



## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 224

[Docket No. 230713-0166; RTID 0648-XR118]

### Endangered and Threatened Wildlife and Plants; Listing the Atlantic Humpback Dolphin as an Endangered Species under the Endangered Species Act; Correction; Comment Period Reopening

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

**ACTION:** Proposed rule; correction; reopening of comment period.

**SUMMARY:** We, NMFS, published a proposed rule on April 7, 2023 to list the Atlantic humpback dolphin (*Sousa teuszii*) under the Endangered Species Act (ESA) in response to a petition from the Animal Welfare Institute, the Center for Biological Diversity, and VIVA Vaquita to list the species. Following publication of this proposed rule, NMFS became aware of cartographic guidance bulletin 38, issued by the Department of State's Office of the Geographer and Global Issues on December 16, 2020, and determined that the preamble to our proposed rule was not in alignment with the guidance. This correction removes all references to the name "Western Sahara" from the proposed rule's preamble and identifies Morocco as a country within the species' range, per the guidance. Additionally, this correction includes changes to the "International Regulatory Mechanisms" subsection of the proposed rule resulting from the inclusion of Morocco as a range country for the Atlantic humpback dolphin (*S. teuszii*). We are also reopening the public comment period for the proposed rule.

**DATES:** The comment period for the proposed rule published on April 7, 2023 (88 FR 20829) is reopened. The comment period is reopened from [INSERT DATE OF

**PUBLICATION IN THE FEDERAL REGISTER]** to **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**. Comments must be received by **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**. Comments received after this date may not be accepted.

**ADDRESSES:** You may submit comments on this document, identified by NOAA-NMFS-2021-0110, 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-2021-0110 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](http://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).

NMFS will consider all public comments that were previously submitted in response to the proposed rule as it was originally published on April 7, 2023 when drafting the final rule. Although there is no need to resubmit prior comments, commenters may submit new comments during the reopened comment period.

The petition, status review report, **Federal Register** notices, and the list of references can be accessed electronically online at:

<https://www.fisheries.noaa.gov/species/atlantic-humpback-dolphin#conservation->

*management*. The peer review report is available online at:

<https://www.noaa.gov/information-technology/endangered-species-act-status-review-report-atlantic-humpback-dolphin-sousa-teuszii-id447>.

**FOR FURTHER INFORMATION CONTACT:** Heather Austin, NMFS Office of Protected Resources, [Heather.Austin@noaa.gov](mailto:Heather.Austin@noaa.gov), 301-427-8422.

**SUPPLEMENTARY INFORMATION:**

As described above, our notice of proposed rulemaking published on April 7, 2023 (88 FR 20829), FR Doc 2023-07286, contained inadvertent errors that need to be corrected to align with cartographic guidance bulletin 38. We identify these errors below by reference to the page in the April 7, 2023 **Federal Register** where the errors occurred. This document provides corrected text for each of those errors.

Further, in accordance with 50 CFR 424.16(c)(2), NMFS finds that bringing the preamble to our proposed rule to list the Atlantic humpback dolphin into alignment with the guidance bulletin presents good cause for reopening the public comment period. Reopening the public comment period will allow the Kingdom of Morocco, as well as any other interested person, an opportunity to provide comments on this proposal.

**Corrections**

1. On page 20831, in the second column, in the first paragraph of the “Range, Distribution, and Habitat Use” subsection, NMFS inadvertently referred to “Western Sahara” within the following sentence describing the range of the species.

“The Atlantic humpback dolphin is considered an obligate shallow water dolphin that is endemic to the tropical and subtropical eastern Atlantic nearshore waters (<30 m) of the west coast of Africa, ranging discontinuously for approximately 7,000 km from Dakhla Bay (Rio de Oro) in Western Sahara (23°52' N, 15°47' W) to Tômbwa (Namibe Province) in Angola (15°46' S, 11°46' E) (International Whaling Commission 2011;

Collins 2015; Weir and Collins 2015; International Whaling Commission 2017; International Whaling Commission 2020b; Austin 2023).”

Thus, in proposed rule FR Doc. 2023-07286 on page 20831 in the **Federal Register** issue of April 7, 2023, the following correction is made to align with cartographic guidance bulletin 38. The text “Western Sahara” in the aforementioned sentence is corrected to read “Morocco” to identify Morocco as the northernmost country within the species range. Corrected text follows:

“The Atlantic humpback dolphin is considered an obligate shallow water dolphin that is endemic to the tropical and subtropical eastern Atlantic nearshore waters (<30 m) of the west coast of Africa, ranging discontinuously for approximately 7,000 km from Dakhla Bay (Rio de Oro) in Morocco (23°52' N, 15°47' W) to Tômbwa (Namibe Province) in Angola (15°46' S, 11°46' E) (International Whaling Commission 2011; Collins 2015; Weir and Collins 2015; International Whaling Commission 2017; International Whaling Commission 2020b; Austin 2023).”

2. On page 20831, in the third column, the second full sentence in the second paragraph of the “Range, Distribution, and Habitat Use” subsection, NMFS inadvertently referred to “Western Sahara” within the following paragraph discussing the range and distribution of the species.

“This species is the only member of the genus that occurs outside of the Indo-Pacific region (Mendez *et al.* 2013; Jefferson and Rosenbaum 2014; Collins 2015). Although each of the 19 countries between (and including) Western Sahara and Angola are presumed to be part of the species’ natural range, the current distribution is uncertain due to incomplete research coverage, including an absence of survey effort in many areas.”

Thus, in proposed rule FR Doc 2023-07286 at 88 FR 20829 on page 20831 in the **Federal Register** issue of April 7, 2023, the following correction is made to align with

cartographic guidance bulletin 38. The aforementioned paragraph is corrected to identify Morocco as a country within the species range. Corrected text follows:

“This species is the only member of the genus that occurs outside of the Indo-Pacific region (Mendez *et al.* 2013; Jefferson and Rosenbaum 2014; Collins 2015). Although each of the 19 countries between (and including) Morocco and Angola are presumed to be part of the species’ natural range, the current distribution is uncertain due to incomplete research coverage, including an absence of survey effort in many areas.”

3. On page 20831, in the third column, the third full sentence in the second paragraph of the “Range, Distribution, and Habitat Use” subsection, NMFS inadvertently referred to “Western Sahara” within the following sentence discussing confirmed records of occurrence of the species.

“Currently, there are confirmed records of occurrence (confirmed via sightings, strandings, and bycatch data) in the following 13 countries: Western Sahara, Mauritania, Senegal, The Gambia, Guinea-Bissau, Guinea, Togo, Benin, Nigeria, Cameroon, Gabon, Republic of the Congo, and Angola (Ayissi *et al.* 2014; Weir and Collins 2015; Van Waerebeek *et al.* 2017; CCAHD 2020; Bamy *et al.* 2021, Austin 2023).”

Thus, in proposed rule FR Doc. 2023-07286 at 88 FR 20829 on page 20831 in the **Federal Register** issue of April 7, 2023, the following correction is made to align with cartographic guidance bulletin 38. The aforementioned sentence is corrected to identify Morocco as a country with confirmed records of occurrence of the species. Corrected text follows:

“Currently, there are confirmed records of occurrence (confirmed via sightings, strandings, and bycatch data) in the following 13 countries: Morocco, Mauritania, Senegal, The Gambia, Guinea-Bissau, Guinea, Togo, Benin, Nigeria, Cameroon, Gabon, Republic of the Congo, and Angola (Ayissi *et al.* 2014; Weir and Collins 2015; Van Waerebeek *et al.* 2017; CCAHD 2020; Bamy *et al.* 2021, Austin 2023).”

4. On page 20833, in the second column, in the final paragraph of the “Social Behavior” subsection, NMFS inadvertently referred to “Western Sahara” within the following sentence discussing locations of observations of mixed-species associations between Atlantic humpback dolphins and bottlenose dolphins (*Tursiops truncatus*).

“Mixed-species associations between Atlantic humpback dolphins and bottlenose dolphins (*Tursiops truncatus*) have been observed in Western Sahara, Mauritania, Senegal, Guinea-Bissau, Gabon, the Republic of the Congo, and Angola (Weir 2009; Weir 2011; Leeney *et al.* 2016).”

Thus, in proposed rule FR Doc. 2023-07286 at 88 FR 20829 on page 20833 in the **Federal Register** issue of April 7, 2023, the following correction is made to align with cartographic guidance bulletin 38. The aforementioned sentence is corrected to identify Morocco as a country where observations of mixed-species associations between Atlantic humpback dolphins and bottlenose dolphins have occurred. Corrected text follows:

“Mixed-species associations between Atlantic humpback dolphins and bottlenose dolphins (*Tursiops truncatus*) have been observed in Morocco, Mauritania, Senegal, Guinea-Bissau, Gabon, the Republic of the Congo, and Angola (Weir 2009; Weir 2011; Leeney *et al.* 2016).”

5. On page 20833, in the second column, in the second paragraph of the “Population Abundance and Trends” subsection, NMFS inadvertently referred to “Western Sahara” within the following sentence discussing the range of the species.

“Atlantic humpback dolphin populations at the northern (Dakhla Bay, Western Sahara) and southern (Namibe, Angola) extremes of the range appear to be very small (Weir 2009; Collins 2015; Austin 2023).”

Thus, in proposed rule FR Doc. 2023-07286 at 88 FR 20829 on page 20833 in the **Federal Register** issue of April 7, 2023, the following correction is made to align with

cartographic guidance bulletin 38. The aforementioned sentence is corrected to identify Morocco as the northernmost country within the species range. Corrected text follows:

“Atlantic humpback dolphin populations at the northern (Dakhla Bay, Morocco) and southern (Namibe, Angola) extremes of the range appear to be very small (Weir 2009; Collins 2015; Austin 2023).”

6. On page 20835, in the third column, in the first paragraph of the “Spatial Structure and Connectivity” subsection, NMFS inadvertently referred to “Western Sahara” within the following sentence discussing the distribution and range of the species.

“The Atlantic humpback dolphin has a restricted range and fragmented distribution, being a shallow water dolphin endemic to (sub)tropical nearshore waters along the Atlantic coast of Africa, ranging discontinuously for approximately 7,000 km from Western Sahara in the north to Angola in the south (Collins 2015; Weir and Collins 2015; Collins *et al.* 2017).”

Thus, in proposed rule FR Doc. 2023-07286 at 88 FR 20829 on page 20835 in the **Federal Register** issue of April 7, 2023, the following correction is made to align with cartographic guidance bulletin 38. The aforementioned sentence is corrected to identify Morocco as the northernmost country within the species range. Corrected text follows:

“The Atlantic humpback dolphin has a restricted range and fragmented distribution, being a shallow water dolphin endemic to (sub)tropical nearshore waters along the Atlantic coast of Africa, ranging discontinuously for approximately 7,000 km from Morocco in the north to Angola in the south (Collins 2015; Weir and Collins 2015; Collins *et al.* 2017).”

7. On page 20836, in the third column, the second full sentence in the second paragraph of the “The Present or Threatened Destruction, Modification, or Curtailment of

Its Habitat or Range” subsection, NMFS inadvertently referred to “Western Sahara” within the following sentence discussing the range of the species.

“Additionally, the species has a restricted geographic range, being endemic to the tropical and subtropical nearshore waters along the Atlantic African coast from Western Sahara in the north to the southern region of Angola (Van Waerebeek *et al.* 2004; Collins 2015; Weir and Collins 2015).”

Thus, in proposed rule FR Doc. 2023-07286 at 88 FR 20829 beginning on page 20836 in the **Federal Register** issue of April 7, 2023, the following correction is made to align with cartographic guidance bulletin 38. The aforementioned sentence is corrected to identify Morocco as the northernmost country within the species range. Corrected text follows:

“Additionally, the species has a restricted geographic range, being endemic to the tropical and subtropical nearshore waters along the Atlantic African coast from Morocco in the north to the southern region of Angola (Van Waerebeek *et al.* 2004; Collins 2015; Weir and Collins 2015).”

8. On page 20840, in the second column, in the first paragraph of the “International Regulatory Mechanisms” subsection, NMFS inadvertently included “Western Sahara” within the following paragraph discussing parties to the Convention on the Conservation of Migratory Species of Wild Animals (CMS or Bonn Convention).

“The Convention on the Conservation of Migratory Species of Wild Animals (CMS or Bonn Convention) is an environmental treaty of the United Nations that aims to conserve migratory species, their habitats, and their migration routes. CMS establishes obligations for each state joining the convention, promotes collaboration among range states, and provides the legal foundation for coordinating international conservation measures throughout a migratory range. Early recognition of the vulnerability of the Sousa species was indicated by their inclusion on the CMS Appendix II in 1991 (Weir *et*

*al.* 2021) and on Appendix I in 2009, thereby obligating parties to work regionally to promote their conservation. Parties include all countries that are in the Atlantic humpback dolphin's range except for Sierra Leone and Western Sahara (Austin 2023).”

Thus, in proposed rule FR Doc. 2023-07286 at 88 FR 20829 on page 20840 in the **Federal Register** issue of April 7, 2023, the following correction is made to align with cartographic guidance bulletin 38. The text “Western Sahara” in the aforementioned paragraph is deleted. Corrected text follows:

“The Convention on the Conservation of Migratory Species of Wild Animals (CMS or Bonn Convention) is an environmental treaty of the United Nations that aims to conserve migratory species, their habitats, and their migration routes. CMS establishes obligations for each state joining the convention, promotes collaboration among range states, and provides the legal foundation for coordinating international conservation measures throughout a migratory range. Early recognition of the vulnerability of the Sousa species was indicated by their inclusion on the CMS Appendix II in 1991 (Weir *et al.* 2021) and on Appendix I in 2009, thereby obligating parties to work regionally to promote their conservation. Parties include all countries that are in the Atlantic humpback dolphin's range except for Sierra Leone (Austin 2023).”

9. On page 20840, in the second column, in the first paragraph of the “International Regulatory Mechanisms” subsection, NMFS inadvertently included “Western Sahara” in its calculation of the number of parties to CMS within the following sentence.

“However, while 17 out of the 19 range countries of *S. teuszii* are parties to CMS, conservation of the Atlantic humpback dolphin is often not a high priority for governments of range countries, despite the efforts of the CMS's National Focal Points to promote the issue.”

Thus, in proposed rule FR Doc. 2023-07286 at 88 FR 20829 on page 20840 in the **Federal Register** issue of April 7, 2023, the following correction is made to align with cartographic guidance bulletin 38. Morocco is now included as a range country for the species and in the calculation of how many countries along the west coast of Africa are a party to CMS. With Western Sahara removed from this calculation, the number of range countries that are parties to CMS increases from 17 to 18. Corrected text follows:

“However, while 18 out of the 19 range countries of *S. teuszii* are parties to CMS, conservation of the Atlantic humpback dolphin is often not a high priority for governments of range countries, despite the efforts of the CMS’s National Focal Points to promote the issue.”

10. On page 20841, in the first column, in the last paragraph, NMFS inadvertently included “Western Sahara” in its calculation of the number of parties to the Convention on Wetlands within the following paragraph.

“The Convention on Wetlands, signed in Ramsar, Iran, in 1971, is an intergovernmental treaty, which provides the framework for national action and international cooperation for the conservation and wise use of wetlands and their resources. As of October 2021, there are 172 parties, which includes 18 out of 19 range countries of *S. teuszii* and 2,347 designated sites (Austin 2023).”

Thus, in proposed rule FR Doc. 2023-07286 at 88 FR 20829 on page 20841 in the **Federal Register** issue of April 7, 2023, the following corrections are made to align with cartographic guidance bulletin 38. Morocco is now included as a range country for the species and in the calculation of how many countries along the west coast of Africa are a party to the Convention on Wetlands, making all 19 of the species range countries a party to this Convention in the following paragraph. Corrected text follows:

“The Convention on Wetlands, signed in Ramsar, Iran, in 1971, is an intergovernmental treaty, which provides the framework for national action and

international cooperation for the conservation and wise use of wetlands and their resources. As of October 2021, there are 172 parties, which includes all 19 range countries of *S. teuszii* and 2,347 designated sites (Austin 2023).”

11. On page 20841, in the second column, in the first paragraph of the “Regional Regulatory Mechanisms” subsection, NMFS did not include Morocco as range country for the species within the list of countries that have ratified the Abidjan Convention. Additionally, Morocco was not included in the subsequent calculation of how many countries along the west coast of Africa have ratified the Abidjan Convention in the following sentence.

“The contracting parties that have ratified the Abidjan Convention are: Benin, Cameroon, Republic of the Congo, Côte d’Ivoire, Gabon, Gambia, Ghana, Guinea, Guinea-Bissau, Liberia, Mauritania, Nigeria, Senegal, Sierra Leone, South Africa and Togo, which includes 15 out of the 19 range countries of *S. teuszii* (Austin 2023)”

Thus, in proposed rule FR Doc. 2023-07286 at 88 FR 20829 on page 20841 in the **Federal Register** issue of April 7, 2023, the following correction is made to align with cartographic guidance bulletin 38. Morocco is now included as a range country for the species and as a contracting party that has ratified the Abidjan Convention. Accordingly, Morocco is included in the subsequent calculation of how many countries along the west coast of Africa have ratified the Abidjan Convention, increasing the number from 15 to 16. Corrected text follows:

“The contracting parties that have ratified the Abidjan Convention are: Benin, Cameroon, Republic of the Congo, Côte d’Ivoire, Gabon, Gambia, Ghana, Guinea, Guinea-Bissau, Liberia, Mauritania, Morocco, Nigeria, Senegal, Sierra Leone, South Africa and Togo, which includes 16 out of the 19 range countries of *S. teuszii* (Austin 2023)”.

12. On page 20841, in the second column, in the first paragraph of the “Regional Regulatory Mechanisms” subsection, NMFS inadvertently referred to “Western Sahara”.

“The remaining 4 range countries including Angola, Democratic Republic of the Congo, and Equatorial Guinea are located in the Abidjan Convention area but have not yet ratified the convention; and Western Sahara is not a signatory of the Abidjan Convention (Austin 2023).”

Thus, in proposed rule FR Doc. 2023-07286 at 88 FR 20829 on page 20841 in the **Federal Register** issue of April 7, 2023, the following corrections are made to align with cartographic guidance bulletin 38. Morocco is now included as a range country for the species and identified as a contracting party that has ratified the Abidjan Convention. This results in 3 range countries (Angola, Democratic Republic of the Congo, and Equatorial Guinea) that are located in the Abidjan Convention area but have not yet ratified the Convention. Corrected text follows:

“The remaining 3 range countries including Angola, Democratic Republic of the Congo, and Equatorial Guinea are located in the Abidjan Convention area but have not yet ratified the Convention (Austin 2023)”.

**Authority:** 16 U.S.C. 1531-1543 and 16 U.S.C. 1361 *et seq.*

Dated: July 17, 2023.

**Kimberly Damon-Randall,**

*Acting Deputy Assistant Administrator for Regulatory Programs,*

*National Marine Fisheries Service.*

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