FRED UPTON, MICHIGAN
CHAIRMAN

FRANK PALLONE, JR., NEW JERSEY
RANKING MEMBER

ONE HUNDRED FOURTEENTH CONGRESS

Congress of the United States

House of Representatives

COMMITTEE ON ENERGY AND COMMERCE
2125 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515–6115
Majority (202) 225–2927
Minority (202) 225–3641

June 22, 2016

The Honorable Paul Ryan
Speaker
H-232 U.S. Capitol Building
United States House of Representatives
Washington, DC 20515

The Honorable Nancy Pelosi
Minority Leader
H-204 U.S. Capitol Building
United States House of Representatives
Washington, DC 20515

The Honorable Kevin McCarthy
House Majority Leader
H-107 U.S. Capitol Building
United States House of Representatives
Washington, DC 20515

The Honorable Steny Hoyer
Minority Whip
H-148 U.S. Capitol Building
United States House of Representatives
Washington, DC 20515

Dear Speaker Ryan, Minority Leader Pelosi, Majority Leader McCarthy, and Minority Whip Hoyer:

We are writing to request that the House consider S.J.Res. 28 on the floor prior to adjourning for the July 4th recess. If enacted, S.J.Res. 28 would transfer jurisdiction over catfish back to the regulatory authority responsible for overseeing other types of seafood, the Food and Drug Administration (FDA), ending an unnecessary and duplicative program at the U.S. Department of Agriculture (USDA).

The USDA catfish program was created when it was added to the 2008 Farm Bill behind closed doors. This catfish language was not in either the House or Senate Farm Bill, and was never subject to a hearing or public consideration, prior to the Farm Bill conferees adding the language. Quite simply, the House never supported the establishment of this program. The House Agriculture Committee itself passed an amendment repealing the USDA catfish program by a bipartisan vote of 31-15 in the 2014 Farm Bill and the full House agreed to this language sending it to the Senate. A vote on S.J.Res. 28 would allow the House of Representatives to reaffirm its established position on this issue.

There is no justifiable reason for USDA to oversee catfish, while FDA regulates all other seafood. This leaves American seafood companies in the untenable and illogical position of accommodating two sets of federal inspectors overseeing the same facility: one set of inspectors for catfish and another for all other seafood. Both USDA and GAO agree that there is no food safety justification for this regulatory divide.[1] FDA currently regulates all seafood safely under the Hazard Analysis Critical Control Points (HACCP) system which proactively identifies and addresses food safety risks. In fact, in the Food Safety Modernization Act, we used the seafood HACCP system as a model and expanded the HACCP requirements to all food under FDA's jurisdiction.[2]

Additionally, the USDA catfish program will cost American taxpayers an exorbitant amount, with nothing to show for it. According to GAO, the new USDA catfish program would be 20 times more expensive than FDA's regulation of catfish and "would likely not enhance the safety of catfish but would duplicate FDA and NMFS inspections at a cost to taxpayers."[3]

Charged with overseeing over 80 percent of the food Americans eat, including all other seafood, we have long entrusted FDA to be the primary regulator of our food supply. FDA has the scientific expertise and regulatory experience to oversee the entirety of the seafood market. According to David Acheson, the Former Chief Medical Officer of both USDA and FDA, "The House now has the opportunity to vote to get rid of this program and hopefully a better perspective on what is real food safety and what is political mischief."[4]

The USDA catfish program is a prime example of duplicative government regulation. The program adds unnecessary burdens to companies, wastes tax payer dollars, and does not enhance the safety of the U.S. catfish supply. Therefore, we ask that you take up the bipartisan S.J.Res. 28 on the House floor as soon as possible to ensure that the food safety system is not further fragmented by splitting seafood jurisdiction between FDA and USDA.

---

[1] United States Government Accountability Office Report. "Seafood Safety - Responsibility for Inspecting Catfish Should Not be Assigned to USDA", May 2012 (GAO-12-411). http://www.gao.gov/assets/600/590777.pdf. USDA, Food Safety and Inspect ion Service, *DRAFT Risk Assessment of the Potential Human Health Effect of Applying Continuous Inspection of Catfish.* December 2010 (on line at: http://www.fsis.usda.gov/wps/wcm/connect/80a428f3-43fb-4421-b97d-885909e5a228/Catfish_Risk_Assess_July2012.pdf?MOD=AJPERES .

[2] *See* Public Law 111-353 § 103, available at https://www.congress.gov/111/plaws/publ353/PLAW-111publ353.pdf

[3] GAO-12-411 at pages 19-21.

[4] David Acheson, *Catfish Regulation -- A Perfect Example Of Wasted Resources In The US Government*, FORBES, June 6, 2016, *available at* http://www.forbes.com/sites/davidacheson/2016/06/06/catfish-regulation-a-perfect-example-of-wasted-resources-in-the-us-government/print/

Sincerely,

Fred Upton
Chairman

Frank Pallone, Jr.
Ranking Member

Joseph R. Pitts
Ranking Member
Subcommittee on Health

Gene Green
Ranking Member
Subcommittee on Health

IL-15

Leonard Lance

Eliot L. Engel

Doug Walden

Larry Bucshon
Dave Labsack
Kathy Castor
Mike Doyle
Tim Murphy