



The Shrimp e-Advocate

NEWSLETTER

June 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

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BREAKING NEWS

NOAA Law Enforcement Investigates Shrimp Fraud

SSA welcomes actions by NOAA Law Enforcement over the past few months to investigate whether processors in several states have labeled imported shrimp as domestic shrimp for personal economic gain. Criminal search warrants have been issued and indictments are anticipated. NOAA has not released publicly the names of the companies involved in the ongoing investigations.

SSA strongly supports efforts to address all forms of seafood fraud, which harms the industry as a whole unfairly to benefit a few individuals, as stated in our letter to the Editor published in *Intrafish*. 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

Byrd Amendment Distributions to Remain the Same

In November, SSA filed suit at the Court of International Trade (CIT) challenging U.S. Customs and Border Protection's (Customs) distribution of collected antidumping duties. The purpose of the suit was to get fair and equitable distributions of the duties in the future. As part of that suit, SSA obtained a Preliminary Injunction delaying the distributions for fiscal year (FY) 2008. On Friday, May 15th, that injunction expired and, on the same day, the CIT dismissed ten of the eleven counts of SSA's lawsuit against Customs.

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Unfortunately, this means nothing has changed with respect to the unfairness of the Byrd distributions. Customs can now distribute the collected duties for 2008 whenever they are ready under the same guidelines that they have in the past.

See SSA's [breaking news update](#) for more.

Copy of CBP Notice Regarding Shrimp Byrd Distributions

On May 18, 2009, U.S. Customs and Border Protection published the following notice in the [Federal Register](#) in response to the Court's dismissal of SSA's case to stop Byrd Amendment distributions on inaccurate or fraudulent claims:

Notice: Preliminary Injunction on FY 2008 Shrimp Distributions

On November 13, 2008, at the request of the Southern Shrimp Alliance (SSA) and eleven other named individual plaintiffs in case number 08-00394, the Court of International Trade (CIT) issued a temporary restraining order preventing U.S. Customs and Border Protection (Customs) from making timely distribution of funds available in fiscal year 2008 for Certain Frozen Warmwater Shrimp and Prawn from Ecuador, Brazil India, Thailand, Vietnam, and China (case numbers A-331-802, A-351-838, A-533-840, A-549-822, A-552-802, and A-570-893). The temporary restraining order was later converted to a preliminary injunction. On May 15, 2009 the CIT dismissed this motion. Customs is currently processing distributions related to these cases, and distribution will be made as soon as possible.

Claims remain subject to verification and audit by appropriate parties.

LEGISLATIVE UPDATE

House Committee Moves Forward with Food Safety Bill

The House of Representatives' Energy and Commerce

Committee Chairman Henry A. Waxman (D-CA) and Representative John D. Dingell (D-MI) introduced the Food Safety Enhancement Act of 2009, a bill that would greatly enhance the powers of the Food and Drug Administration to verify food safety.

The draft legislation includes many of the key elements SSA has been promoting for the past year, such as:

- Creation of a registry of all food facilities and importers serving Americans, which would be updated on an annual basis.
- Registered facilities would pay an annual fee to fund FDA oversight, including inspections, recalls, and certifications for export of food to the United States.
- The FDA's powers to "quarantine" potentially unsafe food or products from entering geographic areas would be enhanced.
- The FDA would issue regulations requiring every company in a food produce chain — including manufacturers, processors, and transporters — to maintain records for the origin and distribution of the food, and ensure the records are usable and transferable in multiple formats.
- New authority to subpoena records and protect whistleblowers in case of alleged violations of the law.

Last week, SSA attended last a hearing on the bill and submitted detailed comments and suggested revisions to the draft legislation to the Energy & Commerce Committee. SSA has been working with House Energy & Commerce Committee Member Charlie Melancon's office (D-LA) on the legislation to address four critical issues:

- (1) the need for enhanced and increased product testing at 4 critical control points in the imported food chain;
- (2) the need to weed-out "bad-actor" importers through the Importer Registration process;
- (3) the need to remove fishing vessels from the interoperable food tracing system; and,
- (4) the need to ensure a very tight system for preventing contaminated food imports under the bill.

REGULATORY UPDATE

NMFS to Assess Impact of Sea Turtle Regulations

The National Marine Fisheries Service (NMFS) is conducting an Environmental Impact Statement (EIS) and public scoping meetings on the impact of proposed implementation of new sea turtle regulations in the Atlantic and Gulf of Mexico trawl fisheries.

These requirements are expected to affect primarily trawl fisheries that do not use Turtle Excluder Devices (TEDs) to protect threatened and endangered sea turtles in the western Atlantic Ocean and Gulf of Mexico. NMFS recognizes that "Turtle Excluder Devices (TEDs) have been proven to be an effective method to minimize adverse effects related to sea turtle bycatch in the shrimp trawl fishery" and is using shrimpers as an example of how TEDs can help eliminate unintentional catches of sea turtles.

The public scoping period started May 8, 2009 and will continue until July 10, 2009. NMFS will consider all written comments received or postmarked by July 10, 2009, in defining the scope of the EIS. SSA will be submitting comments of the proposed plan on behalf of the U.S. shrimp industry as well as attending key scoping meetings.

SSA to Attend Gulf Council and South Atlantic Management Council Meetings

The South Atlantic Fisheries Management Council meets June 8-12 in Stuart, FL and the Gulf of Mexico Management Council meets June 15-18 in Tampa, FL to discuss a variety of issues. The ability of shrimp fishermen to harvest shrimp could be profoundly impacted by many of the issues before the Councils, such as the Endangered Species Act section 7 consultations on the effects of the South Atlantic shrimp fishery on smalltooth sawfish, the possible change to the listing status of loggerhead sea turtles from threatened to endangered, and amendments to habitats of particular concern in the Fisheries Ecosystem Plan.

SSA will be participating in committee meetings and the general session in its ongoing efforts to protect the ecosystems that support shrimping and minimize unnecessary regulations on the industry.

MEMBERSHIP UPDATE

SSA's Trade Attorneys at New Firm

SSA's trade attorneys have left Dewey & LeBoeuf LLP to

help form a new law firm, called Picard Kentz & Rowe LLP. The new firm started business on June 1, 2009 on the K Street corridor of Washington DC.

SSA originally hired Dewey Ballantine, LLP in 2003 to research and compile the shrimp antidumping actions. The firm merged with LeBoeuf, Lamb, Greene and MacRae to form Dewey & LeBoeuf in August 2007. The new law firm is named after three former partners of Dewey & LeBoeuf that specialize in international trade, litigation, international arbitration, tax, and public policy. The firm's attorneys have extensive international trade backgrounds, including extensive work with the U.S. shrimp industry.