

REVISED

For the reasons set out in the preamble, 50 CFR part 622 is proposed to be amended as follows:

1. The authority citation for part 622 continues to read as follows:

Authority: 16 U.S.C. 1801 et seq.

2. In § 622.1, in Table 1, the following entry is added in alphabetical order to read as follows:

§ 622.1 Purpose and scope.

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Table 1.--FMPs Implemented Under Part 622

FMP title	Responsible fishery management council(s)	Geographical area
* * * * * FMP for Regulating Offshore Marine Aquaculture in the Gulf of Mexico * * * * *	GMFMC	Gulf

3. In § 622.2, definitions for " Aquaculture", "Aquaculture facility", and "Aquaculture system" are added in alphabetical order to read as follows:

§ 622.2 Definitions and acronyms.

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Aquaculture means all activities, including the operation of an aquaculture facility, involved in the propagation and rearing, or attempted propagation and rearing, of allowable aquaculture species in the Gulf EEZ.

Aquaculture facility means an installation or structure, including any aquaculture system(s) (including moorings), hatcheries, equipment, and associated infrastructure used to hold, propagate, and rear allowable aquaculture species in the Gulf of Mexico EEZ under authority of a Gulf aquaculture permit.

Aquaculture system means any cage, net pen, enclosure, structure, or gear deployed in waters of the Gulf EEZ for holding and producing allowable aquaculture species.

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4. In § 622.4, paragraph (a) introductory text is revised to read as follows:

§ 622.4 Permits and fees.

(a) Permits required. To conduct activities in fisheries governed in this part, except aquaculture activities as specified in § 622.50, valid permits, licenses and endorsements are required as follows. See § 622.50 (a) for permit requirements related to aquaculture of species other than live rock.

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5. Section 622.50 is added to subpart C to read as follows:
§ 622.50 Aquaculture in the Gulf EEZ.

This section provides the regulatory structure for enabling environmentally sound and economically sustainable aquaculture in the Gulf EEZ. Aquaculture activities as authorized by a Gulf aquaculture permit or Gulf aquaculture dealer permit issued under § 622.50(b) and conducted in compliance with the provisions of this section are exempt from the requirements and provisions specified in **parts 640 and 654 of this title and** other sections of this part **622**, except for §§ 622.1, 622.2, and 622.3, unless otherwise indicated in this section. Aquaculture of live rock is addressed elsewhere in this part and is exempt from the provisions of this section.

(a) Electronic system requirements. (1) The administrative functions associated with this aquaculture program, e.g., registration and account setup, landing transactions and most reporting requirements, are **intended** to be accomplished online via the aquaculture website at _____; therefore, a participant must have access to a computer and Internet access and must set up an appropriate online aquaculture account to participate. Assistance with online functions is available from Customer Service by calling _____ Monday through Friday between 8 a.m. and 4:30 p.m. eastern time. **If some online reporting functions are not available at the time of initial implementation of this IFQ program, participants may comply by submitting the required information via email using the**

appropriate forms that are available on the website. Once online functions are available, participants must comply by using the online system unless alternative methods are specified.

(2) The RA will mail each person who is issued a Gulf aquaculture permit or a Gulf aquaculture dealer permit information and instructions pertinent to using the online system and setting up an online aquaculture account. The RA will also mail each permittee a user identification number and will provide each permittee a personal identification number (PIN) in a subsequent letter. Each permittee must monitor his/her online account and all associated messages and comply with all online reporting requirements.

(3) During catastrophic conditions only, the RA may authorize use of paper-based components for basic required functions as a backup to what would normally be reported electronically. The RA will determine when catastrophic conditions exist, the duration of the catastrophic conditions, and which participants or geographic areas are deemed affected by the catastrophic conditions. The RA will provide timely notice to affected participants via publication of notification in the Federal Register, NOAA weather radio, fishery bulletins, and other appropriate means and will authorize the affected participants' use of paper-based components for the duration of the catastrophic conditions. NMFS will provide each aquaculture

permittee the necessary paper forms, sequentially coded, and instructions for submission of the forms to the RA. The paper forms will also be available from the RA. The program functions available to participants or geographic areas deemed affected by catastrophic conditions may be limited under the paper-based system. Assistance in complying with the requirements of the paper-based system will be available via Customer Service at

Monday through Friday between 8 a.m. and 4:30 p.m. eastern time.

(b) Permit requirements and procedures--(1) Gulf aquaculture permit. For a person to deploy or operate an aquaculture facility in the Gulf EEZ or sell or attempt to sell, at the first point of sale, an allowable aquaculture species cultured in the Gulf EEZ, a Gulf aquaculture permit must have been issued to that person for that aquaculture facility, and the permit must be prominently displayed at the aquaculture facility.

(i) Eligibility requirement for a Gulf aquaculture permit. Eligibility for a Gulf aquaculture permit is limited to U.S. citizens as defined in the Immigration and Nationality Act of 1952, as amended, and permanent resident aliens lawfully accorded the privilege of residing permanently in the U.S. in accordance with U.S. immigration laws.

(ii) Application for a Gulf aquaculture permit. Application forms are available from the RA. A completed application form

and all required supporting documents must be submitted by the applicant (in the case of a corporation, an officer; in the case of a partnership, a general partner) to the RA at least 180 days prior to the date the applicant desires the permit to be effective. An applicant must provide all information indicated on the application form including:

(A) Applicant's name, address, and telephone number.

(B) Business name, address, telephone number, date the business was formed, and, if the applicant is a corporation, corporate structure and shareholder information.

(C) Information sufficient to document eligibility as a U.S. citizen or permanent resident alien.

(D) Description of the exact location (i.e., GPS coordinates) and dimensions of the proposed aquaculture facility and proposed site, including a map of the site to scale.

(E) A baseline environmental assessment of the proposed aquaculture site. The assessment must be conducted, and the data, analyses, and results must be summarized and presented, consistent with the guidelines specified by NMFS. NMFS' guidelines include, but are not limited to, methods and procedures for conducting diver and video surveys, measuring hydrographic conditions, collecting and analyzing benthic sediments and infauna, and measuring water quality characteristics. The guidelines are available on the aquaculture

website and from the RA upon request.

(F) A list of allowable aquaculture species to be cultured; estimated start up production level by species; and the estimated maximum total annual poundage of each species to be harvested from the aquaculture facility.

(G) Name and address or specific location of each hatchery that would provide juvenile organisms for grow-out at the proposed aquaculture facility located within the Gulf EEZ and a copy of all relevant, valid state or Federal aquaculture permits issued to the hatchery.

(H) Prior to issuance of a Gulf aquaculture permit, a copy of currently valid Federal permits (e.g., Army Corps of Engineers (ACOE) Section 10 permit, and Environmental Protection Agency (EPA) National Pollutant Discharge Elimination System (NPDES) permit) applicable to the proposed aquaculture site, facilities, or operations.

(I) A description of the allowable aquaculture system(s) to be used, including, but not limited to the number, size and dimensions of the allowable aquaculture system(s), a description of the mooring system(s) used to secure the allowable aquaculture system(s), and documentation of the allowable aquaculture system's ability to withstand physical stress, such as hurricanes, wave energy, etc., including a copy of any available engineering analysis.

(J) A description of the equipment and methods to be used for feeding, transporting, maintaining, and removing cultured species from aquaculture systems.

(K) A copy of the valid USCG certificate of documentation or, if not documented, a copy of the valid state registration certificate for each vessel involved in the aquaculture operation; and documentation or identification numbers for any aircraft or vehicles involved.

(L) Documentation certifying the applicant has posted an assurance bond sufficient to cover the costs of removal of all components of the aquaculture facility, including cultured organisms remaining in allowable aquaculture systems, from the Gulf EEZ. The assurance bond would not be required to cover the costs of removing an oil and gas platform. The RA will provide applicants a form and associated guidance for complying with the assurance bond requirement.

(M) Certification by the applicant that all broodstock used to provide juveniles to the aquaculture facility were originally harvested from U.S. waters of the Gulf, and were from the same population or sub-population of fish (based on best available science) where the aquaculture facility is located or progeny of such wild broodstock, and that each individual broodstock was marked or tagged at the hatchery to allow for identification of those individuals used in spawning.

(N) Certification by the applicant that no genetically modified organisms (GMO) or transgenic organisms are used or possessed at the aquaculture facility. A GMO is an organism that has been transformed by the insertion of one or more transgenes (an isolated gene sequence often, but not always, derived from a different species than that of the recipient). A transgenic animal is an animal whose genome contains a nucleotide sequence that has been intentionally modified in vitro, and the progeny of such an animal.

(O) Certification by the applicant that a contractual arrangement with an identified aquatic animal health expert to provide services to the aquaculture facility has been obtained. An aquatic animal health expert is defined as a licensed doctor of veterinary medicine or a person who is certified by the American Fisheries Society, Fish Health Section, as a "Fish Pathologist" or "Fish Health Inspector". A copy of the license or certification must also be provided to NMFS.

(P) A copy of an emergency disaster plan, developed for and to be used by the operator of the aquaculture facility, that includes, but is not limited to, procedures for preparing or if necessary removing allowable aquaculture systems, aquaculture equipment, and cultured organisms in the event of a disaster (e.g., hurricane, tsunami, harmful algal bloom, chemical or oil spill, etc.);

(Q) Any other information concerning the aquaculture facility or its operations or equipment, as specified on the application form.

(R) Any other information that may be necessary for the issuance or administration of the Gulf aquaculture permit, as specified on the application form.

(2) Gulf aquaculture dealer permit. For a dealer to receive fish cultured by an aquaculture facility in the Gulf EEZ, a Gulf aquaculture dealer permit must be issued to the dealer. However, an owner or operator of an aquaculture facility with a Gulf aquaculture permit may purchase juvenile fish for grow-out from a hatchery located in the Gulf EEZ without obtaining a dealer permit. To obtain a dealer permit, the applicant must have a valid state wholesaler's license in the state(s) where the dealer operates, if required by such state(s), and must have a physical facility at a fixed location in such state(s).

(i) Application for a Gulf aquaculture dealer permit. Application forms are available from the RA. The application must be submitted by the owner (in the case of a corporation, an officer; in the case of a partnership, a general partner). Completed application forms and all required supporting documents must be submitted to the RA at least 30 days prior to the date on which the applicant desires to have the permit made effective. An applicant must provide the following:

(A) A copy of each state wholesaler's license held by the dealer.

(B) Name, address, telephone number, date the business was formed, and other identifying information of the business.

(C) The address of each physical facility at a fixed location where the business receives fish from an aquaculture facility in the Gulf EEZ.

(D) Name, address, telephone number, other identifying information, and official capacity in the business of the applicant.

(E) Any other information that may be necessary for the issuance or administration of the permit, as specified on the application form.

(ii) Reserved.

(3) Permit requirements for other aquaculture-related activities. For a person to do any of the following, such person must have in his/her possession and make available upon request by NMFS or an authorized officer a copy of a valid Gulf aquaculture permit with an original (not copied) signature of the permit owner or owner's agent.

(i) Possess or transport fish in or from the Gulf EEZ to be cultured at an aquaculture facility (e.g., brood stock, fingerlings) or possess or transport fish from an aquaculture facility for landing ashore and sale.

(ii) Operate, in support of aquaculture related activities, any vessel, vehicle, or aircraft authorized for use in operations related to an aquaculture facility , i.e., those registered for aquaculture operation use.

(iii) Harvest and retain on board a vessel live wild broodstock for use in an aquaculture facility regardless of where the broodstock is harvested or possessed.

(4) Permit-related procedures--(i) Fees. A fee is charged for each application for a permit submitted under this section and for each request for transfer or replacement of such permit. The amount of each fee is calculated in accordance with the procedures of the NOAA Finance Handbook, available from the RA, for determining the administrative costs of each special product or service. The fee may not exceed such costs and is specified with each application form. The appropriate fee must accompany each application, request for transfer or replacement.

(ii) Review and notifications regarding a Gulf aquaculture permit. (A) The RA will review each application and make a preliminary determination whether the application contains all of the required information. If the RA determines that an application is complete, notification of receipt of the application will be published in the Federal Register with a brief description of the proposal and specifying the intent of NMFS to issue a Gulf aquaculture permit. Interested persons will

be given a 15- to 45-day opportunity to comment and/or comments will be requested during public testimony at a GMFMC meeting. The RA may consult with the GMFMC concerning the permit application during the period in which public comments have been requested. The RA will notify the applicant in advance of any GMFMC meeting at which the application will be considered, and offer the applicant the opportunity to appear in support of the application. The RA may consider revisions to the application made by the applicant in response to public comment before approving or denying it.

(B) As soon as practicable after the opportunity for public comment ends, the RA will notify the applicant and the GMFMC in writing of the decision to grant or deny the Gulf aquaculture permit. If the RA grants the permit, the RA will publish a notification of the permit approval in the Federal Register. If the RA denies the permit, the RA will advise the applicant, in writing, of the reasons for the denial and publish a notification in the Federal Register announcing the denial and the basis for it. Grounds for denial of a Gulf aquaculture permit include, but are not limited to, the following:

(1) The applicant has failed to disclose material information or has made false statements to any material fact, in connection with the Gulf aquaculture permit application;

(2) Based on the best available scientific information,

issuance of the permit would detrimentally affect the well-being of wild fish stocks, marine mammals, threatened or endangered species, essential fish habitat, public health, or safety; or,

(3) Activities proposed to be conducted under the Gulf aquaculture permit are inconsistent with aquaculture regulations in this section, the management objectives of the Aquaculture FMP, or the Magnuson-Stevens Act or other applicable law.

(iii) Initial issuance. (A) The RA will issue an initial permit to an applicant if the application is complete and the specific requirements for the requested permit have been met. An application is complete when all requested forms, information, and documentation have been received.

(B) Upon receipt of an incomplete application, the RA will notify the applicant of the deficiency. If the applicant fails to correct the deficiency within 60 days of the date of the RA's letter of notification, the application will be considered abandoned.

(iv) Duration. A Gulf aquaculture permit will initially be issued for a 10-year period and may be renewed in 5-year increments thereafter. An aquaculture dealer permit is an annual permit and must be renewed annually. A permit remains valid for the period specified on it unless it is revoked, suspended, or modified pursuant to subpart D of 15 CFR part 904 or the aquaculture facility is sold and the permit has not been

transferred or the dealership is sold.

(v) Transfer. (A) A Gulf aquaculture permit is transferable to an eligible person, i.e., a U.S. citizen or permanent resident alien if the geographic location of the aquaculture site remains unchanged. An eligible person who acquires an aquaculture facility that is currently permitted and who desires to conduct activities for which a permit is required may request that the RA transfer the permit to him/her. At least 30 days prior to the desired effective date of the transfer, such a person must complete and submit to the RA or via the aquaculture website at _____ a permit transfer request form that is available from the RA. The permit transfer request form must be accompanied by the original Gulf aquaculture permit, a copy of a signed bill of sale or equivalent acquisition papers, and a written agreement between the transferor and transferee specifying who is assuming the responsibilities and liabilities associated with the Gulf aquaculture permit and the aquaculture facility, including all the terms and conditions associated with the original issuance of the Gulf aquaculture permit. All applicable permit requirements and conditions must be satisfied prior to a permit transfer, including any necessary updates, e.g., updates regarding required certifications, legal responsibility for assurance bond, other required permits, etc.. The seller must sign the back of the Gulf aquaculture permit, and

have the signed transfer document notarized. Final transfer of a Gulf aquaculture permit will occur only after the RA provides official notice to both parties that the transferee is eligible to receive the permit and that the transfer is otherwise valid.

(B) An aquaculture dealer permit is not transferable.

(vi) Renewal of Gulf aquaculture permits and aquaculture dealer permits. An aquaculture facility owner or aquaculture dealer who has been issued a permit under this section must renew such permit consistent with the applicable duration of the permit specified in paragraph (b)(4)(iv) of this section. The RA will mail an aquaculture facility owner or aquaculture dealer whose permit is expiring an application for renewal at least 6 months prior to the expiration date of a Gulf aquaculture facility permit and approximately 2 months prior to the expiration date of an aquaculture dealer permit. An aquaculture facility owner or aquaculture dealer who does not receive a renewal application from the RA within the time frames indicated in this paragraph must contact the RA and request a renewal application. The applicant must submit a completed renewal application form and all required supporting documents to the RA at least 120 days prior to the date on which the applicant desires to have a Gulf aquaculture permit made effective and at least 30 days prior to the date on which the applicant desires to have an aquaculture dealer permit made effective. If the RA receives an incomplete

application, the RA will notify the applicant of the deficiency. If the applicant fails to correct the deficiency within 60 days of the date of the RA's letter of notification, the application will be considered abandoned.

(vii) Display. A Gulf aquaculture permit issued under this section must be prominently displayed and available at the aquaculture facility. An aquaculture dealer permit issued under this section, or a copy thereof, must be prominently displayed and available on the dealer's premises. In addition, a copy of the dealer's permit, or the aquaculture facility's permit (if the fish have not yet been purchased by a dealer), must accompany each vehicle that is used to receive fish harvested from an aquaculture facility in the Gulf EEZ. A vehicle operator must present the permit or a copy for inspection upon the request of an authorized officer.

(viii) Sanctions and denials. (1) A Gulf aquaculture permit or aquaculture dealer permit issued pursuant to this section may be revoked, suspended, or modified, and such permit applications may be denied, in accordance with the procedures governing enforcement-related permit sanctions and denials found at subpart D of 15 CFR part 904.

(ix) Alteration. A Gulf aquaculture permit or aquaculture dealer permit that is altered, erased, or mutilated is invalid.

(x) Replacement. A replacement Gulf aquaculture permit or

aquaculture dealer permit may be issued. An application for a replacement permit is not considered a new application.

(xi) Change in application information. An aquaculture facility owner or aquaculture dealer who has been issued a permit under this section must notify the RA within 30 days after any change in the applicable application information specified in paragraphs (b)(1) or (2) of this section. The permit is void if any change in the information is not reported within 30 days.

(c) Aquaculture facility siting requirements and conditions.

(1) No aquaculture facility may be sited in the Gulf EEZ within a marine protected area, marine reserve, Habitat Area of Particular Concern, Special Management Zone, permitted artificial reef area specified in this part or a coral area as defined in § 622.2.

(2) No aquaculture facility may be sited within 1.6 nautical miles (3 km) of another aquaculture facility.

(3) The permitted site for the aquaculture facility must be at least twice as large as the combined area of the aquaculture systems (e.g, cages and net pens). This requirement will allow for rotation of aquaculture systems within a permitted site to provide following.

(4) The RA will evaluate siting criteria in addition to those specified in paragraphs (c)(1) through (3) of this section on a case by case basis. Criteria considered by the RA during

case-by-case review would include, but would not be limited to, data, analyses, and results of the required baseline environmental assessment as specified in paragraph (b)(ii)(E) of this section; depth of the site; the frequency of harmful algal blooms or hypoxia at the proposed site; marine mammal migratory pathways; and the location of the site relative to commercial and recreational fishing grounds and important natural fishery habitats (e.g., seagrasses). The RA may deny use of a proposed aquaculture site based on a determination by the RA that such a site poses significant risks to essential fish habitat, endangered species, or threatened marine species, will result in user conflicts with commercial or recreational fishermen or other marine resource users, the depth of the site is not sufficient for the allowable aquaculture system, substrate and currents at the site will inhibit the dispersal of wastes and effluents, the site poses significant risks of mortality to the cultured species due to low dissolved oxygen or harmful algal blooms, or other grounds inconsistent with FMP objectives or applicable Federal laws. The information used for siting a facility with regard to proximity to commercial and recreational fishing grounds would include, but is not limited to, electronic logbooks from the shrimp industry, logbook reported fishing locations, siting information from previously proposed or permitted aquaculture facilities, and other data that would provide information

regarding how the site would interact with other fisheries. The RA's determination will be based on consultations with appropriate NMFS and NOAA offices and programs, as well as siting and other information submitted by the permit applicant. If a proposed site is denied, the RA will provide the determination and the basis for it, in writing to the permit applicant.

(d) Restricted access zones. NMFS will establish a restricted access zone for each aquaculture facility. The boundaries of the restricted access zone will correspond with the coordinates listed on the approved ACOE Section 10 permit associated with the aquaculture facility.

(1) Prohibited activities within a restricted access zone. No recreational fishing or commercial fishing, other than aquaculture, may occur in the restricted access zone. No fishing vessel may operate in or transit through the restricted access zone unless the vessel has on board a copy of the aquaculture facility's permit with an original signature, i.e., not a copy of the signature, of the permittee.

(2) Marking requirement. The permittee must mark the restricted access zone with a floating device such as a buoy at each corner of the zone. Each floating device must clearly display the aquaculture facility's permit number and the words "RESTRICTED ACCESS" in block characters at least 6 inches (15.2 cm) in height and in a color that contrasts with the color of the

floating device.

(e) Allowable aquaculture systems. The RA will evaluate each proposed aquaculture system on a case-by-case basis and approve or deny use of the proposed system for offshore marine aquaculture in the Gulf EEZ. The RA, in coordination with the ACOE, will evaluate the structural integrity of a proposed aquaculture system based, in part, on the required documentation (e.g., engineering analyses, computer and physical oceanographic model results) submitted by the applicant to assess the ability of the aquaculture system(s) (including moorings) to withstand physical stresses associated with major storm events, e.g. hurricanes, storm surge. The RA will also evaluate the proposed aquaculture system and its operations based on potential risks to essential fish habitat, endangered or threatened marine species, marine mammals, wild fish stocks, public health, or safety. The RA may deny use of a proposed aquaculture system or specify conditions for using an aquaculture system based on a determination of such significant risks. The RA's evaluation will be based on information provided by the applicant as well as consultations with appropriate NMFS and NOAA offices and programs. If the RA denies use of a proposed aquaculture system or specifies conditions for its use, the RA will provide the determination and the basis for it, in writing to the applicant.

(f) Allowable aquaculture species. Only the following

species that are native to the Gulf of Mexico, are not transgenic, and that have not been genetically modified may be cultured in an aquaculture facility in the Gulf EEZ:

(1) Species of coastal migratory pelagic fish, as defined in § 622.2.

(2) Species of Gulf reef fish, as listed in Appendix A to Part 622.

(3) Red drum, Sciaenops ocellatus.

(4) Species of stone crab, as defined in § 654.2 of this chapter.

(5) Spiny lobster, Panulirus argus.

(6) Slipper lobster, Scyllarides nodifer.

(g) Operational requirements and restrictions. An owner or operator of an aquaculture facility for which a Gulf aquaculture permit has been issued must comply with the following operational requirements and restrictions.

(1) Minimum start-up requirement. At least 25 percent of allowable aquaculture systems approved for use at a specific aquaculture facility at the time of permit issuance must be placed in the water at the permitted aquaculture site within 2 years of issuance of the Gulf aquaculture permit, and allowable species for aquaculture must be placed in the allowable aquaculture system(s) within 3 years of issuance of the permit. Failure to comply with these requirements will be grounds for

revocation of the permit. A permittee may request a 1-year extension to the above time schedules in the event of a catastrophe (e.g., hurricane). Requests must be made in writing and submitted to the RA. The RA will approve or deny the request after determining if catastrophic conditions exist and whether or not the permittee was affected by the catastrophic conditions. The RA will provide the determination and the basis for it, in writing, to the permittee.

(2) Marking requirement. The permittee must maintain a minimum of one properly functioning electronic locating device (e.g., GPS device, pinger with radio signal,) on each allowable aquaculture system, e.g., net pen or cage, placed in the water at the aquaculture facility.

(3) Restriction on allowable hatcheries. A permittee may only obtain juvenile organisms for grow-out at an aquaculture facility from a hatchery located in the U.S.

(4) Hatchery certifications. (i) The permittee must obtain and submit to NMFS a signed certification from the owner(s) of the hatchery, from which fingerlings or other juvenile organisms are obtained, indicating the broodstock have been individually marked or tagged (e.g., via a Passive Integrated Transponder (PIT), coded wire, dart, or internal anchor tag) to allow for identification of those individuals used in spawning.

(ii) The permittee must also obtain and submit to NMFS

signed certification from the owner(s) of the hatchery indicating that fin clips or other genetic materials were collected and submitted for each individual brood animal in accordance with procedures specified by NMFS.

(iii) The certifications required in paragraphs (g)(4)(i) and (ii) of this section must be provided to NMFS by the permittee each time broodstock are acquired by the hatchery or used for spawning.

(5) Pathogen-free certification. Prior to stocking fish in an allowable aquaculture system at an aquaculture facility in the Gulf EEZ, the permittee must provide NMFS a copy of a health certificate (suggested form is USDA/Animal and Plant Health Inspection Service (APHIS) VS 17-141, OMB 0579-0278) signed by an aquatic animal health expert, as defined in paragraph (b)(1)(ii)(0) of this section, certifying that such fish were inspected and determined to be free of World Organization of Animal Health (OIE)-reportable pathogens (or additional pathogens that are subsequently identified as reportable pathogens in the National Aquatic Animal Health Plan as implemented by the USDA and U.S. Departments of Commerce and Interior).

(6) Use of drugs and other chemicals or agents. Use of drugs, pesticides, and biologics must comply with all applicable Food and Drug Administration (FDA), EPA, and USDA regulations (e.g., Food, Drug and Cosmetic Act, 21 U.S.C. 321; Clean Water

Act, 40 CFR 122; 9 CFR 101-124; 21 CFR 500-599; and 40 CFR 150-189).

(7) Feed practices and monitoring. The permittee must conduct feed monitoring and management practices in compliance with EPA regulations at 40 CFR 451.21.

(8) Monitoring and reporting compliance. The permittee must monitor and report the environmental assessment parameters at the aquaculture facility consistent with NMFS' guidelines that are available on the aquaculture website and from the RA upon request. The permittee must also comply with all applicable monitoring and reporting requirements specified in their valid ACOE Section 10 permit and valid EPA NPDES permit.

(9) Inspection for protected species. The permittee must regularly inspect allowable aquaculture systems, including mooring and anchor lines, for entanglements or interactions with marine mammals, protected species, and migratory birds. If entanglements or interactions are observed, they must be reported as specified in paragraph (c)(1)(i)(G) of this section.

(10) Fishing gear stowage requirement. Any vessel transporting cultured organisms to or from an aquaculture facility must stow fishing gear as follows:

(i) A longline may be left on the drum if all gangions and hooks are disconnected and stowed below deck. Hooks cannot be baited. All buoys must be disconnected from the gear; however,

buoys may remain on deck.

(ii) A trawl net may remain on deck, but trawl doors must be disconnected from the trawl gear and must be secured.

(iii) A gillnet must be left on the drum. Any additional gillnets not attached to the drum must be stowed below deck.

G (iv) A rod and reel must be removed from the rod holder and stowed securely on or below deck. Terminal gear (i.e., hook, leader, sinker, flasher, or bait) must be disconnected and stowed separately from the rod and reel. Sinkers must be disconnected from the down rigger and stowed separately.

(v) All other fishing gear must be stored below deck or in an area where it is not normally used or readily available for fishing.

(11) Prohibition of possession of wild fish in restricted access zone. Except for authorized broodstock associated with a hatchery in the Gulf EEZ, possession of any wild fish at or within the boundaries of an aquaculture facility's restricted access zone is prohibited.

(12) Prohibition of possession of wild fish aboard vessels, vehicles, or aircraft associated with aquaculture operations. Possession and transport of any wild fish aboard an aquaculture operation's transport or service vessels, vehicles, or aircraft is prohibited, except when harvesting broodstock as authorized by NMFS.

(13) Maintaining fish intact prior to landing. Cultured finfish must be maintained whole with heads and fins intact until landed on shore. Such fish may be eviscerated, gilled, and scaled, but must otherwise be maintained in a whole condition. Spiny lobster must be maintained whole with the tail intact until landed on shore.

(14) Restriction on time of landing. Species cultured at an aquaculture facility can only be landed ashore between 6 a.m. and 6 p.m., local time.

(15) Bill of lading requirement. Any cultured fish harvested from an aquaculture facility and being transported for landing ashore or sale must be accompanied by the applicable bill of lading through the first point of sale. The bill of lading must include species name, quantity in numbers or pounds by species, date and location of landing, Gulf aquaculture permit number of the aquaculture facility from which the fish were harvested, and name and address of purchaser.

(16) Request to harvest broodstock. (i) At least 30 days prior to each time a permittee or their designee intends to harvest broodstock, from the Gulf of Mexico, including state waters, that would be used to produce juvenile fish for an aquaculture facility in the Gulf EEZ, the permittee must submit a request to the RA via the aquaculture website using a web-based form. The information submitted on the form must include the

number, species, and size of fish to be harvested; methods, gear, and vessels (including USCG documentation or state registration number) to be used for capturing, holding, and transporting broodstock; date and specific location of intended harvest; and the location to which broodstock would be delivered.

(ii) Allowable methods or gear used for broodstock capture in the EEZ include those identified for each respective fishery in 50 CFR 600.725, except red drum, which may be harvested only with handline or rod and reel.

(iii) The RA may deny or modify a request for broodstock harvest if allowable methods or gears are not proposed for use, the number of fish harvested for broodstock is more than necessary for purposes of spawning and rearing activities, or other grounds inconsistent with FMP objectives or other Federal laws. If a broodstock collection request is denied or modified, the RA will provide the determination and the basis for it, in writing to the permittee. If a broodstock collection request is approved, the permittee must submit a report to the RA including the number and species of broodstock harvested, their size (length and weight), and the geographic location where the broodstock were captured. The report must be submitted on a web-based form available on the aquaculture website no later than 15 days after the date of harvest.

(iv) Notwithstanding the requirements in paragraph (g)(16)

of this section, all proposed harvest of broodstock from state waters must also comply with all state laws applicable to the harvest of such species.

(17) Authorized access to aquaculture facilities. A permittee must provide NMFS employees and authorized officers access to an aquaculture facility to conduct inspections or sampling necessary to determine compliance with the applicable regulations relating to aquaculture in the Gulf EEZ. NMFS will conduct at least annual inspections of permitted aquaculture facilities.

(h) Recordkeeping and reporting requirements. Participants in Gulf aquaculture activities addressed in this section must keep records and report as specified in this paragraph (h). Unless otherwise specified, required reporting must be accomplished electronically via the NMFS aquaculture website at _____ . See paragraph (a)(3) of this section regarding provisions for paper-based reporting in lieu of electronic reporting during catastrophic conditions as determined by the RA. Recordkeeping (i.e., maintaining records versus submitting reports) may, to the extent feasible, be maintained electronically; however, paper-based recordkeeping is also acceptable.

(1) Aquaculture facility owners or operators. An aquaculture facility owner or operator must comply with the

following requirements.

(i) Electronic reporting requirements.-(A) Transport of fingerlings/juvenile fish to an aquaculture facility. Report the time, date, species and number of fingerlings or other juvenile organisms that will be transported from a hatchery, other than a hatchery that is integrated within the aquaculture facility, to an aquaculture facility at least 72 hours prior to transport. This information may be submitted electronically via the aquaculture website or via phone at xxx-xxx-xxxx.

(B) Major escapement. Report any major escapement or suspected major escapement within 24 hours of the event. Major escapement is defined as the escape, within a 24-hour period, of 10 percent of the fish from a single allowable aquaculture system (e.g., one cage or one net pen) or 5 percent or more of the fish from all allowable aquaculture systems combined, or the escape, within any 30-day period, of 10 percent or more of the fish from all allowable aquaculture systems combined. The report must include the items in paragraphs (h)(1)(i)(B)(1)-(6) of this section and may be submitted electronically via the aquaculture website or via phone at xxx-xxx-xxxx. If no major escapement occurs during a given year, an annual report must be submitted via the aquaculture website on or before January 31 each year indicating no major escapement occurred.

(1) Gulf aquaculture permit number;

(2) Name and phone number of a contact person;

(3) Duration and specific location of escapement, including the number of cages or net pens involved;

(4) Cause(s) of escapement;

(5) Number, size, and percent of fish, by species, that escaped; and

(6) Actions being taken to address the escapement.

(C) Pathogens. Report, within 24 hours of diagnosis, all findings or suspected findings of any OIE-reportable pathogen episodes or additional pathogens that are subsequently identified as reportable pathogens in the National Aquatic Animal Health Plan, as implemented by the USDA and U.S. Departments of Commerce and Interior, that are known to infect the cultured species. The report must include the items in paragraphs (h)(1)(i)(C)(1)-(6) of this section and may be submitted electronically via the aquaculture website or via phone at xxx-xxx-xxxx. If no finding or suspected finding of an OIE-reportable pathogen episode occurs during a given year, an annual report must be submitted via the aquaculture website on or before January 31 each year indicating no finding or suspected finding of an OIE-reportable pathogen episode occurred. See paragraph (k)(1) of this section regarding actions NMFS may take to address a pathogen episode.

(1) OIE-reportable pathogen;

(2) Percent of cultured organisms infected;

- (3) Findings of the aquatic animal health expert;
- (4) Plans for submission of specimens for confirmatory testing (as required by the USDA);
- (5) Testing results (when available);, and
- (6) Actions being taken to address the reportable pathogen episode.

(D) Notice of harvest. Report the intended time, date, and estimated amount in pounds whole weight by species of fish to be harvested from the aquaculture facility at least 72 hours prior to harvest. This information may be submitted electronically via the aquaculture website or via phone at xxx-xxx-xxxx.

(E) Landing information. Report the INTENDED time, date, and port of landing for any vessel landing fish harvested from an aquaculture facility at least 72 hours prior to landing. This information may be submitted electronically via the aquaculture website or via phone at xxx-xxx-xxxx. The person landing the cultured fish must validate the dealer transaction report required in paragraph (h)(2)(i) of this section by entering the unique PIN number of the Gulf aquaculture permit holder from whom the fish were received when the transaction report is submitted.

(F) Change of hatchery. Report any change in hatcheries used for obtaining fingerlings or other juvenile organisms and provide updated names and addresses or specific locations (if no address is available) for the applicable hatcheries no later than

30 days after any such change occurs.

(G) Entanglements or interactions with marine mammals, endangered species, or migratory birds. Report any entanglement or interaction with marine mammals, endangered species, or migratory birds within 24 hours of the event. The report must include the items included in paragraphs (h)(1)(i)(G)(1)-(5) of this section and may be submitted electronically via the aquaculture website or via phone at xxx-xxx-xxxx. If no entanglement or interaction with marine mammals, endangered species, or migratory birds occurs during a given year, an annual report must be submitted via the aquaculture website on or before January 31 each year indicating no entanglement or interaction occurred.

(1) Date, time, and location of entanglement or interaction.

(2) Species entangled or involved in interactions and number of individuals affected;

(3) Number of mortalities and acute injuries observed;

(4) Cause of entanglement or interaction; and

(5) Actions being taken to prevent future entanglements or interactions.

(H) Any other reporting requirements specified by the RA for evaluating and assessing the environmental impacts of an aquaculture operation.

(ii) Other reporting requirements. In addition to the

electronic reporting requirements in paragraph (c)(1)(i) of this section, an aquaculture facility owner or operator must comply with the following reporting requirements.

(A) On a continuing basis, provide NMFS currently valid copies of all state and Federal permits (e.g., ACOE Section 10 permit, EPA NPDES permit) required for conducting offshore aquaculture and report any changes applicable to those permits.

(B) On a continuing basis, provide NMFS copies of valid state and Federal aquaculture permits for each hatchery from which fingerlings or other juvenile organisms are obtained and report any changes applicable to those permits.

(iii) Recordkeeping requirements. An aquaculture facility owner or operator must comply with the following recordkeeping requirements.

(A) Maintain for the most recent 3 years and make available to NMFS or authorized law enforcement officers, upon request, monitoring reports related to aquaculture activities required by all state and Federal permits (e.g., ACOE Section 10 permit, EPA NPDES permit) required for conducting offshore aquaculture.

(B) Maintain and make available to NMFS or authorized law enforcement officers upon request a written or electronic daily record of the number of fish introduced into and number or pounds and average weight of fish removed from each allowable aquaculture system, including mortalities, for the most recent 3

years.

(C) Maintain and make available to NMFS or authorized law enforcement officers upon request original purchase invoices for feed, or copies of such invoices, for 3 years from the date of purchase.

(D) Maintain records of all sales of fish for the most recent 3 years and make that information available to NMFS or authorized law enforcement officers upon request. Sale records must include the quantity of fish sold, by species, in pounds whole weight; estimated average weight of fish sold to the nearest tenth of a pound by species; date sold; and the name of the entity to whom fish were sold.

(2) Aquaculture dealer recordkeeping and reporting requirements. A dealer who purchases fish from an aquaculture facility in the Gulf EEZ must:

(i) Complete a landing transaction report for each landing and sale of cultured fish via the aquaculture website at _____ at the time of the transaction in accordance with reporting form and instructions provided on the website. This report includes, but is not limited to, date, time, and location of transaction; information necessary to identify the Gulf aquaculture permit holder, vessel, and dealer involved in the transaction; quantity, in pounds whole weight, and estimated average weight of each species landed to the nearest tenth of a pound; and average price

paid for cultured fish landed and sold by market category. A dealer must maintain such record for at least 3 years after the receipt date and must make such record available for inspection upon request of an authorized officer or the RA.

(ii) After the dealer submits the report and the information has been verified, the website will send a transaction approval code to the dealer and the aquaculture permit holder

(j) Limitation on aquaculture production. No individual, corporation, or other entity will be authorized to produce more than 20 percent of the maximum level of optimum yield, i.e., 64 million lb (29 million kg) whole weight, established for aquaculture in the Gulf EEZ. The optimum yield is defined as the total yield, in pounds whole weight, harvested annually by all permitted aquaculture facilities in the Gulf EEZ but not to exceed 64 million lb (29 million kg) whole weight. Production of juvenile fish by a hatchery in the Gulf EEZ will not be counted toward optimum yield or the 20-percent restriction because those fish would be accounted for subsequently via reported harvest at the aquaculture facility where grow out occurs.

(k) Potential remedial actions by NMFS. In addition to potential permit sanctions and denials in accordance with subpart D of 15 CFR part 904, NMFS may take the following actions, as warranted, to avoid or mitigate adverse impacts associated with aquaculture in the Gulf EEZ.

(1) Actions to address pathogen episodes. NMFS, in cooperation with USDA's APHIS, may order the removal of all cultured organisms from an allowable aquaculture system upon confirmation by a USDA's APHIS reference laboratory that a reportable pathogen exists and USDA's APHIS and NMFS determine the pathogen poses a threat to the health of wild or cultured aquatic organisms.

(2) Actions to address genetic issues. NMFS may sample cultured organisms to determine genetic lineage and, upon a determination that GMOs or transgenic organisms were used or possessed at an aquaculture facility, **will** order the removal of all cultured organisms of the species for which such determination was made.

(1) Framework actions. In accordance with the framework procedure in the FMP for Regulating Offshore Marine Aquaculture in the Gulf of Mexico, the RA may establish or modify the following items:

- (1) Maximum sustainable yield.
- (2) Optimum yield.
- (3) Permit application requirements.
- (4) Operational requirements and restrictions, including monitoring requirements.
- (5) Allowable aquaculture system requirements.
- (6) Siting requirements for aquaculture facilities.

(7) Recordkeeping and reporting requirements.

(m) Prohibitions. In addition to the general prohibitions in § 600.725 of this chapter, it is unlawful for any person to fail to comply with any provision in this section or to falsify any information required to be submitted or maintained as specified in this section.