

Comment: Commerce Should Ensure that All Subject Merchandise Is Subject to the Appropriate Duties

V. Recommendation

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## DEPARTMENT OF COMMERCE

### International Trade Administration

#### Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review and Join Annual Inquiry Service List

##### Correction

In notice document 2022-28519, appearing on pages 45-49, in the issue of Tuesday, January 3, 2023, make the following correction:

In the table appearing on pages 46 and 47, in the second column, on each row, "1/22-12/31/22" should read "1/1/22-12/31/22".

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## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-570-954, C-570-955]

#### Certain Magnesia Carbon Bricks From the People's Republic of China: Preliminary Results of Covered Merchandise Inquiry

**AGENCY:** Enforcement and Compliance, International Trade Administration, Department of Commerce.

**SUMMARY:** The U.S. Department of Commerce (Commerce) preliminarily determines that certain refractory brick samples tested by U.S. Customs and Border Protection (CBP) do not reflect the chemical composition of magnesia alumina carbon (MAC) bricks and are covered by the antidumping duty (AD) and countervailing duty (CVD) orders on certain magnesia carbon bricks (bricks) from the People's Republic of China (China). Additionally, Commerce preliminarily finds that it is unable to determine whether certain other samples tested by CBP have the chemical composition of a bricks subject to the AD and CVD orders on bricks from China. Interested parties are invited to comment on these preliminary results.

**DATES:** Applicable February 16, 2023.

**FOR FURTHER INFORMATION CONTACT:** Brittany Bauer, AD/CVD Operations Office V, Enforcement and Compliance, International Trade Administration,

U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482-3860.

##### SUPPLEMENTARY INFORMATION:

##### Background

On July 20, 2022, Commerce published in the **Federal Register** a notice of a covered merchandise referral and the initiation of a covered merchandise inquiry to determine whether certain refractory bricks are subject to the AD and CVD orders on bricks from China.<sup>1</sup> For a complete description of the events that followed the initiation of this inquiry, see the Preliminary Decision Memorandum.<sup>2</sup> A list of topics included in the Preliminary Decision Memorandum is included as the appendix to this notice. The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at <https://access.trade.gov>. In addition, the Preliminary Decision Memorandum can be accessed directly at <https://access.trade.gov/public/FRNoticesListLayout.aspx>.

##### Scope of the Orders

The merchandise covered by the *Orders* is magnesia carbon bricks. For a complete description of the scope of the *Orders*, see the Preliminary Decision Memorandum.

##### Merchandise Subject to the Covered Merchandise Inquiry

The products subject to this inquiry are refractory bricks which were imported by Fedmet Resources Corporation (Fedmet). CBP's laboratories tested 11 samples from these bricks and provided the results of chemical composition tests for the merchandise in its referral to Commerce.

<sup>1</sup> See *Certain Magnesia Carbon Bricks from the People's Republic of China: Notice of Covered Merchandise Referral and Initiation of Covered Merchandise Inquiry*, 87 FR 43238 (July 20, 2022) (*Initiation Notice*); see also *Certain Magnesia Carbon Bricks from Mexico and the People's Republic of China: Antidumping Duty Orders*, 75 FR 57257 (September 20, 2010); and *Certain Magnesia Carbon Bricks from the People's Republic of China: Countervailing Duty Order*, 75 FR 57442 (September 21, 2010) (collectively, *Orders*).

<sup>2</sup> See Memorandum, "Certain Magnesia Carbon Bricks from the People's Republic of China: Decision Memorandum for the Preliminary Results of Covered Merchandise Inquiry—EAPA Inv. 7412," dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

##### Methodology

Commerce is conducting this covered merchandise inquiry in accordance with section 517 of the Tariff Act of 1930, as amended (the Act) and 19 CFR 351.227. For a full description of the methodology underlying Commerce's preliminary results, see the Preliminary Decision Memorandum.

##### Preliminary Findings

We preliminarily determine, pursuant to 19 CFR 351.227(f), that certain bricks tested by CBP laboratories do not constitute (non-subject) MAC bricks and are subject to the scope of the *Orders*. Although we can make such a determination for two of the eleven brick samples, the information on the remaining nine samples is indeterminate regarding the proper scope classification for the underlying product tested by CBP. In reaching this preliminary determination, we relied on information placed on the record by the Magnesia Carbon Bricks Fair Trade Committee and Fedmet, as well as the documents included with the referral from CBP. For a full description of the methodology underlying our conclusions, see the Preliminary Decision Memorandum.

##### Suspension of Liquidation

As stated above, Commerce has made a preliminary affirmative finding that certain bricks tested by CBP, which were the subject of this referral from CBP, are subject to the scope of the *Orders*. This affirmative in-scope finding applies on a country-wide basis, regardless of the producer, exporter, or importer, to all products from the same country with the same relevant physical characteristics as the products at issue. Therefore, in accordance with 19 CFR 351.227(l)(2), Commerce will direct CBP to: (1) continue the suspension of liquidation of previously suspended entries and apply the applicable cash deposit rate; (2) begin the suspension of liquidation and require a cash deposit of estimated duties, at the applicable rate, for each unliquidated entry of the product not yet suspended, entered, or withdrawn from warehouse, for consumption on or after July 20, 2022, the date of publication of the notice of initiation of this covered merchandise inquiry in the **Federal Register**; and (3) begin the suspension of liquidation and require a cash deposit of estimated duties, at the applicable rate, for each unliquidated entry of the product not yet suspended, entered, or withdrawn from warehouse, for consumption prior to July 20, 2022.<sup>3</sup>

<sup>3</sup> See *Initiation Notice*.

**Public Comment**

Case briefs or other written comments may be submitted to the Assistant Secretary for Enforcement and Compliance. Pursuant to 19 CFR 351.227(d)(3), interested parties may submit case briefs no later than seven days after the date of publication of this notice. Rebuttal briefs, limited to issues raised in the case briefs, may be filed not later than seven days after the date of filing for case briefs.<sup>4</sup> Parties who submit case briefs or rebuttal briefs in this proceeding are requested to submit with each argument: (1) a statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities.<sup>5</sup> Executive summaries should be limited to five pages total, including footnotes.<sup>6</sup> All submissions, with limited exceptions, must be filed electronically using ACCESS.<sup>7</sup> Comments must be received successfully in their entirety by ACCESS by 5:00 p.m. Eastern Time on the due date. Note that Commerce has temporarily modified certain of its requirements for serving documents containing business proprietary information, until further notice.<sup>8</sup> Each submission must be placed on the record of the segment of the proceeding for the AD order (A-570-954), ACCESS Covered Merchandise Inquiry segment "EAPA-7412."

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing, limited to issues raised in the case and rebuttal briefs, must submit a written request to the Assistant Secretary for Enforcement and Compliance, U.S. Department of Commerce, filed electronically and received successfully in its entirety via ACCESS by 5:00 p.m. Eastern Time within 10 days after the date of publication of this notice.<sup>9</sup> Hearing requests should contain: (1) the party's name, address, and telephone number; (2) the number of participants; (3)

whether any participant is a foreign national; and (4) a list of the issues to be discussed. If a request for a hearing is made, Commerce intends to hold the hearing at a time and date to be determined. Parties should confirm by telephone the date, time, and location of the hearing two days before the scheduled date.

**Notification to Interested Parties**

This notice is issued and published pursuant to section 517 of the Act and 19 CFR 351.227(e)(1).

Dated: February 10, 2023.

**Lisa W. Wang,**

*Assistant Secretary for Enforcement and Compliance.*

**Appendix—List of Topics Discussed in the Preliminary Decision Memorandum**

- I. Summary
- II. Background
- III. Scope of the Orders
- IV. Description of Merchandise Subject to this Inquiry
- V. Legal Framework
- VI. Interested Party Comments
- VII. Analysis
- VIII. Recommendation

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**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

[RTID 0648-XC781]

**Atlantic Coastal Fisheries Cooperative Management Act Provisions; General Provisions for Domestic Fisheries; Application for Exempted Fishing Permits**

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

**ACTION:** Notice; request for comments.

**SUMMARY:** The Assistant Regional Administrator for Sustainable Fisheries, Greater Atlantic Region, NMFS, has made a preliminary determination that an Exempted Fishing Permit application contains all of the required information and warrants further consideration. The Exempted Fishing Permit would allow commercial fishing vessels to fish outside fishery regulations in support of research conducted by the applicant. Regulations under the Magnuson-Stevens Fishery Conservation and Management Act and the Atlantic Coastal Fisheries Cooperative Management Act require publication of this notification to provide interested parties the opportunity to comment on applications for proposed Exempted Fishing Permits.

**DATES:** Comments must be received on or before March 6, 2023.

**ADDRESSES:** You may submit written comments by any of the following methods:

- *Email: nmfs.gar.efp@noaa.gov.* Include in the subject line "NHFG Early Benthic-Phase Lobster Trap EFP."

**FOR FURTHER INFORMATION CONTACT:** Laura Deighan, Fishery Management Specialist, *Laura.Deighan@noaa.gov*, (978) 281-9184.

**SUPPLEMENTARY INFORMATION:** The New Hampshire Fish and Game Department submitted a complete application for an Exempted Fishing Permit (EFP) to conduct commercial fishing activities that the regulations would otherwise restrict. The EFP would allow the Department to continue pilot testing of early benthic-phase (EBP) lobster traps, which target lobsters between 15- and 50-mm carapace length, to determine their feasibility for broader use in lobster surveys. This EFP would exempt the participating vessel from the Federal regulations described in Table 1.

TABLE 1—REQUESTED EXEMPTIONS

Citation	Regulation	Need for exemption
50 CFR 697.21(c) and § 697.21(d) .....	Gear specification requirements .....	To allow for the use of modified traps with no escape vents or ghost panels.
§ 697.19 .....	Trap limit requirements .....	To allow for one additional trap.
§ 697.19(j) .....	Trap tag requirements .....	To allow for the use of four untagged traps.
§§ 697.20(a)(7), 697.20(a)(8), 697.20(b)(5), 697.20(b)(6), 697.20(d), and 697.20(g).	Possession restrictions .....	To allow for onboard biological sampling of undersized, oversized, v-notched, and egg-bearing lobsters.
§ 697.21(a) .....	Gear identification and marking requirements.	To allow for the use of four unmarked traps.

<sup>4</sup> See 19 CFR 351.227(d)(3); see also *Temporary Rule Modifying AD/CVD Service Requirements Due to COVID-19; Extension of Effective Period*, 85 FR 41363 (July 10, 2020) (*Temporary Rule*).

<sup>5</sup> See 19 CFR 351.309(c)(2) and (d)(2).

<sup>6</sup> *Id.*

<sup>7</sup> See 19 CFR 351.303.

<sup>8</sup> See *Temporary Rule*.

<sup>9</sup> Commerce is exercising its discretion under 19 CFR 351.310(c) to alter the time limit for requesting a hearing.