

Memorandum

To: Michael Taylor, Deputy Commissioner, U.S. Food and Drug Administration

From: Eric Schwaab, Assistant Administrator, National Marine Fisheries Service, NOAA

Subject: Re-opening of Federal Waters (Grids C10 -12) Currently Closed off Eastern Louisiana Due to the Deepwater Horizon MC 252 Oil Spill

Date: October 03, 2010

Decision

In accordance with the *Protocol for Interpretation and Use of Sensory Testing and Analytical Chemistry Results for Re-Opening Oil-Impacted Areas Closed to Seafood Harvesting* (the Re-opening Protocol) (Attachment 1), and after consultation between the FDA and NOAA, we have concluded that approximately 2,927 square miles of the current Federal fishery closed area will be re-opened. The area to be re-opened is located off eastern Louisiana, directly south and southwest of East Bay. Specifically, the area is bounded by the following coordinates: state/federal water line beginning at 89°27'W and ending at 89°00'W, then 28°00'N / 89°00'W, 28°00'N / 90°00'W, 28°30'N / 90°00'W, and 28°30'N / 89°27'W. The area, which measures about 2,927 square miles, comprises about one percent of Federal waters in the Gulf of Mexico and 11 percent of the current closed area, as modified on October 1, 2010.

Background

NOAA began sampling this area on July 28, 2010 and again on August 21 through September 18, 2010 following the overall sampling strategy based on oil density data within the fisheries closed area. NOAA trajectory maps last forecasted potentially recoverable surface oil in the area on July 25, 2010. Overflight observations after that date describe scattered anomalies in the area as predominantly patches of light sheen with very little recoverable oil.

NOAA scientists observed some oil and oil sheen on July 30 while attempting to sample the C-10 grid portion of this three grid area and suspended sampling in that grid to review the oil conditions in the area. Overflights last recorded oil sheen in the area on July 31, 2010 (Venice Morning Overflight 07-31-2010 0805-0940hrsCDT). No oil or oil sheen has been reported since that time. NOAA commenced sampling of the C-10 portion of this area on August 29, nearly a month later, and completed the entire sampling on September 17.

In accordance with the Re-opening Protocol, NOAA conducted sampling in the area (Grids C10-12). NOAA analyzed 81 finfish samples and 5 shrimp samples for sensory analysis and 93 finfish specimens in ten composite tests and 21 shrimp specimens in three composite tests for chemical analysis, from the area to be re-opened. The species analyzed are representative of the species targeted by commercial and recreational fishers in the area.

Discussion

We have determined that the four specific re-opening criteria in the Re-opening Protocol are met in this case.

1. Low threat of exposure – We reviewed the most recent data and confirmed by visual observation and aerial reconnaissance the area is currently free of oil and sheen on the surface. No oil or sheen has been documented in the area since July 31, 2010.
2. Low risk of oil movement into area – We concluded that there is a low risk or threat that the area will be exposed to future re-oiling based on present conditions. The current (August 23) NOAA trajectory states no offshore recoverable oil is expected in the forecast.
3. Assessment of seafood contamination by sensory testing – In accordance with the methodology and procedures set forth in the Re-opening Protocol, NOAA analysis of 81 samples from finfish and 5 samples of shrimp taken from the proposed re-opening area found no detectable oil odors or flavors during sensory analysis.
4. Assessment of seafood contamination by chemical analyses – In accordance with the methodology and procedures set forth in the Re-opening Protocol, the analysis of 93 finfish specimens in 10 composite tests and 21 shrimp specimens in 3 composite tests from the proposed re-opening area were found to be well below the levels of concern contained in the Re-opening Protocol.

In summary, no oil or sheen has been documented in the 2,927 square mile area to be re-opened along the north western boundary of the Federal closed area since July 31, 2010. NOAA analyzed a sufficient number of finfish and shrimp samples to exceed the sampling plan from locations widely distributed over the area to be re-opened, which are representative of the pelagic species targeted by commercial and recreational fishermen in that area, including. These samples have all undergone the required sensory and chemical analysis and all the samples have passed in accordance with the safety criteria in the Re-opening Protocol. Attachment 3 provides a map showing the location of the samples collected. Attachment 4 provides the test results for both the sensory and chemical analysis.

Conclusion

Portions of the area to be re-opened were incorporated into the Federal fishery closure from May 2, 2010 through May 07, 2010 in response to information on the actual and projected path of surface oil from the DWH/BP spill. The area is currently free of oil and sheen and trajectory models show the area is not likely to become oiled in the future.

All samples tested from the area were well within the established public safety levels of concern in the Re-opening Protocol, with no detectable odors or flavors of contamination, and all testing was done in accordance with the Re-opening Protocol.

Therefore, NOAA and FDA agree that, based on the current oil-free surface conditions of the area, and the successful results of the sensory and chemical testing, the area should be re-opened to commercial and recreational fishing for all species of finfish and shrimp.