



# The Shrimp e-Advocate

NEWSLETTER

JULY 2009

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.

## Quick Links [SSA Website](#)

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## BREAKING NEWS

### Shrimp Fraud Investigations Continue

In June, federal and state agents executed criminal search warrants in Louisiana as part of the ongoing investigations into whether U.S. shrimp purchasers have falsely labeled imported shrimp as domestic shrimp. At least six companies, which have not been named, in multiple states are under investigation. Steve Campbell, a special agent with NOAA law enforcement, called the investigation "the tip of the iceberg" in news reports.

SSA strongly supports efforts to address all forms of seafood fraud, particularly where the fraud causes serious harm to U.S. consumers' clear preferences for wild-caught domestic shrimp. By falsely selling imported shrimp as domestic shrimp, shrimp resellers seek to reap the benefit of price premiums for domestic shrimp while simultaneously diminishing the reputation of domestic shrimp by providing customers with lower quality imported farmed shrimp. This fraud does substantial damage to the industry as a whole, while providing a short-term (and short-sighted) benefit to a few unscrupulous individuals. NOAA is acting on credible information provided by members of our industry and asks for additional cooperation to help further the investigations. SSA also encourages individuals with information to come forward to end the cycle of fraud injuring the industry.

You can reach special agent James Kejonen at 985.643.6232.

## LEGAL UPDATE

### CDSOA Deadline on July 28th

Affected domestic producers that are potentially eligible to receive an offset under the Continued Subsidies and Dumping Offset Act (CDSOA or Byrd Amendment) must submit certifications of qualifying expenditures **for each shrimp antidumping order**. All certifications must be **received by July 28, 2009**. See the May 29, 2009 Federal Register notice on [SSA's Web site](#) for official details.

Please note that eligible qualified expenses must be incurred between February 1, 2005 and October 1, 2007 for Brazil, China, India, Thailand, and Vietnam. However, qualified expenditures claimed under Ecuador must have occurred between February 1, 2005 and August 15, 2007 because the antidumping duty order on Ecuador was revoked before the CDSOA law expired.

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General questions regarding preparation of certifications should be directed to Melissa Edwards, Revenue Division of Customs and Border Protection, at (317) 614-4462. For questions regarding legal aspects, contact Elizabeth Doyle, Office of International Trade, Regulations and Rulings, at (202) 325-0053.

### Preliminary Amounts Available for CDSOA Distribution

U.S. Customs and Border Protection ("CBP") has published preliminary CDSOA amounts available for distribution for fiscal year 2009. These data indicate that substantially less CDSOA funds will be available for distribution this year compared to CDSOA distributions in the last two fiscal years, as shown in the table below.

<b>Comparison of Reported Preliminary CDSOA Amounts Available for Distribution and Final Amounts Available for Distribution (2007-2009)</b>			
<b>Country</b>	<b>2007</b>	<b>2008</b>	<b>2009</b>
Brazil	\$1,364,063.77	\$421,580.17	\$302,314.50
China	\$4,739.66	\$1,332,027.46	-\$273,602.00
Ecuador	\$3,846,396.97	\$2,020,142.91	\$214,156.47
India	\$8,791,758.84	\$13,560,356.21	-\$212,184.18
Thailand	\$21,729,535.80	\$10,285,645.28	\$125,009.86
Vietnam	\$4,485,040.43	\$2,396,800.08	\$663,990.60
<b>Preliminary Total Amount Available</b>	<b>\$40,221,535.47</b>	<b>\$30,016,552.11</b>	<b>\$819,685.25</b>
<b>Final Total Amount Available</b>	<b>\$41,662,142.66</b>	<b>\$32,672,406.95</b>	<b>To Be Determined</b>

SSA's litigation strategy of selectively settling administrative reviews with certain exporters and SSA's work with both the U.S. Department of Commerce ("Commerce") and CBP to expedite ministerial processes of liquidating import entries made over \$106 million in CDSOA funds available for distribution in fiscal year 2006. Over the last two fiscal years, more than \$74 million in additional CDSOA funds have been made available for distribution because of SSA's efforts. However, the interference of other organizations purporting to represent domestic industry interests in the administrative litigation before Commerce has significantly delayed the availability of additional CDSOA funds.

Although the distribution of a substantial amount of CDSOA funds have been delayed, the delay now provides further opportunity for SSA to address the

inequitable distribution of CDSOA funds. SSA remains committed to obtaining CDSOA distributions that benefit the entire domestic industry.

### **Court Decisions: SSA Wins "Dusted" Shrimp Lawsuit**

Over the last two weeks, the U.S. Court of International Trade ("CIT") has issued three decisions related to the shrimp antidumping duty orders.

On June 24, 2009, based in part on the arguments presented by SSA, the CIT rejected the arguments of an Indian company which sought a substantial reduction in the antidumping duty rate applied to imports of subject merchandise produced by the company.

On the same day, the CIT affirmed a Commerce remand determination that would result in the refund of all antidumping duty deposits collected on imports of shrimp from the Thai producer Thai I-Mei to the exporter's respective importers. Commerce issued a remand determination that resulted in the calculation of a *de minimis* margin of dumping for Thai I-Mei in response to an earlier CIT ruling and over the objection of SSA. The agency, however, has indicated that it intends to appeal the CIT's ruling to the Court of Appeals for the Federal Circuit.

On July 1, 2009, the CIT rejected Commerce's exclusion of "dusted" shrimp from the scope of the antidumping duty orders and remanded the issue back to the agency for further consideration. Based on the arguments presented by the SSA, the CIT held that Commerce failed to provide any valid reason sufficient to support the agency's exclusion of "dusted" shrimp. Commerce has been given ninety days from July 1<sup>st</sup> to file a remand determination with the Court.

## **LEGISLATIVE UPDATE**

### **Food Safety Legislation Moves from House Committee**

The House Committee on Energy & Commerce completed action on an extraordinarily comprehensive bill to substantially strengthen the FDA's food safety policies and programs for both domestic and imported food. Making substantial improvements to the food safety requirements for imported food has been a high priority for SSA for many years as a means to prevent the importation of farm-raised shrimp contaminated with illegal and dangerous antibiotics and pesticides, and the negative impacts of those illegal imports on the domestic shrimp producing industry.

The current version of the 133-page House bill achieves SSA's goals for imported food in many ways by substantially increasing and improving the requirements for registration, product testing and laboratory accreditation,

facility performance standards and inspections, recordkeeping, tracing and recalls as well as increased civil and criminal penalties for violations and fees to cover many of the costs of implementation. Taken as a whole, if enacted, this legislation would appear to substantially advance the best interests of the domestic shrimp producing industry, particularly in the context of achieving better controls over contaminated imported shrimp.

As always, there are certain details and provisions in the bill that may pose concerns for the shrimp industry or which would benefit from some revision. For example, SSA is now working with Energy & Commerce Committee Member and strong shrimp industry supporter, Congressman Charlie Melancon (D-LA) to ensure that fishing vessels will be exempt from certain traceability requirements under the bill. Such requirements are a very important component of an effective overall food safety program but would not be practical or necessary for fishing vessels.

SSA will continue to closely monitor and play an active role in addressing this and other concerns in the legislation as it moves through the legislative process. At this time it is unclear when the legislation will be voted-on by the full House of Representatives (it is expected to pass), and when this bill or similar legislation will be considered by the Senate, where Health Care Reform is dominating the agenda of the Committee of jurisdiction--the Committee on Health Education Labor and Pension (HELP).

### **Shrimp Fishing Effort Research Funding Secured in Appropriations Bills**

Several of our strongest shrimp fishery supporters in the House of Representatives have worked hard to secure \$700,000 in funding for the ongoing Shrimp Industry Fishing Effort Research program in the FY10 Appropriations bill that funds NOAA/NMFS. This program funds Benny Gallaway's work to install electronic logbooks on shrimp boats and analyze the data for the purpose of preventing shrimp fishery closures that can occur if the shrimp fishery fails to achieve the target for red snapper bycatch reduction required under the red snapper rebuilding plan.

This bill has now passed the House, but funding for this program was nearly stripped-out of the bill by an Amendment prepared by Congressman Jeff Flake (R-AZ). A very special thanks are due to the following members of Congress and their staff who worked very closely with SSA in a bipartisan effort to both champion this funding and subsequently defeat Congressman Flake's amendment: Congressman Ander Crenshaw (R-FL), Congressman Allen Boyd (D-FL), Congresswoman Wasserman Schultz (D-FL), Congressman Solomon Ortiz (D-TX) and freshman Congressman Joseph Cao (R-LA).

Great progress has been made in the Senate as well where the Appropriations Committee has finished work on their version of the FY10 bill to fund NOAA/NMFS. Senators Landrieu (D-LA), Vitter (R-LA), Cochran (R-MS), Shelby (R-AL), and Nelson (D-FL), in particular, were responsible for championing the SSA request for this funding. As a direct consequence of these efforts, the Senate bill includes the following funding and unusually powerful Committee

Report language:

"Enforcement.-The Committee is encouraged by the administration's request for vessel monitoring, and provides additional funding of a total of \$1,500,000 for the program to continue the ongoing program to install electronic logbooks on shrimp boats as required to monitor and reduce bycatch, end overfishing, and rebuild overfished stocks including red snapper, and to ensure the sustainability of shrimp fisheries. The Committee notes that this program is inherent to the agency's core mission and implementation of current shrimp fishery regulations, and expects that sufficient funding will be reflected in future budget requests."

Sometime later this summer the House and Senate will hold a conference to resolve the differences between their bills; but it is safe to say that things look very promising for securing significant funding for this program which is so critical to keeping the shrimp fishery open. This funding is in direct response to appropriations requests submitted by SSA to a large number of House and Senate members in the shrimp producing states and to a great deal of follow-up work with these offices and the Appropriations Committees.

## **REGULATORY UPDATE**

### **Proposal to Reduce Royal Red Shrimp Fishery Access Areas Deferred**

At the June South Atlantic Fisheries Management Council meeting in Stuart, Florida, SSA worked with Council members and staff as well as NMFS personnel to defer a proposal by the NMFS Office of Law Enforcement (OLE) to substantially revise and reduce the number of the coordinates that delineate the Deepwater Coral Habitat Area of Concern (HAPC) including the Shrimp Fishery Access Areas (SFAAs) for the deepwater royal red shrimp fishery.

This HAPC is part of the Fishery Ecosystem Plan under development by the Council. The original HAPC and SFAA coordinates were the subject of a protracted but highly successful negotiation among SSA, participants in the royal red shrimp fishery, NMFS, Council members and staff, and representatives of the environmental community. This agreement achieved the dual goals of protecting coral habitat and preserving the traditional royal red shrimp fishery.

The proposed boundary revisions had the potential to undermine both the coral protection and fishery access aspects of the HAPC. Action was deferred by the Council pending further review, and SSA has pledged to work constructively with the Council and NMFS to address NMFS OLE's objectives.

### **Secretary of Commerce Appoints New Members to Fisheries Councils**

At the South Atlantic Fisheries Management Council meeting, SSA bade farewell and expressed great appreciation to South Atlantic Council Members John Wallace and Tony Iarocci, both of whom have been stalwart and highly effective commercial fishery representatives on the South Atlantic Council.

The Secretary of Commerce has appointed Mr. Charlie Phillips and Mr. Ben Hartig to the seats held by John and Tony, respectively, and SSA looks forward to working with them in the coming years.

At the Gulf Council meeting, long-time SSA friends and tireless advocates for the shrimp fisheries-- Tom McIllwain, Bob Gill and Harlon Pearce--were all reappointed by the Secretary to serve another term on the Council.

### **SSA Seeks Information on Rare Smalltooth Sawfish Interactions**

SSA has been advised by NMFS Regional Administrator Roy Crabtree that the annual incidental take limit for the shrimp trawl fishery for the Smalltooth Sawfish under the Endangered Species Act (ESA) has been exceeded.

The current incidental take limit under the ESA is one (1) Smalltooth Sawfish per year. Unfortunately, three (3) takes have occurred recently in shrimp trawls in a relatively small area southwest of Key West, FL.

SSA has immediately begun what may become a long and arduous process of learning more about this rare event and working with NMFS to address this situation under the very difficult requirements of the ESA. Because these interactions are so very rare, and because the ESA regulatory ramifications for the fishery can be severe, anyone with first-hand knowledge and experience with sawfish interactions with shrimp trawls should contact SSA to support our efforts to better understand and develop methods to minimize such interactions.

### **AOAC Moves Forward in Developing Test Standards for Vet Drugs in Seafood**

Richard Vendetti represented SSA by serving on the AOAC International's Stakeholders Panel for Marine and Freshwater Foods. During a two-day conference, the Panel worked towards creating rapid tests for illegal drugs in seafood, such as those repeatedly found in imported, farm-raised shrimp and multi-analyte tests that will allow for labs to detect multiple contaminants through a single evaluation of a shrimp sample.

AOAC is working to develop a fast and affordable method to test for fluoroquinolones, nitrofurans, chloramphenicol, quinolones, methyltestosterone, malachite green and gentian violet in shrimp, catfish and tilapia. Salmon was also added to the list of seafood. The importance of the development of less expensive methods for identifying harmful contaminants was underscored by the presentations of various state government officials who noted that despite

continued detection of dangerous antibiotics and other substances budget constraints have severely restricted the ability of regulators to conducting testing regimens. In particular, one state official reported that Texas, Florida, Louisiana, and Mississippi are no longer able to test seafood products to insure their safety for their respective state's consumers.

The Panel includes representation from government, industry, academia, and other organizations. Panel members (voting and non-voting) included representatives from the Canadian Food Inspection Agency, NOAA, USDA-FSIS, the FDA, and state government food safety officials. Also on the Seafood Panel are shrimp importer and distributor interests, such as Slade Gorton & Co., Sysco Corp., and the National Fisheries Institute. On behalf of domestic industry groups, SSA and the U.S. catfish industry have worked with AOAC to address the problem of insufficient testing of imported seafood. The Panel also explored methods to identify seafood authenticity in light of recent seafood mislabeling schemes (i.e.- farm-raised vs. wild caught shrimp).