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**United States Senate Committee on Small Business and Entrepreneurship  
“Impact of Federal Labor and Safety Laws on the U.S. Seafood Industry”**

**May 6, 2015**

The National Fisheries Institute (NFI) appreciates the opportunity to appear at today’s hearing on the “Impact of Federal Labor and Safety Laws on the U.S. Seafood Industry.”

Before discussing seafood safety, on behalf of the roughly 300 NFI member companies, I would like to thank Senators Vitter and Shaheen for the panel discussion on the recent released H-2B regulations. These regulations released by the Department of Homeland Security and the Department of Labor (DHS and DOL) will make the program more costly and complicated for small businesses to hire workers for seafood processing. Instead of issuing commonsense reforms, DHS and DOL sought to issue almost an identical rule as they released in 2012, which has met objections from Congress, stakeholders, and has been blocked in federal court. It is important that Congress pass legislation that creates a predictable and reliable H-2B program.

**National Fisheries Institute and Its Engagement in Seafood Safety**

The National Fisheries Institute has been the leading voice for the fish and seafood industry and America’s largest seafood trade association for nearly 70 years. NFI promotes high quality and sustainable seafood as the daily protein food choice for feeding American families. NFI members span the entire seafood value chain --- from Alaska vessel owners, Pacific processors, Midwest importers, East Coast clam harvesters, Southern shellfish producers, to national distributors and seafood restaurants --- all with a common goal of providing nutritious and wholesome seafood meals to American families, while adhering to the highest standards of food safety.

NFI and its member companies have had a long record of positive engagement on both food safety and economic integrity. NFI has worked with the Food and Drug Administration to meet the requirements of the FDA Hazard Analysis & Critical Control Points (HACCP) system for the production of seafood products from both domestic and international sources. As discussed in greater detail below, HACCP is a comprehensive, science-based system of hazard control designed to eliminate food safety risks at their source, instead of relying solely on inspection and testing of the finished products to verify food safety. NFI members’ engagement on these issues goes back to the establishment of the seafood HACCP program in 1997, and will continue going forward.

In addition:

- NFI was an early supporter of the Food Safety Modernization Act (FSMA), the most comprehensive food safety reform legislation in decades.

- NFI is a member and former board director of the Alliance for a Stronger FDA, and as such supports increased appropriations for FSMA implementation and FDA enforcement of FSMA requirements.
- NFI members are also members of the Better Seafood Board, an association of companies each of which pledges to abide by federal prohibitions against mislabeling, short-weighting, and other illegal practices that cheat NFI companies and the consumers they serve.

With this engagement in mind, NFI offers the following thoughts on the unparalleled nutritional value of fish, the benefits to the national economy provided by NFI member companies and their suppliers, and the food safety profile of both imported and domestic seafood products.

### **Health Benefits of Consuming Seafood**

Seafood provides a variety of essential nutritional benefits that in some cases are available in fish and nowhere else. Seafood is a nutrient-dense food that is an excellent source of protein, vitamins and minerals. Specifically, fish are one of the best sources for long-chain omega-3 fatty acids DHA and EPA, which are essential in the prevention or mitigation of common, chronic diseases as well as in reducing the risk of heart disease in adults. As such, it is no surprise the 2010 Dietary Guidelines for Americans recommend consuming at least 8 ounces of seafood per week.

Fish are excellent sources of EPA and DHA. Numerous recent, large-scale studies have demonstrated the importance of EPA and DHA for pregnant and nursing women and their children, and especially in fetal and early childhood neurodevelopment. The Joint Food & Agriculture Organization (“FAO”) and the World Health Organization (“WHO”) of the United Nations determined in 2011 that the real risk of seafood to women and their babies during pregnancy is not eating enough fish.<sup>1</sup>

On this point in particular, scientists from government and universities, and healthcare professionals have all concluded that for moms and moms-to-be, and their babies, the overall benefits of this level of seafood consumption outweigh any risks. Dr. Stephen Ostroff, M.D., Acting Commissioner of Food and Drug Administration, explicitly stated the need for pregnant women and young children to consume seafood:

For years many women have limited or avoided eating fish during pregnancy or feeding fish to their young children. But emerging science now tells us that limiting or avoiding fish during pregnancy and early childhood can mean missing out an important nutrients that can have a positive impact on growth and development as well as on general health.

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<sup>1</sup> [http://whqlibdoc.who.int/trs/who\\_trs\\_916.pdf](http://whqlibdoc.who.int/trs/who_trs_916.pdf).

## **Economic Impact of U.S. Agriculture Export Products and the Seafood Industry**

Since the nation's earliest days, the food industry has been central to U.S. economic health and a driver of other, related industries, such as waterborne and highway freight transportation, restaurants, and hospitality and lodging. The seafood industry contributes to the American economy in three important ways:

1. Harvesting and processing of fish caught in U.S. waters;
2. Trade of seafood that is transformed in American processing operation into meals Americans enjoy (including the hundreds of millions provided to American consumers by NFI members); and
3. Fish meal and related products that are used as ingredients in aquaculture and livestock production and as additives in food and even medical products.

First, the direct economic benefits of seafood for the American table are significant. The U.S. seafood industry encompasses a full supply chain of economic partners. From harvesters on the water, to exporters and importers arranging for global trade, through secondary processors adding value and putting fish into a recognizable product, to retailers and restaurant groups, the industry represents a variety of related and interdependent businesses.

The Department of Commerce's economic analysis states that the seafood industry generates over 1,270,000 jobs in the U.S. with a sales impact of \$140,660,993,000.<sup>2</sup> Of those jobs, U.S. harvested seafood creates 744,850 jobs. These jobs are the fishermen and women following traditions started by the nation's earliest settlers and working their craft from Louisiana to Alaska, and now extending to fish farming from Maine to California.

Department of Commerce's economic analysis also states that imported seafood creates another 525,291 American jobs, or about 4 in every 10 American seafood jobs.<sup>3</sup> Imported seafood also generates about 64% of the sales of the seafood industry and creates about 56% of the value added to fish in the United States. These seafood imports support American processing jobs from Seattle to Portsmouth to Buhl to Denver to Brownsville to Miami.

Lastly, there is an important but little-noted connection between U.S. agricultural exports and imported seafood. In particular farmed fish and shellfish that is raised overseas uses U.S. fish meal, soybeans and soybean products, and other farm products. In 2014, American farmers exported a record \$152.5 billion of food and other agriculture goods to consumers worldwide.<sup>4</sup> According to the U.S. Department of Agriculture (USDA), every \$1 billion of these exports

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<sup>2</sup> *National Overview U.S. Summary Management Context*. NOAA Fisheries, 2012. Web. 29 Aug. 2014. [http://www.st.nmfs.noaa.gov/Assets/economics/documents/feus/2012/FEUS2012\\_NationalOverview.pdf](http://www.st.nmfs.noaa.gov/Assets/economics/documents/feus/2012/FEUS2012_NationalOverview.pdf).

<sup>3</sup> *Understanding the Commercial Fisheries and Recreational Fisheries Economic Impact Estimates*. NOAA Fisheries, 2012. Web. 29 Aug. 2014. [http://www.st.nmfs.noaa.gov/Assets/economics/documents/feus/2012/Understanding\\_fisheries\\_economic\\_impact\\_estimates.pdf](http://www.st.nmfs.noaa.gov/Assets/economics/documents/feus/2012/Understanding_fisheries_economic_impact_estimates.pdf).

<sup>4</sup> <http://blogs.usda.gov/2015/04/10/removing-barriers-to-agricultural-trade-sures-us-products-can-thrive-in-foreign-markets/>.

supported 6,800 American jobs.<sup>5</sup> U.S. agricultural exports have been larger than U.S. agricultural imports since 1960, generating a surplus in U.S. agricultural trade. This surplus helps balance the deficit in nonagricultural U.S. merchandise trade.

International trade – and the role of the American farmer in that trade – are at the top of the Senate’s agenda right now, with consideration of Trade Promotion Authority. One of the universally embraced objectives of TPA is opening new markets for American farmers and knocking down barriers to agricultural products. In light of that, it is critical to understand that the Pacific Rim nations that often supply seafood to American consumers are also nations that increasingly welcome our pork, beef, soybeans, poultry, and dairy. The truism that trade is a two-way street is more apt today than ever before, and U.S. trade policy must reflect that.

## **Food Safety**

### *The Food Safety Modernization Act*

Any discussion of food safety must begin by recognizing the significant reforms put in place by Congress in the Food Safety Modernization Act in 2010. NFI was an early supporter of FSMA and appreciates the support of the Chairman as an original cosponsor.

The legislation is characterized by its “preventive controls” approach, which requires two things. First, it requires the regulated industry to develop and implement preventive control plans tailored to the challenges that the particular food item presents all along the supply chain. Second, this approach obligates FDA to implement a risk-based inspection strategy. Congress recognized, when considering FSMA, that blanketing FDA resources equally over every food and every facility is not only a waste of tax dollars and enforcement assets, but actually increases the risks posed by the complex and varied U.S. food industry. The preventive controls approach Congress adopted is modeled on concepts learned through two decades of Seafood HACCP development and implementation. When it enacted FSMA, Congress ratified the food safety approach that has been in place for domestic and imported seafood since 1998.<sup>6</sup> Congress felt that Seafood HACCP was such a success that it exempted from the preventive controls and related foreign supplier verification requirements for companies in compliance with Seafood HACCP.

### *The Food and Drug Administration Seafood Inspection Program – Hazard Analysis & Critical Control Points*

It is important to emphasize that all seafood products sold in the United States, both imported and domestically-produced, must meet the same stringent food safety laws and regulations, including FDA’s Seafood HACCP regulation and food facility registration requirements.

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<sup>5</sup> [http://www.jec.senate.gov/public/?a=Files.Serve&File\\_id=266a0bf3-5142-4545-b806-ef9fd78b9c2f](http://www.jec.senate.gov/public/?a=Files.Serve&File_id=266a0bf3-5142-4545-b806-ef9fd78b9c2f).

<sup>6</sup> <https://www.congress.gov/bill/111th-congress/senate-bill/510/text?q=%7B%22search%22%3A%5B%22Food+Safety+Modernization+Act+%28FSMA%29%22%5D%7D>.

The FDA HACCP regulation imposes a set of stringent and tailored requirements on the production of fish and fishery products, both domestic and imported seafood (including any food item in which seafood is a characterizing ingredient) and is applied to all seafood processors, importers, and wholesalers. In addition to required specific sanitation controls, the Seafood HACCP program obligates regulated companies to meet seven basic requirements:

1. Conduct a hazard analysis and identify preventative measures;
2. Identify critical control points (CCP);
3. Establish critical limits;
4. Monitor each CCP;
5. Establish corrective action to be undertaken when a critical limit deviation occurs;
6. Establish a record keeping system; and
7. Establish verification procedures.

By carefully identifying potential sources of contamination throughout the production process and requiring continuous monitoring, extensive recordkeeping and verification that control measures are in place, a strong HACCP program ensures a high degree of food safety. As a final measure of food safety assurance, FDA conducts inspections of firms and food products to confirm that HACCP principles are being appropriately applied. Similarly, all imported food products are subject to targeted and random FDA inspection when offered for import at U.S. ports of entry.

Imported seafood must meet the same food safety standards and HACCP requirements as seafood produced or processed in the United States. HACCP requires any problems to be identified and eliminated or mitigated at their source. For imported seafood that means problems must be fixed thousands of miles from the U.S. border. Importers are required to take steps to verify that their imported products are obtained from foreign processors that fully comply with the Seafood HACCP Regulation. This requirement makes sure that the safety of imported seafood is equivalent to the safety of seafood harvested or processed domestically. And, it is in the best interest of domestic processors to ensure that all of their raw material supplies—from overseas and domestic—are safe and wholesome.

Although the HACCP concept was developed in the United States, and the United States was one of the first countries to mandate its application to seafood, HACCP has become a universally-recognized industry standard for almost all seafood traded worldwide. It has been endorsed by the Codex Alimentarius Commission, the World Health Organization, and the UN FAO as an effective, non-discriminatory food safety mechanism. Most developed countries and a long list of developing countries have adopted HACCP requirements for domestic and imported seafood and other food products, including the European Union, Canada, Australia, New Zealand, Japan, Vietnam, Brazil, Thailand and many others.

The rapid and widespread adoption of HACCP as a food safety control system worldwide reflects its well-documented ability to minimize food safety risks, as well as its flexibility to be effectively applied in nearly all types and sizes of processing facilities. And, as the *de facto* world standard for the international seafood trade, the adoption of HACCP provides a high-level of regulatory harmonization and coordination that facilitates world trade and reduces the

potential for individual countries to erect technical barriers to trade based on arbitrary or non-science based safety concerns, all while providing a high margin of consumer food safety.

In addition to HACCP, FDA uses a comprehensive and layered approach to seafood safety. Its tools include:

- Inspections at the border are not the start of the seafood safety system, and are only one part of FDA's enforcement system. PREDICT (Predictive Risk-based Evaluation for Dynamic Import Compliance Targeting) enables FDA to target its inspections on countries or companies that have exhibited problems in the past. This enables increased testing on products that FDA deems of higher regulatory and enforcement interest. This is an appropriate use of government's resources.
- Any company subject to an Import Alert (another agency enforcement tool) must provide evidence that *all* shipments of the food in question meets the agency's standards, Import Alerts are in effect a 100%, importer-financed border testing program.
- FDA compliance actions against wayward firms and food items posing a heightened risk. Since 1998, FDA has issued more than 1,200 Warning Letters to seafood processors, initiating heightened agency scrutiny over those firms' operations.

This aggressive oversight is a demonstration of a food safety agency using the tools at its disposal to ensure a safe seafood supply, rather than a perceived sign of a weak system.

### **Seafood Safety System: The Results**

So, FDA uses a number of tools to ensure seafood safety, from both domestic and imported sources. What are the results? Impressive. The safety of seafood imports and the effectiveness of FDA seafood regulations have been established over several decades of increasingly globalized fisheries trade and confirmed by U.S. government agencies.

The Centers for Disease Control and Prevention analyzed 6 years of reported foodborne illnesses data from 2005-2010, from across the country. CDC found that less than 2 percent of the more than 120,000 reported illness were attributed to imported food. An even smaller percentage of reported illnesses – 0.12 percent – were caused by imported seafood.<sup>7</sup> The CDC found that 141 of the 122,000 reported illnesses were connected to imported seafood.

In light of outcomes such as this, Congress expressly exempted the seafood industry from the preventive controls and foreign supplier verification activities (outlined above) that the FSMA imposed on the rest of the food industry.<sup>8</sup>

Nevertheless, no system is perfect; and any food industry subsector can find ways to improve. But the reasonable approach to protecting public health without severely disrupting

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<sup>7</sup> [http://www.cdc.gov/foodborneoutbreaks/;](http://www.cdc.gov/foodborneoutbreaks/)  
[http://www.cdc.gov/media/releases/2012/p0314\\_foodborne.html](http://www.cdc.gov/media/releases/2012/p0314_foodborne.html).

<sup>8</sup> FSMA, §§ 103(j)(1)(A) and 301(e)(1).

markets, creating regulatory uncertainty and threatening international trade relations is to strengthen the system already in place. That is why NFI has supported providing FDA with the specific funding and staffing levels prescribed in Section 401 of the FSMA.

Any suggested improvements, too, must be applied evenly to domestic as well as imported seafood. This is critically important to ensure that any new legislation or regulation meets basic World Trade Organization obligations for nondiscrimination and also to avoid retaliatory imposition of similar measures on the nearly \$6 billion in U.S. seafood that American watermen and aquaculturists produce and ship overseas every year.

There is no question that HACCP is a powerful tool for eliminating most food safety risks, and it is and should remain the first line of defense against food safety risks posed by fish of any origin. Under current regulations U.S. importers and processors are responsible for ensuring that HACCP systems are fully implemented and that imports fully meet the standards applied to domestic supplies. The HACCP system requires 100% compliance with the science-based regulations. Random inspections at the port of entry by FDA provide a second line of defense against the possibility that harmful products could reach US consumers.

### **Conclusion**

NFI appreciates the opportunity to provide views on seafood safety from the perspective of over 300 NFI member companies. In this undoubtedly vital area of the American food industry, it is essential to rely on the facts and in particular on the reported food safety outcomes. Though any industry can do better, those outcomes demonstrate that seafood, imported and domestic, is a well-managed, safe, and wholesome product that Americans can feel confident feeding their families.