

UNITED STATES INTERNATIONAL TRADE COMMISSION  
Washington, DC 20436

**MEMORANDUM ON PROPOSED TARIFF LEGISLATION  
of the 109<sup>th</sup> Congress<sup>1</sup>**

[Date approved: August 26, 2005]<sup>2</sup>

**Bill No. and sponsor:** H.R. 1752 (Mr. Aderholt).

**Proponent name, location:** Rehau Incorporated  
Leesburg, VA, 20176

**Other bills on product (109<sup>th</sup> Congress only):** None.

**Nature of bill:** Temporary duty suspension through December 31, 2008.

**Retroactive effect:** None.

**Suggested article description(s) for enactment (including appropriate HTS subheading(s)):**<sup>3</sup>

1-Butene, polymer with ethene (CAS No. 25087-34-7) (provided for in subheading 3901.20.50).

**Check one:**  Same as that in bill as introduced  
 Different from that in bill as introduced (explain differences in Technical comments section)

**Product information, including uses/applications and source(s) of imports:**

The product subject to this legislation is a member of a family of similar high molecular weight, high-density polyethylene copolymer powders used for the high pressure/high temperature extrusion of crosslinkable (PEX) pipes. It is a specialty polymer, stabilized for transporting and storage. The crosslinking agent (e.g., peroxide) and necessary stabilizers must be added during the extrusion process known as the Engel method. The finished thermoset product produced by the proponent, RAUPEX® pipe, is a flexible pipe that is excellent for use in hot-and cold-water plumbing systems and carrier piping for underfloor radiant heating systems. These pipes resist corrosion, and abrasion encountered during installation, as well as being lightweight, and are substitutable with copper pipe and tubing. RAUPEX® pipe has exceptional heat and pressure resistant characteristics. The subject BorPEX™ polyethylene resin is purchased and imported exclusively from a Borealis A/S plant in Sweden.

**Estimated effect on customs revenue:**

<sup>1</sup> Industry analyst preparing report: Ray Cantrell (202-205-3362); Tariff Affairs contact: David Michels (202-205-3440).

<sup>2</sup> Access to an electronic copy of this memorandum is available at [http://usitc.gov/tata/hts/other/rel\\_doc/bill\\_reports/index.htm](http://usitc.gov/tata/hts/other/rel_doc/bill_reports/index.htm).

<sup>3</sup> Borealis A/S, the manufacturer of this resin, manufacturers several resins identified by CAS No. 25087-34-7; thus the CAS No. alone does not adequately define the specific polyethylene resin subject to this bill.

<b>HTS subheading: 3901.20.50</b>					
	2005	2006	2007	2008	2009
Col. 1-General rate of duty (AVE) <u>1/</u>	6.5%	6.5%	6.5%	6.5%	6.5%
Estimated value <i>dutiable</i> imports	\$11,000,000	\$12,500,000	\$14,000,000	\$16,000,000	\$17,500,000
Customs revenue loss	\$715,000	\$812,500	\$910,000	\$1,040,000	\$1,137,500

1/ The AVE is the ad valorem equivalent of a specific or compound duty rate expressed as a percent, using the most recent import data available.

Source of estimated dutiable import data: Commission and industry estimates.

**Contacts with domestic firms/organizations (including the proponent):**

Name of firm/organization	Date contacted	US production of same or competitive product claimed?	Submission attached?	Opposition noted?
		(Yes/No)		
Rehau, Incorporated (Proponent) Mr. Mark Mullins Phone: (703) 779-4001 (Ex. 2127)	6/4/2005	No	No	No
Collier Shannon Scott, PLLC (Proponent) Mr. James E. Prince Phone: (202) 342-8830	6/20/2005	No	No	No
Mr. Robert B. Aderholt (Sponsor) Mr. Michael Chahinian Phone: (202) 225-4876	6/13/2005	No	Yes	No
Bayer Corporation Ms. Karen L. Niedermeyer Phone: (412) 777-2058	6/16/2005	No	Yes	No
Borealis Compounds LLC Mr. Tom Venator Phone: (908) 850-6282	6/15/2005	No	No	No
LANXESS Corporation Mr. Seth Tomei Phone: (412) 809-3664	6/16/2005	No	Yes	No

Ticona Mr. Donal McNally, Ph.D. Phone: (908) 522-7544	6/15/2005	No	No	No
Uponor Wirsbo, Inc. Ms. Cindy Albreck Ms. Sheila King Phone: (952) 891-2000	6/27/2005	No	No	No
U.S. Customs and Border Protection Mr. Frank Cantone Phone: (646) 733-3038	6/28 /2005	No	Yes	Yes

**Technical comments:<sup>4</sup>**

The Commission suggests that the article description on page 1 of this report be used, in order to reflect the correct CAS number.

Customs has been contacted concerning possible revisions to the article description of this bill in order to distinguish these products from others under the same subheading. It should be noted that the CAS number alone does not adequately define this specific BorPEX™ polyethylene resin HE2591 manufactured by Borealis, as several other grades are also defined by the same subject CAS No. (see attachment).

On June 24, 2005, Commission staff was notified by the proponent that Borealis resin HE2591 subject to this bill was only used for experimental purposes in the past. The proponent is currently importing a different grade of Borealis polyethylene HE-grade resin for commercial purposes, and wishes to amend the bill (see attached data sheets). The Commission suggests that the subject bill should be stricken from the record, and a new bill introduced for this particular Borealis' HE polyethylene resin describing its unique chemical and physical properties that warrant an exclusive right to duty suspension by the proponent. The nonsubject resin has the same CAS No., and HTS No. as subject resin, and is imported from the same country, Sweden.<sup>5</sup> However, a large producer of PEX pipe in the United States (Uponor Wirsbo, Inc., Apple Valley, MN) is known to import a similar product.

<sup>4</sup> The Commission may express an opinion on the HTS classification of a product to facilitate consideration of the bill. However, by law, only the U.S. Customs Service is authorized to issue a binding ruling on this matter. The Commission believes that the U.S. Customs Service should be consulted prior to enactment of the bill.

<sup>5</sup> E-mail correspondence from Messrs. James E. Prince and John Brew, Collier Shannon Scott, PLLC, Washington, DC, ([jprince@colliershannon.com](mailto:jprince@colliershannon.com)); [Jbrew@colliershannon.com](mailto:Jbrew@colliershannon.com) phone: (202) 342-8400, June 24 & 27, 2005.

109<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION

# H. R. 1752

To suspend temporarily the duty on Polyethylene HE2591.

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IN THE HOUSE OF REPRESENTATIVES

APRIL 21, 2005

Mr. ADERHOLT introduced the following bill; which was referred to the  
Committee on Ways and Means

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## A BILL

To suspend temporarily the duty on Polyethylene HE2591.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. POLYETHYLENE HE2591.**

4 (a) IN GENERAL.—Subchapter II of chapter 99 of  
5 the Harmonized Tariff Schedule of the United States is  
6 amended by inserting in numerical sequence the following  
7 new heading:

“	9902.04.41	Polyethylene HE2591 (CAS No. 25087-43-7), with 1- butene as comonomer (pro- vided for in subheading 3901.20.50) .....	Free	No change	No change	On or before 12/31/2008	”.
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8 (b) EFFECTIVE DATE.—The amendment made by  
9 subsection (a) applies with respect to goods entered, or

- 1 withdrawn from warehouse for consumption, on or after
- 2 the 15th day after the date of the enactment of this Act.

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