

## SUMMARY TESTIMONY OF ACT: CARBON MONOXIDE Mike Piccietti

ACT Coalition represents at least 80% of the producers for farmed raised fresh Tilapia fillets in the US Market.

ACT's concern is that carbon monoxide gassed frozen Tilapia fillets from China will negatively impact the long term market image for all Tilapia fillets.

The US consumer is largely unaware that they are buying Tilapia with carbon monoxide since in the fresh seafood counter ingredient labels are not visible.

ACT estimates there could be as much as 88 million pounds of carbon monoxide gassed Tilapia consumed by US consumers in the first 8 months of this year.

To illustrate the uneasiness within the industry buyers and sellers utilize exotic names to identify carbon monoxide product: "Cold Smoked, "Izumi dai" "Sashimi Grade" and "CO." To most Americans, carbon monoxide is a well known poison gas, resistance to label is obvious.

The sole function of using carbon monoxide as an ingredient is to intensify and preserve the red or pink blood colors from turning brown as untreated fish will do.

The average consumer will misperceive the bright pink or red color as a sign of freshness; nothing could be further from the truth.

ACT concludes that the FDA's GRAS approval for "tasteless smoke" on Tuna has been misconstrued to include widespread use of industrial carbon monoxide gas on Tilapia. We believe FDA never anticipated this impact and we hope this committee can resolve this practice.

**Testimony of  
Mr. Michael Picchietti**

**President  
Regal Springs Trading Company**

**On behalf of**

**The American Coalition for Tilapia (ACT)  
Tropical Aquaculture, Rainforest Aquaculture, Regal Springs**

**before the**

**Subcommittee on Oversight and Investigations**

**of the**

**House Committee on Energy and Commerce**

**110<sup>th</sup> Congress, 1<sup>st</sup> Session**

**For Hearings on**

**“Diminished Capacity: Can the FDA Assure the Safety and Security of  
the Nation’s Food Supply? – Part IV – Deception in Labeling”**

**November 13, 2007**

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Thank you Chairman Stupak, Ranking Member Whitfield, and Members of the Subcommittee for the opportunity to testify today regarding consumer deception with Tilapia fish that have been artificially colored using carbon monoxide.

Throughout the United States, frozen carbon monoxide-gassed Tilapia fillets are routinely being removed from import packaging and placed into fresh seafood counters, to be thawed out and sold as refreshed, or previously frozen, or simply and unethically as fresh Tilapia fillets. Misidentification and total lack of any identification of carbon monoxide as an ingredient is now widespread. (*see photo 1*)

The issue that unites this group of competitors (in our ad hoc coalition that produces 80% of fresh fillets for the US market) is the impact carbon monoxide gassed tilapia is having on our businesses and the potential of long lasting harm on the current positive image that tilapia has in the market. We are here today because of our concern in losing the trust and confidence for tilapia with the American consumer because of this disguised practice of keeping the knowledge of carbon monoxide as an ingredient from the consumer. What concerns us is that the American consumer is not aware of what they are buying and eating, how could they be, if it's not labeled? Most American's realize that carbon monoxide is a very common poison and therefore using it as an ingredient is alarming.

According to current United States National Marine Fisheries import statistics (*See Table NMFS*); 125,000,000 pounds (57,181,343 kilos) of frozen tilapia fillets have been imported from China into the United States through August of this year (2007). Members of the American Coalition for Tilapia estimate that at least 70% of this volume of product is gassed with carbon monoxide. We therefore estimate that 88,000,000 pounds of frozen carbon monoxide-gassed tilapia fillets have been consumed by Americans so far this year. Working with the assumption that an average meal size is

around one-half pound, a total of 176 million meals of carbon monoxide-gassed Tilapia have been consumed through the first eight months of this year.

To illustrate industry wide uneasiness surrounding this trade in carbon monoxide seafood products, buyers and sellers use a kind of code terminology to identify trade of this product. Names like “Cold Smoked,” “Izumi Dai,” “Sashimi Grade” and “CO” are all used to identify carbon monoxide treated product, rather than using the correct name to identify carbon monoxide. At the consumer level, every attempt is made to keep the identification disguised at the point of purchase. Given all the exotic names, the ingredient is nothing more than the carbon monoxide molecule. The sole purpose of using carbon monoxide is to intensify and then preserve the red colors within the muscle or blood over a long period of time, which makes the product easier to handle and sell. Without using CO, frozen tilapia fillets turn brown when thawed out just like fresh fillets do in the natural aging process (*See Photo 2*)

From a competitive standpoint, frozen Tilapia fillets produced in China are much cheaper than fresh Tilapia fillets produced in the Americas, frequently by at least 75%. Thawing out CO gassed Chinese frozen fillets for sale in the fresh counter has become one of the most profitable seafood items in the category.

Fresh fillets from American Coalition for Tilapia cost more to produce and deliver because we deliver by expensive air freight, rushing to beat the negative impact of time and temperature on the shelf life of our product. Our products are untreated and more perishable because they are never frozen. We have to rush to maintain the red and natural flesh colors without the aide of preservatives like carbon monoxide treatments.

If a vendor can simply use carbon monoxide and on a cheaper product without the risk of the consumer asking questions about the ingredient (because there's no label), why buy true fresh tilapia?

We understand the right of choice and the effort of the vendor to provide value to the customer. The cost advantage of frozen product will provide on-going sales for the Chinese tilapia. We feel Chinese frozen tilapia sales will continue to find healthy growth without the need for using carbon monoxide. America needs low cost fish to meet the demands of a healthy diet and decreasing wild catch. What we find objectionable is competing on an uneven playing field against a product that is chemically enhanced and then unlabeled so the consumer will misperceive the ingredient-enhanced bright pink or red color as a sign of freshness. This is far from the truth.

This deceptive practice has been going on for ten years. The American Tilapia Association visited the Food and Drug Administration in the spring of 1998 to protest this carbon monoxide fraud. During a meeting with the FDA's Office of Seafood, arranged by the National Fisheries Institute, the FDA indicated that it did not consider carbon monoxide in seafood a public health risk, but they understood that economic fraud could take place. They concluded that they did not have the manpower to enforce the law and so the issue was one that producers would have to deal with. I was personally present at that meeting and have witnessed the developments of this issue for the last ten years. It has taken ten years for someone inside our government to finally ask these same questions about carbon monoxide in seafood.

Following the FDA's recommendation of nearly ten years ago, repeated attempts have been made to address this issue from within the industry. In our opinion, it's clear the problem will not be solved voluntarily from within the industry. The market has grown so large and so profitable that producers using carbon monoxide are unwilling to voluntarily forego these easy profits. There is no risk since there is no enforcement or clarity on the labeling laws. It's a domino effect; vendors are pressured to sell these CO products to remain competitive. We believe that the best way to protect the American consumer is to either legislate effective labeling or ban carbon monoxide use in tilapia, because enforcement has proved impossible.

We fear the worse case, that the American consumer will place a blanket of distrust over all Tilapia products if this carbon monoxide issue continues its disguised status. The consumer would be justified in seeking revenge against an industry that was unable to control such a massive fraud. The bottom line is that this carbon monoxide "generally regarded as safe" (GRAS) approval is a passport for fraud. The wholesome image we worked so hard to establish for tilapia will be destroyed by this deceptive practice. We hope these investigations will shed light on this practice so we can find a legislative solution before it's too late.

I would be pleased to answer any questions you may have. THANK YOU.

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Thank you Chairman Stupak, Ranking Member Whitfield, and Members of the Subcommittee for the opportunity to testify today regarding consumer deception with Tilapia fish that have been artificially colored using carbon monoxide.

I am testifying on behalf of the American Coalition for Tilapia (ACT), an ad hoc coalition comprised of three of the largest fresh tilapia producers, who represent at least 80% of the fresh tilapia fillets being produced for the North American Market. The

concern that unites this group of competitors is the adverse impact that carbon monoxide adulterated Tilapia had on our businesses, the United States market, and the American consumer.

Several members of the American Coalition for Tilapia were industry pioneers from the early 1990's and played key roles in developing the market for fresh Tilapia. All ACT members have been unified in their drive to consistently deliver a high quality, unadulterated, additive-free, wholesome, fresh and never frozen Tilapia fillet to every American consumer. The longstanding efforts of all ACT producers have been admirable; Tilapia has gone from an unknown product to a widely recognized and healthy source of nutrition for all Americans.

Pioneering American Coalition for Tilapia members took on significant risks in the early 1990's, investing in emerging democracies in Latin America and in an industry that barely existed and was considered highly risky. In spite of these challenges, we have succeeded and are now able to consistently deliver sustainable supplies of fresh Tilapia to the American market. It is a tremendous success story, not only from a business point of view, but also from a social and environmentally sustainable perspective. The Tilapia farming industry has created tens of thousands of low skilled jobs in some of the poorest areas in Latin America. We are also considered a "green industry." For the past two years, American Coalition for Tilapia members has been actively engaged with the World Wildlife Fund to certify our sustainable farming practices. Our operations are transparent, our products do not use preservatives, and we follow the laws of our host countries and the United States of America. Most importantly of all, we have earned the trust of the

American consumer, which has made tilapia the fastest growing seafood choice in America.

We are here today because of our concern in losing the trust and confidence for tilapia with the American consumer. The American Coalition for Tilapia members are facing significant financial challenges and public relations risks that are directly linked to the economic deception caused by the staggering number of imports of carbon monoxide-treated frozen Tilapia fillets from China and other Asian countries. What concerns ACT the most is that the American consumer is being deceived. Every month, millions of pounds of carbon monoxide-treated frozen Tilapia fillets are entering the United States. These chemically enhanced products are being sold to, and consumed by, the average American consumer, without complete knowledge that carbon monoxide is an ingredient.

According to current United States National Marine Fisheries import statistics (*See Table NMFS*); 125,000,000 pounds (57,181,343 kilos) of frozen tilapia fillets have been imported from China into the United States through August of this year (2007). Members of the American Coalition for Tilapia estimate that at least 70% of this volume of product is gassed with carbon monoxide. We therefore estimate that 88,000,000 pounds of frozen carbon monoxide-gassed tilapia fillets have been consumed by Americans so far this year. Working with the assumption that an average meal size is around one-half pound, a total of 176 million meals of carbon monoxide-gassed Tilapia have been consumed through the first eight months of this year. The observation we have made is that a majority of this volume is consumed without the knowledge that carbon monoxide was used as an ingredient.

The decision of the American Coalition for Tilapia to come forward has not been an easy one. Many members have customers who buy these carbon monoxide-treated products as well as our own. However we have received enough support to urge us on in trying to find clarity on this FDA oversight. Many of our colleagues and customers within the seafood industry continue to be surprised, frustrated and morally challenged trying to work within the challenges this generally regarded as safe (GRAS) approval has imposed on them. Many industry colleagues expected the FDA to rescind the GRAS approvals, at least for industrial carbon monoxide.

The Food and Drug Administration of the United States has previously determined that carbon monoxide in seafood is GRAS and therefore does not pose a health risk to the American consumer. While we dispute this finding, the fact remains carbon monoxide is being added to the product and is therefore, by law, considered an ingredient. According to FDA requirement 21 CFR 101, any ingredient must be labeled at point of purchase to make the consumer aware it has been used on the product. At the import level, we believe a lot of the product is in fact being labeled according to or close to FDA requirements. However, at multiple distribution levels within the United States, carbon monoxide ingredient identity is being misrepresented or simply removed altogether. In fairness to FDA we think their GRAS approval for Hawaii International for tasteless smoke on Tuna never anticipated the widespread use of CO on so many species of fish at such massive volumes. For this reason, our logic is if the FDA is unable to manage or enforce the labeling laws they should rescind the GRAS approvals until it can be managed.

To demonstrate the deceptive ambience surrounding this trade in carbon monoxide products, buyers and sellers use a kind of code terminology to identify trade of this product. Names like “Cold Smoked,” “Izumi Dai,” “Sashimi Grade” and “CO” are all used within the trade to identify carbon monoxide treated product. Even when labeling attempts are made using the scientific acronym for the carbon monoxide molecule “CO” does not identify the common name understood by most consumers for carbon monoxide. In this day and age of “Buyer Beware,” one should become very suspicious when deceptive terms or exotic-sounding names are used to identify what is nothing short of chemically treated seafood. We believe the American consumer deserves better.

Throughout the United States, frozen carbon monoxide-gassed Tilapia fillets are routinely being removed from import packaging and placed into fresh seafood counters, to be thawed out and sold as refreshed, or previously frozen, or simply and unethically as fresh Tilapia fillets. Misidentification and total lack of any identification of carbon monoxide as an ingredient is now widespread.

From a competitive standpoint, frozen Tilapia fillets produced in China are much cheaper than fresh Tilapia fillets produced in the Americas, frequently by at least 75%. It has become one of the most profitable seafood items in the grocery counter. The Chinese product is cheaper from a production and distribution standpoint. Fresh fillets from American Coalition for Tilapia cost more to produce and deliver, especially because we charge to deliver quicker since our true fresh fillets are all natural and more perishable. We also have to maintain the red and natural flesh colors without the aide of preservatives like carbon monoxide treatments. True fresh fillet have to be flown into the United States and moved quickly to maintain quality and shelf life. Frozen product, on

the other hand, can be transported and stored more economically and with fewer losses at the store level. Vendors can simply unwrap the frozen fillet packaging and put the fillets into the fresh case, thaw them out over a few hours time and with carbon monoxide in the blood of the fillet, the adulterated products will maintain their heightened red fresh looking blood colors for weeks on end.

The cost advantage alone will provide on-going sales for the Chinese tilapia. We feel Chinese frozen tilapia sales will still find healthy growth without the need for using carbon monoxide. What we find objectionable is competing on an uneven playing field. While many experienced industry insiders will avoid buying these artificial looking fillets, the average American consumer will misperceive the bright pink or red color as a sign of freshness. Nothing could be further from the truth. We feel it is hard enough competing with low cost Chinese production on price, having to do so with deceptive labeling in addition is unacceptable.

This deceptive practice has been going on for ten years. The American Tilapia Association visited the Food and Drug Administration in the spring of 1998 to protest this carbon monoxide fraud. During a meeting with the FDA's Office of Seafood that was arranged by the National Fisheries Institute, the FDA indicated that it did not consider carbon monoxide in seafood a public health risk but they understood that economic fraud could take place. They concluded that they did not have the manpower to enforce the law and so the issue was one that producers would have to deal with. I was personally present at that meeting and have witnessed the developments of this issue for the last ten years. It has taken ten years for someone inside our government to finally ask these same questions about carbon monoxide in seafood.

Following the FDA's recommendation of nearly ten years ago, repeated attempts have been made to address this issue from within the industry. Our concerns have been voiced within the industry and published in trade magazines (*GoogleIntrafish carbon monoxide*), yet the practice continues and expands every year. We have also tried to influence our trade organizations about the potentially severe consumer public relations risks associated with this issue coming before the public eye. The indirect association of a poisonous gas with carefully crafted wholesome image of our members' fresh farmed-raised Tilapia remains at the forefront of our concern. While many companies in the foodservice and grocery sectors have removed or never used carbon monoxide-treated Tilapia, confusion continues to reign in the market. Well intentioned buyers and sellers are under pressure to use this product to compete in their marketplace. Carbon monoxide use has become common knowledge and routine for everyone except the end user i.e., the American consumer.

In our opinion, it's clear the issue will not be solved from within the industry because it has gotten so big and so profitable that it's simply too valuable to volunteer to give up the profits. We firmly believe the only effective solution is through legislation.

Our position is that the consumer should be made aware of the choice they are making in their purchase, the law says so. This especially holds true when it is a choice being unduly influenced by the purposeful manipulation of the appearance of the fish with an artificial ingredient. Our conclusion is that there are consumers that may not want to eat carbon monoxide fish even at the cheaper price and even if our very own FDA is telling them it is "generally regarded as safe." The majority of consumers right now simply have no clue they are buying tilapia saturated with carbon monoxide gas.

Members of the American Coalition for Tilapia believe it is not unreasonable to demand that the ingredient label law be applied and enforced industry-wide. Furthermore, we feel the consumer should be permitted to see natural spoilage rates of fresh Tilapia rather than viewing artificially enhanced and preserved Tilapia products.

Our nightmare is when Mr. and Mrs. America goes home, looks up carbon monoxide in Webster's dictionary, and finds it defined as: a colorless, odorless, highly poisonous gas - and then seeks revenge on all Tilapia producers. We are afraid those that are trying to do the right thing will be punished and the sustainability of our industry compromised. The image and "marketability" of carbon monoxide as a legitimate ingredient is somehow hard to swallow. (*See photo's of gassing process*) We fear the American consumer will place a blanket of distrust over all Tilapia products if this carbon monoxide issue enters the public media mainstream. Frankly, the consumer would be justified in seeking revenge against an industry that was unable to control such a massive fraud. The bottom line is that this carbon monoxide issue is a passport for fraud in our food industry.

We hope you consider this bill as we feel the FDA GRAS approval for Tuna has had an impact far greater than it was intended. I would be pleased to answer any questions from the Committee.

THANK YOU