

**WRITTEN TESTIMONY OF  
WILLIAM T. HOGARTH, PH.D  
NATIONAL MARINE FISHERIES SERVICE  
NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION  
U.S. DEPARTMENT OF COMMERCE**

**SEAFOOD SAFETY MONITORING OF CHINESE-ORIGIN PRODUCTS,  
NOAA'S ROLE**

**BEFORE THE SENATE COMMITTEE ON COMMERCE, SCIENCE AND  
TRANSPORTATION**

**July 18, 2007**

Good morning, I am William T. Hogarth, Assistant Administrator for Fisheries within the National Oceanic and Atmospheric Administration (NOAA), U.S. Department of Commerce. Thank you, Chairman Inouye, and members of the Senate Commerce Committee for the opportunity to describe NOAA's Seafood Inspection Program and NOAA's Fisheries Enforcement responsibilities, and discuss how they assist and complement the activities of the Food and Drug Administration in addressing safety associated with seafood products from China. Before I begin I would like to thank you for your leadership and for the support you and this Committee have given NOAA. We appreciate your continued support for our programs as we work to improve our products and services for the American people.

NOAA's National Marine Fisheries Service is responsible for the stewardship of the nation's living marine resources within the world's largest exclusive economic zone (EEZ). NOAA Fisheries Service protects and conserves these resources and their habitats through scientific research, fisheries management, efforts to protect marine mammals and endangered species, law enforcement, habitat conservation, and seafood safety monitoring and inspection. NOAA Fisheries Service has both domestic and international responsibilities, and seeks to maximize economic benefits from the sustainable use and conservation of living marine resources.

As the amount of seafood imported into the country has grown, the safety of these products has become a critical concern. The United States has an annual \$9.1 billion trade deficit with respect to seafood. In 2006, we imported 1.2 billion pounds of seafood from China valued at approximately \$1.9 billion. In contrast, we exported 500 million pounds of seafood to China valued at approximately \$450 million.

**NOAA's Seafood Inspection Program**

NOAA's Seafood Inspection Program provides inspection services for the domestic and international seafood industries that directly affect American consumers. The Seafood Inspection Program is a voluntary, "fee-for-service" program that derives its legislative

authority from the Agricultural Marketing Act of 1946 (7 U.S.C. 1621-1627). The Program has been in existence for over 50 years, first within the Department of the Interior and later in NOAA. Its primary mission is to assist the seafood industry in producing high-quality and safe products for the benefit of the American consumer.

To meet this mission, the Program conducts in-plant process and sanitation evaluations, product grading and evaluation, and certification services. We consult and implement systems designed to prevent food safety and quality problems from occurring. The Program assists with developing product standards and specifications, consistent with applicable federal laws and regulations. All of these services are designed to help seafood processing firms produce higher-quality, safe products that comply with all applicable regulatory requirements including FDA laws and regulations.

Our primary clients are seafood processing firms, importers, and exporters. Our client's customers are large seafood buyers such as supermarket chains and the U.S. military. In 2006, the Program inspected approximately 1.9 billion pounds of seafood. These inspection services were accomplished through contracts with approximately 300 contract participants in the United States, about 35 foreign participants, and many more clients on an on-demand basis.

As I noted earlier, the Program is a voluntary fee-for-service activity, and derives all of its operating revenues from program participants. It does not use taxpayer money. The FY 2007 estimated budget for the Program is \$18.2 million. NOAA estimates that the average cost for added quality and safety assurance provided by the Program is about \$0.01 per pound.

The Program employs about 165 people, sited across the United States. It also receives support from a small staff of scientific and technical experts. The scientific and technical experts provide training and analytical services, develop product standards and specifications consistent with applicable federal laws and regulations, and ensure consumer labels meet all regulatory standards.

### **Scientific Support for NOAA's Seafood Inspection Program**

Scientific support for the Seafood Inspection Program is provided primarily by (1) the National Seafood Inspection Laboratory in Pascagoula, Mississippi, and (2) NOAA's Fisheries Seafood Product Quality and Safety Research and Monitoring Program. These two distinct programs allow NOAA Fisheries to both proactively and rapidly respond to seafood safety and aquatic animal health issues. They also address episodic events on multiple levels from specific fish or shellfish and human health concerns to the broader marine environment.

While the Seafood Inspection Program is funded through user fees, the science and research activities at National Seafood Inspection Laboratory and Northwest Fisheries Science Center are funded through appropriated funds.

These programs provide, in a large part, the necessary capability to respond quickly to environmental disasters that can affect seafood safety and quality. The value of this capability was evident in NOAA's rapid response to possible human health threats in the aftermath of Hurricane Katrina. Without this support, NOAA's rapid response to Katrina would not have been possible. The availability of trained and experienced staff and laboratory analytical capability is a critical prerequisite for a rapid, timely, and effective response to all seafood safety issues. This is essential to providing the public with the science-based assessments they need to be confident in the quality of their seafood and/or understand any potential risks. These activities following Katrina helped ensure public confidence in the safety of the \$7 billion Gulf of Mexico seafood industry.

In addition, the NOAA Fisheries Northwest Fisheries Science Center uses state-of-the-art research facilities to assess a wide range of chemical contaminants, pathogens, and marine toxins in seafood samples. The Center also has biological knowledge and experience with emergency field response, having responded to seafood safety issues after the EXXON Valdez oil spill in 1989. Most recently, the Center responded to the public's concern over seafood safety following Katrina because many laboratories in the storm-affected area were damaged and/or inoperable. The Center sent a team to the affected area within days of the storm, and within weeks it provided precise technical information on the safety of seafood from the northern Gulf of Mexico.

### **Relationship between the Seafood Inspection Program and the Food and Drug Administration**

NOAA Fisheries has a long history in working cooperatively with FDA regarding seafood safety risk assessment, management, and communication issues. We cooperate from both an inspection perspective as well as from a fishery science, seafood safety research, and monitoring viewpoint.

With regard to Chinese seafood imports, the mission of the FDA is to protect the safety of food for the American consumer. The Seafood Inspection Program uses FDA criteria to evaluate products and processes.

FDA faces huge challenges in regulating seafood. About 80 percent of all seafood consumed in the United States comes from imports, a volume of about 4.9 billion pounds annually in 2006. China, Canada, Thailand, and Chile are the biggest countries of origin for imports, with China shipping about 1.2 billion pounds per year. This volume demonstrates the difficulty of effectively regulating and evaluating the seafood flowing into the United States.

The Seafood Inspection Program has been meeting with FDA to update the current Memorandum of Understanding between the agencies on seafood inspection matters in order to better serve the American consumer. NOAA has proposed several ideas to help FDA deal with the huge volume of imported seafood products.

## **Services NOAA's Seafood Inspection Program Can Provide to Assist FDA in Regulating Chinese Seafood Imports**

- **Analytical Testing**

NOAA has the analytical capability to address potential problems in Chinese seafood imports. Currently, NOAA is testing products for several unapproved antibiotics, toxins, and pathogens. NOAA is also revising our seafood testing program to be a risk based activity and will be adding other analysis for such contaminants as antibiotics, toxins and pathogens.

NOAA could work with the Chinese Government on a reimbursable basis to ensure exporting laboratories have correct, consistent and repeatable analytical results. NOAA could also assist the Chinese Government to further develop their regulatory export control infrastructure necessitated by the rapid expansion of their seafood exports.

- **Overseas Seafood Processing Facility Inspections**

Thousands of foreign seafood processors ship products to the United States, making it difficult for an inspection authority to visit and regulate all of these sources. The Seafood Inspection Program has traveled to Asia, South America, and Mexico to inspect program participants. NOAA is willing to assist FDA in inspecting foreign seafood processing firms in China and elsewhere to evaluate whether their production conditions meet U.S. standards. Because the program is a fee-for-service organization, the Chinese processing firms would have to negotiate contracts with the Seafood Inspection Program or specific funding would otherwise be provided for these services.

One possibility is to find opportunities for NOAA to participate in the testing needed to give seafood firms currently on FDA's "Detention Without Physical Examination" or "automatic detention" list the opportunity to remove their detention status and resume shipping to the United States. NOAA could also assist the Chinese Government on a reimbursable basis to further develop the seafood processing production and processing facilities' export quality control activities. U.S. Government involvement in the export of seafood from China may provide another level of confidence to the American consumer.

- **Import Inspections**

NOAA does not have the mandatory authority to inspect imports only the authority to inspect imports under contract. FDA field inspectors are only able to inspect and evaluate a very small percentage of all seafood shipments. Because of the volume of seafood and other imported foods there is also a lengthy delay in actual analysis of the products selected for evaluation. This delay can be as long as several weeks and usually involves additional costs such as docking, port, storage or handling fees. Products on detention cannot enter into commerce and letters of credit cannot be completed, adding additional costs.

One potential solution we're exploring with FDA is referring inspections and analysis to the Seafood Inspection Program. NOAA would charge a fee for the inspection and provide inspection results in a guaranteed time frame (e.g., 7 to 10 working days). The result could provide a net savings to the importer, who would be relieved of the higher fees and could speed the movement of compliant product into commerce. This proposal has received an enthusiastic response from the seafood industry.

- **Relief from Export Certification**

Both FDA and NOAA are authorized to issue export certifications. FDA issued approximately 30,000 export certificates to the European Union last year. The Seafood Inspection Program issued approximately 5,000 EU certificates. NOAA and FDA have discussed this issue as an area where FDA and NOAA can work together to avoid duplication of effort.

- **Economic Integrity Issues for Seafood**

Mislabeling and fraudulent activity have been a problem in the seafood area for decades. NMFS' Office for Law Enforcement enforces fishery management regulations and statutes, and also can pursue label and fraud violations in seafood through the Lacey Act (which allows them to apply the provisions of other state and federal statutes). National Seafood Inspection Laboratory activities include testing for proper species labeling.

NOAA would be willing to discuss ways in which it can work with FDA in order to protect the consumer from fraud. For example, NOAA's laboratories have the technology to monitor product substitutions (e.g., through genetic testing and other procedures). Recent experience includes several large importation cases from Vietnam and more recently from China, involving false labeling.

- **Scientific Compliance Work**

FDA's Center for Food Safety and Applied Nutrition performs scientific evaluations of seafood firms' Hazard Analysis Critical Control Point systems. The Seafood Inspection Program and the National Seafood Inspection Laboratory have scientific and technical staff that can help conduct compliance evaluations of Chinese firms. Currently, NOAA is not performing this type of work.

## **The National Offshore Aquaculture Act and Seafood Safety**

Concern over the safety of imported seafood only reinforces the need of the National Offshore Aquaculture Act. The United States remains a net importer of seafood—more than 80 percent of the seafood consumed in the United States is imported from other countries, of which 40 percent is farmed. The Administration has proposed, and both the House and the Senate have introduced, a National Offshore Aquaculture Act. The

Act would provide important tools to foster an environmentally and economically sustainable marine aquaculture industry in the United States. It would authorize permits for aquaculture facilities in federal waters, including research, monitoring and enforcement activities. It also requires interagency coordination to use, but not duplicate, the expertise of other agencies in the development and production of safe and sustainable seafood.

The National Offshore Aquaculture Act would establish a coordinated process with other permitting agencies to ensure operations meet environmental requirements established by statute or regulation. This includes use of only approved pesticides, drugs, and other chemicals in aquaculture operations according to approved protocols established by partner agencies (EPA, FDA). The bill would also authorize a research program for all types of marine aquaculture, to be conducted in consultation with other federal agencies and in partnership with offshore aquaculture permit holders. The research could address a range of issues with human health implications, including aquatic animal health, aquaculture feed formulations, siting criteria, and the development of best management practices for various sectors of the marine aquaculture industry.

Should the National Offshore Aquaculture Act of 2007 be enacted, the Seafood Inspection Program and related scientific activities are ready to support this goal through inspection, technical advice and scientific research. While producing seafood locally, the United States can develop and test new technologies, equipment, and alternative feeds, making our products more competitive in the global market. We can also lead by example-our sustainable production will encourage our trading partners to adopt best management practices, thereby improving the quality of all seafood reaching U.S. consumers. Passage of the Act is an Administration priority, and it is the first step toward producing safe, sustainable aquaculture products in federal waters.

## **Conclusion**

OMB and the relevant food safety agencies are collaborating on ways to most effectively address issues raised in GAO's designation of Federal Oversight of Food Safety as a high-risk item in February 2007.

Chairman Inouye and members of the Committee, the Department of Commerce and NOAA look forward to working with you, the public, the fishing industry, and FDA to ensure the safety of the seafood we consume. I will be happy to answer any of your questions.