

**DEPARTMENT OF COMMERCE**

**International Trade Administration**

A-570-851

**Certain Preserved Mushrooms from the People's Republic of China: Notice of Final Results of the Eighth New Shipper Review**

**AGENCY:** Import Administration, International Trade Administration, Department of Commerce.

**EFFECTIVE DATE:** October 19, 2005.

**SUMMARY:** On July 21, 2005, the U.S. Department of Commerce ("Department") published the preliminary results of the eighth new shipper review of the antidumping order on certain preserved mushrooms from the People's Republic of China ("PRC") (70 FR 42034) (July 21, 2005) ("Preliminary Results"). This review covers one exporter, Blue Field (Sichuan) Food Industrial Co., Ltd. ("Blue Field"). The period of review ("POR") is February 1, 2004, through July 31, 2004. Based on our analysis of the record, we have made minor changes to the margin calculation of the producer/exporter as described below. See "Final Results of Review" section below.

**FOR FURTHER INFORMATION CONTACT:** Stephen F. Berlinguette or Christopher D. Riker, AD/CVD Operations, Office 9, Import Administration, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482-3740 or (202) 482-3441, respectively.

**SUPPLEMENTARY INFORMATION:**

**Background**

We invited parties to comment on the *Preliminary Results*. Neither the Coalition for Fair Preserved Mushroom Trade ("petitioners") nor Blue Field submitted case briefs after the

publication of the *Preliminary Results*. Neither party requested a public hearing. On July 28, 2005, Blue Field submitted comments on the surrogate values the Department used in the *Preliminary Results*.

**Scope of the Order**

The products covered by this order are certain preserved mushrooms whether imported whole, sliced, diced, or as stems and pieces. The preserved mushrooms covered under this order are the species *Agaricus bisporus* and *Agaricus bitorquis*. "Preserved mushrooms" refer to mushrooms that have been prepared or preserved by cleaning, blanching, and sometimes slicing or cutting. These mushrooms are then packed and heated in containers including, but not limited to, cans or glass jars in a suitable liquid medium, including, but not limited to, water, brine, butter or butter sauce. Preserved mushrooms may be imported whole, sliced, diced, or as stems and pieces. Included within the scope of this order are "brined" mushrooms, which are pre-salted and packed in a heavy salt solution to provisionally preserve them for further processing.

Excluded from the scope of this order are the following: (1) all other species of mushrooms, including straw mushrooms; (2) all fresh and chilled mushrooms, including "refrigerated" or "quick blanched mushrooms"; (3) dried mushrooms; (4) frozen mushrooms; and (5) "marinated," "acidified," or "pickled" mushrooms, which are prepared or preserved by means of vinegar or acetic acid, but may contain oil or other additives.<sup>1</sup>

The merchandise subject to this order is currently classifiable under subheadings: 2003.10.0127, 2003.10.0131, 2003.10.0137, 2003.10.0143, 2003.10.0147, 2003.10.0153 and 0711.51.0000 of the Harmonized Tariff Schedule of the

United States ("HTSUS"). Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of this order is dispositive.

**Analysis of Comments Received**

Neither the petitioners nor the respondent submitted case or rebuttal briefs after the publication of the *Preliminary Results*. Blue Field's July 28, 2005, submission did, however, provide comments on the Department's surrogate value calculations for tin plate, labor, and factory overhead, SG&A, and profit ratios. For a detailed discussion of this submission, see the *Issues and Decision Memorandum*, dated October 12, 2005, which is hereby adopted by this notice. A list of the issues discussed in the *Issues and Decision Memorandum* is attached to this notice as an Appendix. The *Issues and Decision Memorandum* is a public document that is on file in the Central Records Unit ("CRU"), room B-099 in the main Department building, and can be accessed online at <http://ia.ita.doc.gov/frn>. The paper copy and electronic version of the *Issues and Decision Memorandum* are identical in content.

**Changes Since the Preliminary Results**

Since the publication of the *Preliminary Results*, the Department's surrogate values for tin plate and labor have changed. Additionally, the Department has made changes to the surrogate factory overhead, selling, general, and administrative ("SG&A") expense, and profit ratios utilized in the *Preliminary Results*. (See *Issues and Decisions Memorandum*.)

**Final Results of New Shipper Reviews**

We determine that the following antidumping margin percentage existed during the period February 1, 2004, through July 31, 2004:

Exporter	Producer	Margin (percent)
Blue Field (Sichuan) Food Industrial Co., Ltd. ....	Blue Field (Sichuan) Food Industrial Co., Ltd.	0.00

**Assessment of Antidumping Duties**

The Department shall determine, and U.S. Customs and Border Protection ("CBP") shall assess, antidumping duties on all appropriate entries. Pursuant to 19 CFR 351.212(b)(1), we

calculated importer or customer specific ad valorem duty assessment rates based on the ratio of the total amount of the dumping margins calculated for the examined sales to the total entered value of those same sales. In accordance with 19 CFR 351.106(c)(2), we will

instruct CBP to liquidate without regard to antidumping duties all entries of subject merchandise during the POR for which the importer or customer specific assessment rate is zero or de minimis (*i.e.*, less than 0.50 percent). The Department will issue appropriate

<sup>1</sup> On June 19, 2000, the Department affirmed that "marinated," "acidified," or "pickled" mushrooms containing less than 0.5 percent acetic acid are within the scope of the antidumping duty order. See "Recommendation Memorandum-Final Ruling

of Request by Tak Fat, *et al.* for Exclusion of Certain Marinated, Acidified Mushrooms from the Scope of the Antidumping Duty Order on Certain Preserved Mushrooms from the People's Republic of China," dated June 19, 2000. The Department's scope

determination was affirmed by the Court of Appeals for the Federal Circuit in *Tak Fat Trading Company, et. al. v. United States, et. al.*, 396 F.3d 1378 (Fed. Cir., 2005).

assessment instructions directly to CBP within 15 days of publication of the final results of these reviews.

#### Cash Deposit Requirements

Bonding will no longer be permitted to fulfill security requirements for shipments from Blue Field of certain preserved mushrooms from the PRC entered, or withdrawn from warehouse, for consumption in the United States on or after the publication of this notice in the **Federal Register**. The cash deposit rate shall be required for merchandise subject to the order, entered or withdrawn from warehouse for consumption on or after the publication date of these final results for this new shipper review, as provided for by section 751(a)(1) of the Tariff Act of 1930, as amended: (1) The cash deposit rates for Blue Field (*i.e.*, for subject merchandise both manufactured and exported by Blue Field) will be zero; (2) the cash deposit rate for PRC exporters who received a separate rate in a prior segment of the proceeding will continue to be the rate assigned in that segment of the proceeding; (3) the cash deposit rate for the PRC entity and for subject merchandise exported by Blue Field, but not manufactured by Blue Field, will continue to be the PRC-wide rate (*i.e.*, 198.63 percent); and (4) the cash deposit rate for non-PRC exporters of subject merchandise from the PRC will be the rate applicable to the PRC exporter that supplied that non-PRC exporter. These deposit requirements shall remain in effect until publication of the final results of the next administrative review. There are no changes to the rates applicable to any other companies under this antidumping duty order.

#### Notification to Interested Parties

The Department will disclose calculations performed in connection with these final results of review within five days of the date of publication of this notice in accordance with 19 CFR 351.224(b). This notice serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and subsequent assessment of double antidumping duties.

This notice also serves as a reminder to parties subject to administrative protective order ("APO") of their responsibility concerning the

disposition of proprietary information disclosed under APO in accordance with section 351.305(a)(3) of the Department's regulations. Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a punishable violation.

The final results of this new shipper review and notice are published in accordance with sections 751(a)(2)(B) and 777(i)(1) of the Act.

Dated: October 12, 2005.

**Joseph A. Spetrini,**

*Acting Assistant Secretary for Import Administration.*

#### Appendix I

Issues in the Decision Memorandum

*Comment 1:* Appropriate surrogate value for tin plate

*Comment 2:* The Department should not adjust the surrogate labor rate for inflation

*Comment 3:* The Department should revise mistakes made in its surrogate factory overhead, SG&A, and profit ratio calculations

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#### DEPARTMENT OF COMMERCE

##### National Oceanic and Atmospheric Administration

[Docket No. 051012261-5261-01; I.D. 092605A]

RIN 0648-AT68

##### 2006 Atlantic Sea Scallop Research Set-Aside Program

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Notice.

**SUMMARY:** NMFS requests research proposals for fishing year 2006 (March 1, 2006 - February 28, 2007) to utilize portions of the total allowable catch (TAC) and Days-at-Sea (DAS) allowance in the Atlantic sea scallop fishery that have been set aside by the New England Fishery Management Council (Council) for sea scallop research endeavors under a research set-aside (RSA) program. The program provides a mechanism to fund research and compensate vessel owners through the sale of fish harvested under the research quota. Vessels participating in an approved research project may be authorized by the Administrator, Northeast Region, NMFS (Regional

Administrator), to harvest and land species in excess of any imposed trip limit or to harvest and land during fishery closures. Landings from such trips would be sold to generate funds that would help defray the costs associated with research projects. No Federal funds will be provided for research under this notification.

**DATES:** Applications must be received by NMFS no later than 5 p.m. EDT, November 18, 2005.

**ADDRESSES:** Electronic application submissions must be transmitted on-line through <http://www.grants.gov>. Applications submitted through <http://www.grants.gov> will be accompanied by a date and time receipt indication on them. Since delays may be experienced when registering with Grants On-line near the end of a solicitation period, NOAA strongly recommends that you do not wait until the application deadline to begin the on-line application process. If an applicant does not have Internet access, hard copy proposals will be accepted, and the date will be recorded when the proposals are received in the program office. Paper applications must be sent to NMFS, Northeast Regional Office, One Blackburn Drive, Gloucester, MA 01930. Electronic or hard copies received after the deadline will not be considered, and hard copy applications will be returned to the sender.

**FOR FURTHER INFORMATION CONTACT:** Information on the Atlantic Sea Scallop Fishery Management Plan (FMP), as it relates to this funding opportunity, contact Andrew Applegate, New England Fishery Management Council, by phone (978) 465-0492, or Paul Perra, NMFS, by phone (978) 281-9153, fax (978) 281-9135, or email [Paul.Perra@noaa.gov](mailto:Paul.Perra@noaa.gov).

#### SUPPLEMENTARY INFORMATION:

##### Electronic Access

Application information is available at <http://www.grants.gov>. Electronic copies of the Standard Forms for submission of research proposals may be found on the Internet in a PDF (Portable Document Format) version at <http://www.ago.noaa.gov/grants/appkit.shtml>. Applicants without Internet access can contact Rich Maney, NMFS, Northeast Regional Office, One Blackburn Drive, Gloucester, MA 01930, by phone 978-281-9265, by fax 978-281-9117, or by email at [Rich.Maney@noaa.gov](mailto:Rich.Maney@noaa.gov).

For a copy of the full funding opportunity announcement for this request for proposals and to apply for this NOAA Federal funding