



The Shrimp e-Advocate

Newsletter

August 2008

The Southern Shrimp Alliance (SSA) is a non-profit alliance of members of the U.S. shrimp industry in eight states committed to preventing the continued deterioration of America's shrimp industry and to ensuring the industry's future viability. SSA serves as the national voice for the shrimp fishermen and processors in Alabama, Florida, Georgia, Louisiana, Mississippi, North Carolina, South Carolina, and Texas.

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BREAKING NEWS

Shrimpers Granted 2-Year Exemption to EPA Discharge Permits

Congress has restored an exemption from the federal and state permitting requirements under the Clean Water Act for the U.S. shrimp industry-an act once thought to be politically impossible. SSA spearheaded the efforts to secure commercial vessel exemptions that were strongly opposed by the environmental community and resisted by the recreational boating community.

SSA worked very closely with Senator Murkowski (R-AK) in the Senate and Congressman Gene Taylor (D-MS) in the House, both of whom took extraordinary efforts to pass the legislation that are appreciated deeply by the U.S. shrimp industry. In addition, SSA thanks Bill Walker, MS Department of Marine Resources, for his testimony before the House Committee on Transportation and Infrastructure on June 12, 2008.

The legislation provides a 2-year moratorium on permits for all commercial fishing vessels of any size and for all other commercial vessels of 79 ft or less. The legislation requires the EPA, working with the Coast Guard, to conduct a 15-month study during the moratorium period to evaluate the impacts of various discharges from vessels and report their findings to Congress for the purposes of making final decisions on vessel discharge permit requirements.

LEGAL UPDATE

Final Results of Second Administrative Review Issued for Brazil, Ecuador, and India

In mid-July, the U.S. Department of Commerce ("Commerce") published the final results of the second antidumping administrative review of shrimp from Brazil, Ecuador, and India. The final results of the review on shrimp from Brazil continued to find substantial dumping

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margins as seven companies were assigned a liquidation rate of 48.6 percent for entries brought into the United States between February 1, 2006 through January 31, 2007 and a 48.6 percent deposit rate for all future entries. Eight other Brazilian companies were assigned rates of 67.8 percent.

With respect to Ecuador, although the antidumping order was revoked by the U.S. government in August of 2007, Commerce conducted an administrative review for shrimp entries made between 2/1/06 and 1/31/07. One company, Promarisco, was awarded a de minimis rate, meaning that any deposits made by importers of Promarisco's shrimp would be refunded and 42 other Ecuadorian exporters were assigned a liquidation rate of 0.64 percent.

For India, 127 exporters were assigned a liquidation and deposit rate of 110.90 percent by Commerce, one exporter was awarded a de minimis rate, and 66 other exporters were assigned a rate of 1.69 percent.

On Friday, July 25, 2008, SSA filed appeals before the U.S. Court of International Trade of Commerce's assignment of a 0.64 rate to the 42 Ecuadorian exporters, the assignment of a de minimis rate to an Indian exporter, and the assignment of a 1.69 percent rate to the 66 Indian exporters.

WTO Rules Against Continuous Bonding

On July 16, 2008, the Appellate Body of the World Trade Organization (WTO) upheld a decision by its dispute settlement panel against the use of "continuous bonding" to improve the abysmal collections of antidumping and countervailing duties in the United States. Without continuous bonding, Customs determined that there is a significant risk that shrimp importers may not be capable of paying antidumping duties owed on shrimp imports.

Notwithstanding the Appellate Body's overreaching decision, the U.S. government must implement and maintain measures that will address the nearly \$1 billion in uncollected antidumping and countervailing duties reported by CBP since 2001. If the duties are not collected, then U.S. shrimpers are denied trade relief from dumped shrimp imports. The official SSA statement on the overreaching determination is available on the website.

Country of Origin Labeling Laws Are Not Being Followed

The federal Country of Origin Labeling Law ("COOL")

administered by the USDA requires the "final point of sale" to provide labels "for consumers" identifying the country of origin and method of production (farmed vs. wild-caught) for both fish and shellfish (except processed food items). Processed food items are defined as retail items that have "undergone specific processing resulting in a change in the character of the covered commodity or other substantive food component . . ." and includes "seafood medley," "coconut shrimp," "shrimp cocktail," and "breaded shrimp." Under COOL, the USDA may also "require that any person that prepares, stores, handles, or distributes a covered commodity for retail sale maintain a verifiable recordkeeping audit trail that will permit the Secretary to verify compliance" with the statute and regulations.

USDA's audit program demonstrates that, in general, at least one-third of retail establishments were not compliant with COOL's requirements. In 2006, the USDA conducted audits of 1,159 retail establishments, or 2.8% of the estimated 41,000 retail stores nationwide. **The USDA found COOL violations in 41% of the stores audited.** In 2007, USDA audited 1,657 retail stores (4% of the country's retail establishments), with 32.6% of the audits resulting in a violation. The most frequent violations found in the USDA's 2007 audit were failures to label (67%), while the mislabeling of product was cited in 12% of the violations discovered.

REGULATORY UPDATE

Proposed Changes to BRDs

NOAA Fisheries Service recently published a final rule that, in part, revised the certification criterion for bycatch reduction devices (BRDs) used in the western Gulf of Mexico. A BRD is certified if it can be demonstrated to reduce finfish bycatch 30 percent by weight. NOAA Fisheries Service is proposing to decertify the Expanded Mesh and the Gulf Fisheye BRDs because they do not meet the new criterion, and to establish a more restrictive specification for the Fisheye BRD.

Based on a request from SSA, NOAA extended the comment period on the proposed changes to August 6, 2008 to allow for time to review research results from the Gulf and South Atlantic Fisheries Development Foundation regarding the effectiveness of BRDs. The Foundation's results raise serious concerns about many claims regarding BRD design effectiveness. SSA will submit comments on behalf of the industry.

SSA Engaged in Loggerhead Turtle Recovery Debate

SSA responded in July to a deeply flawed draft loggerhead turtle recovery plan, which includes offensively outdated data on the U.S. shrimp industry. The NMFS report's reliance on 1990 data grossly overstates the impact of bottom trawling and the shrimp industry on the health of the loggerhead turtle and a distorted recovery plan.

SSA is attending a roundtable discussion regarding the draft plan on behalf of the industry that began on July 31, 2008. NMFS and the Fish and Wildlife Service will review the comments and approve or disapprove the draft recovery plan.

SSA Works on Amendment 7 for Rock Shrimp Fishery

The South Atlantic Council will be holding public hearings and receiving written comments on its ongoing Amendment 7 to ensure participation in and the future viability of the rock shrimp fishery. Based on extensive SSA input working closely with the South Atlantic Council, the Amendment 7 Preferred Alternatives would remove the current 15,000-pound rock shrimp landing requirement to renew a rock shrimp endorsement; reinstate all endorsements lost due to not meeting the 15,000-pound landings requirement; reinstate all limited access endorsements for vessels owners that renewed their open access permit but failed to renew their endorsement in that year; and clarify the naming of the two rock shrimp permits to reduce confusion. In addition, the Council is considering a measure to establish a VMS verification process for rock shrimp vessels and a requirement for the submission of economic data.

Public comments will be received from 3pm to 7pm on August 7 in Jacksonville, FL, August 8 in Cape Canaveral, FL and August 12 in North Charleston, SC. SSA will submit written comments by the August 15 deadline.

MEMBERSHIP UPDATE

SSA Board Meeting Cancelled

SSA's next Board meeting, scheduled for July 28-29 in Biloxi, Mississippi, was cancelled due to several schedule conflicts among Board members, all of whom serve SSA as volunteers in addition to fulltime jobs. A new date will be set in the near future.

