



The Shrimp e-Advocate

NEWSLETTER

MARCH 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.

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[SSA Website](#)

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BREAKING NEWS

CBP Reports Massive Undercollection of Duties on Shrimp Imports; Intends to Drop Enhanced Bonding Requirement

In January 2009, U.S. Customs and Border Protection (CBP) reported that it has been unable to collect \$42.5 million in antidumping duties on shrimp for fiscal year 2008- a figure that exceeds the total amount of antidumping duties actually collected on shrimp for that same fiscal year. If the amounts set out in CBP's Annual Report are correct, the agency was unable to collect 56.5% of the \$75 million in antidumping duties assessed in FY2008.

Despite this inability to fully enforce U.S. trade laws, CBP announced last month its intention to remove the "enhanced bonding requirement," which is the only program the agency has implemented to assure that some portion of the uncollected \$42.5 million will eventually be collected. The elimination of the enhanced bonding requirement on all shrimp imports comes in response to an unfavorable decision from the WTO on only two of the six countries subject to antidumping orders.

In February, SSA [filed](#) comments criticizing the announcement and requesting that CBP instead amend the enhanced bonding requirement in order to both comply with the WTO's Appellate Body report and address the substantial undercollection problem plaguing the agency's administration of our antidumping laws.

LEGAL UPDATE

SSA Files Fourth Administrative Reviews

On March 2nd, SSA asked the Department of Commerce (Commerce) to investigate certain shrimp exporters as part of the fourth administrative review of the antidumping orders on frozen warm-water shrimp from Brazil, China, India, Thailand, and Vietnam. The investigation will determine whether shrimp imports between February 1, 2008 and January 31, 2009 were dumped into the U.S. market at a level greater than or less than

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the antidumping duty rate. If dumping increased in 2008, the antidumping duty rate will increase and exporters will own more money to CBP. If the actual dumping decreased, the antidumping duty rate will decrease and companies will receive a refund of any overpayments. The entire process takes more than one year.

On the same day, administrative reviews were requested jointly by the Louisiana Shrimp Association (LSA) and the American Shrimp Processors Association (ASPA). For the last two years, LSA has submitted requests for administrative reviews but has not participated significantly in Commerce's conduct of those administrative reviews.

Industry Awaits Ruling from CIT on CDSOA Funds

SSA filed a lawsuit before the Court of International Trade (CIT) in November challenging CBP's distribution of antidumping duties under the Continuing Dumping and Subsidies Offset Act (CDSOA or Byrd Amendment). The government and the American Shrimp Processors Association (ASPA) have filed motions seeking to dismiss SSA's claims. Oral argument on the motions to dismiss was held before the CIT on February 10, 2009. A ruling is expected soon. In the interim, the CIT has stopped CDSOA distributions of funds collected from the shrimp antidumping duty orders for 2008 until April 15, 2009.

However, if the motions to dismiss are successful, CBP has reported that over 75 percent of the \$32.6 million in collected antidumping duties in FY2008 will be directed to just 59 entities. ([Read the full report of where CDSOA funds will be directed here](#)).

FDA Reposts Letter on Seafood Net Weights

FDA is reminding the seafood industry that the unethical practice of short-weighting is a felony. FDA has received information about recent increases in electronic solicitations offering to sell seafood products at less than 100% net weight (i.e. - seafood products that may include the weight of the glazing (ice) in the net weight). [A letter](#), initially issued to the seafood industry in 1991 and recently reposted to top of FDA's guidance page for ease of accessibility, should serve as a reminder of FDA's policy regarding the fraudulent practice of including glaze (ice) as part of the weight of frozen seafood.

NFI is reported to have told FDA that companies that cheat on net weight are more likely to cheat on food safety as well, suggesting that the FDA needs to make enforcing all parts of the

Food, Drug and Cosmetic Act a priority.

SSA Meets With CBP on Circumvention of Trade Laws

In February, SSA met again with CBP officials to address the broad circumvention of U.S. trade and food safety laws by importers of Chinese shrimp falsely labeled the product of another country. Certain importers appear to specialize in importing falsely-labeled Chinese shrimp in order to avoid the Food and Drug Administration's (FDA) import alert and payment of antidumping duties. SSA provided an analysis of importers with suspicious business practices to CBP officials at the meeting.

Based in part on past analysis provided by SSA, CBP officials have substantially reduced the abuse of an exemption of "dusted" shrimp from the antidumping orders by importers of Chinese shrimp. Continued efforts to circumvent U.S. laws by importers of falsely-labeled Chinese shrimp deprives the domestic shrimp industry of the benefits of the trade laws against unlawfully dumped shrimp from China while simultaneously undermining food safety laws that protect U.S. consumers. Although "short-weighted" seafood has only a tenuous connection to food safety issues, false "country-of-origin" claims are made with the direct intent of circumvent food safety laws.

LEGISLATIVE UPDATE

SSA Submits Appropriations Requests for Shrimp Research

SSA has submitted requests to more than 30 House and Senate Congressional offices for FY2010 appropriations to support the continuation of the Shrimp Industry Fishing Effort Research program. This program is conducted under a NMFS contract to Dr. Benny Gallaway (LGL Ecological Associates) to manufacture and install Electronic Logbooks on the Gulf offshore shrimp fleet and to use the effort data collected to determine red snapper bycatch in our fishery. As part of the red snapper rebuilding plan, Federal regulations require the Gulf shrimp fishery to reduce its bycatch of red snapper by 74% in juvenile red snapper habitat areas (10-30 fathoms) in the western Gulf. Therefore, this research is critical to meeting these regulatory requirements and avoiding any Gulf shrimp fishery closures. For fishing year 2008, this data has preliminarily determined that effort was reduced in the required areas by approximately 80%.

Thanks to the support of Representatives Melancon (LA), Boyd (FL), Wasserman-Schultz (FL) and Alexander (LA), SSA was successful in securing \$200,000 to fund this program under the FY2009 appropriations legislation.

Summary of Food Safety Bills

Bills to overhaul the food safety system continue to be introduced in Congress. There are three main theories of how to resolve America's lax food safety system: fix the Food and Drug Administration (FDA); move FDA's food safety responsibilities to the Department of Agriculture (USDA); or, create a separate food safety division within the Department of Health and Human Services.

Representative John Dingell (D-MI), Chair Emeritus of the House Energy and Commerce Committee, introduced several bills to enhance the authority of FDA such as requiring laboratories to be certified by FDA and to submit test results directly to the FDA when they perform tests for food importers, requiring foreign exporters to be inspected and certified by FDA, collecting new fees from food facilities and mandatory recalls.

Representative Collin Peterson (D-MN), Chair of the U.S. House Agriculture Committee, is introducing legislation to move the food safety inspections from FDA to USDA. Catfish inspections were moved from FDA to USDA last year.

Representative Rosa DeLauro (D-CT), House Agriculture Appropriations Subcommittee Chairwoman, proposed another bill that would create a separate food safety division within the Department of Health and Human Services.

NMFS May Gain Broad Inspection and Detention Power over Seafood Facilities

A new bill introduced in the House of Representatives, "Illegal, Unreported, and Unregulated Fishing Enforcement Act of 2009" ([HR 1080](#)), would grant broad new enforcement powers to the National Marine Fisheries Service (NMFS) including the power to:

- "search or inspect any facility . . . which reasonably appears to be used or employed in, the storage, processing, transport, or trade of fish or fish products";
- "inspect records pertaining to the storage, processing, transport, or trade of fish or fish products; and,
- "detain, for a period of up to 5 days, any shipment of fish or fish product imported into, landed on, introduced into,

exported from, or transported within the jurisdiction of the United States."

The bill has been referred to the House Committee on Natural Resources.

REGULATORY UPDATE

Voluntary Expansion of COOL Recommended

Country of Origin Labeling (COOL) has applied to raw, frozen wild and farm-raised fish and shellfish since September 2004. However, the mandatory labeling requirements do not apply to value-added products, such as shrimp that is breaded, cooked, or combined with other ingredients. Secretary of Agriculture Tom Vilsack reportedly told consumer groups that the current "processed food" exemption is too broad, and that these products should be subject to COOL requirements.

In February, Agricultural Secretary Tom Vilsack sent an [open letter to industry leaders](#) that encourages voluntary labeling measures in addition to the mandatory COOL for beef, lamb, pork, fish, perishable agricultural commodities, and peanuts that goes into effect on March 16, 2009. Specifically, the letter encourages labeling on product from multiple countries of origin and on packaging of processed foods. Such additional labeling would help consumers distinguish U.S. wild-caught shrimp from imported farm-raised shrimp at grocery stores.

SSA Finds Flaws in Blacknose Shark Stock Assessment

In November, SSA retained Dr. Benny Gallaway, president of LGL Ecological Research Associates, to evaluate the NMFS SEDAR stock assessment of blacknose shark. The stock assessment claims that 45 percent of blacknose shark mortality is attributable to bycatch in the Gulf shrimp trawl fishery and another 6 percent is attributable to bycatch in the South Atlantic shrimp trawl fishery.

Dr. Gallaway has now conducted a comprehensive review of the bycatch estimates in the stock assessment and concluded that there are significant problems with the models and data inputs used by NMFS. It appears that TEDs are highly effective in excluding blacknose and other small coastal sharks and that this fact was not adequately considered or reflected in the NMFS stock assessment. This conclusion is further substantiated by

an analysis spearheaded by SSA working with University of Georgia scientists of a NMFS video of shark interactions with shrimp trawls and TEDs.

SSA has urged NMFS to work cooperatively with Dr. Gallaway and others to re-evaluate the blacknose shark stock assessment through the SEDAR process in the near future as was recommended by the SEDAR Review Committee during the original stock assessment. Dr. Gallaway will be meeting with NMFS stock assessment scientists later this month to present his findings. The results of Dr. Gallaway's analysis may fundamentally change the stock assessment conclusions that blacknose sharks are overfished and overfishing is occurring.

SSA also participated as a member of the Highly Migratory Species (HMS) AP in its recent meeting in Silver Spring, MD and presented extensive input on the video and stock assessment analyses. SSA urged NMFS to address these scientific issues before any management measures are finalized by the NMFS HMS Division which has management jurisdiction over blacknose sharks. Pursuant to Magnuson-Stevens Act requirements NMFS must issue a draft Environmental Impact Statement and Proposed Rule no later than June 2009, but there is no definitive deadline for a Final Rule. Ultimately, shrimp fishery regulations, if any, must be developed by the Gulf Council.

Changes Made to Proposed Florida Artificial Reefs

Just south of Cape Canaveral in St. Lucie and Martin Counties, two artificial reefs have been proposed for development. The initial sites chosen for both reefs cut directly across productive rock shrimp grounds. SSA has been working with both counties to have the sites moved or redesigned.

In St. Lucie, the site has been moved two times and the county is now working on its third site revision. Site revisions have been based primarily on the information presented by SSA as received from several members. The third revision appears satisfactory to several rock shrimpers. Using the coordinates provided, you can review the former and current locations of this site in the diagram below to determine whether this site will impact you. This site is very near to being selected and the requisite dives and permits for the area are moving forward.

In Martin County the process is not as far along. SSA met with several fishermen to look at the site's placement and has taken their input to a meeting with the environmental consulting firm that is handling the development of this site. This site, presently measuring five square miles runs east and west for five miles in

Since the implementation of the shrimp permit moratorium, NOAA Fisheries Service's Southeast Fisheries Science Center started several new data collection requirements. The information collected is critical for more responsive and timely management of the fishery. Now, in addition to the annual permit renewal application that must be received within one year of the permit's expiration, every federal shrimp permit holder is required to complete and submit an "Annual Landings Form" (Gulf of Mexico Shrimp Federal Permit Reporting Form) and a "Gulf Shrimp Vessel & Gear Characterization Form."

The forms collect the previous year's total annual shrimp landings in pounds and dollars by shrimp species harvested from state and federal waters of the Gulf of Mexico, the previous year's total annual fishing effort (such as number of trips, days at sea, and crew), and information about the gear most commonly used during the past year (such as details on typical gear configuration, bycatch reduction device and turtle excluder device used, and on-board electronics).

Both of these forms are required for all permit holders. Please direct any questions to Rebecca Smith at (409) 766-3783. Forms are expected to be mailed in March 2009. **The due date is April 30, 2009.**

MEMBERSHIP UPDATE

Life Long Friend and Member of the Industry Passes



Moses Taylor Millis, 58, of Sneads Ferry, died Feb. 19, 2009, at Duke University Hospital in Durham, surrounded by his family.

Moses was born June 26, 1950, at Onslow Memorial Hospital in Jacksonville. He was a boat captain by the age of 14 and was a lifelong commercial fisherman. His love for the sea took him to Marathon, Fla., where he resided for about 35 years. He later

followed in his mother's footsteps building and mending nets. In March 2006, he underwent a double lung transplant at Duke University Hospital and continued to reside in Sneads Ferry with the support of his family and friends.

Moses was preceded in death by his parents, Ben and Rasha Midgett Millis; his brother, Joseph Millis; two sisters, Alva Lee Liverman and Judy Millis Jones, all of Sneads Ferry.

Survivors include two sons, Moses "Lil Mose" Millis and Matthew Shane Millis, both of Holiday, Fla.; two brothers, Jamie Millis of Marathon, Fla., and Tim Millis of Sneads Ferry; two sisters, Ruby Trexel and Violet King, both of Sneads Ferry.

Memorials may be made to New River Community Church, 117 Wheeler Road Rd, Sneads Ferry, NC 28460.