

*Comment 74: Production Quantities*

#### Farmer 26

*Comment 75: Exclusion of the 2000*

*Seed from the 2001 Production Quantity*

*Comment 76: Improper Allocation of the Cost of Chemicals*

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## DEPARTMENT OF COMMERCE

### International Trade Administration

A-570-848

#### **Freshwater Crawfish Tail Meat from the People's Republic of China: Preliminary Notice of Intent to Rescind New Shipper Administrative Review**

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

**SUMMARY:** The Department of Commerce (the Department) is conducting a new shipper review of the antidumping duty order on freshwater crawfish tail meat from the People's Republic of China (PRC) in response to a request from Zhoushan Huading Seafood Co., Ltd. ("Zhoushan Huading"). The period of review (POR) is September 1, 2001, through August 31, 2002. We have preliminarily determined that the new shipper review of Zhoushan Huading should be rescinded because the sale was not *bona fide*. Much of the information upon which we relied to analyze the *bona fides* is business proprietary, therefore our full analysis is set forth in the *Memorandum to Barbara E. Tillman, Acting Deputy Assistant Secretary for Import Administration, Group III: Freshwater Crawfish Tail Meat from the People's Republic of China: Analysis of Zhoushan Huading's New Shipper Transaction*, dated August 28, 2003 (*Zhoushan Huading Memo*), which is on file in the Central Records Unit, room B-099 of the main Commerce Building. Interested parties are invited to comment on this preliminary rescission determination.

**EFFECTIVE DATE:** September 5, 2003.

**FOR FURTHER INFORMATION CONTACT:**

Douglas Kirby or Thomas Gilgunn, Office of AD/CVD Enforcement VII, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-3782 or (202) 482-4236, respectively.

**SUPPLEMENTARY INFORMATION:**

#### **Background**

On September 30, 2002, the Department received a properly filed

request for a new shipper review, in accordance with section 751(a)(2)(B) of the Act and section 351.214(b),(c) of the Department's regulations, from Zhoushan Huading under the antidumping duty order on freshwater crawfish tail meat from the People's Republic of China. On October 18, 2002, the Department sought clarification in regard to the identification of Zhoushan Huading's reported buyer for the shipment of crawfish tail meat under review, since the reported buyer identified on Zhoushan Huading's commercial invoice and bill of lading was different from the importer of record identified on the Customs entry summary submitted with the request. On October 23, 2002, Zhoushan Huading explained that its shipment of crawfish tail meat was sold initially to the reported buyer, and the reported buyer then took title of the shipment of crawfish tail meat from Zhoushan Huading and transferred ownership of the shipment of crawfish tail meat and the associated bill of lading to the importer of record.

The Department determined that the request met the requirements stipulated in section 351.214 of the regulations. On November 7, 2002, the Department published its initiation of this new shipper review for the period September 1, 2001, through August 31, 2002. *See Freshwater Crawfish Tail Meat From the People's Republic of China: Initiation of New Shipper Antidumping Administrative Reviews*, 67 FR 67822 (November 7, 2002).

On January 6, 2003, the Department received Zhoushan Huading's section A, C and D questionnaire responses. On March 6, 2003, the Department issued its first supplemental questionnaire to Zhoushan Huading. On March 31, 2003, Zhoushan Huading submitted its response to the first supplemental questionnaire. On April 2, 2003, the Department issued an importer questionnaire to the reported buyer. On May 19, 2003, the Department received a response to the importer questionnaire from the importer of record. On May 6, 2003, the Department issued its second supplemental questionnaire to Zhoushan Huading. On May 20, 2003, Zhoushan Huading submitted its response to the second supplemental questionnaire. On May 28, 2003, the Department issued supplemental questionnaires to both the reported buyer and the importer of record. On June 9, 2003, the reported buyer and the importer of record requested a one week extension to respond to the supplemental questionnaires. The Department extended the deadline to June 16, 2003. Neither the reported

buyer or the importer of record has yet submitted a response to the importer supplemental questionnaire. On July 23, 2003, the Department issued a third supplemental questionnaire to Zhoushan Huading. On August 6, 2003, Zhoushan Huading submitted its response to the third supplemental questionnaire.

On April 14, 2003, the Department extended the due date for the preliminary results of this new shipper review by 120 days until August 28, 2003. *See Freshwater Crawfish Tail Meat from the People's Republic of China: Notice of Extension of Time Limit of Preliminary Results of New Shipper Review*, 68 FR 18946 (April 14, 2003).

#### **Scope of the Antidumping Duty Order**

The product covered by this order is freshwater crawfish tail meat, in all its forms (whether washed or with fat on, whether purged or unpurged), grades, and sizes; whether frozen, fresh, or chilled; and regardless of how it is packed, preserved, or prepared. Excluded from the scope of the order are live crawfish and other whole crawfish, whether boiled, frozen, fresh, or chilled. Also excluded are saltwater crawfish of any type, and parts thereof. Freshwater crawfish tail meat is currently classifiable in the Harmonized Tariff Schedule of the United States (HTS) under item numbers 1605.40.10.10 and 1605.40.10.90, which are the new HTS numbers for prepared foodstuffs, indicating peeled crawfish tail meat and other, as introduced by the U.S. Customs Service in 2000, and HTS items 0306.19.00.10 and 0306.29.00, which are reserved for fish and crustaceans in general. The HTS subheadings are provided for convenience and Customs purposes only. The written description of the scope of this order is dispositive.

#### **Preliminary Intent to Rescind**

Concurrent with this notice, we are issuing our memorandum detailing our analysis of the *bona fides* of Zhoushan Huading's U.S. sale and our preliminary decision to rescind based on the totality of the circumstances of the sale. Although much of the information relied upon by the Department to analyze the issues is business proprietary, the Department based its determination that the new shipper sale made by Zhoushan Huading was not *bona fide* on the following: 1) the price and quantity for Zhoushan Huading's sale of crawfish tail meat were atypical vis-a-vis other exports from the PRC of the subject merchandise into the United States during the period of review, 2)

there are conflicting accounts as to who purchased the crawfish tail meat and who paid Zhoushan Huading for the shipment, 3) there remains uncertainty in regard to the commercial reasonableness of the sale, 4) there are inconsistencies in the terms of sale, and 5) the Department has been unable to establish that the importing parties are actual commercial entities.

#### Schedule for Final Results of Review

Any interested party may request a hearing within 30 days of publication of this notice in accordance with section 351.310(c) of the Department's regulations. Any hearing would normally be held 37 days after the publication of this notice, or the first workday thereafter, at the U.S. Department of Commerce, 14th Street and Constitution Avenue N.W., Washington, DC 20230. Individuals who wish to request a hearing must submit a written request within 30 days of the publication of this notice in the **Federal Register** to the Assistant Secretary for Import Administration, U.S. Department of Commerce, Room 1870, 14th Street and Constitution Avenue, NW., Washington, DC 20230. Requests for a public hearing should contain: (1) the party's name, address, and telephone number; (2) the number of participants; and, (3) to the extent practicable, an identification of the arguments to be raised at the hearing.

Unless otherwise notified by the Department, interested parties may submit case briefs within 30 days of the date of publication of this notice in accordance with 351.309(c)(ii) of the Department's regulations. As part of the case brief, parties are encouraged to provide a summary of the arguments not to exceed five pages and a table of statutes, regulations, and cases cited. Rebuttal briefs, which must be limited to issues raised in the case briefs, must be filed within five days after the case brief is filed. If a hearing is held, an interested party must limit its presentation only to arguments raised in its briefs. Parties should confirm by telephone the time, date, and place of the hearing 48 hours before the scheduled time.

The Department will issue the final results of this new shipper review, which will include the results of its analysis of issues raised in the briefs, within 90 days from the date of the preliminary results, unless the time limit is extended.

#### Notification

At the completion of this new shipper review, either with a final rescission or a notice of final results, the Department

will notify the U.S. Bureau of Customs and Border Protection ("BCBP") that bonding is no longer permitted to fulfill security requirements for shipments by the exporter/producer combination Zhoushan Huading of freshwater crawfish tail meat from the PRC entered, or withdrawn from warehouse, for consumption in the United States on or after the publication of the final rescission or results notice in the **Federal Register**. After the publication of the final rescission notice, a cash deposit of 223.01 percent *ad valorem* shall be collected for any entries exported/produced by Zhoushan Huading. Should the Department reach a final result other than a rescission, an appropriate antidumping duty rate will be calculated for both assessment and cash deposit purposes.

This notice also serves as the only reminder to parties subject to administrative protective orders (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of the return/destruction of APO material or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanctions.

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

Dated: August 28, 2003.

**James J. Jochum,**

*Assistant Secretary for Import Administration.*

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#### DEPARTMENT OF COMMERCE

##### International Trade Administration

[A-570-848]

#### Freshwater Crawfish Tail Meat From the People's Republic of China: Rescission of Antidumping Duty New Shipper Reviews

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

**SUMMARY:** On November 7, 2002 the Department published the initiation of new shipper reviews of the antidumping duty order on freshwater crawfish tail meat from the People's Republic of China covering the period September 1, 2001, through August 31, 2002. *See Freshwater Crawfish Tail Meat From the*

*People's Republic of China: Initiation of Antidumping New Shipper Reviews* (67 FR 67822) ("*New Shipper Initiation*"). These new shipper reviews covered four exporters: Zhoushan Huading Seafood Co., Ltd. (Zhoushan Huading); Hubei Qianjiang Houhu Frozen & Processing Factory (Hubei Houhu); Qingdao Jin Yong Xiang Aquatic Foods Co., Ltd. (Qingdao JYX); and Siyang Foreign Trading Corporation (Siyang). For the reasons discussed below, we are rescinding the new shipper reviews of Hubei Houhu and Qingdao JYX.

**EFFECTIVE DATE:** September 5, 2003.

#### FOR FURTHER INFORMATION CONTACT:

Scott Lindsay or Thomas Gilgunn at (202) 482-0780 and (202) 482-4236, respectively; AD/CVD Enforcement, Office 7, Group III, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

#### SUPPLEMENTARY INFORMATION:

##### Background

On November 7, 2002, the Department published the initiation of antidumping new shipper reviews of Qingdao JYX, Hubei Houhu, Zhoushan Huading, and Siyang, covering the period September 1, 2001, through August 31, 2002. *See New Shipper Initiation*. On April 14, 2003, the Department extended the time limit for the preliminary results of these new shipper reviews. *See Notice of Extension of Time Limit of Preliminary Results of New Shipper Reviews: Freshwater Crawfish Tail Meat From the People's Republic of China*, 68 FR 18946 (April 14, 2003).

On January 6, 2003, the Department received Hubei Houhu's questionnaire responses regarding its corporate structure, sales information, and factors of production. A supplemental questionnaire was issued by the Department requesting additional sales information; Hubei Houhu responded on March 31, 2003. The Department also issued a questionnaire to Hubei Houhu's importer. Hubei Houhu's importer submitted their response on March 14, 2003.

On January 7, 2003, the Department received Qingdao JYX's questionnaire responses regarding its corporate structure, sales information, and factors of production. Three supplemental questionnaires and one importer questionnaire were issued by the Department requesting additional sales information; Qingdao JYX responded to these on March 31, 2003, June 12, 2003, July 2, 2003, and July 28, 2003.

On June 23, 2003 the Department rescinded the review on Siyang. *See*