



Southern Shrimp Alliance, Inc

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Dr. Tom McIlwain,
Chairman
Gulf of Mexico Fishery Management Council
2303 N. Lois Avenue, Suite 1100
Tampa, FL 33607

Dear Chairman McIlwain:

The Southern Shrimp Alliance (SSA) appreciates having the opportunity to provide comments on the Council's Generic Amendment to Provide for Regulation of Offshore Aquaculture (December 2007) as part of the Council's public hearing process on behalf of the US wild warm-water shrimp producers in all eight shrimp producing States. Please note that we have previously submitted comments at various points during the Council's consideration of this important Amendment which should be part of the Council's record. We would appreciate the Council's further consideration of the following specific recommendations for incorporation into the Generic Amendment and Environmental Impact Statement. These comments are presented despite SSA's underlying and as yet unresolved questions regarding whether the Council has the statutory authority to take this action in the first place.

(1) Species Allowed for Aquaculture

SSA greatly appreciates the revision to Action 4, Preferred Alternative 4 adopted at its October/November 2007 meeting in Biloxi, MS. to remove "species in the shrimpfishery management plan" from the list of species allowed for aquaculture production in the Gulf of Mexico under the Generic Amendment.

The shrimp fishery remains the most valuable fishery in the Gulf of Mexico and until imports of foreign aquaculture shrimp decimated dockside prices for wild shrimp in the US, shrimp was for many years the most valuable fishery in the entire United States. The shrimp fishery remains at the core of economy and social structure of countless fishing communities along the Gulf coast.

For all of the many physical, biological, ecological and economic concerns that have been expressed to the Council, it would be foolhardy and inconsistent with the Council's broad responsibilities to conserve and manage the shrimp fishery-- as well as to provide for the sustained participation of Gulf fishing communities in the shrimp fishery-- if it were to put this iconic fishery and these extraordinary communities at risk by authorizing the culture of shrimp in Gulf waters.

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SSA appreciates the wisdom of the Council’s decision to adopt this essential change to the Generic Amendment for Offshore Aquaculture and strongly recommends that the Council reject any attempt to reverse its decision.

SSA further notes, however, that the current shrimp fishery management plan covers white, brown, pink and royal red shrimp. It does not cover rock shrimp or some of the lesser known species such as seabobs in the Gulf shrimp fisheries.

Under one interpretation, rock shrimp and these other species would already be excluded from the list of ‘species allowed for aquaculture’ under Action 4, Preferred Alternative 4 because they are not “managed by the Council”. Indeed, Preferred Alternative 4 appears to limit the list of ‘species allowed for aquaculture’ to “all marine species in the Gulf of Mexico managed by the Council”. This language suggests that species not managed by the Council would not be allowed-- but this is not clear. In any case, SSA understands that the Council intended to exclude all species of shrimp from the list of ‘species allowed for aquaculture’.

Therefore, SSA respectfully recommends that the exclusion provided for shrimp under Action 4, Preferred Alternative 4 be revised and clarified to ensure that all species of shrimp are covered by the exclusion.

The following revised language could accomplish this result:

“Preferred Alternative 4: Allow the aquaculture of all marine species in the Gulf of Mexico managed by the Council, except shrimp and those species in the coral fishery management plan, and send a letter to NOAA Fisheries Service requesting development of concurrent rulemaking to allow aquaculture of highly migratory species. Do not allow non-native species, transgenic species, or otherwise genetically modified species to be used for aquaculture in the Gulf of Mexico.”

(2) Siting, Safety and Debris

Siting: As reflected in its comments submitted to date, ensuring the Gulf shrimp fishery’s safe and unfettered access to its fishing grounds remains a top priority for SSA under the Generic Amendment.

The Gulf shrimp fishery has been progressively restricted in time and space in order to accommodate other interests including fishery and bycatch management, protection of sensitive habitats, artificial reef construction, and offshore energy development. All of these obstructions to the shrimp fishery have had a cumulative negative impact on shrimp production and production costs, as well as the safety of life at sea-- with little or no compensation to offset these impacts. There is no reason for the Council to contribute even further to this pattern of Gulf resource management.

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Instead, the Council now has an opportunity to adopt a strong and positive policy that respects the traditional shrimp fishery and protects the safety of shrimp fishermen by requiring that offshore aquaculture facilities be located at sites that will not obstruct the fishery or create additional safety problems. (Incidentally, this should also include a responsible policy for the navigational marking of these facilities.) The Council could not possibly justify a policy that would authorize offshore aquaculture facilities to displace the historical shrimp fishery from its fishing grounds or endanger shrimp fishermen.

For these reasons, SSA supports Action 6, Preferred Alternative 4 to establish siting criteria to be applied by NOAA/NMFS on a case-by-case basis that are in addition to the siting requirements of the Army Corps of Engineers (ACOE), Minerals Management Service (MMS), Environmental Protection Agency (EPA) and other agencies. The NOAA/NMFS siting criteria are to include the specific items set forth in Table 6.7-1 of the Generic Amendment. These criteria represent specific conditions that must be met in order for NOAA/NMFS to issue a permit—they are not merely considerations as discussed below.

If there is any question of interpretation that these siting criteria are effectively intended to serve as ‘permit conditions’, then SSA recommends that the permit conditions set forth under Action 3, Preferred Alternative 3, be amended to add a condition under (e) “Other permit conditions” requiring that the siting criteria set forth in Table 6.7-1 for Action 6, Preferred Alternative 4 be met.

Further, SSA strongly supports the Council’s inclusion in Table 6.7-1 of the specific siting criteria that aquaculture facilities/systems are: “Not located in or within a certain distance of traditionally important fishing area”.

Proponents of offshore aquaculture development often suggest that their industry’s objectives are to compliment wild fisheries such as shrimp and become an integral part of traditional Gulf coast fishing communities. One way to achieve these objectives is to support traditional fisheries and fishermen by explicitly respecting their traditional fishing grounds and ability to operate safely at sea. Commercial fishing is already the most dangerous occupation in this nation and the economics of wild fisheries in the face of imported aquaculture products and fuel prices makes it a very difficult tradition to preserve. Poor siting decisions would only exacerbate these problems and alienate the aquaculture industry from the very communities they hope to embrace. Thus, the criteria to prohibit the siting of an aquaculture facility in a traditionally important fishing area included under Action 6, Preferred Alternative 4 should also be a top priority of the aquaculture industry and, of course, the Council.

However, SSA notes that the discussion under section 5.0 “Affected Environment” of the Generic Amendment (EIS) document is inconsistent with Action 6, Preferred Alternative 4, and recommends that this section be conformed to the clear meaning of the Preferred Alternative.

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Specifically, the discussion under section 5.1.3.3.1 “Traditionally highly fished areas” suggests a more narrow scope than the plain wording of Action 6, Preferred Alternative 4. The introduction of “highly” into the term “traditionally fished areas” is inconsistent with the criterion “traditionally important fishing area” specifically set forth in Table 6.7-1 under Action 6, Preferred Alternative 4. There is no possible way to quantify and determine what the term “highly” means in the context of traditional fishing areas, and it is otherwise irrelevant to the purpose of this criterion. SSA notes that a similar reference to “highly fished areas” is included in footnote 117 under section 7.5.2 which refers to Action 6, Preferred Alternative 4. This also needs to be revised. SSA recommends that “highly” be stricken from all of these references.

Furthermore, the discussion under section 5.1.3.3.1 states that the “siting criteria specified for Action 6, Preferred Alternative 4, includes NOAA Fisheries Service consideration of traditional fishing areas when siting an offshore aquaculture facility.” This statement is clearly inconsistent with the criteria set forth in Table 6.7-1. The Council did not intend for these siting criteria to be mere ‘considerations’ for issuing a permit. They are specific conditions that must be met in order for NOAA/NMFS to issue a permit. Table 6.7-1 specifically states the following criterion: “Not located in or within a certain distance of: traditionally important fishing area”.

SSA recommends that “consideration” be replaced with “application” in the discussion under section 5.1.3.3.1. Further, SSA recommends that it may be necessary to amend the permit conditions under Action 3, Preferred Alternative 3 to add a condition under (e) “Other permit conditions” requiring that the siting criteria set forth in Table 6.7-1 for Action 6, Preferred Alternative 4 be met.

Debris: The Gulf Shrimp fishery has paid a significant price through the loss of access to productive shrimp grounds, increased production costs, and damaged/lost gear due to marine debris.

For example, offshore oil and gas operations aren’t supposed to discard debris in the Gulf—but they do. Offshore oil and gas structures aren’t supposed to collapse in hurricanes—but they do. The offshore oil and gas industry is required by statute to compensate fishermen for lost and damaged gear—but the true impacts on the shrimp trawl fishery dwarf such compensation.

The truth is that there is no offshore structure—including existing offshore aquaculture facilities—that can reliably withstand the force of Gulf hurricanes. It is a literal certainty that offshore aquaculture structures in the Gulf will fail in the face of some future hurricane. It is very likely that the resulting debris will obstruct shrimp fishing operations and cause economic harm.

SSA appreciates and supports permit condition (b)(v) under Action 3, Preferred Alternative 3, to require offshore aquaculture permit applicants to provide an

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“emergency disaster plan for hurricanes, net or cage failure/escapement, or pollution event.”

In summarizing and discussing the implications of this provision, the Generic Amendment correctly notes that “during hurricanes, nets, cages, and other equipment can become dislodged and moved from the site of the operation.” The document discusses how such hurricane damage or destruction might cause damage to the benthic environment, create navigational hazards, and allow a large number of cultured species to escape into the wild. The document states that; “This plan is necessary to prevent or minimize environmental damage from dislodged equipment, escaped fish, or degradation of water quality.” Presumably the intent of the Council is for an “emergency disaster plan” to address how these purposes will be achieved, but the Generic Amendment is nearly silent as to how or what will be expected of offshore facility owner/operators under such a plan.

Furthermore, no where does the document mention that debris from the inevitable destruction of offshore aquaculture facilities due to hurricanes will likely obstruct shrimp fishing grounds and cause negative economic impacts on shrimp fishermen and fishing communities. This is an unacceptable omission.

Even more disturbing, no where in the document is there a clear requirement for the owner/operators of offshore aquaculture facilities that are destroyed by hurricanes to actually remove or clean up debris that causes environmental and navigational/safety problems—or that obstructs traditional shrimp fishing grounds.

SSA recommends the following:

For it to be effective, the Generic Amendment should state clearly and in much greater detail what an “emergency disaster plan” must contain, and specify exactly what is expected to be achieved by an owner/operator of an offshore aquaculture facility once such a disaster occurs. This must include how an owner/operator is required to mitigate the negative impacts of debris on the environment, navigation and safety at sea, as well as on traditional shrimp fishing grounds. Such mitigation should include the requirement for debris removal when necessary. These issues could be addressed through expansion of the ‘assurance bond’ requirement under Action 3, Preferred Alternative 3. The truth is, until these serious issues are fully addressed and the Amendment’s requirements for an “emergency disaster plan” are fully fleshed-out, offshore aquaculture facilities should not even be allowed to operate in hurricane-prone areas like the Gulf during the hurricane season.

(3) Foreign Ownership

Offshore aquaculture facilities such as pens and cages anchored to the seafloor are not vessels. Therefore, the various US citizenship requirements for US flag vessels

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would apparently not apply. This represents an enormous and unacceptable void in US policy and the Generic Amendment regarding the manner and degree to which foreign ownership and control will be allowed and managed in the offshore aquaculture industry operating in the US EEZ.

US fishing vessels including shrimp boats have been subject to US citizenship and manning requirements as a matter of US policy dating back to the earliest days of our nation. Foreign fishing vessels are prohibited from landing fish in US ports, and only under rare circumstances when US harvesting capacity is insufficient are they allowed to fish in the US EEZ. Fairness and equity alone dictate that offshore aquaculture facilities be treated on par with US fishing vessels operating in the EEZ. Given the Agency's advice that offshore aquaculture constitutes "fishing" under the Magnuson-Stevens Act, the Generic Amendment must include requirements that are consistent with long-standing ownership policies for US fishing vessels.

A further major concern is the degree to which foreign entities that own and operate offshore aquaculture facilities can and will be held accountable to the requirements of this Amendment and all other applicable US law. The Amendment must contain provisions that will ensure owners and operators of these facilities can and will be held liable in a US Court. Absent some very tight and specific requirements set forth in the Amendment, it is easy to imagine how cleverly-constructed foreign entities may escape being held liable to US law.

(3) Monitoring

Gulf shrimp fishermen like all US fishermen are subject to an intensive monitoring system. All manner of vessel trip reports, logs, continuous real-time VMS reporting, dealer reports and other records are required to be submitted as a central component of the fishery management system. Failure to do so subjects fishermen and dealers to severe civil penalties. Furthermore, government and scientific observers are heavily employed to directly monitor catch and bycatch and to verify these other records. Again, these are necessary elements to a successful fishery management system and one that is very expensive to US fishermen and taxpayers.

In contrast, the Generic Amendment does not provide a clear and specific program for vigorous federal and state monitoring of offshore aquaculture facilities and operations. Given the potential implications and adverse impacts such operation may have on wild fisheries and the Gulf ecosystem, monitoring (and enforcement) of all aspects of these operations and their compliance with regulatory requirements must be at least on par with that of wild fisheries.

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As always, SSA greatly appreciates the Council's consideration of our views. We look forward to continuing to work with you on this important Amendment.

Sincerely,

John Williams,
Executive Director

cc: Wayne Swingle,
Executive Director
Trish Kennedy,
Administrative Assistant