

FRITZ INDUSTRIES

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October 9, 2012

The Honorable Dave Camp
Chairman
House Ways and Means Committee
1102 Longworth House Office Building
Washington, D.C. 20515

The Honorable Max Baucus
Chairman
Senate Finance Committee
219 Dirksen Senate Office Building
Washington, DC 20510

Attention: MTB

Re: Objection to H.R. 5601 and S. 2640: Encapsulated Potassium Persulfate

Dear Chairmen Camp and Baucus:

Fritz Industries, Inc. (hereinafter "Fritz", "we", or "us") sends this letter to provide vital comment to the House Ways and Means and Senate Finance Committees and to advise the Committees that Fritz joins other adversely impacted companies in opposing H.R. 5601 and S. 2640, which propose to suspend temporarily the rate of duty on imports of encapsulated potassium persulfate. To allow duty free treatment for encapsulated potassium persulfate and similar or identical encapsulated material will harm Fritz and its employees. These proposed laws would harm American companies in unfairly benefitting foreign companies, and the proposed laws would harm the ability of companies such as Fritz to maintain and expand job opportunities for their employees and potential employees. The passage of these proposed bills is inappropriate as set out in this letter.

Our Company

Fritz is a Texas corporation located east of Dallas in Mesquite, and we encapsulate persulfate chemicals. In 1995, we began aggressively to develop and commercialize encapsulated persulfate technology. Fritz is now the largest producer in the world of encapsulated persulfate products. We have grown the encapsulated products segment of the business to comprise today a significant amount of the company's gross revenue. As a result we are able to employ more

than 160 hourly employees between two manufacturing locations in Mesquite and Greenville, Texas. These employees are involved in the production, packaging, quality checking, and shipping of encapsulated persulfates.

Our Products

Persulfates, as a group, provide specific and rapid oxidation functionality in differing ambient conditions. The purpose for encapsulating persulfates is to achieve a measure of synthetic control over the oxidizing phase by encapsulating individual particles of persulfate with sophisticated coatings. Several types of coatings are used and are the specification design of either Fritz or Fritz and their customer. All coatings and persulfate substrate particles are produced domestically.

Fritz's Plans For Further Development and the Creation of Jobs

Over time, some of the coatings specified have necessitated major capital investment to produce finished product and meet or exceed the regulatory emission standards set forth by Texas Commission on Environmental Quality and The United States Environmental Protection Agency. We are currently in a ¾ million dollars spending program to increase emission reduction capacity with domestically built systems. We also are committed to spend more than \$2 million for locally built manufacturing equipment, and we are planning to hire more than 100 hourly positions in 2013. These are real American jobs that are threatened by the proposal for passage of H. R. 5601 and S. 2640.

The Unjustified Threat of H.R. 5601 and S. 2640

As USA's largest commercial producer of encapsulated persulfates, Fritz believes a duty suspension on these products is unjustifiable and would materially harm our business operations and thus American jobs. The Harmonized Tariff Schedule of the United States classifies potassium persulfate in position 2833.40 as a peroxosulfate along with ammonium and sodium persulfates forming a clearly defined group. (Reference: attached "HTSUS 2833-40.pdf" file.) This grouping has been primarily designed to provide a duty discouraging commodity dumping at lower than domestic pricing from manufacturers in China. (Reference: Gerald R. Prout VP, FMC - letter of "Objection to H.R. 5601 and S. 2640" September 13, 2012.) Any action by the Congress to "suspend temporarily the rate of duty on Encapsulated Potassium Persulfate" in a selective fashion effectively weakens the HTSUS's classification of peroxosulfates. Secondly, any such action suggests that having a coating of cellulose acetate butyrate may have contributory merit in the request for a ruling to consider the encapsulated potassium persulfate to be imported in the HTSUS position describing the encapsulation coating as the coating has no anti-dumping duty.

Either a temporary suspension of which the bills request consideration, or the possible reclassification of an encapsulated persulfate through the ruling process, enables foreign produced products manufactured with dissimilar wage and regulatory conditions to unfairly compete. Certainly either action would materially harm the persulfate encapsulation segment of

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Fritz. The effort to obtain passage of H. R. 5601 and S. 2640 is evaluated by Fritz as the construction of two loopholes that would begin to encourage and support foreign competition in the United States market, and Fritz opposes any further consideration of House Bill HR5601 and Senate Bill S2640. Consistent with United States policy the two proposed bills should not be passed.

You are most likely aware that the United States' enforcement of antidumping and countervailing duty orders and evasion of such orders by United States importers is a subject of great concern right now. Last month, S. 3524, the ENFORCE ACT of 2012, introduced by Senator Wyden was placed on the Senate calendar for consideration. Clearly, there are companies out there seeking to evade current antidumping orders. We believe allowing bills such as H.R. 5601 and S. 2640 to move forward would create a potential vehicle for evading the current antidumping order on persulfates from China.

The bill requirements set forth by the House Ways and Means Committee for the Miscellaneous Tariff Bill (MTB) Process are straightforward and clearly provide that "[a] bill will be considered controversial if, for instance, another Member objects to the bill or *if a domestic producer objects to the bill (A domestic producer is a person or firm who demonstrates production, or imminent production, of the article or a like or directly competitive article)*. The Committee will consider concerns raised by relevant parties." *Miscellaneous Tariff Bill Process Requirements*, Section II, ¶ 8. Therefore, the Committee shall give weight to objections filed by valid domestic producers. Fritz produces a like product in the United States. Since the bill is thus "controversial," we believe it should be dropped from consideration by both Committees.

Conclusion and Statement of Appreciation

While Fritz supports the general purpose of the Miscellaneous Tariff Bill to make lower cost inputs available for United States manufacturers, we must express our opposition to these specific bills, which we respectfully suggest run counter to the purpose for which the Miscellaneous Tariff Bill process is intended. We also respectfully suggest that the proposed bills create risk of undermining the United States antidumping law.

Please let me know if you have any questions or require additional information. Thank you in advance for your consideration of our comments and for your public service.

Respectfully submitted,



Eric Ulfsparr

Vice President & Chief Operating Officer