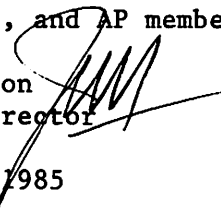


M E M O R A N D U M

TO: Council, SSC, and AP members

FROM: Jim H. Branson  
Executive Director 

DATE: January 28, 1985

SUBJECT: Proposed Net Discard Regulation

ACTION REQUIRED

Review proposed regulation and comments received from other Councils and decide whether to advise NMFS that they should draft the national regulation or postpone a decision until after the Council Chairmen's Meeting February 25-27.

BACKGROUND

At the December meeting, the Council considered a proposed regulation regarding the disposal of fishing gear and other debris by U.S. fishermen. The Council decided that the proposal should be circulated among the other regional Councils to solicit support for a national regulation to address the problem of gear and debris discard. The Council wanted it clearly stated that there were reservations regarding the proposal, specifically that the existing language may require a fisherman to notify the Coast Guard if he lost one crab pot or could prevent a dragger from discarding fishing gear hauled up in a cod end. A memorandum to this effect was forwarded to the other regional Councils on January 2 (Attachment A). As of the date of this action memorandum, comments had only been received from the New England Council (Attachment B).

The Council may wish to consider advising National Marine Fisheries Service that a national regulation to resolve the problem of net discard is needed and that the Service should draft the appropriate language. In the alternative, the Council may wish to postpone any action on this matter until a discussion can be held with the other Council chairmen during the annual Chairmen's Meeting February 25-27.

# North Pacific Fishery Management Council

James O. Campbell, Chairman  
 Jim H. Branson, Executive Director

411 West 4th Avenue  
 Anchorage, Alaska 99510

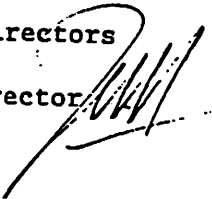


Mailing Address: P.O. Box 103136  
 Anchorage, Alaska 99510

Telephone: (907) 274-4563  
 FTS 271-4064

## MEMORANDUM

TO: Regional Council Executive Directors

FROM: Jim H. Branson, Executive Director 

DATE: January 2, 1985

SUBJECT: Draft Regulation - Disposal of Fishing Gear

Enclosed please find a copy of a draft regulation intended to address the problem of U.S. fishermen intentionally discarding fishing gear and other debris in the FCZ. This regulation is modeled upon the one that applies to foreign fishermen in the FCZ (50 CFR §611.16).

Our Council felt that this proposal should be circulated among all other regional Councils to solicit support for a means of addressing the problem of gear and debris discard. When this draft regulation was discussed at our December 5-8, 1984 meeting concern was expressed that it may require the fishermen to notify the Coast Guard if he lost one crab pot or would prevent a dragger from discarding fishing gear hauled up in his codend. While there may be some problems with the current wording of the proposal we feel that it provides a focal point for discussions of means to resolve the discard problem. Please forward any written comments your Council may have on this matter to me at your earliest opportunity.

D R A F T

DISPOSAL OF FISHING GEAR AND OTHER ARTICLES.

(a) Except in cases of emergency involving the safety of the ship or crew, or as specifically authorized by communication from the Coast Guard, by an authorized officer, or by an embarked observer, no fishing vessel may intentionally place into the fishery conservation zone any article, including abandoned gear, which may:

- (1) Interfere with fishing or obstruct fishing gear or vessels; or
- (2) Cause damage to any fishery resource or marine mammal.

(b) If any such article is encountered, or in the event of accidental or emergency placing of such article into the fishery conservation zone, the operator of the vessel shall immediately report the incident to the appropriate Coast Guard Commander giving:

- (1) The name of the reporting person and his vessel;
- (2) The nature of the article;
- (3) The location of the article; and
- (4) The time and date of the incident.

(c) All fishing gear which is set or otherwise deployed in a manner in which it may entrap or otherwise catch fish shall be tended as frequently as necessary to ensure that its catch remains suitable for the use intended.

NEW ENGLAND FISHERY MANAGEMENT COUNCIL

SUNTAUG OFFICE PARK, 5 BROADWAY (ROUTE 1)

SAUGUS, MASSACHUSETTS 01906

SAUGUS 617-231-0422

RECEIVED JAN 21 1985 FTS 8-223-3822

January 16, 1985

ACTION	FILED TO	INITIAL

Jim Branson, Executive Director  
North Pacific Fishery Management Council  
P.O. Box 103136  
Anchorage, Alaska 99510

Dear Jim:

This letter is in response to your memo dated January 2, 1985 concerning a draft regulation dealing with discarded fishing gear and debris. I have attached a copy of a letter I sent to Carmen Blondin on this subject on July 24, 1984. In sum, here in New England the problem of discarded fishing gear or other types of junk, for that matter, does not seem to warrant additional federal intervention at this time beyond the statutes (e.g. Ocean Dumping Act) which are already administered by EPA and the Army Corps of Engineers or beyond the binding arrangements on firms involved with offshore exploration for oil and gas on Georges Bank.

There are undoubtedly times when draggers, gillnetters and lobstermen either inadvertently lose or deliberately discard gear which is no longer useable or salvageable. Occasionally the Council hears complaints from draggers who do get fouled in abandoned gear, but the current level of incidents is apparently tolerable because no one is beating our door down for additional regulations. I suspect the cost of new fishing gear provides a substantial incentive for most fishermen to maximize the life of their gear and to reuse as much of the materials as possible when new components are absolutely necessary. The one exception to all of this is the party/charter boat industry in New England whose representatives claim that lost gillnet gear is causing their industry serious problems and that they suspect these nets are causing significant wasted fishing mortality. This Council has taken action within the emerging new multi-species FMP to provide some level of relief as far as the user-conflict aspect goes and we have also been actively involved in a major in-situ scientific investigation to determine the extent of the loss gillnet gear and potential resource impacts.

Nonetheless, you have asked for our comment on your draft regulation. We would have a great deal of trouble with the current wording. Quite frankly, it can be alleged that all fixed gear, but especially gillnet gear as it is normally fished, is capable of meeting the two criteria specified under (a) of interfering with other methods of fishing and causing damage to fishery resources. As you know, gillnet gear is size selective when the principal method of capturing the target species is gilling or wedging but that the capability of the gear to entangle any species makes it an indiscriminate fishing method.

I would think that a much more direct approach to a dumping regulation would be in order so that there would be no confusion and eliminate the possibility of frivolous invocation by other resource users or outside groups. For example, (a) could be rewritten as follows:

January 16, 1985

- (a) No fishing vessel shall discard or abandon fishing gear or other articles which may interfere with fishing activities or cause damage to fishing resources and marine mammals. Exceptions to this rule will be permitted when the safety of the ship and/or crew are at stake or when authorized to discard or abandon by the Coast Guard, by an authorized officer, or by an embarked observer.
- (b) If any such fishing gear or article is encountered, or in the event of accidental or emergency placing of such article into the fishery conservation zone, the operator of the vessel shall immediately report the incident to the appropriate Coast Guard Commander giving:
  - (1) The name of the reporting person and his vessel;
  - (2) The nature of the article;
  - (3) The location of the article; and
  - (4) The time and date of the incident.
- (c) Delete

I do not think that including the statement found in (c) really serves any purpose. Clearly, most fishermen are out to make money which means they have to tend their gear to have a saleable or useable product. It is usually the weather or mechanical breakdown which might occasionally prevent them from doing so and, even if you had the above regulation, you would have to provide an exception for the instances mentioned above. In addition, as it is written (c) is not enforceable. To make it enforceable you would have to specify for each fixed gear fishery the "use" of the production (e.g. human food, bait, fertilizer) and then presumably you would need to determine the appropriate maximum amount of time the gear could soak. I am not sure how you would even begin to structure an equivalent regulation for the product of trawl gear which also results in catch on each tow which is not suitable for the use intended.

As I pointed out to Carmen, it is our hope that if discarded gear is perceived as a major problem in some areas it should be addressed on a case by case basis and not through the establishment of blanket rule applying to all domestic fishermen.

Sincerely,



Douglas G. Marshall  
Executive Director

RR.0375I

Enc.

