



# The Shrimp e-Advocate

Newsletter

December 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.

## Quick Links

[SSA Website](#)

## Board of Directors

### North Carolina:

Nancy Edens  
[keywestnative57@yahoo.com](mailto:keywestnative57@yahoo.com)

PD Mason  
[cmason5@ec.rr.com](mailto:cmason5@ec.rr.com)

### South Carolina:

Clay Cable  
[claycable@aol.com](mailto:claycable@aol.com)

Kerry Abraham  
[iateone2@embargmail.com](mailto:iateone2@embargmail.com)

### Georgia:

Elaine Knight  
[kseafood@bellsouth.net](mailto:kseafood@bellsouth.net)

Mike Dubberly  
[daddysboy1775@aol.com](mailto:daddysboy1775@aol.com)

### Florida:

Sal Versaggi [versaggi-](mailto:versaggi-)

## BREAKING NEWS

### Achievements of 2008 and a Glimpse at 2009

SSA represents U.S. shrimp fishermen and processors on a wide range of issues to prevent the continued deterioration of America's shrimp industry. This past year, the organization achieved many objectives that enhance the industry's ability to operate.

### *Regulatory Highlights*

In 2008, the shrimp industry had a lot of issues before the Gulf of Mexico Fisheries Council, the South Atlantic Fisheries Council, and National Marine Fisheries Service that could have immediately affected the shrimp industry's ability to continue harvesting shrimp. SSA's representation before these regulatory bodies averted some major problems:

- Initial proposals by the South Atlantic Fisheries Council to develop a Fisheries Ecosystem Plan that protects deep sea coral threatened to eliminate access to traditional royal red shrimp harvesting grounds. However, after SSA's negotiations with the South Atlantic Fisheries Council, NMFS and other interest groups, a Habitat Area of Particular Concern was developed to protect important coral while preserving the fishery's traditional fishing grounds through the establishment of a Shrimp Fishery Access Area.
- SSA spearheaded the ongoing effort to revoke the "Use it or lose it" policies hindering the rock shrimp fishery. Amendment 7 plans to remove the 15,000-pound rock shrimp landing requirement, reinstate all endorsements lost due to not meeting the landing requirement of 15,000 pounds of rock shrimp in one of four consecutive calendar years, and reinstate all endorsements for those who renewed their permit in the year in which they failed to renew their endorsement.
- The Red Snapper Management Plan was finalized and included a relaxation of the shrimp bycatch reduction requirement as the red snapper stocks recover. Due primarily to market conditions, no regulatory reductions in shrimp effort are expected to be necessary to meet the goals set in the Management Plan.

[shrimp@intnet.net](mailto:shrimp@intnet.net)

Chris Gala  
[tricocg@aol.com](mailto:tricocg@aol.com)

**Alabama:**  
Ernie Anderson  
[and5612@comcast.net](mailto:and5612@comcast.net)

Mickey Johnson  
[jbuiltinc@aol.com](mailto:jbuiltinc@aol.com)

**Mississippi:**

Steve Bosarge  
[stevebosarge@hotmail.com](mailto:stevebosarge@hotmail.com)

Thomas Schultz  
[revahopkins@bellsouth.net](mailto:revahopkins@bellsouth.net)

**Louisiana:**  
Cathy Blanchard  
[madamecheverette@myviscom.com](mailto:madamecheverette@myviscom.com)

Scott St. Pierre  
[momanddad@mobiletel.net](mailto:momanddad@mobiletel.net)

**VACFU:**  
Calvin Nguyen  
[calvng2000@aol.com](mailto:calvng2000@aol.com)  
Gary Ngyuen

**Texas:**  
Wilma Anderson  
[texasshrimp@clearwire.net](mailto:texasshrimp@clearwire.net)

CraigWallis  
[Wallis.shrimp@yahoo.com](mailto:Wallis.shrimp@yahoo.com)

- Proposals to develop rules regarding offshore aquaculture in the Gulf of Mexico exclude brown, white, pink and royal red shrimp from the list of eligible species for offshore aquaculture because SSA argued that it would negatively impact U.S. shrimp stocks. Also in direct response to SSA's recommendations, the Council adopted two important improvements to their Offshore Aquaculture Plan. First, the Council added a new requirement to use Electronic Logbook data on the shrimp fishery under the criteria for siting aquaculture facilities. The second measure would require NMFS to provide written notice and a public comment period when considering offshore aquaculture permit and siting applications.
- Unnecessary and burdensome bureaucracy was adverted when SSA opposed new requirements for operators of shrimp vessels to have federal "Operator Permits."

In 2009, SSA will continue to represent the industry in ongoing regulatory debates over loggerhead turtle reclassification, blacknose shark bycatch, and certification criterion for bycatch reduction devices among other issues.

### *Imported Seafood Safety*

Food safety continued to be a hot issue in Congress throughout 2008 and the Administration has shown slow and inadequate progress in addressing food safety problems associated with imported seafood. Absent the Food and Drug Administration's (FDA) focus on issues related to the safety of imported shrimp, SSA has become the leading voice for the need for substantial improvement in the FDA's performance. SSA became a leading authority on the topic due in part to its study comparing the treatment of imported seafood by the United States compared to Canada, the European Union, and Japan, and its compilation of state testing of seafood that demonstrates the numerous loopholes in the Food and Drug Administration.

- John Williams, SSA's Executive Director, was invited to testify as a member of the U.S. shrimp industry on food safety before the House Subcommittee on Oversight and Investigations of the Commerce and Energy Committee.
- A month later, Williams spoke with the Senate Energy and Commerce Counsel and submitted comments on the legislative initiatives proposed by the Bush Administration and Grocery Manufacturers Association.
- SSA also testified before the U.S.-China Economic and Security Review Commission regarding the impact of China's fishing practices and Chinese fish farms on the Gulf Coast shrimp industry, which resulted in the final report echoing many of the

U.S. shrimp industry's concerns.

- In cooperation with the Catfish Farmers of America, SSA is helping to fund the development of standards to be used to identify multiple illegal antibiotics and pesticides in imported shrimp and catfish. The research and development project is being coordinated by AOAC International, a non-profit, international, scientific organization.

In 2009, SSA will continue to collaborate with third parties to improve how imported seafood is inspected and tested and to create a system that reassures consumers that shrimp is safe to consume.

### ***Trade Laws***

SSA continues to represent the U.S. shrimp industry in ongoing litigation around the antidumping orders won in 2005 and to improve enforcement and collection of the duties.

- Every year there is a chance that antidumping relief could be substantially weakened through "Administrative Reviews." In 2008, SSA presented evidence that substantial dumping continues in the U.S. market and was able to significantly mitigate efforts by shrimp exporters to win reductions of their antidumping duties. SSA is currently representing the industry's legal interests in the third Administrative Review.
- Challenges to the shrimp antidumping orders were appealed to the World Trade Organization by Thailand and India. SSA encouraged action by the U.S. government and coordinated with government lawyers and federal agencies to defend the trade relief. SSA will be submitting comments this month seeking to prevent the antidumping orders from being impacted by the World Trade Organization's decision in the case. (See article below for details).
- SSA worked with Customs and Border Protection (CBP) to enhance enforcement of the antidumping laws. CBP cracked down on imports labeled as dusted shrimp that do not meet the definition developed by the Department of Commerce, resulting in a sharp decline in such shipments from China.
- CBP and NOAA Fisheries Law Enforcement are also investigating shrimp products from China that are illegally labeled as products from other countries based on information supplied by SSA.
- SSA has worked with CBP to address past distributions of funds under the Byrd Amendment on fraudulent, exaggerated claims through verification. It has also secured a temporary restraining

order on new distributions in an effort to force CBP to identify inappropriate claims before issuing checks. (See article below for details).

- SSA submitted [testimony](#) to the Department of Labor on the use of child labor and forced labor in the production of goods internationally.

In 2009, SSA will continue to provide comments on proposals to change how our government defines the country-of-origin of shrimp imports, how rejected imports are labeled, and other issues that impact the enforcement of U.S. trade and food safety laws.

### ***Legislation***

SSA works with elected officials on legislation that impacts the shrimp fishery, such as the Magnuson-Stevens Act. It also helps identify when new legislation is necessary, such as when a Court mandated that shrimp vessels be subject to new federal permits under the Clean Water Act as of September 2008. SSA worked in coordination with the Southeast Fisheries Association, Rick Marks and other domestic seafood industries to obtain a 2-year legislative exemption from the National Pollutant Discharge Elimination System (NPDES) permit. The legislation also requires the EPA, working with the Coast Guard, to conduct a 15-month study of the impact of vessel discharge before Congress decides on permit requirements.

In 2009, SSA will continue to address issues that require legislation, such as extensions of H2-B visas and financial relief for the U.S. shrimp industry.

## **LEGAL UPDATE**

### **CBP Addresses Evasion of U.S. Laws by Chinese Shrimp Producers**

CBP has undertaken significant efforts to prevent evasion of U.S. trade and food safety laws by Chinese shrimp producers. At the port of Los Angeles, CBP officials have stopped over 30 containers of Chinese shrimp illegally labeled as a product of Indonesia. Chinese shrimp are subject to a food safety "Import Alert" issued by the U.S. Food and Drug Administration and antidumping orders issued by the U.S. Department of Commerce. However, by transshipping or improperly labeling products, Chinese shrimp have been able to enter the United States without necessary scrutiny and payment. CBP should expand testing to ports nationwide. SSA thanked the CBP for its efforts in a [press release](#).

## **SSA Wins Delay in Unlawful CDSOA Distributions**

For two years, SSA has worked hard to have nearly \$140 million of antidumping duties distributed to the U.S. shrimp industry under the Continuing Dumping and Subsidies Offset Act (CDSOA or Byrd Amendment). However, inappropriate, exaggerated, and/or fraudulent claims resulted in nearly 80% (\$108.5 million) of available funds in 2006 being distributed to less than 10% of the total claimants. SSA's reaction to this inequitable situation resulted in CBP conducting an unprecedented number of verifications of claims, sometimes resulting in a demand that monies be returned. However, those claiming massive amounts of qualified expenditures in 2007 received an even larger part of total funds.

CBP has failed to ensure that distributions are only made for qualified expenditures, leading SSA to conclude that the CDSOA program is benefiting illegal actors at the expense of deserving shrimp industry members. SSA filed a lawsuit against CBP before the U.S. Court of International Trade in November arguing that CBP violated the law through its administration of the CDSOA program.

The Court has ordered a temporary restraining order to delay distributions of antidumping duties collected on shrimp imports until Feb. 23 or until the Court rules on SSA's motion for a preliminary injunction. A hearing for a preliminary injunction will be on January 26, 2009 at 9:00 a.m. and oral argument shall be held on January 28, 2009 at 1:00 p.m. in New York.

## **Antidumping Duties Remain on Thai Shrimp Despite WTO Ruling**

On February 29, a dispute settlement panel of the World Trade Organization (WTO) ruled that the methodology used to calculate duties on Thai shrimp imports of shrimp violated international trade rules. As a result, the United States Trade Representative requested that the U.S. Department of Commerce recalculate the antidumping orders on Thai shrimp imports in a manner that is compliant with the WTO panel's ruling.

The WTO ruling was touted as a huge victory for Thai companies. However, the preliminary results of the Department's recalculation indicate that the actual effect on the antidumping rate is minor for all but two companies. Two Thai companies may escape the antidumping orders. However, if there are no changes before the final results, the antidumping order would stay in place for all other Thai exporters.

SSA will file briefs in December responding to the preliminary ruling. The deadline for the final results is April 1, but such results will likely be released sooner. The ruling does not apply to imports from Brazil, China, Ecuador, India or Vietnam.

REGULATORY UPDATE

### **SSA Finds Flaws in Blacknose Shark Stock Assessment**

In November, SSA retained Dr. Benny Gallaway, president of LGL Ecological Research Associates, to identify critical scientific errors in 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 conducted a preliminary review of the bycatch estimates in the stock assessment and concluded that there are significant problems with the models and input used by NMFS, which explains why the study's results do not match observation data of shark bycatch by shrimpers.

SSA has submitted a request to work with NMFS to re-evaluate the blacknose shark stock assessment and address errors before a draft Environmental Impact Statement is put forth in January. SSA's request is consistent with the SEDAR Review Committee's recommendation that the draft Environmental Impact Statement and Proposed Rule be reassessed by January 2009. A response from NMFS about its willingness to re-examine the stock assessment is expected in early December.

### **Study Shows BRD Certification Criteria Too High**

NMFS has decertified the Expanded Mesh and the Gulf Fisheye BRD designs because the devices do not meet current BRD certification criteria including the requirement to reduce finfish bycatch 30 percent by weight. However, recent workshops testing currently certified BRDs show that performance is variable based on many conditions and that few-if any-BRDs can reliably meet the 30 percent criteria. It appears that the technology to consistently meet the BRD certification criteria does not exist and the criteria must be reconsidered.

SSA has asked that NMFS perform a new, updated bycatch practicability analysis to determine if current BRD requirements exceed and are thus inconsistent with the Magnuson-Stevens Act.

### **Proposed Artificial Reef Requires Comments**

The county of St. Lucie, FL is proposing to create a 3.0 square nautical mile artificial reef site located northeast of the Ft. Pierce Inlet. Jim Oppenborn, St. Lucie County Marine Resource Coordinator, is trying to address concerns raised during a comment period that the proposed offshore site is within an active shrimp trawling area. Garrett Lips, a biologist with the U.S. Army Corps of Engineers, is also trying to ensure that the placement of artificial reef material is in compliance with the public interest factors regarding interstate commerce and shrimp fishing.

Please follow this [link](#) to a description and chart showing the proposed artificial reef sites as well as existing sites. The exact numbers of all the reefs deployed in the last 3 years, as well as the historical artificial reefs in this County, can be found [here](#). If you have comments about the proposed artificial reef, please direct them to Jim Oppenborn (772.462.1713), Garrett Lips (561.472.8884) or SSA's Director of Field Operations Richard Vendetti (912.222.8796).

### **NOAA Thanks Shrimpers for Assistance after Tropical Storm**

After Tropical Storm Dolly passed through the Port of Brownsville, NOAA's Office of Coast Survey responded by bringing sonar surveying equipment to assist in the reopening of the harbor approaches and Port facilities. However, the boat they intended to use was inoperable. By working with the shrimp industry, NOAA was able to complete their job.

NOAA sent a [letter](#) recently to Captain Martine Trevino and shrimp boat owner Daniel Bryant that conveyed its thanks and appreciation for their working NOAA's crew to convert the Breakaway into a survey vessel. Working together with a shrimping crew, NOAA was able to determine that the channels, port and harbors, and outer channel were safe to reopen. Partnerships and collaboration across the entire marine and fishing community have proven to be critical with these storm events.

**Have a Safe and Happy Holiday Season!**

### **MEMBERSHIP UPDATE**

#### **Board Meeting December 6-7**

An SSA Board meeting is scheduled for December 6-7 in Tampa, FL. The objectives for 2009 will be reviewed.

#### **Membership Renewal Time: Sign-Up Early for Free Months**

SSA will be switching to a calendar year accounting system on January 1, 2009, which means it is time to renew your membership. The cost of membership in 2009 remains at \$100/vessel, \$200/shoreside facility, and \$300/associate members (processor, shrimp buyer, trade association, etc.). With this membership, you will continue to get SSA's monthly newsletters delivered to the email address of your choice, periodic mailing of important materials, and representation on key issues facing the industry. Thank you for your continued support!

Renew at:

<http://shrimpalliance.com/SSA%202009%20Membership%20Invoice.pdf>

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