

# Recent FSIS directive could spell trouble for imported catfish

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19 Jan 2018 | **NEWS**



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Consulting firm FDAImports.com, LLC says a recent directive from USDA's Food Safety and Inspection Service (FSIS) that lists "safe and suitable ingredients used in the production of meat, poultry and egg products," could have a significant negative impact on catfish imports this year.



FSIS recently rejected entry 39,000 pounds of frozen Vietnamese smoked swai fillets because the fish were treated with an ingredient not listed as safe for use in catfish in a 126-page [FSIS Directive 7120.1](#). The Dec. 27 directive updated a list of substances and approved antimicrobial intervention systems used during online and offline processing.

At issue is an ingredient, tasteless smoke, that includes carbon monoxide (CO) and is used to preserve a meat's color, texture and taste.

FSIS seems to have excluded CO from the ingredients list used in Siluriformes (catfish-type products) because it does not have generally recognized as safe (GRAS) recognition from FDA for this use, though the agency gave a favorable GRAS notice for CO in tuna in 2000, Benjamin England, founder and CEO of FDAImports.com, LLC, told *IEG Policy*. But CO is used in a variety of other fish besides tuna, including catfish, and FDA has never rejected imported Siluriformes or other fish that were treated with tasteless smoke for this reason, England said. There's no evidence of any food safety problems with the additive, which FSIS has deemed safe for use on beef, pork and poultry, he noted.

"The concern here is that most people didn't think about the fact that there might be processes that are put to catfish that could result in a food additive in the product that would not be permitted by FSIS – only because there's no express finding by FDA as to the safety of that additive," said England, who was former regulatory counsel to the associate commissioner for regulatory affairs at FDA.

"FSIS is now saying if there's any evidence of a food ingredient that's associated with catfish under our jurisdiction, and you can't point to an affirmative finding of some kind by FDA that the food additive is GRAS for that species, then you can't bring it in," he said. "It could end up having a pretty big ripple effect on the catfish industry depending on the scope of its use in the industry."

But FSIS may be placing too much emphasis on the FDA GRAS notification, which boils down to an industry self-affirmation that FDA didn't have any questions on, rather than a true safety finding by FDA, England said.

"They're giving the same weight to a [GRAS notification] as they give to a Code of Federal Regulations regulation [safety] finding by FDA."

While England said his firm is still researching how widely used CO treatment is in the catfish industry, he has heard from a number of importers that they use the process for catfish as well as other fish species.

"It would surprise me if there's not a fair amount of catfish that's treated with CO," he said. "It might very well be that it's used with some notable frequency, and if that's true, we could very well see FSIS start to take increasing action as they start looking more into it," he said. "You could see a lot of shipments starting to go through this examination and perhaps failing."

Whether FDA will also start to take action against other types of fish under its jurisdiction based on the FSIS move is another question.

The concern is what if FDA decides they want to take the same position with respect to CO treatment for maybe other species that may very well be GRAS, but they don't have a GRAS notification, meaning no information has been submitted to regulators for them to review, England said. Under the law, food ingredients can be self-affirmed as GRAS without FDA weighing on the matter, he pointed out.