This order is issued and published in accordance with section 706(a) of the Act, and 19 CFR 351.211(b).

Dated: November 12, 2010.

Carole A. Shivers,
Acting Deputy Assistant Secretary for Import Administration.

[FR Doc. 2010–29120 Filed 11–16–10; 8:45 am]
BILLING CODE 3510–05–P

DEPARTMENT OF COMMERCE
International Trade Administration
[A–570–904]

Certain Activated Carbon From the People’s Republic of China: Final Results and Partial Rescission of Second Antidumping Duty Administrative Review

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

SUMMARY: On May 13, 2010, the Department of Commerce (“Department”) published in the Federal Register the preliminary results of the second administrative review of the antidumping duty order on certain activated carbon from the People’s Republic of China (“PRC”). See Certain Activated Carbon From the People’s Republic of China: Notice of Preliminary Results of the Second Antidumping Duty Administrative Review, and Preliminary Rescission in Part, 75 FR 26927 (May 13, 2010) (“Preliminary Results”). We gave interested parties an opportunity to comment on the Preliminary Results. Based upon our analysis of the comments and information received, we made changes to the margin calculations for the final results. We continue to find that certain exporters have sold subject merchandise at less than normal value during the period of review (“POR”), April 1, 2008, through March 31, 2009.

DATES: Effective Date: November 17, 2010.

FOR FURTHER INFORMATION CONTACT: Robert Palmer and Katie Marksberry, AD/CVD Operations, Office 9, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–9068 and (202) 482–7906 respectively.

SUPPLEMENTARY INFORMATION:

Background

On May 29, 2009, the Department initiated this review with respect to 187 companies upon which an administrative review was requested. See Initiation of Antidumping and Countervailing Duty Administrative Reviews, 74 FR 25711 (May 29, 2009). Subsequently, pursuant to 19 CFR 351.213(d)(1), the Department rescinded the administrative review with respect to 155 companies, based upon Petitioners’ timely withdrawal of review requests. See Certain Activated Carbon From the People’s Republic of China: Notice of Partial Rescission of Antidumping Duty Administrative Review, 74 FR 31690 (July 2, 2009).

On September 16, 2009, the Department rescinded the administrative review with respect to an additional 13 companies, based upon Petitioners’ timely withdrawal of review requests. Thus, 19 companies remained subject to this review.


Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties to these reviews are addressed in the “Certain Activated Carbon From the People’s Republic of China: Issues and Decision Memorandum for the Final Results of the Second Antidumping Duty Administrative Review,” which is dated concurrently with this notice (“Decision Memo”). A list of the issues which parties raised and to which we respond in the Decision Memo is attached to this notice as an Appendix. The Decision Memo is a public document and is on file in the Central Records Unit, main Commerce building, Room 7046, and is accessible on the Department’s Web site at http://www.trade.gov/ia. The paper copy and electronic version of the memorandum are identical in content.

Scope of the Order

The merchandise subject to the 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 the 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 the 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 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 CO\textsubscript{2} gas) activated carbons are within the scope of the PRC-wide entity. 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 the scope. The products subject to the order are currently classified 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 the order is dispositive.

Changes Since the Preliminary Results

Based on a review of the record as well as comments received from parties regarding our Preliminary Results, we have made revisions to certain SVs and the margin calculations for Jacobi and Huahui in the final results. Specifically, we have updated the SV for labor and the calculation of the surrogated financial ratios.\(^4\) See Decision Memo at Comment 4. For all changes to the margin calculations, see Decision Memo and the company specific analysis memorandum.

Wage Rate Methodology

Pursuant to a recent decision by the United States Court of Appeals for the Federal Circuit, we have calculated a revised hourly wage rate to use in valuing Jacobi’s and Huahui’s reported labor. The revised wage rate is calculated by averaging earnings and/or wages in countries that are economically comparable to the PRC and that are significant producers of comparable merchandise. See Decision Memo at Comment 4f; see also Memorandum to the File, through Catherine Bertrand, Program Manager, Office 9, Import Administration, from Bob Palmer, Case Analyst, Office 9, Support Administration: Second Administrative Review of Activated Carbon from the People’s Republic of China: Surrogate Values for the Final Results, dated November 9, 2010, for the details of the calculation and supporting data.

Per-Unit Assessment

In the Preliminary Results, we analyzed Jacobi’s submitted entered values because Petitioners argued that the Department should calculate specific, per-kilogram cash deposit and importer-specific assessment rates for all respondents in this review based on an allegation that parties are selling the subject merchandise (or importing it) at prices significantly below prevailing market prices to evade assessment of antidumping duties. At the time of the Preliminary Results, we did not find that there was a substantive difference between the average U.S. sales price for activated carbon and the average entered value reported to U.S. Customs and Border Protection (‘‘CBP’’) for Jacobi. However, since the Preliminary Results, Jacobi has submitted revised entered value data and, based on a further analysis of the record of this review, we have determined that there is a substantial difference between Jacobi’s net unit price for its entries of certain activated carbon and the entered value reported to CBP. While the Department normally directs CBP to collect cash deposits and liquidate entries on an ad valorem basis, we are not required to do so by statute or by our regulations, and have in the past used quantity-based rates where appropriate.\(^5\) Furthermore, the Department has determined in past cases that it would be extremely burdensome to determine whether to apply an ad valorem or a per-unit rate on a company-specific basis.\(^6\) Therefore, consistent with the Department’s practice, we are calculating per-kilogram cash deposit and assessment rates for the mandatory respondents, separate rate companies and companies that are part of the PRC-wide entity. See Decision Memo at Comment 3. To arrive at a per-kilogram rate for the PRC-wide entity, we began with the ad valorem PRC-wide rate of 228.11 percent. The Department then multiplied the ad valorem rate of 228.11 percent by the average unit value (‘‘AUV’’) for all imports of subject merchandise into the United States during the POR. For the PRC-wide entity, this calculation results in a per-kilogram assessment rate of $2.42.\(^7\) The quantity-based collection and assessment method will begin upon completion of these final results, and will be employed thereafter for all future reviews of this order.\(^8\)

Separate Rates

In our Preliminary Results, we determined that the following companies met the criteria for separate rate status: Datong Jiujiang Activated Carbon Co., Ltd., Datong Municipal

Additionally, in the Preliminary Results, we also noted that the Department received completed responses to the Section A portion of the non-market economy questionnaire from the individually reviewed respondents (Shanxi and Huahui), which contained information pertaining to the companies’ eligibility for a separate rate. With respect to Jacobi, we preliminarily determined that there is no PRC ownership of this company and, because the Department has no evidence indicating that Jacobi is under the control of the PRC, a separate rates analysis is not necessary to determine whether it is independent from government control. With respect to Huahui, we preliminarily granted separate rate status to it based on the submitted information. We also preliminarily determined that one of the exporters under review not selected for individual examination, Tangshan Solid Carbon Co., Ltd., reported that it is 100-percent foreign owned. Accordingly, the Department also preliminarily granted separate rate status to Tangshan Solid Carbon Co. Ltd. See Preliminary Results.

With the exception of comments regarding the Department’s treatment of Shanxi DMD, we have not received any information or issuance of the Preliminary Results that provides a basis for the reconsideration of these preliminary determinations. Therefore, the Department continues to find that Jacobi, Huahui, Datong Jiqing Activated Carbon Co., Ltd., Datong Municipal Yunguang Activated Carbon Co., Ltd., Jilin Bright Future Chemicals Company, Ltd., Ningxia Guanghua Cherishmet Activated Carbon Co., Ltd., Ningxia Mineral & Chemical Limited, Shanxi DMD, Shanxi Industry Technology Trading Co., Ltd., Shanxi Qixian Foreign Trade Corporation, and Tangshan Solid Carbon Co., Ltd. meet the criteria for a separate rate.

With respect to Shanxi DMD, for the Preliminary Results the Department found that Shanxi DMD had cooperated to the best of its ability and, accordingly, we did not apply adverse facts available (“AFA”) by assigning the PRC-wide rate to Shanxi DMD. Since the Preliminary Results, Petitioners filed comments in their case brief and Shanxi DMD filed a rebuttal brief concerning whether the Department should apply total AFA to Shanxi DMD for these final results. After full consideration of the facts on the record of this review, we have determined that it is not appropriate to apply total AFA to Shanxi DMD. Therefore, because we continue to find that Shanxi DMD cooperated to the best of its ability, we are continuing to grant Shanxi DMD separate rate status. For a full discussion of parties’ arguments and the Department’s position on this matter, please see Decision Memo at Comment 10.

Additionally, in the Preliminary Results, we stated that, United Manufacturing International (Beijing) Ltd. (“UMI”), Datong Yunguang Chemicals Plant, Hebei Foreign Trade and Advertising Corporation, and Shanxi Newtime Co., Ltd., all companies with an active review request, did not timely submit either a separate rate application or certification. Thus, we preliminarily determined that these companies did not demonstrate their eligibility for separate rate status, and were included as part of the PRC-wide entity. See Preliminary Results at 26932 and 26933. Because we have not received any information since the issuance of the Preliminary Results that provides a basis for the reconsideration of that finding, we continue to find UMI, Datong Yunguang Chemicals Plant, Hebei Foreign Trade and Advertising Corporation, and Shanxi Newtime Co., Ltd., all companies with an active review request with regard to Jacobi, pursuant to section 751(a)(4) of the Tariff Act of 1930, as amended (“Act”), and preliminarily found that Jacobi has absorbed antidumping duties on U.S. sales made through its affiliated importer. See Preliminary Results. We have not received any further information which would provide a basis for the reconsideration of our determination. Therefore, the Department continues to find that Jacobi has absorbed antidumping duties on U.S. sales made through its affiliated importer.

Duty Absorption

In the Preliminary Results, we conducted a duty absorption inquiry with regard to Jacobi, pursuant to section 751(a)(4) of the Tariff Act of 1930, as amended (“Act”), and preliminarily found that Jacobi has absorbed antidumping duties on U.S. sales made through its affiliated importer. See Preliminary Results. We have not received any further information which would provide a basis for the reconsideration of our determination. Therefore, the Department continues to find that Jacobi has absorbed antidumping duties on U.S. sales made through its affiliated importer.
importer, pursuant to section 751(a)(4) of the Act.

**Final Results of Review**

The dumping margins for the POR are as follows:

**CERTAIN ACTIVATED CARBON FROM THE PEOPLE’S REPUBLIC OF CHINA**

<table>
<thead>
<tr>
<th>Manufacturer/Exporter</th>
<th>Margin 10 (dollars per kilogram)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Jacobi Carbons AB</td>
<td>0.11</td>
</tr>
<tr>
<td>Ningxia Huahui Activated Carbon Co., Ltd</td>
<td>0.44</td>
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<tr>
<td>Datong Jiuqiang Activated Carbon Co., Ltd</td>
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<tr>
<td>Datong Municipal Yunguang Activated Carbon Co., Ltd</td>
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<tr>
<td>JiLin Bright Future Chemicals Company, Ltd</td>
<td>0.28</td>
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<tr>
<td>Ningxia Guanghua</td>
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</tr>
<tr>
<td>Cherishmet Activated Carbon Co., Ltd</td>
<td>0.28</td>
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<tr>
<td>Ningxia Mineral &amp; Chemical Limited</td>
<td>0.28</td>
</tr>
<tr>
<td>Shanxi DMD Corporation</td>
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<tr>
<td>Shanxi Industry Technology</td>
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<tr>
<td>Shanxi Oixian Foreign Trade Corporation</td>
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<tr>
<td>Tangshan Solid Carbon Co., Ltd</td>
<td>0.28</td>
</tr>
<tr>
<td>PRC–Wide Rate 13</td>
<td>2.42</td>
</tr>
</tbody>
</table>

For the separate rate calculation, see Memorandum to the File, from Bob Palmer, Case Analyst Office IX, re: Antidumping Duty Administrative Review of Certain Activated Carbon from the People’s Republic of China: Final Results Simple-Average Per-Unit Rate for Separate Rate Respondents, dated November 9, 2010.

In the Preliminary Results, we found that Jacobi Carbons Industry (Tianjin) ("JCC") and Tianjin Jacobi International Trading Co. Ltd. ("Tianjin Jacobi") both act as export facilitators for Jacobi Carbons AB. Therefore, as we have done in the earlier segments of this antidumping duty order, we are continuing to find it appropriate that Jacobi Carbons AB, Tianjin Jacobi and JCC receive the antidumping duty rate assigned to Jacobi Carbons AB.

We are issuing and publishing this administrative review and notice in accordance with sections 751(a)(1) and 777(i) of the Act.

Dated: November 9, 2010.

Ronald K. Lorentzen,
Deputy Assistant Secretary for Import Administration.

**Appendix I—Decision Memorandum**

**General Issues**

**Comment 1:** Assignment of Combination Rates

**Comment 2:** Treatment of Sales with Negative Margins

**Comment 3:** Per-Unit Assessment Rates

**Comment 4:** Surrogate Values

**a. Coconut Shell Charcoal**

**b. Steam Coal**

**c. Electricity**

**d. Steam**

**f. Expense Exclusion in Kalpalka Financial Ratios**

**Company-Specific Issues**

**Jacobi**

**Comment 5:** Issues Regarding Ningxia Guanghua Activated Carbon

**a. Facts Available for Water**

**b. Transport Bag Surrogate Value**

**Comment 6:** Corrections to Submitted Data

**a. Treatment of Indirect Labor**

**b. Treatment of U.S. Indirect Selling Expenses**

**Comment 7:** Freight Revenue Expense Calculation

**Huahui**

**Comment 8:** Ministerial Error for Truck Freight Unit of Measure

**Comment 9:** Treatment of Domestic Freight Expenses

**Shanxi DMD**

**Comment 10:** Application of Total Adverse Facts Available

**Ningxia Lingzhou**

**Comment 11:** Status of No Shipment

**Note:** We divided the total dumping margins (calculated as the difference between normal value and export price or constructed export price) for each importer by the total quantity of subject merchandise sold to that importer during the POR to calculate a per-unit assessment amount.