of this administrative review, including the results of its analysis of the issues raised in any written briefs, not later than 120 days after the date of publication of this notice, pursuant to section 751(a)(3)(A) of the Act.

**Assessment Rates**

Upon completion of the administrative review, the Department shall determine, and CBP shall assess, antidumping duties on all appropriate entries, in accordance with 19 CFR 351.212. The Department will issue appropriate appraisement instructions for the companies subject to this review directly to CBP 15 days after the date of publication of the final results of this review.

For Chia Far, we will calculate importer-specific ad valorem duty assessment rates based on the ratio of the total amount of antidumping duties calculated for the examined sales to the total entered value of those sales. Consistent with the Department’s practice, for the companies which were not selected for individual review, we will use the cash deposit rate as the assessment rate for these companies. See, e.g., Certain Frozen Warmwater Shrimp From India: Final Results and Partial Rescission of Antidumping Duty Administrative Review, 74 FR 33409, (July 13, 2009), and accompanying Issues and Decision Memorandum at Comment 3.

We will instruct CBP to assess antidumping duties on all appropriate entries covered by this review if any importer-specific assessment rate calculated in the final results of this review is above de minimis (i.e., less than 0.50 percent). Pursuant to 19 CFR 351.106(c)(2), we will instruct CBP to liquidate without regard to antidumping duties any entries for which the assessment rate is de minimis. See 19 CFR 351.106(c)(1). The final results of this review shall be the basis for the assessment of antidumping duties on entries of merchandise covered by the final results of this review and for future deposits of estimated duties, where applicable.

As noted above, the Department clarified its “automatic assessment” regulation on May 6, 2003. See Assessment Policy Notice, 68 FR 23954. This clarification will apply to entries of subject merchandise during the POR produced by companies included in these final results of review for which the reviewed companies did not know that the merchandise they sold to the intermediary (e.g., a reseller, trading company, or exporter) was destined for the United States. In such instances, we will instruct CBP to liquidate

unreviewed entries at the all others rate if there is no use for the intermediary involved in the transaction. See Assessment Policy Notice for a full discussion of this clarification.

**Cash Deposit Requirements**

The following cash deposit requirements will be effective for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided by section 751(a)(2)(C) of the Act: (1) The cash deposit rate for each specific company listed above will be that established in the final results of this review, except if the rate is less than 0.50 percent and, therefore, de minimis within the meaning of 19 CFR 351.106(c)(1), in which case the cash deposit rate will be zero; (2) for previously reviewed or investigated companies not participating in this review, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, or the less-than-fair value (LTFV) investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and, (4) the cash deposit rate for all other manufacturers or exporters will continue to be at least 6.25 percent, the all others rate established effective by the LTFV investigation. See SS/SSC Order, 64 FR at 40557. These deposit requirements, when imposed, shall remain in effect until further notice.

**Notification to Importers**

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary’s presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

These preliminary results of administrative review and notice are issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act and 19 CFR 351.221.

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1 The term “novelty candle,” as defined in Scope Comments and prior scope rulings, refers to candles that are in the shapes of identifiable objects, or are holiday-themed.

record since the less-than-fair value ("LTFV") antidumping duty investigation, we have preliminarily developed a new interpretation for interpreting candle scope ruling requests. Moreover, we have preliminarily applied this new interpretation to all 388 pending scope determinations under the Order. See infra.

DATES: Parties may submit comments no later than 30 calendar days after date of publication of this notice and rebuttal comments 10 calendar days later.


Comments From Interested Parties

On September 16, 2009, the Department received comments from the following interested parties: The National Candle Association ("NCA"); the National Retail Federation ("NRF"); HSE USA, Inc. ("HSE"); Universal Candle Company ("UC"); Sourcing International ("SI"); the Retail Industry Leaders of America ("RILA"); and Trade Associates Group, Ltd. ("TAC").

Support for Option A

NRF and SI urge the Department to adopt Option A in its un-altered form. NRF argues this option is most consistent with the original scope of the case that retailers have operated under for over 20 years. HSE argues that Option A is the best way to ensure that the scope interpretation be "shape-based." That is, HSE maintains, Option A will guarantee that only candles in the shapes specifically enumerated in the scope of the Order—tapers, spirals, straight-sided dinner candles; rounds, columns, pillars; votives; and various wax-filled containers ("the enumerated shapes")—be considered as within the scope. HSE also argues that the current scope language is exhaustive, not illustrative, and that Option A recognizes this fact.

Support for Option B

UC specifically states that it is in favor of Option B, though it requests that its birthday and cake-top candles be considered outside of the scope because there is no domestic production of these candles.

Additional Proposals

NCA proposes a combination of Options A and B whereby all candle shapes, regardless of embellishment or holiday theme, would be included within the scope of the Order. RILA argues that because much of the debate over what is or is not a holiday candle centers on what symbols or objects must be on the candle, the Department should develop objective criteria from prior rulings. Such criteria might include a list of symbols and objects that are specific to a holiday and numerical standards for what portion of the candle surface must be covered by such symbols. RILA also maintains the Department should engage more closely with U.S. Customs and Border Protection ("CBP") to ensure that there is an accurate and consistent understanding of the scope of the Order and any guidelines established by the Department.

TAG argues that neither option should be chosen, and that the Department's current practices should remain in effect. However, TAG maintains, the current practice that candles be recognizable from multiple angles is overly formalistic, and thus the identifiable object exception should be based on "realistic guidelines." NRF asserts that the Department should adopt some practices used by CBP, including having a designated Department employee whom importers can call to discuss scope issues.

SI and NCA argue that the Department's regulations be amended to allow the Department to issue summary determinations so that the Department could issue a single ruling when there are multiple requests for what is essentially the same product. For instance, if an importer requests scope determinations on 25 pillar candles that differed only in their size, the Department would be able to issue one summary scope determination instead of 25.

Other Issues Raised by Parties

Although NRF requests that we choose Option A, it also argues that the choice of either option would cause the Department to have to address prior decisions where items that have been previously found to be within the scope of the Order would now be considered outside the Order, and vice-versa for items previously found to be outside the scope of the Order.

NCA asserts that the novelty candle exclusion established in the CBP Notice was baseless. NCA also maintains that the Department's LTFV investigation and the Antidumping Petition did not exclude any petroleum wax candles from the scope of the investigation requested.

HSE argues that the Department's methodology, "because this interpretation no longer considers the shape of the candle to be dispersive in determining whether it is covered by the scope, and should return to its prior practice of looking at the shape of the candle in evaluating the scope. HSE continues that the JC Penney methodology disregarded the history of the case and has also proven to be extremely burdensome by increasing the number of candle scope ruling requests.

Background of the Order

In determining whether it is appropriate to formulate a new interpretation for interpreting the scope of the Order, the Department must examine documents from the LTFV investigation and subsequent segments of this proceeding to understand the validity of its current practices and to re-examine the products originally covered by the scope of the LTFV investigation. See 19 CFR 351.225(k)(1). In particular, the Department puts much weight on the original intent of the injured domestic industry, in this case, represented by NCA. Below is the Department's analysis of these documents, which are included in the Memorandum to the File through Alex Villanueva, Program Manager, from Tim Lord, Case Analyst, Certain Petroleum Wax Candles from the People's Republic of China: Placing Documents on the Record (August 9, 2010) ("Relevant Documents Memorandum").

Petition

The Petition illustrates that, contrary to its current assertions, NCA advocated for an exhaustive scope where those candles not specifically enumerated in the scope language, as well as figurine candles, "household," "utility," or "emergency" candles, were to be included in the scope of the Order including those not in the shapes listed in the scope of the Order, as that is not an exhaustive list of shapes, but simply an illustrative list of common candle shapes.

3 With Option A, the Department would consider all candle shapes identified in the scope of the Order, i.e., tapers, spirals, and straight-sided dinner candles; rounds, columns, pillars, votives; and various wax-filled containers (to be within the scope of the Order, regardless of etchings, prints, moldings or other artistic or decorative enhancements including any holiday-related art. All other candle shapes would be considered outside the scope of the Order.

4 With Option B, the Department would consider all candle shapes, including novelty candles, to be within the scope of the Order.

5 The CBP Notice is discussed infra.

6 The Antidumping Petition is discussed infra.

7 The JC Penney ruling and JC Penney methodology are discussed infra.

8 Those candles known as "household," "utility," "emergency," or "household emergency candles"
excluded from the investigation. For instance, when discussing its choice of a surrogate country, NCA states, “Korea was deemed a poor choice as a surrogate because its primary domestic production of candles consists of types of candles which are not similar to candles exported by the PRC. Korea produces mostly small, plain, white utility candles and hand-crafted novelty candles.” See Antidumping Petition Submitted on Behalf of the National Candle Association in the Matter of: Petroleum Wax Candles from the People’s Republic of China (September 3, 1985) (“Petition”) at 14; see also Relevant Documents Memorandum, at Tab A.

Additionally, NCA via a consulting firm, requested information from a market research firm in Malaysia on producers’ prices for candles made and sold in Malaysia and stated that the candles they were concerned with were ordinary candles. NCA’s consulting firm noted that they were uninterested in those candles not in the enumerated shapes. See Petition, at Exhibit 21; see also Relevant Documents Memorandum, at Tab A. Additionally, the Petition’s like product definition itself indicates exclusivity:

“The imported PRC candles are made from petroleum wax and contain fiber or paper-cored wicks. They are (emphasis added) sold in the following shapes: tapers, spirals, and straight-sided dinner candles; rounds, columns, pillars; votives; and various wax filled containers. These candles may be scented or unscented. While manufactured in the PRC, these candles are marketed in the United States and are generally used by retail consumers in the home or yard for decorative or lighting purposes.”

See Petition, at 6–7; see also Relevant Documents Memorandum, at Tab A.

Initiation

The Initiation used language virtually identical to NCA’s like product description:

“The products covered by this investigation are certain scented or unscented petroleum wax candles made from petroleum wax and having fiber or paper-cored wicks. They are sold in the following shapes: tapers, spirals, and straight-sided dinner candles; rounds, columns, pillars; votives; and various wax-filled containers. The products are classified under the Tariff Schedules of the United States (TSUSA) item 755.25, Candles and Tapers.

See Petroleum Wax Candles From the People’s Republic of China: Initiation of Antidumping Duty Investigation, 50 FR 39743 (September 30, 1985) (“Initiation”); see also Relevant Documents Memorandum at Tab B.

ITC Preliminary Results

The description of the International Trade Commission’s (“ITC”) like product was nearly the same as NCA’s like product definition and the Initiative. The ITC was silent with regard to novelty candles, although it devotes some discussion to Christmas candles. However, as noted infra, the ITC stated that there was no clear definition of a “Christmas/seasonal candle” and used candle color (red, white, or green) as an indicator of whether a candle is a Christmas/seasonal candle or not. Thus, the ITC Preliminary Results are not dispositive with regard to novelty candles based on shape or seasonal nature.

DOC Preliminary Results

The Department’s scope of the investigation remained unchanged from the Initiation, and novelty candles are not mentioned. See Petroleum Wax Candles From the People’s Republic of China; Preliminary Determination of Sales at Less Than Fair Value, 51 FR 6016 (February 19, 1986) (“DOC Preliminary Results”); see also Relevant Documents Memorandum at Tab D.

Memorandum Dated October 2, 1986

Further insight into which candles NCA originally intended to be outside the scope of the investigation is found in a Departmental memorandum dated October 2, 1986. In this memorandum, the Department notes that on February 20, 1986 the Department issued instructions to the U.S. Customs Service (“Customs”) suspending liquidation on merchandise covered under Tariff Schedules of the United States (TSUSA) item 755.25, a basket category which included numerous different types of candles. The memorandum details subsequent clarifications issued after the initial February 20, 1986 instructions to the U.S. Customs Service:

Subsequent telephone complaints by some importers prompted another telex to customs on March 20, 1986, in which ‘candles not described above, such as birthday, birthday numeral, and figurine-type candles,’ are also outside the scope of this investigation. See Memorandum to Bill Matthews through Bob Marenick from Elena Gonzalez, Subject: Scope of Investigation, Petroleum Wax Candles from the People’s Republic of China (October 2, 1986) (“Memorandum Dated October 2, 1986”); see also Relevant Documents Memorandum at Tab E.

Memorandum Dated April 30, 1986

A memorandum dated April 30, 1986, describes two conversations between the Department and NCA’s counsel that illustrates that NCA did not intend for the scope of the Order to cover all petroleum wax candles:

On March 20, 1986, Mr. Randolph Stayin of Taft, Stettinus & Hollister, who represents the petitioner, advised by telephone that candles described as household candles, household emergency candles, or utility candles, which are white in color and 5” long × ¼” diameter, do not fit the product description included in this petition and are therefore outside the scope of this investigation.

Earlier, Ann King, of the same law firm, had told me that birthday candles, birthday numeral candles and figurine-type candles are also outside the scope of this investigation.

See Memorandum to the File, from Michael Ready, Subject: Petroleum Wax Candles from the PRC—Scope of the Investigation (April 30, 1986) (“Memorandum Dated April 30, 1986”); see also Relevant Documents Memorandum at Tab F.

Scope Clarification Communication

Following the communications with NCA described above, the Department sent a telex to the U.S. Customs Service clarifying the scope of products subject to the LTFV investigation on March 20, 1986. See Communication to All U.S. Customs Field Officers from John Durant, Acting Director, Commercial Compliance Division: Petroleum Wax Candles from the People’s Republic of China: Clarification of Scope of Investigation (“Scope Clarification Communication”):

1. The scope of investigation as defined in the Federal Register (February 19, 1986, page 6016) and referenced in our February 20, 1986 telex is as follows: ‘Scope of Investigation: The products covered by this investigation are certain scented or unscented petroleum wax candles made from petroleum wax and having paper or fiber-cored wicks. They are sold in the following

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2The ITC deems the term “Christmas candle” as synonymous with “seasonal candle” and uses the terms interchangeably. For the purposes of this notice, the Department will use the term “Christmas/seasonal” to refer to this type of candle. No other holidays or special events are mentioned or equated with the term “seasonal.” See Candles from the People’s Republic of China: Determination of the Commission in Investigation No. 731-TA-292 (Preliminary) Under the Tariff Act of 1930. Together with the Information Obtained in the Investigation, USITC Publication 1768 (October, 1985) (“ITC Preliminary Results”) at A–22; see also Relevant Documents Memorandum at Tab C.

The ITC also included Christmas/seasonal candles as among the types of candles it analyzed, and in response to respondents’ contention that seasonality is indicative of a lack of competition between domestic candles and Chinese imports, the Commission states:

Data on seasonality should be used with caution, as no clear definition of ‘Christmas candle’ has been offered. Some reporting companies indicated that all red, white, and green candles were reported as Christmas candles, whereas other companies indicated that they sell Christmas colors year round and reported sales for October through December as Christmas candles. See ITC Final Results at A–7, fn 1.

Thus, the ITC conceded that there was no concrete definition of a Christmas/seasonal candle, and noted that the most widely-used metric in determining whether a candle was Christmas/seasonal was based upon its color and/or the time of year in which it was sold. However, the ITC’s indication of what is considered a Christmas/seasonal candle does not signify it advocated that Christmas/seasonal candles in any shape should be within the scope of the investigation. Rather, it indicates that the ITC advocated that those candles in the enumerated shapes should not be considered outside the scope of the investigation simply because they are in “Christmas/seasonal colors.”

Order

The Department published the Order, with scope language identical to the Department’s Initiation, Preliminary Results, and Final Results. See Order; see also Relevant Documents Memorandum at Tab J.

Novelty Exclusion Scope Rulings

The first novelty exclusion, issued in October 30, 1986, regarded a taper imported by Global Marketing Services’ that had a Santa Claus figurine attached to the taper. The Department solicited comments from NCA before it made its final scope ruling. NCA agreed that the candle was outside of the scope, stating:

Your tapers have a hand-painted figurine [emphasis added] molded to the candle, which could not be removed without damage to the taper. This different physical characteristic precludes inclusion of these candles in the scope of the order.

See Letter to the Department on Global Marketing Services, dated October 30, 1986 (“Department’s October 30, 1986 Letter”; see also Relevant Documents Memorandum at Tab L).

It is therefore apparent from examining NCA’s October 15, 1986, Letter and the Department’s October 30, 1986, Letter that Global Marketing Services’ Santa Claus candle was found outside of the scope not because of its Christmas/seasonal characteristics, but because of its figurine component.

The second novelty exclusion, issued in July 13, 1987, regarded candles with raised Christmas motifs imported by Giftco Inc. The Department solicited comments from NCA before it made its final scope ruling, NCA agreed that the candles were outside of the scope, stating:

Our examination of the candles * * * revealed that they are novelty candles which are specially designed for Christmas. That is, they are holiday scenes and symbols. Both candles are square, four inches high, and have alternating raised motif scenes outlined by borders. The first candle is red and has the word ‘JOY’ written in yellow letters surrounded by green pine branches. The alternate scene has a red cardinal sitting on yellow cornets. The second candle is light blue and has the words ‘Silent Night’ surrounded by one large and several small stars painted yellow, blue, and white. The alternate scenes depict a yellow church with two green trees, green grass, and a snow-topped mountain in the background.

These specific candles are Christmas novelty candles that are outside the scope of the order. They are similar to the hand-painted Santa Claus figure candles that we have already agreed should be excluded from the order. However, not all raised motif candles should be excluded from the order. We specifically included petroleum wax candles that have raised motifs in the investigation since several of the petitioners produce them. For example, Candle-lite makes votive candles with raised flower motifs while Colonial Candle of Cape Cod attaches a small ‘CCCC’ motif to all of its candles.

See Letter to the Department on Behalf of NCA, dated May 4, 1987 (“NCA’s May 4, 1987 Letter”); see also Relevant Documents Memorandum at Tab M.

This statement may be interpreted in different ways. While one could argue this evidence shows that neither Ritual nor Christmas/seasonal candles being outside of the scope of the Order, one
could also contend that NCA supported these candles as outside of the scope because they were in the shape of squares—not one of the enumerated shapes. Furthermore, even if one were to interpret this statement as NCA supporting the exclusion of Christmas/holiday candles, this point is moot because as stated above, the Department must reasonably determine the products originally covered by the scope of the LTFV investigation as well as the original intent of the injured domestic industry before the issuance of the Order. This scope ruling, however, came after the completion of the investigation and issuance of the Order.

**CBP Notice**

The Department issued instructions to the U.S. Customs Service in connection with the second novelty exclusion from the Order for Christmas/seasonal novelty candles (“CBP Notice”). While this notice included exclusions discussed during the course of the investigation (i.e., numeral and “figurine-type” candles), the notice also introduced the idea of a novelty candle exclusion that clarified the candle types excluded from the Order beyond those discussed during the investigation:

> The Department of Commerce has determined that certain novelty candles, such as Christmas novelty candles, are not within the scope of the antidumping duty order on petroleum wax candles from the People’s Republic of China (PRC). Christmas novelty candles are candles specially designed for use only in connection with the Christmas holiday season. This use is clearly indicated by scenes or symbols depicted in the candle design. Other novelty candles not within the scope of the order include candles having scenes or symbols of other occasions (e.g., religious holidays or special events) depicted in their designs, figurine candles, and candles shaped in the form of identifiable objects (e.g., animals or numerals).

**See CBP Notice; see also Relevant Documents Memorandum at Tab N.**

While this exception for Christmas/seasonal and special occasion-themed candles appears to be in response to the first two novelty scope rulings for Christmas/seasonal candles, there is no evidence on record from the investigation to indicate that any religious, holiday, or special occasion-themed candles, otherwise within the shapes outlined in the scope, were considered outside the scope of the investigation prior to the issuance of the Order.

**JC Penney**

In November 2001, the Department reconsidered its practice on the issue of candle shapes. *See Final Scope Ruling Antidumping Duty Order on Petroleum Wax Candles From the People’s Republic of China (A–570–504); JC Penney Purchasing Corporation, (November 9, 2001) (“JC Penney”).* In this ruling, the Department reviewed the text of the scope of the Order, beginning with the text of the first sentence of the scope which covers “[c]ertain scented or unscented petroleum wax candles made from petroleum wax and having fiber or paper-cored wicks.” *See Order.* The Department stated in JC Penney:

> The text following this broad inclusive sentence provides a list of shapes, which list is not modified by any express words of exclusivity. The result of our prior practice of excluding candles of a shape other than those listed was arguably inconsistent with the fact that such candles were scented or unscented petroleum wax candles made from petroleum wax and having fiber or paper-cored wicks.

*See JC Penney at 4–5, fn 1; see also Relevant Documents Memorandum at Tab O. Furthermore, in JC Penney, the Department stated:*

> We now determine that this practice was incorrect because it had the effect of narrowing the broad coverage of the first sentence of the Order’s scope. The list of shapes in the second sentence of the Order’s scope does not provide a textual basis for such a narrowing of the coverage of the first sentence of the Order’s scope.

*See JC Penney at 5, fn 1; see also Relevant Documents Memorandum at Tab O.

Therefore, since 2001, the Department has followed the “JC Penney methodology” whereby it determines that if the candle is made from petroleum wax and has a fiber or paper-cored wick it falls within the scope of the Order regardless of shape unless the candle possesses the characteristics set out in the CBP Notice, in which case a candle falls within the Department’s novelty candle exception and is not within the scope of the Order.

However, a close review of the investigation record shows that, although addressing a key enforcement concern, the JC Penney methodology did not fully take into account record evidence from the investigation. While JC Penney stated that the scope of the Order was inclusive, the language of the Order indicates that the scope is exclusive, whereby only those candles in the enumerated shapes are considered inside the scope. For instance, the scope of the Order covers “[c]ertain scented or unscented petroleum wax candles” that “are sold in the following shapes: tapers, spirals, and straight-sided dinner candles; rounds, columns, pillars, votives; and various wax-filled containers” (emphasis added). That is, the language of the scope is overt in its exclusivity. As discussed above, NCA’s apparent concurrence with the scope clarifications issued to Customs further indicate that the scope was originally intended to include only those candle shapes described in the scope and to exclude birthday and utility candles.

**Preliminary Determination**

A thorough review of the record clearly illustrates that NCA did not intend for the scope of the candles Order to include all candles. At the time of the LTFV investigation and the concomitant setting of the scope, NCA advocated a scope where only the enumerated shapes would be covered. For instance, NCA’s agreement in the Memorandum Dated April 30, 1986, that “figurine” candles were not within the scope of the Order indicates that candles in shapes other than those enumerated in the scope language were not included within the scope of the investigation. Furthermore, NCA also intended for the Order to exclude birthday candles and utility candles. While the Department adhered to the original intent of NCA in excluding birthday candles and candles not in the enumerated shapes through the Scope Clarification Communication and CBP Notice, we inadvertently did not specify that utility candles should also be excluded.

Thus, after examining the historical record of this case to determine the original intent of NCA, and taking into consideration the comments of interested parties, the Department is taking this opportunity to clarify how it will analyze candle scope requests so as to best reflect the products covered by the LTFV investigation. The Department agrees with NCA that there is no basis in the record of the LTFV investigation for excluding candles based upon holiday characteristics. In addition, the Department notes that, in contrast to JC Penney, record evidence suggests that the scope of the Order is exclusive and that candles not in the shapes described in the scope fall outside the scope of the Order.

Therefore, the Department’s proposed new interpretation for interpreting candle scope determination requests would entail Option A, with the addition that two specific types of candles—utility candles and birthday candles—would be excluded. The proposed new interpretation would be

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11 As noted previously, the ITC’s discussion of Christmas/seasonal candles (i.e. those in red, white, or green) made no indication that these candles (if in one of the non-enumerated shapes) should be included within the scope.
as follows: 12 The Department will consider all candle shapes identified in the scope of the Order 13 (i.e., tapers, 14 spirals, 15 and straight-sided dinner candles; 16 rounds, 17 columns, 18 pillars, 19 votives; 20 and various wax-filled containers 21) to be within the scope of the Order, regardless of whether measured at the base, top, etc. It can be used in reference to candles that have cylindrical or polygonal (i.e., multi-sided, with all sides being relatively straight) bases and tops. 14 A taper is a candle that has a circumference at its base of up to 5 inches, is typically six inches or longer and gradually decreases in width from base to top so that the width at the base is typically no more than 60 percent larger than the width at the top (the top of a taper candle is typically ⅕ of the candle’s height from the tip of the candle, excluding the wick). The decrease in width may be continuously straight or slightly convex. 15 A spiral is a candle that has dimensions similar to a taper’s and has helical indentations around its length. 16 A straight-sided dinner candle has dimensions similar to a taper’s, although its width is constant through the length of the candle. 17 A round may come in two varieties: (1) A “spherical round” is one in which all points on the candle’s surface (except for those on the base and top) are approximately equidistant from the candle’s center; see Final Scope Ruling: Antidumping Duty Order on Petroleum Wax Candles from the People’s Republic of China (A–2004) at 13. Thus, a spherical round does not contain angles (or embellishments so prominent that it could not be considered approximately spherical); (2) a “flattened round,” is typically disc-shaped and has at its widest point an approximately circular circumference which is greater than its height. All horizontal radii of this circumference are approximately equidistant from the circumference’s center. Thus, a flattened round does not contain multiple surface angles (or embellishments so prominent that it does not exhibit an approximately circular circumference). The top, bottom, and side of a flattened round may be slightly convex or nearly convex. 18 A column is a candle that is often free-standing, has a width of up to 8 inches and a height of up to 14 inches. It typically maintains a constant circumference throughout its length. The base and top may have a cylinder or polygon shape. 19 A pillar is a candle that is often free-standing, has a width of up to 8 inches and a height of up to 12 inches. It typically maintains a constant circumference throughout its length. The base and top may have a cylinder or polygon shape. 20 A votive candle is typically about 1.5 inches in diameter, to 2.5 inches high, and typically designed to be placed in a container. 21 The exposed surface of the wax at the top of the container is typically horizontally flat. The container may be in any shape and be made of any material.

12 The definitions used in the proposed new interpretation were taken from a variety of sources: (1) Historical documents on record from the candles case, such as the Petition and Department memorandum; (2) past candle scope rulings; and (3) sources outside of the Department, including the NCA’s Web site.

13 Note: The term “circumference” as used below denotes the length of the perimeter of a candle, regardless of numbers that typically range in height from 2 inches to 3.5 inches, and .18 inch to .25 inch in width, and come in packs of 10 to 24), and birthday numeral candles (which are candles in the shape of numbers that typically range in height from 2 to 4 inches). All other candle shapes and types will be considered outside the scope of the Order.

Analysis of Parties’ Comments

RILA suggests that the Department use objective criteria to make scope rulings more efficient, such as a list of symbols and objects that are specific to a holiday. We have not adopted this suggestion because our proposed interpretation would not take into account holiday ornamentation when determining whether a candle is outside of the scope of the Order.

TAG suggested that the identifiable object exclusion be based on “realistic guidelines.” We have not adopted this suggestion either, as the Department’s proposed interpretation would not take into account identifiability as a particular object, but rather candle shape and candle type in scope determinations.

In response to NRF’s suggestion that the Department use practices such as utilizing a designated Department employee whom importers can call to discuss scope issues, the Department notes that it already has analysts who perform this function. However, while analysts may discuss scope issues with interested parties, no scope determination can be made by telephone. An official scope ruling can only be made when an interested party formally submits its scope ruling request to the Department. See 19 CFR 351.225.

With regard to NCA’s and SI’s suggestion that the Department issue summary determinations, the Department notes that it already issues determinations that include multiples of what are essentially the same item. See, e.g., Antidumping Duty Order on Petroleum Wax Candles From the People’s Republic of China: Final Scope Ruling, Fashion Craft-Excello, Inc. (April 12, 2007).

In response to the assertion by NRF and SI that a change in the Department’s current practice would mean that it would have to address prior scope rulings, the Department notes that in previous instances where it has changed its scope ruling interpretation in the candles case, the Department has only applied the change to current and future scope rulings. See LDM Anticircumvention Determination 22 and JC Penney.

Application of Interpretation

Given the above, the Department hereby preliminarily applies this new interpretation to the 388 pending scope determinations before us. See Memorandum to the File through Alex Villanueva, Program Manager, from Tim Lord, Case Analyst, Certain Petroleum Wax Candles from the People’s Republic of China: Candle Scope Request Preliminary Determinations (August 9, 2010). The 388 requests consisted of 269 unique candles. 23 Of those 269 unique candles, 250 were preliminarily determined to be outside of the scope of the Order, while 19 unique candles were preliminarily determined to be within the scope of the Order.

Submission of Comments

The Department invites interested parties to comment on these preliminary results and the proposed interpretation for analyzing scope requests under the Order. Persons wishing to comment should file one signed original and six copies of each set of comments by the date specified above. The Department will consider all comments received before the close of the comment period in reaching its final determination. Comments received after the end of the comment period may not be considered. All comments responding to this notice will be a matter of public record and will be available for inspection and copying at Import Administration’s Central Records Unit, Room 1117. The Department requires that comments be submitted in written form. The Department recommends submission of comments in electronic form to accompany the required paper copies.

Comments filed in electronic form should be submitted either by e-mail to the Webmaster below, or on CD–ROM,


23 “Unique candles” are those from a particular requestor that the Department deems identical. For example, if a requestor submitted three beach ball candles, and two of those were exactly the same size, shape, and color, while the third candle was not, the set of three candles would consist of two unique candles.
COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Additions and Deletion

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Additions and deletion from the Procurement List.

SUMMARY: This action adds services to the Procurement List that will be provided by nonprofit agencies employing persons who are blind or have other severe disabilities and deletes a service from the Procurement List previously furnished by such agency.

DATES: Effective Date: 9/13/2010.


FOR FURTHER INFORMATION CONTACT: Barry S. Lineback, Telephone: (703) 603–7740, Fax: (703) 603–0655, or e-mail CMTEFedReg@AbilityOne.gov.

SUPPLEMENTARY INFORMATION:

Additions


After consideration of the material presented to it concerning capability of qualified nonprofit agencies to provide the services and impact of the additions on the current or most recent contractors, the Committee has determined that the services listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46–48c and 41 CFR 51–2.4.

Regulatory Flexibility Act Certification

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will provide the services to the government.
2. The action will result in authorizing small entities to provide the services to the government.
3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O’Day Act (41 U.S.C. 46–48c) in connection with the services proposed for addition to the Procurement List.

End of Certification

Accordingly, the following services are added to the Procurement List:

Services

Service Type/Locations:

Laundry Service, Atlanta VA Medical Center, 1670 Clairmont Road, Decatur, GA.

W.J.B. Dorn VA Medical Center, 6439 Garners Ferry Road, Columbia, SC.

Ralph H. Johnson VA Medical Center, 109 Bee Street, Charleston, SC.

Charlie Norwood VA Medical Center Downtown Division, 800 Balie Street, Augusta, GA.

Athens VA Community Based Outpatient Clinic (CBOC), 9249 Highway 29 South, Athens, GA.

Aiken Community Based Outpatient Clinic (CBOC), 951 Milbrook Avenue, Aiken, SC.

Charlie Norwood VA Medical Center Uptown Division, 1 Freedom Way, Augusta, GA.

Carl Vinson VA Medical Center, 1826 Veterans Boulevard, Dublin, GA.

NPA: GINFL Services, Inc., Jacksonville, FL.

Contracting Activity: Department of Veterans Affairs, VISN 7 Consolidated Contracting, Augusta, GA.

Service Type/Location: Custodial Service, Wm. Womack VA Medical Center, 407 Draper Avenue, Fayetteville, NC.

NPA: Challenge Unlimited, Inc., Alton, IL.

Contracting Activity: Dept of the Army, W6BA ACA FT Leonard Wood, MO.

Service Type/Location: Custodial Service, CMS Headquarters (Central, North & South Bldgs.), 7500 Security Boulevard, Woodlawn, MD.

NPA: Didlake, Inc., Manassas, VA.

Contracting Activity: CSA/PBS/R03 Chesapeake, Philadelphia, PA.

Service Type/Location: Custodial Service, U.S. Department of Energy, Forrestdale Complex, 1000 Independence Avenue, SW., Washington, DC.

NPA: Didlake, Inc., Manassas, VA.

Contracting Activity: Department of Energy, Headquarters Procurement Services, Washington, DC.

Service Type/Location: Custodial Service, Tobyhanna Army Depot, 11 Hap Arnold Blvd, Tobyhanna, PA.

NPA: Allied Health Care Services, Scranton, PA.

Contracting Activity: Dept of the Army, XR WOME USA DEP Tobyhanna, Tobyhanna Army Depot, PA.

Service Type/Location: Custodial Service, Command, Control Computers and Communications, Intelligence, Surveillance and Reconnaissance (C4ISR), 4118 Susquehanna Avenue, Aberdeen Proving Ground, MD.

NPA: The Chimes, Inc., Baltimore, MD.

Contracting Activity: Dept of the Army, XR W6BA ACA, Aberdeen Proving Ground, Aberdeen Proving Ground, MD.

Service Type/Location: Base Supply Center (BSC) and Individual Equipment Element (IEE) Scott Air Force Base, IL.

NPA: Associated Industries for the Blind, Milwaukee, WI.

Contracting Activity: Dept of the Air Force, FA4407 375 CONS LGC, Scott AFG, IL.

Deletion

On 6/4/2010 (75 FR 31768–31769), the Committee for Purchase From People Who Are Blind or Severely Disabled published notice of proposed deletion from the Procurement List.

After consideration of the relevant matter presented, the Committee has determined that the service listed below is no longer suitable for procurement by the Federal Government under 41 U.S.C. 46–48c and 41 CFR 51–2.4.

Regulatory Flexibility Act Certification

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities.
2. The action may result in authorizing small entities to provide a service to the Government.
3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O’Day Act (41 U.S.C. 46–48c) in connection with a service deleted from the Procurement List.

End of Certification

Accordingly, the following service is deleted from the Procurement List: