October 12, 2019. This action prevents or limits the overage of the Incidental Catch TAC for this stock. A delay in effectiveness would provide vessel owners an opportunity to continue to participate in the Regular B DAS Program, but any additional participation and catch in the program could cause the allocation to be exceeded. The time necessary to provide for prior notice and comment, and a 30-day delay in effectiveness, would prevent NMFS from implementing the Regular B DAS program closure in a timely manner, contrary to the purpose of the regulations. This could undermine conservation objectives of the

Northeast Multispecies Fishery Management Plan and Regular B DAS Program, and cause negative economic impacts to the Northeast multispecies fishery.

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

Dated: December 12, 2019.

Alan D. Risenhoover,

Director, Office of Sustainable Fisheries,

National Marine Fisheries Service.

[FR Doc. 2019-27131 Filed: 12/16/2019 8:45 am; Publication Date: 12/17/2019]