FDA escalates Choice Canning shrimp refusals, issues import alert

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By Liza Mayer | May 28, 2024 20:38 BST

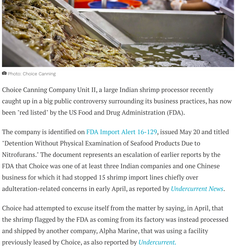


Photo: Choice Canning

Choice Canning Company Unit II, a large Indian shrimp processor recently caught up in a big public controversy surrounding its business practices, has now been 'red listed' by the US Food and Drug Administration (FDA).

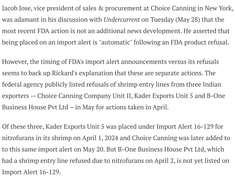
The company is identified on FDA Import Alert 16-129, issued May 20 and titled 'Detention Without Physical Examination of Seafood Products Due to Nitrofurans.' The document represents an escalation of earlier reports by the FDA that Choice was one of at least three Indian companies and one Chinese business for which it had stopped 15 shrimp import lines chiefly over adulteration-related concerns in early April, as reported by *Undercurrent News*.

Choice had attempted to excuse itself from the matter by saying, in April, that the shrimp flagged by the FDA as coming from its factory was instead processed and shipped by another company, Alpha Marine, that was using a facility previously leased by Choice, as also reported by *Undercurrent*.

Choice has attracted significant US scrutiny in recent months after Joshua Farinella, a former general factory manager turned whistleblower, made allegations that it had been responsible for instances of labor abuse, antibiotic fraud and deliberately misleading auditors at its factory in Amalapuram, Andhra Pradesh, as has been reported by the independent journalism outfit Outlaw Oceans. Choice Canning has strongly denied these claims.

The recent FDA import alert places Choice alongside 12 other Indian shrimp processing companies facing scrutiny for their shipments to the US.

The red list identifies companies whose seafood products may contain unapproved drugs. If a company's products are on this list, the FDA can hold their shipments at the border without physically examining them. Shrimp products, followed by tilapia, have surfaced as the top seafood categories on the FDA's red list due to concerns regarding drug residues and other regulatory violations.



An overhead view of the Rapala, India,shrimp processing factory in March 2024. Credit: Choice Canning

Having an entry line finally refuses doesn't automatically mean a company is red listed, Nathan Rickard, a partner in the law firm Picard Kentz & Rowe LLP, clarified to *Undercurrent* in a recent interview. He said the federal agency retains the discretion to decide whether to escalate the matter.

Nitrofurans are a type of antibiotic used to help get rid of bacterial infections in both people and animals, as noted by the FDA, Rickard explained. The US agency treats nitrofurans separately from the general catch-all import alert for veterinary drug residues in seafood (Import Alert # 16-124).

'Having a dedicated import alert just for nitrofurans shows that the FDA has singled out this antibiotic as a unique concern, warranting its own focused regulations and enforcement approach separate from other drugs covered under the general catch-all alert,' he told *Undercurrent*.

Choice Canning responds

Jacob Jose, vice president of sales & procurement at Choice Canning in New York, was adamant in his discussion with *Undercurrent* on Tuesday (May 28) that the most recent FDA action is not an additional news development. He asserted that being placed on an import alert is 'automatic' following an FDA product refusal.

However, the timing of FDA's import alert announcements versus its refusals seems to back up Rickard's explanation that these are separate actions. The federal agency publicly listed refusals of shrimp entry lines from three Indian exporters -- Choice Canning Company Unit II, Kader Exports Unit 5 and B-One Business House Pvt Ltd – in May for actions taken in April.

Of these three, Kader Exports Unit 5 was placed under Import Alert 16-129 for nitrofurans in its shrimp on April 1, 2024 and Choice Canning was later added to to this same import alert on May 20. But B-One Business House Pvt Ltd, which had a shrimp entry line refused due to nitrofurans on April 2, is not yet listed on Import Alert 16-129.

The FDA's website details the process for red-listing firms or products on an import alert. Violation information and recommendations for placement on import alert are sent to the Division of Import Operations (DIO) and the Center for Food Safety and Applied Nutrition. Once this information is received, 'DIO and possibly the Center will determine whether there is sufficient evidence to add the firm/product to an import alert,' the agency said.

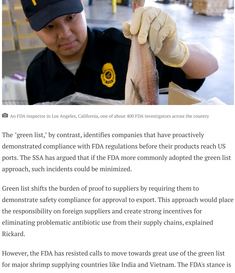


Photo from Choice Canning's LinkedIn page

Jose also asserted that being listed on the import alert has not impacted Choice Canning's business or reputation. It only affects the specific factory/address listed, and not Choice Canning as a whole, he said.

He said he has sent documents about the situation to all of his company's customers to help them understand that the matter was related to a factory Choice stopped using after September 2023. Choice canceled its FDA registration for the targeted plant on the date it found out about the import refusal, he said.

Since the import alert was specific to that factory address, Choice's name would remain associated with it even though the company no longer had any connection to or control over the factory going forward, he said.

If Choice were still using that plant, the company could file a petition with the FDA to have it removed from the import alert after having 5-10 shipments pass consecutively, Jose said. Choice will not pursue such a petition because it earlier canceled its FDA registration for the factory, he said.

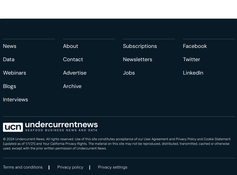
Why the 'green list' approach is better

The Southern Shrimp Alliance (SSA), a group that represents the harvesters and processors of domestic, wild-caught shrimp, declared in May that the latest case involving Choice casts a spotlight on what it believes is a failed approach by the FDA to curb the importation of shrimp containing antibiotics.

At the heart of the criticism is the FDA's heavy reliance on 'red lists' of banned exporters rather than implementing more comprehensive 'green lists.'

Regarding the red list, Rickard noted the lack of transparency in the FDA's updates. He said the FDA updates the red list on an ad-hoc basis, with no regular schedule. The only way to know if a company has been removed from an import alert list is if it just disappears from that list, indicating it took the steps to demonstrate to the FDA that it has addressed veterinary drug residues in its seafood, he said.

'You don't know if an exporter is working to get off the import alert and not succeeding and you don't know if they're not trying, potentially making their shipments under a different name or through a different company. You only know if they're removed because then they just disappear from that import alert,' said Rickard.



An FDA inspector in Los Angeles, California, one of about 400 FDA investigators across the country

The 'green list,' by contrast, identifies companies that have proactively demonstrated compliance with FDA regulations before their products reach US ports. The SSA has argued that if the FDA more commonly adopted the green list approach, such incidents could be minimized.

Green list shifts the burden of proof to suppliers by requiring them to demonstrate safety compliance for approval to export. This approach would place the responsibility on foreign suppliers and create strong incentives for eliminating problematic antibiotic use from their supply chains, explained Rickard.

However, the FDA has resisted calls to move towards great use of the green list for major shrimp supplying countries like India and Vietnam. The FDA's stance is rooted in its current regulatory framework, which allows for country or region-wide import alerts based on evidence of non-compliance.

Another concern noted about the FDA is its limited antibiotic screening of less than 0.1% of imported shrimp shipments. Seafood import opponents have requested increased testing at ports.

In an email interview with *Undercurrent*, an FDA spokesperson cited the large import volumes that make comprehensive testing infeasible. The spokesperson said the agency has already ramped up its sampling of imported shrimp in recent years, concentrating on the biggest exporters. The FDA also uses advanced technology to better target and utilize its resources for these inspections.

The FDA currently has about 400 trained investigators across the country who handle inspections and activities related to import operations, the spokesperson said. These investigators may specialize in specific types of inspections or perform a variety of tasks based on their location and training.

Additionally, the FDA works closely with importers and brokers to determine the most convenient times and locations for sampling and examination.

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