

**Gulf of Mexico Generic Aquaculture Amendment Update
January 17, 2008**

The following provides a summary of interdisciplinary planning (IPT) team changes made to the Generic Aquaculture Amendment since the October 2007 Gulf of Mexico Fishery Management Council (Council) meeting. Also included is a list of substantive comments made by General Counsel for consideration.

The December 7, 2007 public hearing draft was reviewed by the IPT and NOAA General Counsel during December 2007 and early January 2008. NOAA's Office of Planning, Programming, and Implementation also reviewed the amendment at the same time for compliance with the National Environmental Policy Act. Comments on the amendment were sent to the plan coordinator in early January. No additional revisions have been made to the amendment since the December 7, 2007 draft. NOAA Fisheries Service has not filed the Draft Programmatic Environmental Impact Statement with the Environmental Protection Agency. The IPT intends on making additional revisions to the amendment based on comments received to date and Council decisions made during the January 2008 meeting.

IPT changes to the Amendment since October 2007:

- Recommended changes made during the October 2007 Council meeting were addressed throughout the document. These include:
 - Including a new Purpose and Need statement.
 - Modifying wording for Action 3, Preferred Alternative 3(a) – assurance bonds; Action 3, Preferred Alternative 3(e)(iii) – locating devices; and Action 8, Alternative 2(c) – disease reporting.
 - Deleted references to the Office of Law Enforcement in Action 3, Alternative 3(e)(i) and 3(e)(vi).
 - Specifying a three hour notification requirement to Law Enforcement before landing in Action 3, Alternative 3(c).
 - Adding a new alternative to Action 3 (Alternative 3(f)).
 - Exempting live rock from offshore aquaculture regulations.
 - Adding a new alternative to Action 8 (Alternative 2(k)).
 - Removing corals and shrimp from the list of allowable species for aquaculture.
 - Modifying Table 6.7.1
- Information on the use of menhaden for fishmeal was added to Sections 5.2.3.4, 5.3.1.6, and 6.1.7.
- An environmental justice analysis (EO 12898) was included in the Social Impact Analysis.
- A short description of major areas of controversy was added to the Executive Summary.
- Additional discussion and references pertaining to potential environmental impacts were included in both Sections 4.0 and 6.0.
- Discussions in Sections 6.10 through 6.12 (National Standards, Mitigation Measures, and Cumulative Effects Analysis) were revised and edited.
- Appendices for the NOAA 10-year Aquaculture Plan and Endangered Species were deleted.

- Text from the Endangered Species Appendix was moved to existing sections in the document (see Sections 5.2.3.3 and 5.4.1.1).
- Editorial and grammatical changes were made throughout the document.
- The index was populated and page numbers were added for terms included in the Index.
- The literature cited section was completed and missing references were located.
- Appendices were reordered to be consistent with when they are referenced in the amendment.

Summary of Substantive General Counsel Comments

- A new action should be added to the amendment that establishes biological reference points and objective and measurable stock status criteria for aquaculture in the Gulf of Mexico EEZ.
- There are numerous references to unavailable information. When information is unavailable or incomplete, the amendment must comply with 40 CFR 1502.22.
- In the executive summary, the purpose of the amendment should be tied to optimum yield. The executive summary should also explain why corals and shrimp are not being considered for aquaculture.
- The amendment should explain the process and applicable standards for NOAA Fisheries to regularly review operations for compliance with governing regulations. For example, what happens if a permitted entity is not in compliance – what is the process and response?
- The amendment should explain the process and standards for “revoking” permits? Note that revoking permits is one of many enforcement remedies within the purview of NOAA’s enforcement attorneys (not the Council) in response to violations of the regulations.
- Action 2 does not mention renewals or renewal requirements, which seems inconsistent with the intent (certainty for investor confidence) behind the lengthy durations of permits considered in the amendment..
- Action 3 should explain the purpose of requiring the plan, standards for a plan, required qualifications of an animal health management expert, including job responsibilities, the purpose for visiting an aquaculture operation, what standards will be used by the expert, and what consequences may result from animal health inspections. Aquatic animal health procedures should be specified in regulations rather than each operation’s animal health plan. Also, what are the required components of an aquatic animal health plan? What is the process for NOAA Fisheries Service review and approval of such a plan and what happens if the plan is inadequate?
- Establish a standard set of regulations for broodstock collection rather than having each operation submit individual broodstock management plans. Regulations could include the process for obtaining broodstock, timeframes for collecting broodstock, and the amount of broodstock allowed for collection.
- Establish standard set of regulations for environmental monitoring, and emergency disaster plans rather than requiring operations to submit individual plans that are not standardized. - why not specify requirements in regulations instead of individual plans? Standards and criteria should be described. The terms “cage failure”, “escapement”, and “pollution event” should be defined.
- Use it or lose it requirement. The process for losing an aquaculture operational permit should be more clearly explained. The current process, which defines development of operations “when aquaculture equipment is obtained and placed in the water” is vague and broad. As noted above, revocation isn’t really the tool to use here. Consider establishing a use or use

requirement, involving a specific quantitative measure, as a condition for renewal of the permit. This may require reconsideration of the lengthy permit durations established elsewhere.

- Action 3, Alternative 3
 - (e)(i) - timeframe? format? consequences of not reporting?
 - (e)(iii) - construction requirements for pen or enclosures? EFH issues? bycatch issues?
 - (e)(vi) - timeframe? format? consequences of not reporting?
 - (e)(ix) - even when collecting broodstock?
 - (f) - add "...including but not limited to (give examples)"
- Criteria should be specified for determining the adequacy of plans described in Action 3, Alternative 3(b). Also, what is the process for requiring modifications to these plans and how will NOAA Fisheries Service approve such plans.
- Action 3, Alternative 3(f) needs to identify some examples and at least provide some qualitative analysis.
- Action 4 should clearly indicate if non-managed species are prohibited? If they are, then rationale should be provided for not allowing culture of these species.
- Rationale should be added describing why the Council is requesting NOAA Fisheries Service to develop HMS aquaculture regulations.
- The amendment should discuss the effects, if any, of harvesting wild fish for broodstock from overfished stocks
- The Action 5 alternatives are too vague. What is supposed to be the process for approving/denying allowable aquaculture systems? What are "other aquaculture systems"? What are the standards and criteria for case-by-case review? What is the process, standards, and criteria for making a finding that a proposed system is reliable and environmentally sound?
- Action 6 - The amendment should provide examples of where pre-authorized sites might occur. Also, what are the siting regulations to be based upon, and what would or should those regulations provide for? What is the process for NOAA Fisheries Service conducting its own site evaluation? Who is responsible for applying siting criteria on a case-by-case basis – the Regional Administrator?
- Action 7 is too vague. The alternatives should describe rationale for specifying such zones. Also, would specific boundaries or distances be considered?
- Action 8, Alternative 2(f) and 2(g) – the amendment should describe why this information is being collected.
- The Affected Environment section should describe the potential aquaculture operations that may occur in the Gulf of Mexico based on available information and literature.

Other Issues to Resolve

- During the August 2007 Joint Reef Fish/Mackerel/Red Drum Committee meeting the Council considered a motion to prohibit offshore aquaculture for purposes of stock enhancement. This motion failed. However, there is currently very little discussion of stock enhancement in the draft amendment. It is recommended that the Council revisit stock enhancement and determine what requirements pertaining to stock enhancement may need to be added to the amendment. The Council should also keep in mind that stock enhancement

is likely to increase maximum sustainable yield of wild populations. Allowing stock enhancement would therefore conflict with the Council's purpose and need and the newly proposed action for biological reference points and status criteria.