

CAA. This proposed action merely proposes to approve state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this proposed action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);

- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);

- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);

- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4);

- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);

- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);

- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);

- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

The SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it impose substantial direct costs on tribal governments or preempt tribal law.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Authority: 42 U.S.C. 7401 *et seq.*

Dated: November 26, 2021.

John Blevins,

Acting Regional Administrator, Region 4.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 223 and 224

[Docket No. 211129-0246; RTID 0648-XR118]

Endangered and Threatened Wildlife; 90-Day Finding on a Petition To List the Atlantic Humpback Dolphin as Threatened or Endangered Under the Endangered Species Act

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

ACTION: 90-Day petition finding, request for information, and initiation of status review.

SUMMARY: We, NMFS, announce a 90-day finding on a petition to list the Atlantic humpback dolphin (*Sousa teuszii*) as threatened or endangered under the Endangered Species Act (ESA). We find that the petition presents substantial scientific or commercial information indicating that the petitioned action may be warranted. Therefore, we are initiating a status review of the species to determine whether listing under the ESA is warranted. To ensure this status review is comprehensive, we are soliciting scientific and commercial information regarding this species.

DATES: Scientific and commercial information pertinent to the petitioned action must be received by January 31, 2022.

ADDRESSES: You may submit comments on this document, identified by NOAA-NMFS-2021-0110 by the following method:

- **Electronic Submissions:** Submit all electronic public comments via the Federal eRulemaking 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 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).

Interested persons may obtain a copy of the petition online at the NMFS website: <https://www.fisheries.noaa.gov/national/endangered-species-conservation/petitions-awaiting-90-day-findings>.

FOR FURTHER INFORMATION CONTACT:

Heather Austin, NMFS Office of Protected Resources, (301) 427-8422, Heather.Austin@noaa.gov.

SUPPLEMENTARY INFORMATION:

Background

On September 8, 2021, we received a petition from the Animal Welfare Institute, the Center for Biological Diversity, and VIVA Vaquita to list the Atlantic humpback dolphin (*Sousa teuszii*) as a threatened or endangered species under the ESA. The petition asserts that *Sousa teuszii* is threatened by four of the five ESA section 4(a)(1) factors: (1) The present destruction or modification of its habitat; (2) overutilization for commercial purposes; (3) inadequacy of existing regulatory mechanisms; and (4) manmade factors affecting its continued existence. The petition is available online (see **ADDRESSES**).

ESA Statutory, Regulatory, and Policy Provisions and Evaluation Framework

Section 4(b)(3)(A) of the ESA of 1973, as amended (16 U.S.C. 1531 *et seq.*), requires, to the maximum extent practicable, that within 90 days of receipt of a petition to list a species as threatened or endangered, the Secretary of Commerce make a finding on whether that petition presents substantial scientific or commercial information indicating that the petitioned action may be warranted, and to promptly publish such finding in the **Federal Register** (16 U.S.C. 1533(b)(3)(A)). When it is found that substantial scientific or commercial information in a petition indicates the petitioned action may be warranted (a “positive 90-day finding”), we are required to promptly commence a review of the status of the species concerned during which we will conduct a comprehensive review of the best available scientific and commercial information. In such cases, we conclude

the review with a finding as to whether, in fact, the petitioned action is warranted within 12 months of receipt of the petition. Because the finding at the 12-month stage is based on a more thorough review of the available information, as compared to the narrow scope of review at the 90-day stage, a “may be warranted” finding does not prejudice the outcome of the status review.

Under the ESA, a listing determination may address a species, which is defined to also include subspecies and, for any vertebrate species, any distinct population segment (DPS) that interbreeds when mature (16 U.S.C. 1532(16)). A joint NMFS–U.S. Fish and Wildlife Service (USFWS) (jointly, “the Services”) policy clarifies the agencies’ interpretation of the phrase “distinct population segment” for the purposes of listing, delisting, and reclassifying a species under the ESA (61 FR 4722; February 7, 1996). A species, subspecies, or DPS is “endangered” if it is in danger of extinction throughout all or a significant portion of its range, and “threatened” if it is likely to become endangered within the foreseeable future throughout all or a significant portion of its range (ESA sections 3(6) and 3(20), respectively, 16 U.S.C. 1532(6) and (20)). Pursuant to the ESA and our implementing regulations, we determine whether species are threatened or endangered based on any one or a combination of the following five section 4(a)(1) factors: (1) The present or threatened destruction, modification, or curtailment of habitat or range; (2) overutilization for commercial, recreational, scientific, or educational purposes; (3) disease or predation; (4) inadequacy of existing regulatory mechanisms to address identified threats; (5) or any other natural or manmade factors affecting the species’ existence (16 U.S.C. 1533(a)(1), 50 CFR 424.11(c)).

ESA-implementing regulations issued jointly by NMFS and USFWS (50 CFR 424.14(h)(1)(i)) define “substantial scientific or commercial information” in the context of reviewing a petition to list, delist, or reclassify a species as “credible scientific or commercial information in support of the petition’s claims such that a reasonable person conducting an impartial scientific review would conclude that the action proposed in the petition may be warranted.” Conclusions drawn in the petition without the support of credible scientific or commercial information will not be considered “substantial information.” In reaching the initial (90-day) finding on the petition, we will consider the information described in

sections 50 CFR 424.14(c), (d), and (g) (if applicable).

Our determination as to whether the petition provides substantial scientific or commercial information indicating that the petitioned action may be warranted will depend in part on the degree to which the petition includes the following types of information: (1) Information on current population status and trends and estimates of current population sizes and distributions, both in captivity and the wild, if available; (2) identification of the factors under section 4(a)(1) of the ESA that may affect the species and where these factors are acting upon the species; (3) whether and to what extent any or all of the factors alone or in combination identified in section 4(a)(1) of the ESA may cause the species to be an endangered species or threatened species (*i.e.*, the species is currently in danger of extinction or is likely to become so within the foreseeable future), and, if so, how high in magnitude and how imminent the threats to the species and its habitat are; (4) information on adequacy of regulatory protections and effectiveness of conservation activities by States as well as other parties, that have been initiated or that are ongoing, that may protect the species or its habitat; and (5) a complete, balanced representation of the relevant facts, including information that may contradict claims in the petition. *See* 50 CFR 424.14(d).

If the petitioner provides supplemental information before the initial finding is made and states that it is part of the petition, the new information, along with the previously submitted information, is treated as a new petition that supersedes the original petition, and the statutory timeframes will begin when such supplemental information is received. *See* 50 CFR 424.14(g).

We may also consider information readily available at the time the determination is made (50 CFR 424.14(h)(1)(ii)). We are not required to consider any supporting materials cited by the petitioner if the petitioner does not provide electronic or hard copies, to the extent permitted by U.S. copyright law, or appropriate excerpts or quotations from those materials (*e.g.*, publications, maps, reports, letters from authorities). *See* 50 CFR 424.14(c)(6).

The “substantial scientific or commercial information” standard must be applied in light of any prior reviews or findings we have made on the listing status of the species that is the subject of the petition (50 CFR 424.14(h)(1)(iii)). Where we have already conducted a finding on, or review of, the listing

status of that species (whether in response to a petition or on our own initiative), we will evaluate any petition received thereafter seeking to list, delist, or reclassify that species to determine whether a reasonable person conducting an impartial scientific review would conclude that the action proposed in the petition may be warranted despite the previous review or finding. Where the prior review resulted in a final agency action—such as a final listing determination, 90-day not-substantial finding, or 12-month not-warranted finding—a petition will generally not be considered to present substantial scientific and commercial information indicating that the petitioned action may be warranted unless the petition provides new information or analysis not previously considered. *See* 50 CFR 424.14(h)(1)(iii).

At the 90-day finding stage, we do not conduct additional research, and we do not solicit information from parties outside the agency to help us in evaluating the petition. We will accept the petitioners’ sources and characterizations of the information presented if they appear to be based on accepted scientific principles, unless we have specific information in our files that indicates the petition’s information is incorrect, unreliable, obsolete, or otherwise irrelevant to the requested action. Information that is susceptible to more than one interpretation or that is contradicted by other available information will not be dismissed at the 90-day finding stage, so long as it is reliable and a reasonable person conducting an impartial scientific review would conclude it supports the petitioners’ assertions. In other words, conclusive information indicating the species may meet the ESA’s requirements for listing is not required to make a positive 90-day finding. We will not conclude that a lack of specific information alone necessitates a negative 90-day finding if a reasonable person conducting an impartial scientific review would conclude that the unknown information itself suggests the species may be at risk of extinction presently or within the foreseeable future.

To make a 90-day finding on a petition to list a species, we first evaluate whether the information presented in the petition, in light of the information readily available in our files, indicates that the petitioned entity constitutes a “species” eligible for listing under the ESA. Next, if we conclude the petition presents substantial scientific or commercial information suggesting that the petitioned entity may constitute a

“species,” we evaluate whether the information indicates that the species may face an extinction risk such that listing, delisting, or reclassification may be warranted; this may be indicated in information expressly discussing the species’ status and trends, or in information describing impacts and threats to the species. We evaluate whether the petition presents any information on specific demographic factors pertinent to evaluating extinction risk for the species (*e.g.*, population abundance and trends, productivity, spatial structure, age structure, sex ratio, diversity, current and historical range, habitat integrity or fragmentation), and the potential contribution of identified demographic risks to extinction risk for the species. We then evaluate whether the petition presents information suggesting potential links between these demographic risks and the causative impacts and threats identified in section 4(a)(1) of the ESA.

Information presented on impacts or threats should be specific to the species and should reasonably suggest that one or more of these factors may be operative threats that act or have acted on the species to the point that it may warrant protection under the ESA. Broad statements about generalized threats to the species, or identification of factors that could negatively impact a species, do not constitute substantial information indicating that listing may be warranted. We look for information indicating that not only is the particular species exposed to a factor, but that the species may be responding in a negative fashion; then we assess the potential significance of that negative response.

Many petitions identify risk classifications made by nongovernmental organizations, such as the International Union on the Conservation of Nature (IUCN), the American Fisheries Society, or NatureServe, as evidence of extinction risk for a species. Risk classifications by such organizations or made under other Federal or state statutes may be informative, but such classification alone may not provide the rationale for a positive 90-day finding under the ESA. For example, as explained by NatureServe, their assessments of a species’ conservation status do “not constitute a recommendation by NatureServe for listing under the U.S. ESA” because NatureServe assessments “have different criteria, evidence requirements, purposes, and taxonomic coverage than official lists of endangered and threatened species”, and therefore these two types of lists should not be expected to “coincide”

(<https://explorer.natureserve.org/AboutTheData/DataTypes/ConservationStatusCategories>). Additionally, species classifications under IUCN and the ESA are not equivalent; data standards, criteria used to evaluate species, and treatment of uncertainty are also not necessarily the same. Thus, when a petition cites such classifications, we will evaluate the source of information that the classification is based upon in light of the standards on extinction risk and impacts or threats discussed above.

Taxonomy

The petition presents information on the taxonomy of the species, including information and references regarding the earliest description of the species primarily on differences in the skull compared to other humpback dolphins known at the time (Kükenthal 1891, Collins 2015, Collins *et al.* 2017). The distinctness of the species from other humpback dolphins has been questioned over the years (Ross *et al.* 1995), but more recent genetic and morphological work (Jefferson and Van Waerebeek 2004, Mendez *et al.* 2013, Jefferson and Rosenbaum 2014) has clarified the taxonomy of the genus *Sousa* and provides multiple lines of evidence that *S. teuszii* is a species separate from the other three of the genus *Sousa*: *S. plumbea* (Indian Ocean humpback dolphin), *S. chinensis* (Indo-Pacific humpback dolphin), and *S. sahulensis* (Australian humpback dolphin) (Jefferson and Rosenbaum 2014). Thus, we conclude that the petitioned entity, *S. teuszii*, constitutes a taxonomically distinct species eligible for listing under the ESA.

Distribution, Habitat, and Life History

The Atlantic humpback dolphin is described as an obligate shallow water dolphin and is endemic to the tropical and subtropical eastern Atlantic nearshore waters (<30 m) of western Africa, ranging from Western Sahara to Angola (Collins 2015, Weir and Collins 2015). 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 given incomplete research coverage, including an absence of survey effort in many areas. Currently, there are only confirmed records of occurrence 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 (Minton *et al.* 2020). The 6 countries with no confirmed records (Sierra Leone, Liberia, Côte d’Ivoire, Ghana, mainland Equatorial Guinea, and the Democratic Republic of the Congo) are poorly studied and have received little or no systematic cetacean or coastal research (Collins *et al.* 2017). Work conducted in Ghana by Van Waerebeek *et al.* (2009) confirms the absence of *S. teuszii* records, which may be due to localized extirpation of the species in Ghanaian waters. The species is not known to occur around any of the larger offshore islands of the Gulf of Guinea, including Sao Tome and Principe or Bioko (Fernando Póo) and Annabon (Pagalu) (Van Waerebeek *et al.* 2004). Eleven putative “management stocks” (*i.e.* subpopulations) of *S. teuszii* have been recognized based on localities or countries where the species has been recorded and evidence of gaps in the species’ range (Van Waerebeek *et al.* 2004, Collins 2015, Collins *et al.* 2017).

Migrations and movements are poorly understood largely because tagging work has never been done on this species (Collins *et al.* 2017). Localized movements have been linked to feeding opportunities facilitated by tides, where Atlantic humpback dolphins feed primarily on coastal, estuarine, and reef-associated fishes (Busnel 1973, Collins 2015, Collins *et al.* 2017). Large-scale migrations are rarely documented but have been inferred using local accounts and sightings from fishermen, and smaller-scale shifts in abundance have been postulated (based on fragmentary evidence) (Collins 2015, Collins *et al.* 2017). However, movements across national boundaries have been documented, and records elsewhere suggest transboundary movements (Collins 2015, Collins *et al.* 2017).

The Atlantic humpback dolphin has specific habitat requirements, which could limit its resilience and ability to escape environmental and anthropogenic stressors (Collins 2015). It occurs exclusively in shallow (<30 m) depths, in warm nearshore waters (average sea surface temperatures ranging from 15.8° to 31.8° Celsius), and in dynamic habitats strongly influenced by tidal patterns (*e.g.*, sandbanks, deltas, estuaries, and mangrove systems) (Collins 2015, Weir and Collins 2015, Taylor *et al.* 2020).

Data and information regarding life history and reproduction parameters are almost nonexistent for this species. An estimated generation length of 18.4 years is given for the Atlantic humpback dolphin, although a figure closer to 25 years is provided for the Indo-Pacific humpback dolphin (*S. chinensis*) and

Indian Ocean humpback dolphin (*S. plumbea*) (Collins 2015, Collins *et al.* 2017). Births are thought to occur in March and April, based upon observations of juveniles (Van Waerebeek *et al.* 2004, Collins 2015). The species is suspected to be sexually dimorphic (males larger at maturity and with a more prominent dorsal hump), but the current sample size (~20 individuals) is too small to assess this statistically (Jefferson and Rosenbaum 2014).

Abundance and Population Trends

Abundance data are very limited for *S. teuszii* and robust abundance estimates are lacking for most stocks. However, approximate, general estimates have been made for the 11 recognized stocks (which are subjective and based on the knowledge of a limited number of researchers) and range from the tens to low hundreds of individuals per stock (Collins 2015, Collins *et al.* 2017).

Comprehensive reviews conducted by Collins (2015) and Collins *et al.* (2017) on all available *S. teuszii* population biology data, reinforce general inferences of small total population size. These reviews concluded that the species probably includes fewer than 3,000 individuals (Collins 2015, Collins *et al.* 2017). If it is assumed that 50 percent of these are mature individuals, then the number of mature individuals in the total population would be no more than 1,500 (Collins *et al.* 2017, Brownell *et al.* 2019).

Because robust abundance estimates for this species are lacking, there are no quantitative assessments of population trends and status. However, the evidence of recent work in some areas and a consensus of expert opinions indicate that most stocks of *S. teuszii* are small and that all stocks have experienced significant declines in recent decades (Collins 2015, Collins *et al.* 2017). Limited research effort for each putative *S. teuszii* stock has either identified significant mortality or yielded strong evidence to infer it (Van Waerebeek *et al.* 2004, Collins 2015, Collins *et al.* 2017). According to Collins (2015) and Collins *et al.* (2017), artisanal fishing bycatch and directed takes are the principal causes of these declines, although these authors also suggest that habitat loss is likely a contributing factor as well. Reported dolphin bycatch has been coupled with observed or suspected declines of *S. teuszii* in Guinea-Bissau, which together with neighboring Guinea, is believed to host the largest population of the species (Collins 2015, Collins *et al.* 2017).

In summary, while data on abundance and population trends are largely absent, the information presented in the petition indicates that the species consists of small, fragmented stocks, and may be declining across its range.

Analysis of ESA Section 4(a)(1) Factors

The petition asserts that *S. teuszii* is threatened by four of the five ESA section 4(a)(1) factors: The present destruction or modification of its habitat due to pollution and development, overutilization for commercial purposes via fisheries bycatch, inadequacy of existing regulatory mechanisms, and manmade factors affecting its continued existence, including fisheries bycatch and prey depletion, deliberate capture, coastal development, and anthropogenic noise. Information in the petition and readily available in our files indicates that the primary threat facing the species is fisheries bycatch. Therefore, we focus our discussion below on the evidence of this particular threat. However, we note that in the status review for this species, we will evaluate all ESA section 4(a)(1) factors to determine whether any one or a combination of these factors are causing declines in the species or are likely to substantially negatively affect the species within the foreseeable future to such a point that the Atlantic humpback dolphin is at risk of extinction or likely to become so in the foreseeable future.

Overutilization for Commercial, Recreational, Scientific, or Educational Purposes

According to information cited in the petition and readily available in our files, the greatest threat to the Atlantic humpback dolphin is fisheries bycatch. Bycatch of Atlantic humpback dolphins in artisanal gillnets is considered widespread throughout the species' range (Collins 2015, Collins *et al.* 2017, Jefferson 2019). This threat has been identified or suspected throughout much of the species' range and for as long as the species has been studied (Van Waerebeek *et al.* 2004, Collins 2015, Collins *et al.* 2017, Brownell *et al.* 2019, Jefferson 2019).

Work in Conkouati Douli National Park (Republic of the Congo) provides some indication of the potential scale of *S. teuszii* bycatch and substantial bycatch risk for the species (Collins 2015). An intensive monitoring, enforcement, and cooperative (incentivized) reporting program identified 19 dolphins that were caught as bycatch over 5 years across all artisanal landing sites (n = 14) along a 60-km stretch of protected beach (Collins 2015). Out of the 19 dolphins

caught as bycatch, 10 were identified as *S. teuszii*, and the testimony of fishermen showed that all were caught in gillnets less than 1 kilometer from shore (Collins 2015, Collins *et al.* 2017). While mortality figures have been reported for other areas including Banc d'Arguin and the Saloum Delta, the monitoring of bycatch in these aforementioned areas is either non-existent or limited to very few landing sites (Van Waerebeek *et al.* 2004, Collins 2015, Collins *et al.* 2017). Thus, the reported bycatch figures are likely to be underestimates of the true level of mortality.

Although there is no evidence of any organized, directed fisheries for *S. teuszii*, there is a concern that bycatch can develop into "directed entanglement" or "non-target-deliberate acquisition", where fishermen may intentionally try to catch Atlantic humpback dolphins in gillnets originally intended for other species (especially if there is a market for such catches) (Clapham and Van Waerebeek 2007, Collins 2015). While the scale of this practice is unknown, the use of cetaceans for human consumption has been documented in West Africa which provides a potential market for cetacean products and reflects general fisheries declines (Van Waerebeek *et al.* 2004, Clapham and Van Waerebeek 2007, Collins 2015, Jefferson 2019). Clapham and Van Waerebeek (2007) noted that market surveys conducted in West African coastal nations indicated that the sale and consumption of cetacean and sea turtle products is common. Additionally, these sales contribute to the economic viability of gillnet fisheries in Ghana, which includes killing of live entangled animals, and using dolphin meat as bait (Van Waerebeek *et al.* 2004, Clapham and Van Waerebeek 2007, Collins 2015). However, it is important to note that because captures may be concealed, given legal prohibitions, acquiring reliable data from surveys remains a challenge in some areas (Van Waerebeek *et al.* 2004, Collins 2015, Collins *et al.* 2017).

The extensive spread of migrant fishermen across western Africa over the past few decades is a related concern, which can augment existing fisheries bycatch issues in areas (or even bring these issues to areas where they did not previously exist) (Collins 2015, Collins *et al.* 2017). Migrant fishermen (including those who move within countries) may not abide by local regulations, injunctions, taboos, or laws, and are often better equipped and more aggressive in their exploitation of local resources (Collins 2015). They have

been implicated in the captures of *S. teuszii* in areas adjacent to the Banc d'Arguin (Collins 2015). Additionally, Collins (2015) notes that migrant fishermen from Senegal, Guinea (Conakry), and Sierra Leone have been found exploiting waters of Guinea-Bissau, which does not have a strong fishing tradition, and thus the artisanal fishing tradition is limited in this country's waters. However, captures of dolphins and manatees, along with declines of nesting sea turtles have been reported, thus raising concern for *S. teuszii* (Collins 2015, Collins *et al.* 2017).

In general, declines in other target fish species may affect the Atlantic humpback dolphin population by increasing artisanal fishing effort and pressure, leading to increased bycatch risk for the species (Collins 2015, Collins *et al.* 2017). Industrial fisheries compound this issue by competing for increasingly scant resources, as well as fishing in zones set aside for artisanal fishermen and areas where dolphins are known to occur (Collins 2015, Collins *et al.* 2017). For example, Collins (2015) notes that trawlers fishing illegally within Conkouati Douli National Park (Republic of the Congo) impel artisanal fishermen to set their nets closer to shore (for fear of losing their nets in trawls), raising bycatch risks for coastal species, like *S. teuszii*.

Overall, the information presented in the petition and briefly summarized here regarding the Atlantic humpback dolphin's specific habitat requirements, low estimated abundance, fragmented distribution, and the immediate threat of fisheries bycatch and potential targeted harvest lead us to conclude that listing the species as threatened or endangered may be warranted.

Petition Finding

After reviewing the petition, the literature cited in the petition, and other information readily available in our files, we find that listing *S. teuszii* as a threatened or endangered species may be warranted. Therefore, in accordance with section 4(b)(3)(A) of the ESA and NMFS' implementing regulations (50 CFR 424.14(h)(2)), we will commence a status review of this species. During the status review, we will determine whether *S. teuszii* is in danger of extinction (endangered) or likely to become so in the foreseeable future (threatened) throughout all or a significant portion of its range. As required by section 4(b)(3)(B) of the ESA, within 12 months of the receipt of the petition (September 8, 2021), we will make a finding as to whether listing the Atlantic humpback dolphin as an

endangered or threatened species is warranted. If listing is warranted, we will publish a proposed rule and solicit public comments before developing and publishing a final rule.

Information Solicited

To ensure that the status review is based on the best available scientific and commercial data, we are soliciting comments and information from interested parties on the status of the Atlantic humpback dolphin. Specifically, we are soliciting information in the following areas:

- (1) Historical and current abundance and population trends of *S. teuszii* throughout its range;
- (2) Historical and current distribution and population structure of *S. teuszii*;
- (3) Information on *S. teuszii* site fidelity, population connectivity, and movements within and between populations (including estimates of genetic diversity across and within populations);
- (4) Historical and current condition of *S. teuszii* habitat;
- (5) Information on *S. teuszii* life history and reproductive parameters;
- (6) Data on *S. teuszii* diet and prey;
- (7) Information and data on common *S. teuszii* disease(s) and/or contaminant exposure;
- (8) Historical and current data on *S. teuszii* catch, bycatch, and retention in industrial, commercial, artisanal, and recreational fisheries throughout its range;
- (9) Past, current, and potential threats, including any current or planned activities that may adversely impact *S. teuszii* over the short-term or long-term;
- (10) Data on trade of *S. teuszii* products; and
- (11) Management, regulatory, or conservation programs for *S. teuszii*, including mitigation measures related to any known or potential threats to the species throughout its range.

We request that all data and information be accompanied by supporting documentation such as maps, bibliographic references, or reprints of pertinent publications. Please send any comments in accordance with the instructions provided in the **ADDRESSES** section above. We will base our findings on a review of the best available scientific and commercial data, including relevant information received during the public comment period.

References Cited

A complete list of all references cited herein is available upon request (See **FOR FURTHER INFORMATION CONTACT**).

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

Dated: November 29, 2021.

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

[FR Doc. 2021–26225 Filed 12–1–21; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 211122–0241; RTID 0648–XX073]

Fisheries of the Northeastern United States; Atlantic Bluefish Fishery; 2022 and Projected 2023 Specifications

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

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS proposes Atlantic bluefish specifications for the 2022 fishing year, and projected specifications for fishing year 2023, as recommended by the Mid-Atlantic Fishery Management Council. This action is necessary to establish allowable harvest levels to prevent overfishing while enabling optimum yield, using the best scientific information available. This rule also informs the public of the proposed fishery specifications and provides an opportunity for comment.

DATES: Comments must be received by December 17, 2021.

ADDRESSES: You may submit comments on this document, identified by NOAA–NMFS–2021–0107, by the following method:

Electronic Submission: Submit all electronic public comments via the Federal e-Rulemaking Portal.

1. Go to <https://www.regulations.gov>, and enter “NOAA–NMFS–2021–0107” in the Search box;

2. Click the “Comment” icon, complete the required fields; and

3. 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