Press Release of U.S. Senator Barbara Boxer

For Immediate Release:
October 15, 2012

Contact:
Washington D.C. Office (202) 224-3553

Boxer Urges the Food and Drug Administration to Take Action to Stop Seafood Fraud

Recent Study Found that 55 Percent of the Seafood Tested in Los Angeles and Orange Counties Was Mislabeled

Washington, D.C. – U.S. Senator Barbara Boxer (D-CA) today wrote to Dr. Margaret Hamburg, the Commissioner of the Food and Drug Administration (FDA), urging the agency to strengthen its enforcement efforts to address the alarmingly high occurrence of seafood fraud, where fish and other seafood is deliberately mislabeled and sold to consumers.

In the letter, Senator Boxer wrote, **"It is unacceptable that proven fraud is occurring on such a widespread basis. Seafood fraud is not only deceptive marketing, but it can also pose serious health concerns, particularly for pregnant women seeking to limit exposure to heavy metals or individuals with serious allergies to certain types of fish."**

Recent studies suggest how pervasive the problem of seafood fraud has become in the United States. Since 2011, Oceana (http://oceana.org/en/category/blog-free-tags/seafood-fraud) has collected fish samples from numerous grocery stores, restaurants, and sushi venues in different metropolitan areas and has had them genetically tested to determine their composition. In Miami and Fort Lauderdale, 31 percent of the seafood tested by the group was found to be mislabeled. In Los Angeles and Orange counties, 55 percent of the seafood tested was mislabeled.

Not only are consumers not getting the fish they paid for, but this type of mislabeling can pose serious health risks. Many consumers, particularly pregnant women and Americans with fish allergies, rely on the accurate labeling of seafood in order to make informed health decisions. In 2007, several serious illnesses (http://www.fda.gov/Food/FoodSafety/Product-SpecificInformation/Seafood/DNAspeciation/default.htm) occurred after toxic puffer fish were mislabeled as monkfish to get around U.S. import restrictions.

In the letter, Senator Boxer wrote, **"Consumers should not have to question the safety of their seafood."**

Currently, 86 percent of seafood consumed in the United States originates overseas, but a 2009 Government Accountability Office (GAO) report found that only two percent of all seafood imports are inspected by FDA, and just 0.01 percent are specifically inspected for seafood mislabeling. Boxer asked the agency to respond with more information about its inspection process, including what steps it will take to improve enforcement to protect the safety of consumers.

"To effectively address this problem, we need better traceability and enforcement throughout the entire chain of sale, from bait to plate," said Senator Boxer.

The full text of the Senator's letter is below:

October 15, 2012

The Honorable Margaret Hamburg, M.D.
Commissioner
Food and Drug Administration
U.S. Department of Health and Human Services
10903 New Hampshire Avenue
Silver Spring, MD 20993

Dear Dr. Hamburg:

I am writing to alert you to the alarmingly high occurrence of seafood fraud in our nation's seafood products, and to request that the Food and Drug Administration (FDA) strengthen its enforcement against this problem.

Seafood fraud is the mislabeling of one species of fish for another fish that is often cheaper and more readily available. Recent studies suggest this may be a pervasive practice in the United States. Since 2011, Oceana has collected fish samples from numerous grocery stores, restaurants, and sushi venues in different metropolitan areas and has had them genetically tested to determine their composition. A strikingly high percentage of these samples were mislabeled according to Federal guidelines: nearly 20 percent of the 88 samples tested in Boston, Massachusetts (and a separate study by the Boston Globe found an even higher percentage: 48 percent of 183 samples); 55 percent of the 119 samples tested in Los Angeles and Orange counties, California; and 31 percent of the 96 samples tested in Miami and Ft. Lauderdale, Florida. These studies support research by the University of British Columbia and the University College Dublin, which have found common seafood species such as red snapper, wild salmon, and Atlantic cod to be mislabeled in 24 to 70 percent of the samples tested.

It is unacceptable that proven fraud is occurring on such a widespread basis. Seafood fraud is not only deceptive marketing, but it can also pose serious health concerns, particularly for pregnant women seeking to limit exposure to heavy metals or individuals with serious allergies to certain types of fish. Oceana's investigations in Southern Florida found a case in which a fish sold as grouper was actually king mackerel, a fish that federal and state authorities warn women of childbearing age not to eat due to high mercury levels, which can harm a developing fetus. Oceana also found that all samples of white tuna tested in their Florida study were actually escolar, a species that can cause severe digestive upset. Consumers should not have to question the safety of their seafood.

Currently, 86 percent of seafood consumed in the U.S. originates overseas, yet the Government Accountability Office (GAO) noted in a 2009 report that the FDA inspects only two percent of all seafood imports, and only 0.01 percent is explicitly inspected for fraud or mislabeling. With such a high prevalence of seafood mislabeling, consumers cannot adequately protect themselves from fish originating in regions where health concerns exist.

Seafood fraud not only misleads the consumer, but by undermining consumer confidence in the seafood industry, it also harms the many fishermen and seafood-related businesses that are honest

brokers. Many participants in the seafood industry have voluntarily undertaken efforts to improve the integrity of seafood sourcing and encourage best business practices at all levels in the chain of commerce. However, uniform, national standards and enforcement are necessary to ensure the safety of consumers throughout our country.

The FDA has the authority to inspect domestic and imported seafood to detect for fraud, yet very few inspections are conducted for this purpose. I understand that the FDA has recently increased its testing for seafood mislabeling, and I appreciate those efforts, but I believe we need to do more. Seafood can follow a complex path from the point when it is caught to the point when it is sold to a consumer, making it difficult to isolate the point where fraud occurs. To effectively address this problem, we need better traceability and enforcement throughout the entire chain of sale, from bait to plate.

To better understand the scope of this problem and explore some possible solutions, I respectfully request answers to the attached list of questions. Furthermore, I would like to know what steps you are taking to ensure that there are adequate inspections for seafood mislabeling to assure consumers that their seafood is safe. I look forward to working with you to improve the safety of seafood for American consumers.

Sincerely,

Barbara Boxer
United States Senator

ATTACHMENT: QUESTIONS ON ENFORCEMENT AGAINST SEAFOOD MISLABELING

1. If, upon inspection, an imported product is found to be mislabeled, can the FDA refuse the product entry into the United States? If yes, how often are mislabeled products refused entry? Are there reasons why the FDA would not refuse a mislabeled product entry?

2. Does FDA include inspection for misbranding as a component of every inspection it conducts on seafood? If not, why not?

3. How much does it cost, on average, to inspect a seafood item for misbranding? Does the cost of inspecting seafood for misbranding vary depending on whether the seafood item is domestic or imported? What factors influence the cost of inspecting seafood for misbranding?

4. Do you share all information on inspections and inspection results with the National Marine Fisheries Service and Customs and Border Protection, even if a health risk has not been identified? If not, please explain why.

5. Full pedigree traceability (i.e., “from bait to plate”) is important to ensure that consumers have complete, accurate information about the seafood they consume: where, when and how it was caught. In light of the FDA’s broad power to control labeling for public health (21 U.S.C. § 393(b)(2)), does the agency have the statutory authority to implement “bait to plate” traceability? If

not, what prevents FDA from implementing such traceability? Are there existing laws that affirmatively prevent FDA from taking these actions, or is the problem an absence of needed legal authority?

6. Section 204 of the Food Safety Modernization Act requires enhanced record-keeping for foods designated as “high-risk” by the Secretary of Health and Human Services. According to the Centers for Disease Control and Prevention, seafood is among the top foods responsible for foodborne illness outbreaks every year. Given that, are you considering designating seafood in this “high-risk” category?

###