

Beginning date	Ending date	Under-payments (percent)	Over-payments (percent)	Corporate overpayments (Eff. 1-1-99) (percent)
070174 .....	063075	6	6	.....
070175 .....	013176	9	9	.....
020176 .....	013178	7	7	.....
020178 .....	013180	6	6	.....
020180 .....	013182	12	12	.....
020182 .....	123182	20	20	.....
010183 .....	063083	16	16	.....
070183 .....	123184	11	11	.....
010185 .....	063085	13	13	.....
070185 .....	123185	11	11	.....
010186 .....	063086	10	10	.....
070186 .....	123186	9	9	.....
010187 .....	093087	9	8	.....
100187 .....	123187	10	9	.....
010188 .....	033188	11	10	.....
040188 .....	093088	10	9	.....
100188 .....	033189	11	10	.....
040189 .....	093089	12	11	.....
100189 .....	033191	11	10	.....
040191 .....	123191	10	9	.....
010192 .....	033192	9	8	.....
040192 .....	093092	8	7	.....
100192 .....	063094	7	6	.....
070194 .....	093094	8	7	.....
100194 .....	033195	9	8	.....
040195 .....	063095	10	9	.....
070195 .....	033196	9	8	.....
040196 .....	063096	8	7	.....
070196 .....	033198	9	8	.....
040198 .....	123198	8	7	.....
010199 .....	033199	7	7	6
040199 .....	033100	8	8	7
040100 .....	033101	9	9	8
040101 .....	063001	8	8	7
070101 .....	123101	7	7	6
010102 .....	123102	6	6	5
010103 .....	093003	5	5	4
100103 .....	033104	4	4	3
040104 .....	063004	5	5	4
070104 .....	093004	4	4	3
100104 .....	033105	5	5	4
040105 .....	093005	6	6	5
100105 .....	063006	7	7	6
070106 .....	123107	8	8	7
010108 .....	033108	7	7	6
040108 .....	063008	6	6	5
070108 .....	093008	5	5	4
100108 .....	123108	6	6	5
010109 .....	033109	5	5	4
040109 .....	033110	4	4	3

Dated: December 29, 2009.

**Jayson P. Ahern,**

*Acting Commissioner, U.S. Customs and  
Border Protection.*

[FR Doc. E9-31353 Filed 1-4-10; 8:45 am]

**BILLING CODE 9111-14-P**

## **DEPARTMENT OF HOMELAND SECURITY**

### **U.S. Customs and Border Protection**

**[Docket No. USCBP-2009-0036]**

#### **Receipt of Domestic Interested Party Petition Concerning the Tariff Classification of Wickless Wax Objects**

**AGENCY:** Customs and Border Protection,  
Department of Homeland Security.

**ACTION:** Notice of receipt of domestic  
interested party petition; solicitation of  
comments.

**SUMMARY:** Customs and Border Protection (CBP) has received a petition submitted on behalf of a domestic interested party requesting the reclassification under the Harmonized Tariff Schedule of the United States (HTSUS) of certain wickless wax objects from China. Currently, these objects are classified as “Molded or carved articles of wax” under subheading 9602.00.40, HTSUS. The petitioner contends that the proper classification for these wickless wax objects is in subheading 3406.00.00, HTSUS, as candles. While the 2009 duty rates of both these subheadings is free, petitioner claims

that the importers of these products are using this classification as a means of circumventing a dumping order that has been placed on petroleum wax candles from China. This document invites comments with regard to the correctness of the current classification.

**DATES:** Comments must be received on or before March 8, 2010.

**ADDRESSES:** You may submit comments, identified by docket number, by one of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments via docket number USCBP-2009-0036.

- *Mail:* Trade and Commercial Regulations Branch, Regulations and Rulings, Office of International Trade, Customs and Border Protection, 799 9th Street, NW. (Mint Annex), Washington, DC 20229-1179.

*Instructions:* All submissions received must include the agency name and docket number for this notice of domestic interested party petition concerning the tariff classification of wickless wax objects. All comments received will be posted without change to <http://www.regulations.gov>, including any personal information provided.

*Docket:* For access to the docket to read background documents, exhibits, or comments received go to <http://www.regulations.gov>. Submitted comments may also be inspected during regular business days between the hours of 9 a.m. and 4:30 p.m. at the Customs and Border Protection, Trade and Commercial Regulations Branch, Regulations and Rulings, Office of International Trade, 799 9th Street, NW., 5th Floor, Washington, DC. Arrangements to inspect submitted comments should be made in advance by calling Joseph Clark, Trade and Commercial Regulations Branch, at (202) 325-0118. Please note that any submitted comments that CBP receives by mail will be posted on the above-referenced docket for the public's convenience.

**FOR FURTHER INFORMATION CONTACT:** Jean-Rene Broussard, Tariff Classification and Marking Branch, Regulations and Rulings, Office of International Trade, Customs and Border Protection at (202) 325-0284.

**SUPPLEMENTARY INFORMATION:**

**Background**

A petition has been filed under section 516 of the Tariff Act of 1930, as amended (19 U.S.C. 1516), on behalf of the National Candle Association (NCA), which represents approximately 150 member companies. A majority of NCA's members manufacture, produce,

or wholesale candles or candle supplies in the United States. Its members account for approximately 90 percent of all candles made in the United States. The NCA meets all of the requirements of a domestic interested party set forth in 19 U.S.C. 1516(a)(2) and 19 CFR 175.3. The NCA is requesting that Customs and Border Protection (CBP) reclassify the imported wickless wax objects classified in heading 9602, Harmonized Tariff Schedule of the United States (HTSUS), in the following rulings:

- NY L85725, dated June 30, 2005, classified a white solid wax cylinder with a scented fragrance that measures approximately 3" in height and 3" in diameter.

- NY L85383, dated June 15, 2005, classified four wax items without wicks. Item 1 is described as a yellow colored solid wax molded cylinder measuring approximately 3" in height and 3" in diameter. The cylinder has a 1/4" hole drilled through its center from top to bottom but does not contain a wick. Item 2 is a pink colored solid wax molded cylinder that measures approximately 2" x 2" x 6". The cylinder has a 1/4" hole drilled through its center from top to bottom, but does not contain a wick. Item 3 is an orange colored solid wax molded triangle that measures approximately 3" x 3" x 3". The triangle has a 1/4" hole drilled through its center from top to bottom, but does not contain a wick. Item 4 is a blue and white colored solid wax molded hexagon that measures approximately 1" on each side and 4" in height. The hexagon has a 1/4" hole drilled through its center from top to bottom, but does not contain a wick.

- NY L84761, dated June 2, 2005, classified a red solid wax cylinder with a scented fragrance that measures approximately 3" in height and 3" in diameter. The cylinder has a 1/4" hole drilled through its center from top to bottom, but does not contain a wick.

- NY G88343, dated March 26, 2001, classified three wax items without wicks. Item 1 is a yellow and lime colored solid wax cylinder that measures approximately 3" in height and 3" in diameter. The cylinder has a 1/4" hole drilled through its center from top to bottom, but does not contain a wick. Item 2 is a cylindrical white wax candle holder embedded with fruits, cinnamon sticks and green leaves. The container measures approximately 4" in height and 4" across its widest point. Item 3 is a cylindrical white wax candle holder decorated with a flower, a turkey and rain drop stickers. The container measures approximately 4" in height and 4" across its widest point.

- NY G87878, dated March 7, 2001, classified one wax object without a wick. Item CA23505B, a Basket weave-Look Wax Bowl, is a green colored wax bowl without a wick that measures approximately 3 1/4" in height and 8" in diameter.

- NY G85945, dated January 16, 2001, classified one wax object without a wick. Item 6 is described as a wax bowl, which is a white colored scented wax bowl with no wick that measures approximately 4" in height and 10 1/2" in diameter and is decorated with a flower design.

- NY F82375, dated February 11, 2000, classified five wax objects without a wick. Item A is a purple colored solid paraffin wax cylinder that measures approximately 5 1/2" in height and 3" in diameter. Item B is a white solid paraffin wax square pillar, approximately 6" in height and 3" wide. Item C is a brown solid paraffin wax block that is approximately 3" in height and 6" square. Item D is a pearl colored rounded wax piece molded in the shape of an oval approximately 1 1/2" in height and 3 1/2" in diameter. Item E is a white solid paraffin scented wax square block, approximately 3 1/2" in height and 3" wide. This item has a hole drilled directly through the center, but does not contain a wick. The ruling indicates that further processing may be performed on the objects such as drilling a hole when needed, adding wicks, dipping, polishing, labeling and packaging.

- NY F81245, dated January 11, 2000, classified a wax block that is scented and measures approximately 6 1/8" in height and 2 3/4" wide. The block is blue and white colored and does not have a hole drilled through it.

- NY E89220, dated November 8, 1999, classified two wax objects. The first sample is described as a scented burgundy colored wax column that measures approximately 9" in height and 3 7/8" in diameter. There is a hole in the top and bottom of the column. The second sample is a pink colored wax column molded in the shape of a baluster that measures approximately 12" in height and 2 3/4" in diameter. The column has a hole in its top and bottom.

- NY E87727, dated September 27, 1999, classified one wax object without a wick. Raw Material C is a white colored solid wax cylinder that measures approximately 5" in height and 5" in diameter. The cylinder has a 1/4" hole drilled through its center from top to bottom.

- NY E82227, dated May 18, 1999, classified a paraffin wax column molded in the shape of an orange colored 3" cube. The cube has a hole in the middle, but does not have a wick.

The wax column may also be imported in various rectangular dimensions or in a round shape measuring either 3" in height or 6" in height and 6" in diameter.

- NY E81505, dated May 12, 1999, classified a cog wheel which is described as a wax disc molded in the shape of a cog wheel and measures approximately 1½" in height and 1½" in diameter. The disc is scented and has a hole in the middle, but does not have a wick. The indicated use of the object is for aroma therapy.

- NY D88246, dated March 12, 1999, classified three wax items. One sample is molded in the shape of a square pillar (approximately 3" square and 3½" in height). The other two items are molded in the shape of round columns (approximately 3" in diameter and 3" in height). All of the objects have a hole drilled directly through the center but do not have wicks. The importer indicated that further finishing would be performed in the U.S.

In the rulings listed above, CBP applied General Rule of Interpretation (GRI) 1 to classify the subject merchandise in subheading 9602.00.40, HTSUS, which provides for "[w]orked vegetable or mineral carving material and articles of these materials; molded or carved articles of wax, of stearin, of natural gums or natural resins, of modeling pastes, and other molded or carved articles, not elsewhere specified or included; worked, unhardened gelatin (except gelatin of heading 3503) and articles of unhardened gelatin: [m]olded or carved articles of wax \* \* \*". Petitioner maintains that this classification is incorrect because it believes that the wax objects are unfinished or unassembled candles and should be classified in heading 3406, HTSUS, which provides for "[c]andles, tapers and the like" by application of GRI 2(a). In the alternative, the petitioner argues that the wax objects are *prima facie* classifiable in headings 3406 and 9602, HTSUS, and that heading 3406, HTSUS, is the more specific heading by application of GRI 3(a). The 2009 column one general rate of duty for heading 3406, HTSUS, is free.

Classification under the HTSUS is made in accordance with the GRIs. GRI 1 provides that the classification of goods shall be determined according to the terms of the headings of the tariff schedule and any relative section or chapter notes. In the event that the goods cannot be classified solely on the basis of GRI 1, and if the headings and legal notes do not otherwise require, the remaining GRIs 2 through 6 may then be applied in order.

The Harmonized Commodity Description and Coding System Explanatory Notes (ENs) constitute the official interpretation of the Harmonized System at the international level. While not legally binding on the contracting parties, and therefore not dispositive, the ENs provide a commentary on the scope of each heading of the Harmonized System and are thus useful in ascertaining the classification of merchandise under the system. CBP believes the ENs should always be consulted. See Treasury Decision (T.D.) 89–80, 54 FR 35127, 35128 (Aug. 23, 1989).

### The Petitioner's Views

The NCA asserts that Chinese importers are using the classification of wax articles in heading 9602, HTSUS, to circumvent the dumping order on petroleum wax candles from China. See *Petroleum Wax Candles from the People's Republic of China: Antidumping Duty Order*, 51 FR 30686 (August 28, 1986). In particular, the NCA cites a recent circumvention order issued in 2007 as evidence of this attempt to avoid dumping duties. The order provides that wickless wax forms in the shape of tapers, spirals, rounds, columns, votives pillars, as well as wax-filled containers being imported by or sold to DÉCOR-WARE, Inc., A&M Wholesalers, Inc., or Albert E. Price are circumventing the dumping order on petroleum wax candles from China. See *Notice of Partial Termination and Affirmative Preliminary Determination of Circumvention of the Antidumping Duty Order: Petroleum Wax Candles from the People's Republic of China*, 72 FR 14518 (March 28, 2007) and *Petroleum Wax Candles from the People's Republic of China: Affirmative Final Determination of Circumvention of the Antidumping Duty Order*, 72 FR 31053 (June 5, 2007). As in the circumvention inquiry noted above, NCA points to sample candles with wicks that were allegedly inserted after importation into the U.S. claiming that the wicks of these candles are easily removed which indicates that the wicks were inserted into drilled holes in the wax after importation into the United States. Hence, the NCA believes that the wickless wax forms should be classified as unfinished candles in heading 3406, HTSUS, so as to make circumvention of anti-dumping duties difficult.

In support of NCA's classification argument it refers to the EN for heading 9602, HTSUS, which states "moulded articles means articles which have been moulded to a shape appropriate to their intended use. On the other hand, materials moulded in the shape of

blocks, cubes, plates, bars, sticks, etc., whether or not impressed during moulding, are not included." The NCA asserts that the exclusionary language of this note prevents the classification of these objects in heading 9602, HTSUS, by application of GRI 1, thus requiring the application of GRIs 2 or 3.

NCA asserts that the wax objects should be classified in heading 3406, HTSUS, by application of either GRI 2(a) or 3(a). NCA argues that the wax objects are unfinished candles, or blanks, that have the essential character of a candle. It contends that the wax objects provide the finished candle with the shape, color, and size of the finished product and that most consumers identify candles based on these characteristics. In the alternative it argues that the wax objects are unassembled candles by application of GRI 2(a). A third alternative argument offered by NCA is that the wax objects are *prima facie* classifiable in both heading 3406, HTSUS, and heading 9602, HTSUS, and that heading 3406, HTSUS, is more specific than heading 9602, requiring classification in heading 3406, HTSUS, by application of GRI 3(a).

### Analysis Used by CBP in Prior Rulings

In the rulings that are the subject of this petition, CBP held that classification in heading 3406, HTSUS, at the GRI 1 level is not possible because these objects do not meet the common definition of a candle.

Historically CBP has classified these wax objects in subheading 9602.00.40, HTSUS, as molded or carved articles of wax by application of GRI 1 because it concluded that the terms of heading 9602, HTSUS, completely describe the subject goods. CBP has interpreted the language of the EN to heading 9602, HTSUS, to mean that a molded article of wax is any object that has been shaped or cut from its primary or bulk form. The exclusionary language of this EN describes wax that is in its primary or bulk form. All of the articles are molded into smaller shapes from their primary or bulk forms and many of the objects have been carved by the act of drilling holes into the wax. CBP's position has been that these objects are not classifiable as wax in its primary form and thus are completely described as molded articles of wax in heading 9602, HTSUS, by application of GRI 1.

Moreover, in its prior rulings, CBP held that the wax objects are not classifiable as unfinished candles in heading 3406, HTSUS, by application of GRI 2(a) because the wax objects are classifiable by application of GRI 1. CBP reasoned that a candle functions as a

source of illumination that is composed of a wick surrounded by wax. CBP concluded that the wax objects, on their own, were unable to provide illumination. CBP's historical position is that the essential character of a candle is imparted by both the wick and the wax components. None of the wax objects have a wick and are unable to provide its user with light. Therefore, CBP held that the wax objects do not have the essential character of a candle.

In addition, CBP also held that the wax forms are not unassembled candles because unassembled goods must be imported with the requisite number of parts. None of the rulings indicate that the wax objects were being imported with an equal number of wicks. Therefore, CBP has concluded that classification by application of GRI 2(a) in heading 3406, HTSUS is inappropriate.

Finally, CBP's prior decisions held that classification by application of GRI 3(a) is inappropriate because the wax objects are not *prima facie* classifiable in two or more headings of the HTSUS. In order for classification by application of GRI 3(a) to be appropriate the goods cannot be classifiable by application of GRIs 1 or 2 and the good must be *prima facie* classifiable in two or more headings. As indicated above, CBP has held that heading 3406, HTSUS, does not describe the imported products. As a result, the wax articles are not *prima facie* classifiable in any other heading, except heading 9602, HTSUS.

#### Comments

Pursuant to section 175.21(a), CBP regulations (19 CFR 175.21(a)), before making a determination on this matter, CBP invites written comments on the petition from interested parties.

The domestic interested party petition concerning the tariff classification of wax objects, as well as all comments received in response to this notice, will be available for public inspection on the docket at <http://www.regulations.gov>. Please note that any submitted comments that CBP receives by mail will be posted on the above-referenced docket for the public's convenience.

**Authority:** This notice is published in accordance with section 175.21(a), CBP Regulations (19 CFR 175.21(a)) and 19 U.S.C. 1516.

Dated: December 29, 2009.

**Jayson P. Ahern,**

*Acting Commissioner, U.S. Customs and Border Protection.*

[FR Doc. E9-31352 Filed 1-4-10; 8:45 am]

BILLING CODE 9111-14-P

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR-5369-N-01]

### Notice of Availability: HUD Real Estate Settlement Procedures Act (RESPA) Handbook

**AGENCY:** Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

**ACTION:** Notice.

**SUMMARY:** Through today's **Federal Register** notice, HUD announces the availability on its Web site of the revised special information booklet (Booklet) pursuant to the Real Estate Settlement Procedures Act (RESPA) requirement in 12 U.S.C. § 2604. The Real Estate Settlement Procedures Act of 1974 (RESPA) (12 U.S.C. 2601–2617), establishes the process for disclosing settlement costs in the financing or refinancing of a home, and helps protect consumers from unethical practices by settlement service providers during the home-buying and loan process. Under RESPA, lenders and mortgage brokers are required to give borrowers this Booklet within three days of the borrower's applying for a mortgage loan. The Booklet provides information designed to assist individuals seeking to buy a home to become familiar with the home-buying process. As a result, the Booklet provides information regarding the purchase contract, how to use a Good Faith Estimate to shop for the best loan, required settlement services to close the loan, and the HUD-1 Settlement Statement. It also provides information regarding interest rates, points, balloon payments, prepayment penalties and how they can affect mortgage payments. The Booklet also discusses how to resolve loan servicing problems that will help avoid actions that could lead to foreclosure.

The Booklet is currently available on the HUD Web site at: <http://www.hud.gov/utilities/intercept.cfm?http://portal.hud.gov/portal/page/portal/HUD/documents/Settlement%20Booklet%20December%2015%20REVISED.pdf>. It is also currently the top link at <http://www.hud.gov/respa>.

**FOR FURTHER INFORMATION CONTACT:** The Office of RESPA and Interstate Land Sales, U.S. Department of Housing and Urban Development, 451 Seventh Street, SW., Room 9158, Washington, DC 20410; telephone number 202-708-0502 (this is not a toll-free number). Persons with hearing or speech impairments may access this number via TTY by calling the toll-free Federal Information Relay Service at 800-877-8339.

Dated: December 29, 2009.

**David H. Stevens,**

*Assistant Secretary for Housing—Federal Housing Commissioner.*

[FR Doc. E9-31304 Filed 1-4-10; 8:45 am]

BILLING CODE 4210-67-P

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR-5275-N-04]

### Native American Housing Assistance and Self-Determination Reauthorization Act of 2008: Notice of Final List of Negotiated Rulemaking Committee Members

**AGENCY:** Office of the Assistant Secretary for Public and Indian Housing, HUD.

**ACTION:** Notice.

**SUMMARY:** On September 23, 2009, HUD published a **Federal Register** notice establishing the negotiated rulemaking committee that will work with HUD to develop regulatory changes to programs authorized under the Native American Housing Assistance and Self-Determination Act of 1996. Changes to these programs were made by the Native American Housing Assistance and Self-Determination Reauthorization Act of 2008, which also directs that HUD undertake negotiated rulemaking to implement the statutory revisions. The September 23, 2009, notice also announced the names and affiliations of the committee's proposed members and requested public comment on the committee and its proposed membership. Today's notice announces the final list of committee members.

#### FOR FURTHER INFORMATION CONTACT:

Rodger Boyd, Deputy Assistant Secretary for Native American Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 4126, Washington, DC 20410, telephone number 202-401-7914 (this is not a toll-free number). Hearing- or speech-impaired individuals may access this number via TTY by calling the toll-free Federal Information Relay Service at 1-800-877-8339.

#### SUPPLEMENTARY INFORMATION:

##### I. Background

The Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4101 *et seq.*) (NAHASDA) changed the way that housing assistance is provided to Native Americans. NAHASDA eliminated several separate assistance programs and replaced them with a single block