



# Strategy for Increasing Targeted Testing of Honey Imports (For Public Release)

*September 25, 2020*

Fiscal Year 2020 Report to Congress



Homeland  
Security

*U.S. Customs and Border Protection*

# Message from the Deputy Commissioner of CBP

September 25, 2020

I am pleased to submit the following report, “Strategy for Increasing Targeted Testing of Honey Imports,” which has been prepared by U.S. Customs and Border Protection (CBP).

This report was compiled pursuant to direction set forth in Senate Report 116-125, which accompanies the Fiscal Year 2020 Department of Homeland Security Appropriations Act (P.L. 116-93). This report provides to the Committees on Appropriations CBP’s strategy for enhancing targeted testing to reduce the quantity of fraudulently imported honey into the United States.



Pursuant to congressional requirements, this report is being provided to the following Members of Congress:

The Honorable Lucille Roybal-Allard  
Chairwoman, House Appropriations Subcommittee on Homeland Security

The Honorable Chuck Fleischmann  
Ranking Member, House Appropriations Subcommittee on Homeland Security

The Honorable Shelley Moore Capito  
Chairwoman, Senate Appropriations Subcommittee on Homeland Security

The Honorable Jon Tester  
Ranking Member, Senate Appropriations Subcommittee on Homeland Security

I would be pleased to respond to any questions that you may have. Please do not hesitate to contact my office at (202) 344-2001.

Sincerely,

A handwritten signature in black ink, appearing to read "R. Perez", written over a circular stamp or seal.

Robert E. Perez  
Deputy Commissioner  
U.S. Customs and Border Protection

# Executive Summary

Imports of Chinese honey and honey products are harmful to the U.S. domestic honey industry, and unregulated product safety can pose a threat to American consumers' health and food safety. CBP has the responsibility to facilitate lawful entry of these honey imports and to enforce antidumping and countervailing duty orders, as appropriate, in part by developing a strategy for increasing targeted testing. The agency is expanding on and enhancing current targeting and enforcement efforts to address fraudulent honey importations; however, it faces legal, resource, and interagency limitations that can hinder enforcement activities. CBP is engaged in an interdisciplinary, collaborative approach that emphasizes enhancements in four key areas: risk analysis; targeted and random sampling; testing; and appropriate enforcement actions when noncompliance is confirmed.

Enhanced risk analysis, along with random sampling, will improve CBP's targeting of suspect honey imports and will reduce the quantity of honey that is imported fraudulently to the United States. Additionally, new testing technologies will provide a more statistically valid methodology to determine better the imported honey's country of origin and to assist in determining proper tariff classifications. These additional testing capabilities, with expanded enforcement, will enhance CBP's ability to use lab results to support enforcement actions, to streamline enforcement of the antidumping duty order on honey from China, and to ensure more accurate honey classification. Additional resources also will allow CBP to identify evasion and transshipment violations proactively, to conduct additional cargo exams and sampling of honey imports, and to conduct foreign verifications of honey suppliers.



# Strategy for Increasing Targeted Testing of Honey Imports

## Table of Contents

I.	Legislative Language .....	1
II.	Background .....	2
	A. Outreach .....	2
	B. Technology .....	3
	1. Testing for COO .....	3
	2. Testing for Harmonized Tariff Schedule Classification .....	3
	C. Honey Enforcement Activities .....	3
	1. Operation Honeybee.....	4
	2. Operation Honey Due.....	4
	3. Audit.....	4
	4. Foreign Verifications.....	5
	5. Cargo Examinations.....	5
	D. Enforcement Actions.....	5
IV.	CBP’s Strategy for Increasing Targeted Testing of Honey Imports .....	7
	A. Use Best Technologies Available to Conduct Testing and Expand International Honey Reference Sample Database .....	7
	B. Risk-Based Targeting .....	7
	C. Confirming and Understanding Risk .....	8
V.	Challenges.....	9
	A. Legal Sufficiency .....	9
	B. Federal Agency Responsibilities .....	9
VI.	Conclusion.....	10
	Appendix. List of Abbreviations .....	11

# I. Legislative Language

This document was prepared pursuant to direction set forth in Senate Report 116-125, which accompanies the Fiscal Year (FY) 2020 Department of Homeland Security (DHS) Appropriations Act (P.L. 116-93).

Senate Report 116-125 states:

The Committee provides \$1,500,000 above the requested amount and directs CBP to initiate comprehensive testing of imported honey to verify the country of origin and detect adulteration. Within 120 days of the date of enactment of this act, CBP shall brief the Committee on options to use predictive analytics to identify likely violators. The Committee further directs CBP to use the best technology available to conduct these tests and to take all necessary actions, including developing a comparison database, and to support the purchase and use of Nuclear Magnetic Resonance testing for this task. The Committee directs that CBP, after consultation with domestic honey producers, report to the Committee within 270 days of the date of enactment of this act on a strategy for increasing targeted testing to reduce the quantity of honey fraudulently imported into the United States.

## II. Background

Imports of Chinese honey often are traded at less than fair value, injuring U.S. domestic industry. Chinese honey is subject to antidumping (AD) duties to create a level playing field for American honey producers. On December 10, 2001, the Department of Commerce issued an AD order on honey (honey order) from the People's Republic of China (China). Current AD cash deposit rates range from \$0.98 to \$2.63 per kilogram and 183.80 percent to 221.02 percent ad valorem.

The products covered by the order are natural honey, artificial honey containing more than 50 percent of natural honey by weight, preparations of natural honey containing more than 50 percent of natural honey by weight, and flavored honey. The subject merchandise includes all grades and colors of honey whether in liquid, creamed, comb, cut comb, or chunk form, and whether packaged for retail or in bulk form. Also included in the scope are blends of honey and rice syrup, regardless of the percentage of honey contained in the blend. The merchandise subject to the order currently is classifiable under subheadings 0409.00.00, 1702.90.90, 2106.90.99, 0409.00.0010, 0409.00.0035, 0409.00.0005, 0409.00.0045, 0409.00.0056, and 0409.00.0065 of the Harmonized Tariff Schedule of the United States (HTSUS).<sup>1</sup>

U.S. Customs and Border Protection (CBP) has the responsibility to enforce the honey order, which involves combatting fraudulent evasion schemes such as misclassification, transshipment, undervaluation, or other manipulation of import data and/or merchandise. CBP is concerned that potential evasion schemes not only result in loss of significant revenue from unpaid AD duties, but also pose a serious threat to the U.S. health and to food safety.

## III. CBP's Efforts to Combat Fraud in Honey Imports

CBP's approach to addressing fraudulent honey imports combines outreach to the trade, expanded use of technology, and targeted honey enforcement activities.

### A. Outreach

CBP actively engages in outreach efforts to obtain trade intelligence and expertise related to honey imports, including numerous meetings with coalitions representing domestic industry and the importing community. Outreach examples from calendar year 2020 include:

- On January 23, 2020, CBP officials met with representatives of the National Honey Packers & Dealers Association.
- On March 17, 2020, CBP officials briefed the staff of the Senate Appropriations Committee and the American Honey Producers Association (AHPA) on plans for a new

---

<sup>1</sup> See <https://legacy.trade.gov/enforcement/operations/scope/country/china/products/prc-honey-ad.asp>

Country of Origin (COO) testing protocol for imported honey. This briefing provided an opportunity for participants to understand CBP's progress in developing the testing program, including procurement of testing equipment and foreign honey reference samples, as well as the plan to continue testing for false COO claims.

- On May 12, 2020, AHPA wrote to CBP Acting Commissioner Mark Morgan providing three suggestions on CBP's COO testing protocol for imported honey: (1) CBP generally should explain how it intends to apply its new false COO testing for honey imports; (2) CBP should destroy all honey imports covered by false COO claims; and (3) Congress should be urged to direct CBP and the Food and Drug Administration (FDA) to work together on both the false COO claims and economically motivated adulteration matters.
- On May 13, 2020, CBP consulted with AHPA representatives on the strategy for increasing targeted testing to reduce the quantity of honey fraudulently imported into the United States. AHPA suggested that CBP consider implementing the following three strategies: (1) randomly test honey imports; (2) destroy honey that is labeled falsely or, alternatively, add dye into the honey to prevent it from being sold for human consumption; and (3) use nuclear magnetic resonance (NMR) testing in conjunction with other protocols to determine the imported honey's COO designation better.

## B. Technology

### 1. Testing for COO

CBP's Laboratories and Scientific Services Directorate (LSSD) currently uses inductively coupled plasma mass spectrometry trace metal testing to analyze honey for the potential COO. The specific geology of a location determines which trace elements and their amounts are available for uptake in plants. As a result, trace metal profiles of agricultural products are used as indicators of COO designation. Statistical results are expressed in the form of statistically derived probability matches comparing a submitted sample's data with the claimed COO and suspected COO databases.

### 2. Testing for Harmonized Tariff Schedule Classification

How CBP arrives at the final HTS classification of honey often depends on laboratory analysis results. If CBP is able to determine that other sugars are in the honey, CBP may determine that the honey should not be classified as "natural honey" in Chapter 4 of the HTSUS, and may apply the corresponding tariff rate under the appropriate HTSUS subheadings in Chapters 17 and 21. However, it is difficult to determine the appropriate HTSUS classification of the product (e.g., Chapter 4 vs. Chapter 17 or other).

## C. Honey Enforcement Activities

CBP enforces the honey order through, among other efforts, targeting, cargo exams and sampling, document reviews, audits, and foreign verifications of honey suppliers. CBP also

collaborates with U.S. Immigration and Customs Enforcement Homeland Security Investigations (HSI) on criminal investigations of honey imports.

CBP conducts local and national-level trade special operations (TSO) on honey imports that emphasize a comprehensive, multidisciplinary approach, looking at the varied phases of the importation process (supply chain analysis, physical sampling and testing, documentation review, and enforcement measures such as seizure and monetary penalties). Several of these initiatives are summarized below.

CBP uses foreign verifications of high-risk producers to verify foreign production capabilities and to validate documents received, and to corroborate targeting, document reviews, cargo exams, and test results. CBP attachés are positioned strategically overseas, closest to the source of antidumping and countervailing duty (AD/CVD) noncompliance, to assist with information gathering and to work in collaboration with host country law enforcement and other CBP offices.

CBP's Regulatory Audit and Agency Advisory Services (RAAAS) conducts post-entry audits (including focused assessments) of importers, including honey importers, and other parties that transact business with CBP. These audits better inform CBP's overall understanding of risk of honey imports and corroborate honey test results. As experts in priority trade issues and forensic accounting, RAAAS auditors provide professional services to assess and ensure compliance with laws and regulations and to protect government revenue. These activities help to facilitate legitimate trade and safeguard U.S. industries from unfair trade practices by combatting AD/CVD evasion for specific commodities such as honey.

### **1. Operation Honeybee**

During FYs 2017-2018, CBP conducted Operation Honeybee, a TSO focused on the targeting, inspecting, and sampling of honey shipments through the port of Philadelphia, Pennsylvania, for possible AD violations.

### **2. Operation Honey Due**

TSO Operation Honey Due was an FY 2018 national initiative involving cargo examinations looking for COO discrepancies. This TSO was originated by CBP's Miami, Florida, National Targeting and Analysis Center in collaboration with CBP's Agriculture and Prepared Products Center of Excellence and Expertise (APP Center), Miami RAAAS, HSI, and LSSD. Samples of targeted honey shipments from India, Vietnam, Indonesia, and Thailand were collected and sent to LSSD for analysis. The ports involved were Los Angeles, California; Philadelphia, Pennsylvania; New York, New York; Detroit, Michigan; Chicago, Illinois; Houston, Texas; Miami, Florida; and Port Everglades, Florida.

### **3. Audit**

In March 2020, CBP completed a Risk and Analysis Survey Assessment (RASA) on five selected importers of honey potentially subject to the honey order.

#### **4. Foreign Verifications**

In September 2019, CBP staff conducted a honey fact-finding verification in Vietnam to research and gather information on honey production in Vietnam in response to COO concerns. CBP's goal was to determine the potential for transshipment of Chinese honey through Vietnam to avoid payment of AD and to gain an understanding of honey production and supply chain traceability in the Vietnamese honey trade.

In February 2020, a team from CBP's Office of Trade and LSSD collected honey samples in India. CBP also met with the Government of India's Export Inspection Council to discuss honey testing in both countries. These samples will supplement CBP's honey reference sample database and will strengthen CBP's COO analysis as evidence to identify evasion of AD resulting from transshipped Chinese honey. The meeting and interactions with the Government of India's Export Inspection Council representatives created a favorable relationship aimed to foster future sample collections.

#### **5. Cargo Examinations**

CBP examines and samples high-risk honey shipments case by case.

### **D. Enforcement Actions**

Corroboration of information leading to a determination that honey imports are subject to the honey order or are misclassified results in a commensurate enforcement action that is not only appropriate but also is within CBP's statutory and regulatory authority. When evasion is detected and noncompliance is confirmed, CBP acts on relevant intelligence, employing appropriate enforcement actions to protect revenue, to recompense past discrepancies, and to ensure future compliance. Available and appropriate enforcement actions when evasion is suspected or corroborated include:

- Requiring the importer to provide documents allowing CBP to determine admissibility. CBP can detain merchandise when suspected illegal transshipment affects admissibility. If the importer does not respond adequately to the information request, CBP can exclude the merchandise.
- Prohibiting release of merchandise unless the importer pays the appropriate duties prior to release and, if the importer fails to comply, denying entry or excluding the merchandise.
- Exercising live entry requirements (requiring entry information for determining admissibility of merchandise and entry summary information for classification/value determination at the same time along with duty payment, including applicable AD/CVD duties, prior to release of the shipment).
- Requiring additional security in the form of an STB prior to the release of the cargo, when CBP has reasonable suspicion that imports are subject to the honey order and that revenue is threatened.
- Imposing civil penalties in accordance with regulations (e.g., 19 U.S.C. §§ 1592 and 1595a), as appropriate.

- Issuing a notice to mark or redeliver (when merchandise enters without COO markings and assessing 10-percent marking duties if goods are not marked within 30 days).
- Referring potential criminal violations to HSI and collaborating with HSI on criminal investigations.

## IV. CBP's Strategy for Increasing Targeted Testing of Honey Imports

CBP is leading a coordinated, interdisciplinary honey enforcement strategy that emphasizes enhancements in testing technology, targeting through risk analysis, targeted and random sampling, and appropriate enforcement actions when noncompliance is confirmed.

### A. Use Best Technologies Available to Conduct Testing and Expand International Honey Reference Sample Database

CBP's strategy is to identify and address targeted honey fraud violators proactively through enhanced testing by developing new testing technologies for COO determinations for AD/CVD enforcement and by testing of honey samples for HTSUS classification purposes.

The FY 2020 Further Consolidated Appropriations Act (P.L. 116-94) appropriated \$1.5 million to CBP to initiate comprehensive testing of imported honey. In accordance with statutory requirements, CBP is coordinating the acquisition of NMR technology, which enables CBP to enhance its current technology for COO determinations for honey imports. Additionally, NMR technology enhances CBP's testing capabilities to detect substances other than honey by analyzing the organic chemical composition of honey.

CBP also is expanding its international honey reference sample database to enhance its current and new testing technologies and methodologies. CBP's strategy allocates part of the \$1.5 million appropriated by Congress to begin to enhance the international honey reference samples database. This effort will enhance greatly CBP's overall AD enforcement capability for honey.

### B. Risk-Based Targeting

CBP's strategy includes the development and coordination of an overall risk-based model to identify the highest risk areas of suspected noncompliance and to target shipments for potential cargo exams and sample collections for testing. The information gained from enforcement actions is necessary to build refined analysis and enforcement solutions to increase the effectiveness of combatting fraud. CBP's targeting centers will be able to focus analysis and expertise both at the "front end" (targeting) and "back end" (results analysis) of the import process.

CBP values trade intelligence and welcomes continued opportunities to engage with the domestic honey industry and the importing community to enhance information sharing. Trade intelligence is crucial to helping CBP to understand risk areas of noncompliance for honey imports and, as a result, to ensure that all perspectives are incorporated into targeting.

## C. Confirming and Understanding Risk

CBP has determined that the risk-based model is optimal to interdict fraudulent honey imports. CBP will carry out targeted cargo exams, will sample and test honey imports, and will increase honey sampling based on the risk-based model. The number of exams, samples, and tests will depend on the shipments identified by the model and CBP resources to examine the shipments. CBP also believes that an appropriate balance of targeted and random sampling of honey imports will serve as a deterrent that discourages fraudulent behavior.

When CBP's testing of honey imports identifies risk of evasion of the honey order, CBP's enforcement tools are leveraged to corroborate the test results, to confirm the evasion, and to take the appropriate enforcement actions. As noted earlier in this report, CBP uses a variety of enforcement techniques, including document reviews, audits, foreign verifications, and TSOs to confirm evasion of the honey order. CBP's plans include carrying out additional testing to verify foreign industry production capabilities. CBP also investigates allegations of evasion of the honey order received under the Enforce and Protect Act and will continue to do so.

When CBP seizes and forfeits shipments of fraudulently imported Chinese honey, CBP destroys these shipments. The domestic industry proposes that CBP introduce a dye-style marker into certain other honey shipments to render honey unfit for human consumption. Although CBP looks to work in harmony with the domestic industry, it cannot take any actions that may endanger human safety.

## V. Challenges

CBP acknowledges that this strategy does not come without challenges. CBP must do its best to identify and mitigate potential legal challenges to its enforcement actions in response to customs and trade violations to the greatest extent possible.

### A. Legal Sufficiency

By incorporating enhanced technologies, CBP is taking a step closer to using enhanced testing capabilities to ensure robust lab results that will support enforcement actions on honey imports.

### B. Federal Agency Responsibilities

Each federal agency enforces honey imports on the basis of its statutory and regulatory authorities. For example, CBP enforces the honey order and HTS classification, the Department of Commerce determines AD rates under the honey order and instructs CBP to collect the AD duties, FDA enforces product safety, and the U.S. Department of Agriculture's Agricultural Marketing Service enforces marketing orders. Each has separate legal and regulatory requirements. CBP continues to consult and coordinate with other agencies on honey enforcement.

Industry has raised concerns about economically motivated adulteration of honey, such as mixing honey with rice syrup and still calling it honey. Adulteration is an FDA-regulated issue and outside the scope of CBP's authority. If CBP labs detect adulteration-related violations in the context of analyzing CBP honey samples for COO and classification purposes, CBP refers such findings to FDA for analysis and action under FDA's authority and will continue to do so.

## VI. Conclusion

This report provides CBP's strategy for increasing targeted testing to reduce the quantity of honey fraudulently imported into the United States, as well as to identify imported honey's COO more effectively and to assist in determining proper tariff classifications. To ensure proper enforcement of the honey order, CBP's strategy emphasizes enhancements in four key areas: analysis, sampling, testing, and enforcement actions when noncompliance is confirmed. CBP implements that strategy through a coordinated, interdisciplinary approach, partnering with both internal and external stakeholders. Moreover, enhanced risk analysis, along with random sampling, will streamline CBP's targeting of suspect honey imports and ultimately will benefit and protect American businesses and the health and safety of American consumers. Although CBP continues to pursue this strategy, it recognizes limitations that hinder some of the strategy's enhanced enforcement activities.

## Appendix. List of Abbreviations

<b>Abbreviation</b>	<b>Definition</b>
AD	Antidumping
AD/CVD	Antidumping and Countervailing Duty
AHPA	American Honey Producers Association
APP Center	Agriculture and Prepared Products Center of Excellence and Expertise
CBP	U.S. Customs and Border Protection
COO	Country of Origin
DHS	Department of Homeland Security
FDA	Food and Drug Administration
FOIA	Freedom of Information Act
FOUO	For Official Use Only
FY	Fiscal Year
HSI	Homeland Security Investigations
HTS	Harmonized Tariff Schedule
HTSUS	Harmonized Tariff Schedule of the United States
LSSD	Laboratories and Scientific Services Directorate
MD	Management Directive
NMR	Nuclear Magnetic Resonance
RAAAS	Regulatory Audit and Agency Advisory Services
RASA	Risk and Analysis Survey Assessment
STB	Single Transaction Bond
TSO	Trade Special Operation