

**Net Limitation Enforcement  
Proposed Rule Change**

FAC 68B-4.009

"Monofilament Line and Netting: Prohibition of Intentional  
Discard, Recovery Requirements, Recommendations for  
Appropriate Disposal"

*Colonel Julie Jones  
Director, Division of Law Enforcement  
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**During this past year, the Division of Law Enforcement identified an emerging enforcement issue relative to the successful prosecution of individuals charged with the possession and unlawful use of monofilament entangling nets. The problem exists within the current wording of FAC 68B-4.009, "Monofilament Line and Netting: Prohibition of Intentional Discard, Recovery Requirements, Recommendations for Appropriate Disposal."**

Current Rule Language:

- Requires persons recovering monofilament fishing line or monofilament netting from the waters of the state to dispose of such on land.
- Requires that any person recovering a net of such volume that it cannot be disposed of properly on land, to contact the Division of Law Enforcement and notify us of its location.
- Encourages vessel operators to designate a container for storing the discarded or recovered monofilament line or netting.

**The rule, promulgated in 1992, required fishermen to recover their monofilament line and netting from state waters. This was at a time when the use of monofilament rectangular nets was legal.**

**Persons were to contact the division for assistance with disposal if needed and**

**Vessel operators were encouraged to designate a container for storing the removed monofilament line or netting.**

#### Enforcement/Prosecution Issue

- Rule language was developed prior to implementation of Article X when possession of monofilament net was legal.
- The current language of this rule has been successfully argued as a defense by individuals charged with net limitation violations that include both possession and use of monofilament entangling nets.
- Violators are using the defense that they “found” the net and were in the process of “recovering” it for the purpose of turning it over to the Division.

**This rule language was developed prior to the implementation of the net limitation amendment that made possession of monofilament rectangular nets illegal in state waters.**

**Currently, there is a Commission rule to allow fishers to use nets legal in federal waters, but prohibited in state waters (68B-4.0082 – net carriage across Florida waters). In this rule, the transport of gill nets, entangling nets, nets greater than 500 square feet, nets that have greater than 2 inch stretched mesh (excluding cast nets) and more than four seines possessed together is prohibited unless the transport is as direct and continuous as possible from the place where the vessel is regularly docked; to waters where the use of said gear is lawful; back to the place there the vessel is docked or to a licensed wholesale dealer. This rule prohibits hovering, drifting or any activity inconsistent with direct travel.**

**The monofilament rule language is being successfully argued as a defense by individuals charged with net limitation violations that include possession, transport and/or use of monofilament entangling nets.**

**Violators are using the defense that they “found” the net and were in the process of “recovering” it for the purpose of turning it over to the Division. This defense has resulted in at least four major cases being dismissed or disposed of with “not guilty” verdicts.**

### Proposed Rule Change Language

68B-4.009 Monofilament Line and Netting: Prohibition of Intentional Discard, Recovery Requirements, Recommendations for Appropriate Disposal.

- (1) No person shall intentionally discard any monofilament fishing line or monofilament netting into or onto the waters of the state. Waste monofilament fishing line and monofilament netting shall be disposed of on land and, if the material is possessed aboard a vessel, it shall be safely kept aboard the vessel until such disposal can be accomplished.
- (2) Any person recovering monofilament fishing line or monofilament netting from the waters of the state shall dispose of such material pursuant to subsection (1) of this rule. If the volume or condition of such material precludes the proper disposal thereof, the person shall notify the Division of Law Enforcement Marine Patrol of its location. No person shall recover or attempt to recover any monofilament netting found in the waters of the state without first having notified the Division of Law Enforcement. No such netting shall be recovered from state waters without an officer of the Division of Law Enforcement being present to supervise the recovery and disposal of the material. This subsection shall not apply to monofilament netting found and recovered by any law enforcement agency in the state, or to any cast net or landing or dip net.

**We are proposing two changes to the monofilament rule to close this loop hole.**

**FIRST: No person shall recover or attempt to recover any monofilament netting found in the waters of the state without first having notified the Division of Law Enforcement. No such netting shall be recovered from state waters without an officer of the Division of Law Enforcement being present to supervise the recovery and disposal of the material. This subsection shall not apply to monofilament netting found and recovered by any law enforcement agency in the state, or to any cast net or landing or dip net.**

**There was no way to make it legal to possess monofilament netting, an illegal device, in Florida waters. So we opted for this language, putting the burden on the Division to recover or assist in the recovery of netting. To assist with the recovery of a small amount of netting by a fisher, we will, upon notification, give a verbal OK to secure the netting and bring it to shore.**

Proposed Rule Change Language (cont.)

(3) Each person operating a vessel in or on the waters of the state is encouraged to designate a container aboard the vessel for waste disposal of monofilament fishing line, monofilament netting, and any other nondegradable material.

(4) This rule is not intended as an exception to, or defense to any violation of, Rules 68B-4.008, 68B-4.0081, or 68B-4.0082.

**Second: We clarify that this rule is not intended as an exception to, or defense to any violation of, the rule covering the tending and marking of nets (68B-4.008); the statewide net gear specification, soaking requirement and cast net specification rule (68B-4.0081); or the rule for the carriage of proscribed nets across Florida waters (68B-4.0082).**

**We typically charge under the transit rule when an officer encounters the possession of monofilament netting on Florida waters. Not the monofilament rule.**

**The proposed changes clarify that possession of a monofilament rectangular net is illegal on state waters unless the fisher is legally transiting to federal waters. And if a fisher finds an abandoned net, the Division needs to be contacted, and we will either supervise the removal of the net or remove the net from state waters.**

Staff Recommendation:

- **STAFF RECOMMENDS THAT THE COMMISSION ADOPT THE RULE CHANGE AS PROPOSED.**

**Staff recommends adoption of the rule change as proposed.**

QUESTIONS???

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