



New England Fishery Management Council

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C.M. "Rip" Cunningham, Jr., *Chairman* | Paul J. Howard, *Executive Director*

October 4, 2012

Mr. Christopher Moore
Executive Director
Mid-Atlantic Fishery Management Council
Suite 201, 800 N. State Street
Dover, DE 19901

Dear Chris,

I am writing to inform you of actions by the New England Council regarding gear stowage requirements for nets. Our Council proposes to eliminate these requirements under the Multispecies (Groundfish) FMP in Framework 48 which will be implemented in late spring 2013. Also, based on the results of a workshop that included enforcement agencies, fishermen and Council members, the VMS/Enforcement Committee and Council agreed that the wording of the stowage regulations should be changed as indicated in the attachment and recommend that these changes apply to all FMPs in the Northeast. Finally, because these regulations currently are included in the Atlantic Mackerel, Squid and Butterfish FMP, our Council recommends that they be moved into the General Provisions section of fishery regulations for the Northeastern U.S.

I have attached the report from the Gear Stowage Workshop. The gear covers that were recommended by the workshop subsequently were tested at-sea on several fishing vessels and found to be practical. Our VMS/Enforcement Committee and Council, however, decided that the Regional Administrator should have the flexibility to specify stowage requirements under §648.23 (b) (5), which allows for "any other method of stowage authorized in writing by the Regional Administrator and subsequently published in the *Federal Register*". Under this provision, the Regional Administrator may decide to require a net covering, or some other method, and thereafter could easily make changes to this requirement.

Please feel free to contact me if you have any questions.

Sincerely,

Paul J. Howard
Executive Director

cc: George Darcy, NERO

attachments (2)

VMS/Enforcement Meeting
Gear Stowage Workshop Report
USCG Northeast Regional Fisheries Training Center
Buzzards Bay, MA

November 29, 2011

The Committee met with the purpose to reduce the fishing industry's safety concerns regarding gear stowage regulations (section 648.23), while maintaining enforcement's ability to enforce gear stowage regulations from the air.

LCDR Curtis Brown described the overflight program, showed videos from actual fisheries enforcement flights, and took questions. He recommended a difference in color between the reel and the net be required. Rodney Avila recommended the development of a chart to show Coastguardsmen the different vessel types, for instance, draggers and scallopers. Currently, overflights can contact the boat below by radio, but not by email or text. Airplane pilots do have VMS printouts available to them. The video of the boat's activity shows the calculated Lat/Lon of that boat.

Practical demonstrations of alternatives to make nets on reels not available for immediate use were done with the NRFTC mock dragger. These included orange plastic mesh fencing available at Home Depot for \$20, clipped to the reeled net with carabineers, and a painted harness used by USCG helicopters. A requirement to make the cod-end orange in color was mentioned as well, but it was felt that a color in contrast to the Home Depot mesh was essential. Three boats were volunteered, by Terry Alexander, Allyson Jordan, and Rodney Avila, to test the orange mesh alternative, as early as next week. There also were comments that an orange mesh that acts like a giant '6-pack of cans' would result in protected resource concerns if they get lost overboard.

The Committee approved a motion by David Goethel and seconded by Rodney Avila, 3/0, to remove from section 648.23 (b)(1)(iv), part (B) that requires the towing wires are detached from the doors. The reasons for this included 1) whether the wires are attached or detached cannot be observed from the air, 2) it is unsafe to detach and re-attach the wires from the doors, and 3) the doors, when detached, are unsecure and tend to damage the side of the boat, especially for small, fiberglass boats. Section 648.23 (b)(1)(iii), part (B) that requires the towing wires are detached from the net, was not included in this motion because it is irrelevant; the towing wires are never attached to the net.

The Committee also approved a motion by David Goethel and seconded by Rodney Avila, 4/0, to change completely the wording of sections 648.23 (b)(1)(iii), part (A) and 648.23 (b)(1)(iv), part (A) to say "the net is on the reel and its surface is covered with an approved material". There is a problem with the current wording of these two parts, in that the Coast Guard cannot see the net under an "opaque material", during overflights. The approved material will be the result of the testing being conducted, as mentioned above, and may be implemented via section 648.23 (b)(5), which states that any other

method of stowage authorized in writing by the Regional Administrator and subsequently published in the Federal Register may be used.

The Committee approved a third motion by Captain Peter DeCola and seconded by David Goethel, 4/0, to recommend that the Groundfish Committee review section 648.23 (b), Definition of "not available for immediate use", and determine if the regulations under that section are still necessary. Rodney Avila supported this because he felt that many of these regulations may be outdated. For instance, vessels circumvent below deck stowage regulations by adding a second net reel. This was not common practice when these regulations were first implemented, but it is now common for boats to have 2 net reels.

Meggan Engelke-Ros described GCEL (General Counsel for Enforcement and Litigation) concerns with section 648.23 (b). Terms like highly visible must be more clearly defined; it would be difficult to prove in court that something was not highly visible. Colors, texture (transparent or opaque), and types of material (strips, mesh, etc.) may all be used to define covering requirements more clearly. VMS alone cannot establish a case.

Changes to definition of fishing gear “not available for immediate use” recommended by the New England Fishery Management Council

October 3, 2012

Additional wording is shown in red typeface.

§ 648.23 Mackerel, squid, and butterfish gear restrictions.

(a)

(b) *Definition of “not available for immediate use.”* Gear that is shown not to have been in recent use and that is stowed in conformance with one of the following methods is considered to be not available for immediate use:

(1) Nets —(i) Below-deck stowage. (A) The net is stored below the main working deck from which it is deployed and retrieved;

(B) The towing wires, including the leg wires, are detached from the net; and

(C) It is fan-folded (flaked) and bound around its circumference.

(ii) On-deck stowage. (A) The net is fan-folded (flaked) and bound around its circumference;

(B) It is securely fastened to the deck or rail of the vessel; and

(C) The towing wires, including the leg wires, are detached from the net.

(iii) ~~On-reel stowage. (A) The net is on a reel, its entire surface is covered with canvas or other similar opaque material, and the canvas or other material is securely bound;~~ (A) The net is on a reel and its entire surface is covered with an approved material (see subsection 5 below);

(B) The towing wires are detached from the net; and

(C) The codend is removed and stored below deck.

(iv) *On-reel stowage for vessels transiting the Gulf of Maine Rolling Closure Areas, the Georges Bank Seasonal Area Closure, and the Conditional Gulf of Maine Rolling Closure Area.*

~~(A) The net is on a reel, its entire surface is covered with canvas or other similar opaque material, and the canvas or other material is securely bound;~~ (A) The net is on a reel and its entire surface is covered with an approved material (see subsection 5 below);

~~(B) The towing wires are detached from the doors; and~~

(C) No containment rope, codend tripping device, or other mechanism to close off the codend is attached to the codend.

(2) *Scallop dredges.* (i) The towing wire is detached from the scallop dredge, the towing wire is completely reeled up onto the winch, the dredge is secured, and the dredge or the winch is covered so that it is rendered unusable for fishing; or

(ii) The towing wire is detached from the dredge and attached to a bright-colored poly ball no less than 24 inches (60.9 cm) in diameter, with the towing wire left in its normal operating position (through the various blocks) and either is wound back to the first block (in the gallows) or is suspended at the end of the lifting block where its retrieval does not present a hazard to the crew and where it is readily visible from above.

(3) *Hook gear (other than pelagic).* All anchors and buoys are secured and all hook gear, including jigging machines, is covered.

(4) *Sink gillnet gear.* All nets are covered with canvas or other similar material and lashed or otherwise securely fastened to the deck or rail, and all buoys larger than 6 inches (15.24 cm) in diameter, high flyers, and anchors are disconnected.

(5) *Other methods of stowage.* Any other method of stowage authorized in writing by the Regional Administrator and subsequently published in the Federal Register .

(c) *Mesh obstruction or constriction.* The owner or operator of a fishing vessel shall not use any mesh construction, mesh configuration, or other means that effectively decreases the mesh size below the minimum mesh size, except that a liner may be used to close the opening created by the rings in the aftermost portion of the net, provided the liner extends no more than 10 meshes forward of the aftermost portion of the net. The inside webbing of the codend shall be the same circumference or less than the outside webbing (strengthened). In addition, the inside webbing shall not be more than 2 ft (61 cm) longer than the outside webbing.