

DEPARTMENT OF COMMERCE

International Trade Administration

A-570-904

Certain Activated Carbon From the People's Republic of China: Notice of Initiation of Changed Circumstances Review

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

SUMMARY: The Department of Commerce ("Department") has received information sufficient to warrant initiation of a changed circumstances review of the antidumping duty order on certain activated carbon from the People's Republic of China ("PRC"). Based upon a request filed by Hebei Foreign Trade and Advertising Corporation ("Hebei Foreign"), the Department is initiating a changed circumstances review to determine whether Hebei Shenglun Advertising and Exhibit Corporation ("Hebei Shenglun") is the successor-in-interest to Hebei Foreign, a separate-rate respondent in the original investigation and first administrative review.

EFFECTIVE DATE: April 30, 2009.

FOR FURTHER INFORMATION CONTACT: Katie Marksberry, AD/CVD Operations, Office 9, Import Administration, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230; telephone: 202-482-7906.

SUPPLEMENTARY INFORMATION:**Background**

On April 27, 2007, the Department published in the *Federal Register* an antidumping duty order on certain activated carbon from the PRC. See *Notice of Antidumping Duty Order: Certain Activated Carbon from the People's Republic of China*, 72 FR 20988 (April 27, 2007) ("*PRC Carbon Order*"). As part of the antidumping duty order on certain activated carbon from the PRC, Hebei Foreign received a separate rate of 67.14 percent. *Id.* at 20989. On February 24, 2009, Hebei Foreign filed a submission requesting that the Department conduct a changed circumstances review of the antidumping duty order on certain activated carbon from the PRC to confirm that Hebei Shenglun is the successor-in-interest to Hebei Foreign.¹

¹ See Letter from Garvey Schubert Barer, to the Department, regarding *Certain Activated Carbon from the People's Republic of China; Request for Changed Circumstances Review* (Case No. A-570-904) (February 24, 2009) ("Hebei Foreign's CCR Request").

In its submission, Hebei Foreign provided information on the events leading to the creation of Hebei Shenglun and the transfer of assets from Hebei Foreign to Hebei Shenglun. Hebei Foreign also provided documentation relating to the agreement between Hebei Foreign and Hebei Shenglun to transfer assets. In addition, Hebei Foreign provided narrative explanation and some limited documentation relating to the ownership structure and management, organizational structure, customer base, supplier relationships and locations of both Hebei Foreign and Hebei Shenglun. As part of its February 24, 2009, submission, Hebei Foreign requested that the Department conduct an expedited review.²

Scope of the Order

The merchandise subject to this order is certain activated carbon. Certain activated carbon is a powdered, granular, or pelletized carbon product obtained by "activating" with heat and steam various materials containing carbon, including but not limited to coal (including bituminous, lignite, and anthracite), wood, coconut shells, olive stones, and peat. The thermal and steam treatments remove organic materials and create an internal pore structure in the carbon material. The producer can also use carbon dioxide gas (CO₂) in place of steam in this process. The vast majority of the internal porosity developed during the high temperature steam (or CO₂ gas) activated process is a direct result of oxidation of a portion of the solid carbon atoms in the raw material, converting them into a gaseous form of carbon.

The scope of this order covers all forms of activated carbon that are activated by steam or CO₂, regardless of the raw material, grade, mixture, additives, further washing or post-activation chemical treatment (chemical or water washing, chemical impregnation or other treatment), or product form. Unless specifically excluded, the scope of this order covers all physical forms of certain activated carbon, including powdered activated carbon ("PAC"), granular activated carbon ("GAC"), and pelletized activated carbon.

Excluded from the scope of the order are chemically activated carbons. The carbon-based raw material used in the chemical activation process is treated with a strong chemical agent, including but not limited to phosphoric acid, zinc

² Hebei Foreign filed a request for changed circumstances on November 7, 2008. The Department rejected that request because it did not contain sufficient evidence to initiate a changed circumstances review.

chloride sulfuric acid or potassium hydroxide, that dehydrates molecules in the raw material, and results in the formation of water that is removed from the raw material by moderate heat treatment. The activated carbon created by chemical activation has internal porosity developed primarily due to the action of the chemical dehydration agent. Chemically activated carbons are typically used to activate raw materials with a lignocellulosic component such as cellulose, including wood, sawdust, paper mill waste and peat.

To the extent that an imported activated carbon product is a blend of steam and chemically activated carbons, products containing 50 percent or more steam (or CO₂ gas) activated carbons are within this scope, and those containing more than 50 percent chemically activated carbons are outside this scope. This exclusion language regarding blended material applies *only* to mixtures of steam and chemically activated carbons.

Also excluded from the scope are reactivated carbons. Reactivated carbons are previously used activated carbons that have had adsorbed materials removed from their pore structure after use through the application of heat, steam and/or chemicals.

Also excluded from the scope is activated carbon cloth. Activated carbon cloth is a woven textile fabric made of or containing activated carbon fibers. It is used in masks and filters and clothing of various types where a woven format is required.

Any activated carbon meeting the physical description of subject merchandise provided above that is not expressly excluded from the scope is included within this scope. The products subject to the order are currently classifiable under the Harmonized Tariff Schedule of the United States ("HTSUS") subheading 3802.10.00. Although the HTSUS subheading is provided for convenience and customs purposes, the written description of the scope of this order is dispositive.

Initiation of Changed Circumstances Review

Pursuant to section 751(b)(1) of the Tariff Act of 1930, as amended ("Act"), the Department will conduct a changed circumstances review upon receipt of information concerning, or a request from an interested party for a review of, an antidumping duty order, which shows changed circumstances sufficient to warrant a review of the order. Additionally, section 751(b)(4) of the Act and 19 CFR 351.216(c) state that the Department shall not conduct a review

less than 24 months after the date of publication of the determination, in the absence of good cause. As noted above, Hebei Foreign filed its request for a changed circumstances review on February 24, 2009, over 36 months after the publication of the amended final determination and order. *See PRC Carbon Order*.

In accordance with 19 CFR 351.216(d), the Department has determined that the information submitted by Hebei Foreign constitutes sufficient evidence to conduct a change circumstances review. In a changed circumstances review involving a successor-in-interest determination, the Department typically examines several factors including, but not limited to, changes in: (1) management; (2) production facilities; (3) supplier relationships; and (4) customer base. *See Certain Cut-to-Length Carbon Steel Plate from Romania: Initiation and Preliminary Results of Changed Circumstances Antidumping Duty Administrative Review*, 70 FR 22847 (May 3, 2005). While no single factor or combination of factors will necessarily be dispositive, the Department generally will consider the new company to be the successor to the predecessor if the resulting operations are essentially the same as those of the predecessor company. *See, e.g., Notice of Initiation of Antidumping Duty Changed Circumstances Review: Certain Forged Stainless Steel Flanges from India*, 71 FR 327 (January 4, 2006). Thus, if the record demonstrates that, with respect to the production and sale of the subject merchandise, the new company operates as the same business entity as the predecessor company, the Department may assign the new company the cash deposit rate of its predecessor. *See, e.g., Fresh and Chilled Atlantic Salmon From Norway: Final Results of Changed Circumstances Antidumping Duty Administrative Review*, 64 FR 9979, 9980 (March 1, 1999).

Based on the information provided in its submission, Hebei Foreign has provided sufficient evidence to warrant a review to determine if Hebei Shenglun is the successor-in-interest to Hebei Foreign. Therefore, pursuant to section 751(b)(1) of the Act and 19 CFR 351.216(d), we are initiating a changed circumstances review. Although Hebei Foreign submitted documentation related to the transfer of assets to Hebei Shenglun and some limited information and documentation regarding the four factors that the Department considers in its successor-in-interest analysis, it did not provide complete supporting documentation or conclusive evidence

for the four elements listed above. Accordingly, the Department has determined that it would be inappropriate to expedite this action by combining the preliminary results of review with this notice of initiation. See 19 CFR 351.221(c)(3)(ii). Thus, the Department is not issuing the preliminary results of its antidumping duty changed circumstances review at this time. *See, e.g., Notice of Initiation of Antidumping Duty Changed Circumstances Review: Certain Pasta From Turkey*, 74 FR 681 (January 7, 2009).

The Department will issue questionnaires requesting additional information for the review and will publish in the **Federal Register** a notice of the preliminary results of the antidumping duty changed circumstances review, in accordance with 19 CFR 351.221(b)(2) and (4), and 19 CFR 351.221(c)(3)(i). That notice will set forth the factual and legal conclusions upon which our preliminary results are based and a description of any action proposed. Pursuant to 19 CFR 351.221(b)(4)(ii), interested parties will have an opportunity to comment on the preliminary results of review. In accordance with 19 CFR 351.216(e), the Department will issue the final results of its antidumping duty changed circumstances review not later than 270 days after the date on which the review is initiated.

During the course of this antidumping duty changed circumstances review, we will not change the cash deposit requirements for the merchandise subject to review. The cash deposit will only be altered, if warranted, pursuant to the final results of this review.

This notice is published in accordance with sections 751(b)(1) and 777(i) of the Act and 19 CFR 351.216.

Dated: April 21, 2009.

John M. Andersen,
*Acting Deputy Assistant Secretary for
Antidumping and Countervailing Duty
Operations.*

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DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

(Docket 17-2009)

Foreign-Trade Zone 75—Phoenix, Arizona, Application for Expansion

An application has been submitted to the Foreign-Trade Zones Board (the Board) by the City of Phoenix, Arizona, grantee of FTZ 75, requesting authority

to expand the zone project within the Phoenix Customs and Border Protection port of entry. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a-81u), and the regulations of the Board (15 CFR part 400). It was formally filed on April 23, 2009.

FTZ 75 was approved on March 25, 1982 (Board Order 185, 47 FR 14931, 4/7/82) and expanded on July 2, 1993 (Board Order 647, 58 FR 37907, 7/14/93) and on February 27, 2008 (Board Order 1545, 73 FR 13531, 3/13/08). The zone project consists of four sites (448 acres total) in Phoenix: *Site 1* (338 acres) -- within the 550-acre Phoenix Sky Harbor Center and Sky Harbor International Airport's air cargo terminal located at Papago Freeway (Interstate 10) and Buckeye Road; *Site 2* (18 acres) -- within the central southwestern portion of the CC&F South Valley Industrial Center located near the intersection of 7th Street and Victory Street; *Site 3* (74 acres) -- Riverside Industrial Center located at 4747 West Buckeye Road; and, *Site 4* (18 acres) -- Santa Fe Business Park located between 47th Avenue and 45th Avenue.

The applicant is now requesting authority to expand the general-purpose zone to include the jet fuel storage and distribution system at and adjacent to the Phoenix Sky Harbor International Airport in Phoenix, Arizona (Proposed Site 5). The system (32.5 acres total) includes the off-airport terminal (7 tanks, 7.5 acres), airport terminal (5 tanks, 3.5 acres), subsurface pipeline (14.5 acres) and airport hydrant fueling system (7 acres). These facilities consist primarily of storage tanks, pipelines, pumps, valves, filters, meters and related equipment. The system is operated by Airport Fueling Facilities Corporation which is a consortium of airlines that service the airport. No specific manufacturing authority is being requested at this time. Such requests would be made to the Board on a case-by-case basis.

In accordance with the Board's regulations, Camille Evans of the FTZ staff is designated examiner to investigate the application and report to the Board.

Public comment is invited from interested parties. Submissions (original and 3 copies) shall be addressed to the Board's Executive Secretary at the address below. The closing period for their receipt is [June 29, 2009]. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period to [July 14, 2009].