

Who Should be in Charge?: The Ongoing Saga of Catfish Inspections

Alexandra Chase

Catfish is ubiquitous in Southern cuisine. Traditionally fried and served up with hush puppies, fries, and coleslaw, this Southern staple at one time came from farms in only a few Southern states. Catfish devotees, however, may be surprised to learn that the majority of catfish consumed in the United States today is imported from Asia. This influx of imported catfish has lowered prices and negatively impacted the profitability of domestic producers.

As imports of catfish have increased, so have concerns over contamination risks. In 2008, in response to growing pressure from the U.S. catfish industry and consumer safety groups, Congress passed legislation transferring catfish inspection duties from the Food and Drug Administration (FDA) to the U.S. Department of Agriculture's (USDA) Food Safety and Inspection Service (FSIS).

Background

Catfish is almost exclusively a farm-raised product. Catfish farming represents 57% of aquaculture production in the United States.¹ Commercial catfish farming started to grow in the 1960s when profit margins for cotton, rice, and soybeans decreased and Southern farmers began replacing income from staple crops with catfish ponds. Even though foreign competition has resulted in a decline of the domestic catfish industry in the last few decades, catfish still remains a valuable agricultural product. The sales of domestic catfish growers, predominately located in Alabama, Arkansas, Mississippi, and Texas, exceeded \$380 million in 2016.²

Domestic catfish production, however, faces stiff competition from foreign imports which have steadily increased in recent decades. In the early 2000s, the United States and Vietnam resumed formal trade relations, and

Vietnam increased the exportation of several native species of catfish from the family *Pangasiidae* known as *basa*, *swai*, and *tra*. Between 2003 and 2012, U.S. catfish imports increased from 5.5 million pounds to over 238 million pounds.³ The lower prices of imported catfish fillets gave Asian catfish farmers a competitive advantage over domestic producers. By 2012, 78% of all frozen catfish fillets sold in the United States were imported.⁴

Many countries exporting catfish to the United States lack the environmental, animal welfare, and public health protections present in the United States. Fish farms in China, Vietnam, and other countries are often located in areas where water supplies are at risk of contamination from pesticides, human and animal sewage, and industrial waste. Crowded conditions in ponds contribute to the spread of disease. Many of the chemicals and antibiotics used by fish farmers to treat ponds and sick animals are banned for use in the United States on animals produced for human consumption.

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In 1995, the FDA adopted regulations requiring processors of fish and fishery products to adhere to Hazard Analysis Critical Control Point (HACCP) principles.⁵ Importers must take steps to verify that the imported fish or fishery products are processed under conditions equivalent to those required of domestic producers.⁶ Imported products lacking the required assurances regarding processing



Photograph of a catfish; courtesy of Nik Wilet.

conditions are considered adulterated and will be denied entry into the United States.⁷

To ensure the safety of imported seafood products, the FDA conducts inspections of foreign seafood processors, domestic importers, and collects samples upon entry. Given the incredible volume of imported food coming into the United States, it would be impossible for the FDA or any other agency to inspect and test every shipment. That said, the FDA physically inspects and samples a very small percentage of imported seafood products. In 2009, for instance, the FDA sampled only .1% of imported seafood products for drug residue.⁸ Critics cited this low inspection rate as one of the major reasons for the transfer of catfish inspections duties to the USDA.

USDA Inspections

As a result of the 2008 and 2014 Farm Bills, the FSIS now inspects fish from the order *Siluriformes* under the Federal Meat Inspection Act. The catfish inspection program became effective on March 1, 2016, with implementation phased in over an 18-month transition period. Full program implementation is expected by September 1, 2017.

The regulations establish both a domestic and foreign inspection program. Foreign countries seeking catfish importation must prove that their laws, regulatory programs, and standards are equivalent to USDA standards, subject to FSIS onsite visits. To date, ten countries have started the equivalency process – Bangladesh, China, Dominican Republic, El Salvador, Guyana, India, Jamaica, Nigeria, Thailand, and Vietnam.⁹

Rejections and Recalls

Since FSIS took over inspections on April 15, 2016, the number of catfish imports that have been rejected, rerouted, or recalled has increased. While several rejections were for paperwork anomalies, the majority of rejected imported catfish or catfish products were for serious food safety violations. Serious catfish food safety violations that occurred were “problems with the product’s labels ... fail[ed] physical inspection for defects and adulteration or laboratory analysis for chemical/drug residues or pathogens.”¹⁰

In the past year, FSIS has issued two domestic recalls for illegal chemical contaminants and one recall for an imported catfish product that bypassed inspection

procedures. On July 14, 2016, FSIS issued a product recall of 21,521 pounds of catfish products from a Louisiana facility for illegal chemical contaminants and 1,650 pounds of imported products that bypassed inspection procedures in California.¹¹ On March 24, 2017, FSIS issued a product recall of 1,695 pounds of catfish products from a Mississippi facility because the catfish products contained illegal chemical contaminants.¹²



Photograph of a catfish; courtesy of Charlene N. Simmons.

Conclusion

Although the USDA program has had marked success in stopping contaminated catfish from reaching consumers, the program's future is uncertain. In May of 2016, the Senate passed a resolution to return catfish inspections to the FDA. Senators John McCain, Jeanne Shaheen, and Kelly Ayotte argued that the USDA program is expensive and an example of duplicative regulation.¹³ New data may allay the Senate's concerns as the USDA catfish inspection program costs relatively little by federal standards, just \$1.1 million annually.¹⁴ Transferring the authority back would also be expensive and potentially waste agency resources. The House of Representatives has not scheduled a vote on the Senate's resolution. 🐟

Alexandra Chase is the Ocean and Coastal Law Fellow with the National Sea Grant Law Center at the University of Mississippi School of Law.

Endnotes

1. ANDRE F. MILLER AND HAROLD F. UPTON, CONG. RESEARCH SERV., U.S. CATFISH INDUSTRY AND FOREIGN TRADE: A FACT SHEET, R44177 at 1 (2015).
2. U.S. Dep't of Agric., [Catfish Production](#) (Feb. 3, 2017).
3. Miller and Upton, *supra* note 1, at 3.
4. Terry Hanson and Dave Sites, [2012 U.S. Catfish Database v](#) (2013).
5. U.S. Food and Drug Administration, [Procedures for the Safe and Sanitary Processing and Importing of Fish and Fishery Products](#), Final Rule, 60 FED. REG. 65096 (Dec. 18, 1995) (codified at 21 C.F.R. Parts 124 and 1240).
6. 21 C.F.R. § 123.12(a).
7. *Id.* § 123.12(d).
8. [Letter from Dianne Feinstein, et al., U.S. Senator, to Gene L. Dodaro, Comptroller General](#), U.S. Government Accountability Office, Attachment 1 (April 25, 2017).
9. U.S. Dep't of Agric., [FSIS Equivalence Status Chart](#) (May 9, 2017).
10. [USDA Rejections of Imported Meat, Poultry, Egg Products and Catfish](#) (August 2016).
11. Press Release, U.S. Dep't of Agric., [Haring Catfish, Inc. Recalls Siluriformes Fish Products Due to Possible Adulteration](#) (July 14, 2016).
12. Press Release, U.S. Dep't of Agric., [Lakes Farm Raised Catfish, Inc. Recalls Siluriformes Fish Products Due to Possible Adulteration](#) (Mar. 24, 2017).
13. Press Release, U.S. Senator John McCain, [Senate Passes McCain-Shaheen-Ayotte Resolution Disapproving Wasteful Catfish Inspection Program](#) (May 25, 2016).
14. Press Release, U.S. Congressman Rick Crawford, [House Members Denounce Senate Catfish Vote](#) (May 26, 2016).