

TABLE 3—COMPLETED DOMESTIC RECOVERY ACTIONS (PROPOSED AND FINAL DOWNLISTINGS AND DELISTINGS) IN FY 2019 AND FY 2020—Continued

[As of September 30, 2020]

Publication date	Title	Action(s)	Federal Register citation
9/30/2020 .....	Reclassification of beach layia ( <i>Layia carnosa</i> ) From Endangered To Threatened With a Section 4(d) Rule.	Proposed Rule—Downlisting .....	85 FR 61684–61700
9/30/2020 .....	Reclassification of Virgin Islands Tree Boa From Endangered to Threatened With a Section 4(d) Rule.	Proposed Rule—Downlisting .....	85 FR 61700–61717

When a petitioned action is found to be warranted but precluded, the Service is required by the Act to treat the petition as resubmitted on an annual basis until a proposal or withdrawal is published. If the petitioned species is not already listed under the Act, the species becomes a “candidate” and is reviewed annually in the “candidate notice of review” (CNOR). The number of candidate species remaining in FY 2020 is the lowest it has been since 1975. For these species, we are working on developing a species status assessment, preparing proposed listing determinations, or preparing not-warranted 12-month findings.

Another way that we have been expeditious in making progress in adding and removing qualified species to and from the Lists is that we have made our actions as efficient and timely as possible, given the requirements of the Act and regulations and constraints relating to workload and personnel. We are continually seeking ways to streamline processes or achieve economies of scale, such as batching related actions together for publication. Given our limited budget for implementing section 4 of the Act, these efforts also contribute toward our expeditious progress in adding and removing qualified species to and from the Lists.

The northern spotted owl will remain listed as a threatened species, and we will continue to evaluate this subspecies as new information becomes available. Continuing review will determine if a change in status is warranted, including the need to make prompt use of emergency listing procedures.

Under 50 CFR 17.31(a), threatened wildlife added to the List of Endangered and Threatened Wildlife on or prior to September 26, 2019, are provided all provisions of 50 CFR 17.21 for endangered wildlife, except 50 CFR 17.21(c)(5). The northern spotted owl was granted the protections of an endangered species at the time it was listed as a threatened species in 1990 (55 FR 26114–26194). Therefore, we conclude that reclassification will not provide any additional protections for

the species as it already receives the protections of the provisions of 50 CFR 17.21 for endangered wildlife.

A detailed discussion of the basis for this finding can be found in the northern spotted owl species status report and other supporting documents (see ADDRESSES, above). A detailed discussion of the basis for this finding can be found in the northern spotted owl species assessment and other supporting documents (see ADDRESSES, above).

**New Information**

We intend that any proposed reclassification for the northern spotted owl will be as accurate as possible. Therefore, we will continue to accept additional information and comments from all concerned governmental agencies, the scientific community, industry, or any other interested party concerning this finding. We request that you submit any new information concerning the taxonomy of, biology of, ecology of, status of, or threats to the northern spotted owl to the person specified under **FOR FURTHER INFORMATION CONTACT**, whenever it becomes available. New information will help us monitor this subspecies and make appropriate decisions about its conservation and status. We encourage local agencies and stakeholders to continue cooperative monitoring and conservation efforts.

**Authors**

The primary authors of this document are the staff members of the Fish and Wildlife Service’s Species Assessment Team.

**Authority**

The authority for this action is section 4 of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

**Aurelia Skipwith,**

Director, U.S. Fish and Wildlife Service.  
[FR Doc. 2020–27198 Filed 12–14–20; 8:45 am]  
**BILLING CODE 4333–15–P**

**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**50 CFR Part 648**

[Docket No.: 201209–0334]

RIN 0648–BK05

**Fisheries of the Northeastern United States; Omnibus Framework Adjustment To Modify the Mid-Atlantic Fishery Management Council’s Risk Policy**

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

**ACTION:** Final rule.

**SUMMARY:** NMFS approves and implements changes to the Mid-Atlantic Fishery Management Council’s Risk Policy. This action is intended to adjust the Council’s risk policy by accepting a higher level of risk for stocks at or above biomass targets. These adjustments could lead to increases in catch limits for healthy fisheries managed by the Council.

**DATES:** Effective December 15, 2020.

**ADDRESSES:** The Mid-Atlantic Fishery Management Council developed an environmental assessment (EA) for this action that describes and analyzes these measures and other considered alternatives. Copies of the Risk Policy Omnibus Framework Adjustment, including the EA and information on the economic impacts of this rulemaking, are available upon request from Dr. Christopher M. Moore, Executive Director, Mid-Atlantic Fishery Management Council, Suite 201, 800 North State Street, Dover, DE 19901. These documents are also accessible via the internet at <http://www.mafmc.org>.

Copies of the small entity compliance guide are available from Michael Pentony, Regional Administrator, NMFS, Greater Atlantic Regional Fisheries Office, 55 Great Republic Drive, Gloucester, MA 01930–2298, or

available on the internet at: <http://www.greateratlantic.fisheries.noaa.gov>.

**FOR FURTHER INFORMATION CONTACT:**

Shannah Jaburek, Fishery Management Specialist, 978-282-8456.

**SUPPLEMENTARY INFORMATION:**

**Background**

The Council took final action on this Risk Policy Omnibus Framework Adjustment to modify its risk policy in December 2019 and submitted the action to NMFS in early August 2020. NMFS published a proposed rule for the Framework on November 12, 2020 (85 FR 72312). In the interest of implementing a final rule before January 1, 2021 to facilitate the development of 2021 fishing year specifications, the proposed rule included a 15-day public comment period that closed on November 26, 2020.

NMFS has approved all of the measures in the Framework recommended by the Council, as described below. This final rule implements changes to the Council's risk policy and removes the typical/atypical species designation. The Magnuson-Stevens Fishery Conservation and Management Act allows NMFS to approve, partially approve, or disapprove measures proposed by the Council based on whether the measures are consistent with the FMP, the Magnuson-Stevens Act and its National Standards, and other applicable law. Details concerning the development of these measures were contained in the preamble of the proposed rule and are not repeated here.

This action adjusts the Council's risk policy by accepting a higher level of risk (*i.e.*, the probability of overfishing, known as  $P^*$ ) for stocks that are healthy and either at or above biomass targets. For stocks not subject to a rebuilding plan that have a ratio of biomass ( $B$ ) to biomass at maximum sustainable yield ( $B_{MSY}$ ) of 1.0 or lower, the maximum  $P^*$  as informed by the overfishing limit (OFL) distribution will decrease linearly from a maximum value of 45 percent until the  $P^*$  becomes zero at a  $B/B_{MSY}$  ratio of 0.10. For stocks with biomass that exceeds  $B_{MSY}$  and the  $B/B_{MSY}$  ratio is greater than 1.0, the  $P^*$  will increase linearly from 45 percent to a maximum of 49 percent when the  $B/B_{MSY}$  ratio is equal to 1.5 or greater. Under the current risk policy, the maximum allowed  $P^*$  is capped at 40 percent for stocks with a  $B/B_{MSY}$  ratio of 1.0 or higher, with this probability decreasing linearly until  $P^*$  becomes zero at the  $B/B_{MSY}$  ratio of 0.10. The Council made no adjustments for stocks under a rebuilding plan or stocks with no OFL

or proxy OFL. The increased tolerance of risk could lead to increases in ABC allocations for healthy fisheries the Council manages. The Council and its Scientific and Statistical Committee used this modified risk policy in recommending ABCs for scup and black sea bass for the 2021 fishing year that begins on January 1, 2021.

This action also removes the typical/atypical species designation when applied to the current risk policy. This designation was intended to provide for less risk to those species whose life histories make them more vulnerable to over-exploitation; however, it has rarely been used and is currently only applied to ocean quahog. This allows the Council to better use improvements in stock assessment and modeling approaches that can more appropriately account for and address such vulnerability.

**Proposed Rule Comments and Responses**

We received seven relevant and two non-relevant comments on the proposed rule during the public comment period. Below is a summary of the relevant comments and our responses.

*Comment 1:* NMFS received two comments in agreement with the action. The Virginia Marine Resources Commission noted no objections to the changes in the Council's risk policy. A member of the public commented in agreement with these adjustments, noting it was a welcomed change and enabled better management and sustainability. Specifically, it enables better utilization of species that are flourishing while still limiting the harvest of those fisheries that cannot sustain increases in allocations.

*Response:* NMFS agrees.

*Comment 2:* One commenter supported removing the typical/atypical species designation. The commenter also suggested that NMFS conduct an in-depth analysis of the regulatory changes to fully consider all impacts, including any increased risk to the environment and fish stocks as well as economic impacts. The commenter also noted that, under Executive Order (E.O.) 12866, the net benefits of these regulatory changes must outweigh the net costs.

*Response:* NMFS agrees with removing the species designation. The Council's EA provides the analysis suggested by the commenter. In the EA, economic impacts are analyzed, along with a comprehensive analysis of impacts to the affected environment that includes managed and non-target species, physical environment, protected species, and effects on human

communities. The alternatives considered in this action do not modify existing commercial quotas or recreational harvest limits for Council-managed fisheries and, therefore, will not have any direct socioeconomic impacts. However, increases in ABC allocations through future actions as a result of this action could result in positive socioeconomic impacts. When the proposed action is considered in conjunction with all other impacts from past, present, and reasonably foreseeable future actions, it is not expected to result in any significant impacts, positive or negative; therefore, no significant cumulative effects on the human environment are associated with the proposed action. Based on these findings, the outcome of the EA analysis was a Finding of No Significant Impact of implementing the regulatory changes as recommended by the Council. In addition, as suggested by the regulatory impact analysis in the EA, this rule was determined to be not significant under E.O. 12866.

*Comment 3:* One member of the public asked NMFS to clarify what is meant by species whose life histories make them more vulnerable to over-exploitation.

*Response:* Over-exploitation occurs when a species is harvested in larger quantities than what is sustainable. Certain species characteristics, such as low reproduction rates and long timeframes to recruit to harvestable size for the fishery, could make it more difficult for the stock to recover to sustainable biomass levels, thus making the species more vulnerable to over-exploitation. While this rule removes the atypical designation for these species, any future rulemakings would still consider these factors when putting measures in place.

*Comment 4:* Three members of the public opposed the rule due to reasons that included overfishing concerns, lack of studies on long-term impacts to support increasing risk probabilities, concern with loosening or eliminating policies meant to protect and conserve natural resources, and ocean temperature shifts/changes.

*Response:* NMFS appreciates the stated concerns that members of the public have with this rule. The changes to the Council's risk policy only apply to fisheries that are healthy and are at or above sustainable levels (*i.e.*, are not overfished and overfishing is not occurring). An example of a stock where increased risk may be applied is the black sea bass fishery, which in recent years has been at double or close to double the biomass at maximum sustainable yield. In addition, NMFS

continuously conducts biomass surveys and stock assessments to gauge the health of managed fisheries. These biomass surveys also collect other environmental data, such as ocean temperature, which help NMFS evaluate any changes within the stock, for example biomass increases/decreases and changes in stock structure such as shifting locations. The changes to the risk policy implemented in this action are administrative in nature and merely allow fishery managers and scientists to consider taking increased risks when setting ABC allocations. It is also important to note that, while this action allows for increased risk from the current policy, the revised policy still ensures that there would be less than a 50 percent chance of overfishing. Any ABC recommendations will be made through future rulemakings, which will include a comprehensive analysis of any proposed measures.

**Changes From the Proposed Rule**

There are no changes to the measures from the proposed rule.

**Classification**

Pursuant to section 304(b)(1)(A) of the Magnuson-Stevens Act, the NMFS Assistant Administrator has determined that this final rule is consistent with the FMP, other provisions of the Magnuson-Stevens Act and other applicable law.

This final rule has been determined to be not significant for purposes of E.O. 12866.

This final rule is considered to be an E.O. 13771 deregulatory action.

This final rule does not contain policies with federalism or “takings” implications, as those terms are defined in E.O. 13132 and E.O. 12630, respectively.

This action does not contain any collection-of-information requirements subject to the Paperwork Reduction Act.

The Assistant Administrator for Fisheries has determined that, because this rule relieves a restriction by allowing the Council to increase ABC allocations for the healthy fisheries it manages, it is not subject to the 30-day delayed effectiveness provision of the Administrative Procedure Act pursuant to 5 U.S.C. 553(d)(1). In addition, the need to implement these measures in a timely manner constitutes good cause under authority contained in 5 U.S.C. 553(d)(3), to waive the 30-day delay in effective date. The Council and its SSC used this modified risk policy in recommending ABCs for scup and black sea bass for the 2021 fishing year specifications package for summer flounder, scup, and black sea bass. The scup, black sea bass, and summer

flounder fisheries operate on the calendar year. Annual publication of the summer flounder quotas prior to the start of the fishing year, by December 31, is required by Court Order in *North Carolina Fisheries Association v. Daley*. If this risk policy rule were not effective prior to the start of the fishing year, this could delay the 2021 summer flounder, scup, and black sea bass specifications, requiring interim specifications for these species to go into effect on January 1. This scenario would create unnecessary challenges for individual states when setting commercial possession and/or trip limits, which apportion the catch over the entire calendar year. This would cause unnecessary harm to the fisheries and is contrary to the public interest.

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration during the proposed rule stage that this action would not have a significant economic impact on a substantial number of small entities. The factual basis for the certification was published in the proposed rule and is not repeated here. No comments were received regarding this certification. As a result, a regulatory flexibility analysis was not required and none was prepared.

**List of Subjects 50 CFR Part 648**

Fisheries, Fishing, Recordkeeping and reporting requirements.

Dated: December 10, 2020.

**Samuel D. Rauch III,**

*Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.*

For the reasons set out in the preamble, 50 CFR part 648 is amended as follows:

**PART 648—FISHERIES OF THE NORTHEASTERN UNITED STATES**

- 1. The authority citation for part 648 continues to read as follows:

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

- 2. In § 648.21, revise paragraphs (b)(1) and (2), and (c)(1) to read as follows:

**§ 648.21 Mid-Atlantic Fishery Management Council risk policy.**

\* \* \* \* \*

(b) \* \* \* (1) For stocks with a ratio of biomass (B) to biomass at MSY ( $B_{MSY}$ ) of 1.0 or lower, the maximum probability of overfishing as informed by the OFL distribution shall decrease linearly from a maximum value of 45 percent until the probability of overfishing becomes zero at a  $B/B_{MSY}$  ratio of 0.10.

(2) For stocks with biomass that exceeds  $B_{MSY}$  and the  $B/B_{MSY}$  ratio is greater than 1.0, the probability of overfishing shall increase linearly from a probability of overfishing of 45 percent to a maximum probability of overfishing of 49 percent when the  $B/B_{MSY}$  ratio is equal to 1.5 or greater.

\* \* \* \* \*

(c) \* \* \* (1) Unless otherwise allowed in paragraph (c)(2) of this section, for instances in which the application of the risk policy approaches in paragraph (b) of this section using OFL distribution results in a more restrictive ABC recommendation than the calculation of ABC derived from the use of  $F_{REBUILD}$  at the MAFMC-specified overfishing risk level as outlined in paragraph (a) of this section, the SSC shall recommend to the MAFMC the lower of the ABC values.

\* \* \* \* \*

[FR Doc. 2020–27562 Filed 12–14–20; 8:45 am]

**BILLING CODE 3510–22–P**

**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**50 CFR Part 648**

[RTID 0648–XA707]

**Fisheries of the Northeastern United States; Summer Flounder Fishery; Quota Transfer From NC to CT**

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

**ACTION:** Notice; quota transfer.

**SUMMARY:** NMFS announces that the State of North Carolina is transferring a portion of its 2020 commercial summer flounder quota to the State of Connecticut. This quota adjustment is necessary to comply with the Summer Flounder, Scup, and Black Sea Bass Fishery Management Plan quota transfer provisions. This announcement informs the public of the revised commercial quotas for North Carolina and Connecticut.

**DATES:** Effective December 10, 2020, through December 31, 2020.

**FOR FURTHER INFORMATION CONTACT:** Laura Hansen, Fishery Management Specialist, (978) 281–9225.

**SUPPLEMENTARY INFORMATION:** Regulations governing the summer flounder fishery are found in 50 CFR 648.100 through 648.110. These regulations require annual specification of a commercial quota that is