



*Via Email*

March 2, 2026

The Honorable Andrew “Drew” Lawler  
Principal Deputy Assistant Secretary for International Fisheries  
National Oceanic and Atmospheric Administration  
andrew.lawler@noaa.gov

**Re: United States Interpretation of ICCAT Recommendation 22-10 (as replaced by Recommendation 25-05)**

Dear Mr. Lawler:

We write to request that you take immediate action to ensure that United States fisheries targeting Western Atlantic bluefin tuna and United States fishery managers in charge of regulating these fisheries operate in full compliance with the International Convention for the Conservation of Atlantic Tunas (ICCAT), Atlantic Tunas Convention Act (ATCA), the Magnuson-Stevens Fishery Conservation and Management Act (MSA), and all other applicable law. Our concern arises from a January 27, 2026 letter you sent from the U.S. Delegation to ICCAT Executive Secretary Mr. Camille Jean Pierre Manel (U.S. Delegation Letter), in which you stated:

[T]he Western Bluefin Recommendation 22-10 does not require Western harvesters to count their recreational catch of Bluefin toward their quota. As such, beginning January 1, 2026 and henceforth, the United States will continue to report its recreational catch of bluefin tuna for management purposes but will not count its recreational catch toward its current quota of 1572 mt, which will be solely allocated to its commercial catch.

This statement reflects a significant misinterpretation of Recommendation 22-10, which has since been replaced by Recommendation 25-05<sup>1</sup> and, if implemented, would violate United States obligations under ICCAT, exposing the U.S. to potential quota penalties and trade

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<sup>1</sup> ICCAT Recommendation 25-05, “Recommendation by ICCAT Replacing Recommendation 22-10 for a Conservation and Management Plan for Western Atlantic Bluefin Tuna.” Available at <https://www.iccat.int/Documents/Recs/compendiopdf-e/2025-05-e.pdf> (last visited Mar. 2, 2026).

measures,<sup>2</sup> and would violate ATCA and the MSA, exposing the agency to potential legal challenges.

## **I. ICCAT Recommendation 25-05 Requires Parties to Count All Sources of Fishing Mortality Towards Their Quota, Including Recreational Catch.**

Recommendation 25-05, which repealed and replaced Recommendation 22-10,<sup>3</sup> sets a Total Allowable Catch (TAC) for the entire Western Atlantic bluefin stock, which is then allocated among CPCs.<sup>4</sup> Accounting for all sources of mortality is a key assumption underpinning the ICCAT stock assessment and Management Procedure on which the TAC is based. Moreover, ICCAT defines the “catch” that is limited by the TAC to include “all fish killed by the act of fishing.”<sup>5</sup> Paragraph 3 of Recommendation 25-05 further requires each contracting party to submit an annual fishing management plan that contains, among other things, “Fleet quotas for all sectors and the method used to allocate and manage those quotas.” Nothing in the Recommendation or ICCAT definitions allows any ICCAT party to discount certain sources of mortality, much less entire fishery sectors.

As explained below, the National Marine Fisheries Service (NMFS) manages Western Atlantic bluefin tuna fishing pursuant to its authority under the MSA and ATCA, both of which require it to ensure its management measures are consistent with ICCAT recommendations.

## **II. The Change in U.S. Management Announced in the U.S. Delegation Letter Violates the Law.**

### **A. The Decision Announced in the Letter Constitutes a Rule Subject to APA Requirements.**

Though it purports to “confirm” the United States’ interpretation of ICCAT recommendations, the U.S. Delegation Letter announces a significant change in both how the United States interprets the recommendation and how it manages the Western Atlantic bluefin tuna fishery. Whereas the United States previously counted recreational catch towards its ICCAT quota, as required, the letter announces that the United States will now only count commercial catch towards its ICCAT quota, effectively exempting recreational catch from that quota. This change in management has significant legal implications for permit holders and for the United

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<sup>2</sup> See ICCAT Circular #00641/2026, Responses from Canada, the European Union, and Japan (noting potential consequences for lack of compliance and exceeding quota).

<sup>3</sup> ICCAT Recommendation 25-05, ¶ 25.

<sup>4</sup> See ICCAT Glossary (2000) “TAC” definition (“A management control to limit the catch (yield) for the entire stock. TACs are typically partitioned into quotas.”) and “catch” definition (“The total number of fish caught by fishing operations .... Catch should pertain to all fish killed by the act of fishing, not just those fish that are landed.”). Available at <https://www.iccat.int/documents/scrs/other/glossary.pdf> (last visited Feb. 25, 2026).

<sup>5</sup> *Id.*

States itself. As such, the announcement is a rule within the definition of the Administrative Procedure Act (APA) and subject to rulemaking requirements set forth by the APA and MSA.<sup>6,7</sup>

**B. The Management Changes the U.S. Delegation Letter Purports to Make Require Public Rulemaking Processes.**

The Atlantic Highly Migratory Species Fishery Management Plan (HMS FMP) and its implementing regulations establish quotas for the U.S. bluefin fishery commercial and recreational sectors by assigning a certain percentage of the baseline ICCAT quota apportioned to the U.S. to each U.S. fishery sector, including the recreational angling sector. Most recently, Amendment 13 to the HMS FMP and its implementing regulations increased the percentage of the U.S. quota allocated to the recreational angling sector to 22.6%.<sup>8</sup> Any change to the way NMFS allocates bluefin catch among U.S. fishery sectors requires amending the FMP and implementing regulations.<sup>9</sup>

The MSA requires NMFS to prepare, review, and amend the Atlantic Highly Migratory Species Fishery Management Plan in accordance with MSA National Standards, other MSA requirements, and all other applicable law.<sup>10</sup> When NMFS makes changes to the FMP or its implementing regulations, it must hold hearings to allow the public to weigh in on proposed changes to the FMP and implementing regulations, as well as follow the APA process required for notice-and-comment rulemaking, providing opportunities for public comment on proposed regulations.<sup>11</sup>

The U.S. Delegation Letter did not go through any of these statutorily required procedures. This failure to observe the procedure required by law violates the APA and renders the announced rule regarding recreational catch unlawful.<sup>12</sup>

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<sup>6</sup> The APA broadly defines a “rule” to include “an agency statement of general or particular applicability and future effect [that is] designed to implement, interpret, or prescribe law or policy,” and prescribes the procedures that agencies must follow for “rule making,” defined as the process of “formulating, amending, or repealing a rule.” 5 U.S.C. § 551(4)–(5). MSA rulemaking processes are subject to APA requirements. 16 U.S.C. § 1855(d) (authorizing NMFS to promulgate regulations necessary to carry out FMPs and requiring that such regulations be promulgated “in accordance with section 553 of title 5”).

<sup>7</sup> *See, e.g., Kāpa ‘a v. Trump*, Civ. No. 25-00209 MWJS-WRP, 2025 WL 2300605, \*16 (D. Hawai‘i Aug. 8, 2025) (letter to fishery permittees lifting prohibition on fishing within monument was a rule within meaning of APA).

<sup>8</sup> 87 Fed. Reg. 59966, 59970 (Oct. 3, 2022).

<sup>9</sup> ATCA similarly contemplates implementing management changes through regulation. 16 U.S.C. §§ 971d(a), 971d(c)(1)(A).

<sup>10</sup> 16 U.S.C. §§ 1853(a)(1), 1854(c)(1)(C), (g)(1).

<sup>11</sup> *Id.* §§ 1854(c)(2), 1855(d).

<sup>12</sup> 5 U.S.C. § 706(2)(D).

**C. Even If It Followed Proper Rulemaking Procedures, NOAA Cannot Lawfully Exempt Recreational Bluefin Catch from the ICCAT Quota.**

The change in U.S. management announced in the U.S. Delegation Letter violates ATCA, the MSA, and the APA in multiple ways. None of these statutes allow NMFS to enact measures that violate ICCAT recommendations, particularly when the measure risks overfishing the stock.

To the contrary, ATCA authorizes NMFS to adopt regulations that are necessary to carry out the purposes and objectives of the ICCAT and ATCA,<sup>13</sup> and to adopt regulations that are necessary and appropriate to carry out ICCAT recommendations.<sup>14</sup> And ATCA specifies that no regulation promulgated under it “may have the effect of increasing or decreasing any allocation or quota of fish or fishing mortality level to the United States agreed to pursuant to a recommendation [ICCAT].”<sup>15</sup>

The U.S. Delegation Letter purports to allow the commercial sector to catch the full U.S. bluefin quota and the recreational sector to catch an unspecified, unlimited amount of bluefin *on top of* that quota. Failing to count recreational catch of Western Atlantic bluefin tuna towards the U.S. quota thus has the effect of unilaterally increasing the United States’ quota, in violation of ATCA. It bears emphasis that ATCA exists to enable NMFS to *implement* ICCAT recommendations and further the purposes and objectives of the Agreement. NMFS lacks any authority under ATCA to take actions—like excluding recreational catch from quota accounting—that are contrary to ICCAT recommendations, purposes, and objectives.

Nor can NMFS posit that its approach is consistent with MSA requirements. Like ATCA, the MSA requires NMFS to ensure its measures are consistent with ICCAT recommendations and promote international conservation of the fishery.<sup>16</sup> At a more basic level, the MSA requires NMFS to prevent overfishing, largely by ensuring that fishing-related mortality is limited to sustainable, scientifically supported levels.<sup>17</sup> The statute’s defines “fishery” to include “any fishing” for a stock of fish and defines “fishing” as the “catching, taking, or harvesting of fish” and “any other activity which can reasonably be expected to result in the catching, taking, or harvesting of fish.”<sup>18</sup> The MSA also defines “bycatch” to mean “fish which are harvested in a fishery, but which are not sold or kept for personal use,” including economic and regulatory discards.<sup>19</sup> This definition excludes only “fish that are released alive under a recreational catch

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<sup>13</sup> 16 U.S.C. § 971d(a).

<sup>14</sup> *Id.* § 971d(c)(1)(A).

<sup>15</sup> *Id.* § 971d(c)(3).

<sup>16</sup> 16 U.S.C. § 1854(g)(1)(E), (G)(i).

<sup>17</sup> *Id.* §§ 1851(a)(1)–(2), 1853(a)(1).

<sup>18</sup> *Id.* § 1802(13), (16).

<sup>19</sup> *Id.* § 1802(2).

and release fishery management program.”<sup>20</sup> This provision makes clear that the deciding factor in whether a fish counts as “catch” is whether the fish is dead or alive, not whether it is caught by a commercial or recreational fisherman. Consistent with the statute, NMFS’s regulations define “catch” as “the total quantity of fish” that is taken in commercial, recreational, and other fisheries, including “mortality of fish that are discarded.”<sup>21</sup> The MSA and implementing regulations both confirm that all sources of fishing mortality count as “catch,” regardless of who caught and killed the fish.

For all of the reasons explained in this letter, any rule purporting to allow recreational catch in excess of the U.S. bluefin quota would be “arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law,” and “in excess of statutory jurisdiction, authority, or limitations, or short of statutory right,” in violation of the APA.<sup>22</sup>

### **III. Immediate Action Is Needed to Prevent Overfishing and Bring U.S. Bluefin Management into Compliance with the Law.**

The change in management announced in the U.S. Delegation Letter could result in significantly increased fishing pressure on bluefin. In removing recreational fishing from quota accounting, the announcement has created ambiguity and confusion as to what limit—if any—the agency intends to establish or enforce for recreational catch. The absence of any real limit on recreational catch creates a significant risk that the U.S. will significantly exceed its ICCAT quota and cause overfishing to occur. The recreational sector is large and, without clear, science-based limits, could exert unsustainable fishing pressure on the stock. According to the latest Stock Assessment and Fishery Evaluation Report from 2023, there are over 24,500 permittees in the HMS Angling sector and over 4,300 permittees in the Charter/Headboat sector. In 2024, the recreational sector caught 452.7 tons of bluefin—almost as much as Canada’s entire quota for that year.

In addition to the significant conservation concerns associated with exceeding the ICCAT quota, this action could also have serious commercial ramifications. Exceeding the ICCAT quota triggers a payback requirement in subsequent years, as high as 125% if the quota is exceeded in two or more consecutive years.<sup>23</sup> And by violating ICCAT terms and agreements regarding catch accounting, this action could subject U.S. commercial fishermen to trade penalties that would prevent them from exporting the bluefin they catch.<sup>24</sup>

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<sup>20</sup> *Id.*

<sup>21</sup> 50 C.F.R. § 600.310(f)(1)(i).

<sup>22</sup> 5 U.S.C. § 706(2)(A), (C).

<sup>23</sup> ICCAT Recommendation 25-05, ¶ 8.

<sup>24</sup> See ICCAT Resolution 16-17, Resolution by ICCAT Establishing an ICCAT Schedule of Actions to Improve Compliance and Cooperation with ICCAT Measures. Available at <https://iccat.int/Documents/Recs/compendiopdf-e/2016-17-e.pdf> (last visited Feb. 26, 2026).

We request that NOAA immediately and publicly withdraw the January 27, 2026 U.S. Delegation Letter and clarify to ICCAT and the public—particularly the recreational fishing sector—that the United States will comply with ICCAT’s longstanding requirement to count all sources of fishing mortality, including recreational catch, towards the United States quota, and will not allow any fishing for bluefin outside of the quota. We appreciate your attention to this important matter.

Sincerely,



Andrea A. Treece  
Senior Attorney,  
Oceans Program  
Earthjustice



Theresa Labriola  
President  
Wild Oceans



Carl Safina  
President  
The Safina Center

cc:

Eugenio Piñeiro-Soler,  
NMFS Assistant Administrator  
[eugenio.e.pineirosoler@noaa.gov](mailto:eugenio.e.pineirosoler@noaa.gov)

Randy Blankenship  
NMFS HMS Division Chief  
[randy.blankenship@noaa.gov](mailto:randy.blankenship@noaa.gov)