

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, DC 20436

**MEMORANDUM ON PROPOSED TARIFF LEGISLATION
of the 111th Congress¹**

[Date approved: July 15, 2010]²

Bill No. and sponsor: S. 2320 (Mr. Ben Nelson of Nebraska).

Proponent name,³ location: ConAgra Foods, Inc., Omaha, NE.

Other bills on product (111th Congress only): S. 2319.⁴

Nature of bill: Temporary duty reduction⁵ through December 31, 2011.

Retroactive effect: None.

Suggested article description(s) for enactment (including appropriate HTS subheading(s)):

Machinery for cooling vegetables, designed to be joined to form a continuous process manufacturing line for use in preparation and manufacture of shelf-stable vegetable snacks (provided for in subheading 8419.89.95).⁶

Check one: Same as that in bill as introduced.
 Different from that in bill as introduced (see Technical comments section).

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

The proponent intends to import machinery that will produce shelf-stable vegetable snacks starting with raw vegetables. The technology and exact manufacturing processing for producing the snacks are licensed trade secrets, according to the proponent. The licensor of the technology has licensed suppliers to produce the machinery, but these companies are not in the United States. The machinery for cooking and packaging vegetables is intended to be part of a continuous manufacturing process line once installed, but this machinery may not be considered “parts” for purposes of tariff classification because each machine has the potential for independent functioning if used outside a continuous manufacturing line. Further product description is limited because of the licensing agreement between the proponent and the licensor. The proponent claims to be the sole licensee allowed to use this machinery within the United States. The machinery for the production line will be imported from the United Kingdom, Denmark, China, and Germany.

¹ Industry analyst preparing report: Dennis Fravel (202-205-3404); Tariff Affairs contact: Jan Summers (202-205-2605).

² Access to an electronic copy of this memorandum is available at http://www.usitc.gov/tariff_affairs/congress_reports/.

³ The sponsor/proponent did not identify any additional beneficiaries of this bill.

⁴ S. 2319 concerns industrial microwave ovens that will be units in the same production line as the subject product of S. 2320.

⁵ Based on information from the proponent about the product of interest, the description in the bill as introduced and its referenced HTS number should be changed so that the intended products can be covered.

⁶ As a result of staff discussions with the proponent and Customs and Border Protection, the product description in S. 2320 appears incorrect. The proponent says it intends to import the units of a production line not as a single entity, but individually, and therefore the units will be under many different product classifications, most of which are likely have a U.S. tariff rate of Free. See Customs and Border Protection ruling letter HQ 967823, December 30, 2005.

Estimated effect on customs revenue for the subject product classifiable in HTS subheading 8419.89.95:

	2010	2011	2012	2013	2014
Col. 1-General rate of duty	4.2%	4.2%	4.2%	4.2%	4.2%
Estimated value <i>dutiable</i> imports ^a	\$6,000,000	\$6,000,000	\$4,000,000	\$4,000,000	\$4,000,000
Customs revenue loss ^{b c}	\$252,000	\$252,000	\$168,000	\$168,000	\$168,000

a/ Dutiable import estimates based on industry information and Commission estimates.

b/ At the request of Congress, customs revenue loss is provided for 5 years, although the effective period of the proposed legislation may differ.

c/ The above estimated customs revenue loss reflects a duty suspension (see footnote 6 on first page of this report).

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

Name of firm/organization	Date contacted	Claim US makes same or competing product(s)?	Submission attached?	Opposition noted?
			(Yes/No)	
ConAgra Foods, Inc. (Proponent) Sanford E. Leake III, 509-736-0456	12/02/2009	No	No	No
Hi-Tech/FPA Group William G. Grutter, 616-284-5846	12/02/2009	Yes	Yes	Yes

Technical comments:⁷

It is suggested that the article description in the proposed heading be amended to read as shown on page 1, to convey more precisely the products actually being imported by the proponent, to reflect the separate importation of pieces of machinery, and to conform to normal HTS usage.

⁷ 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.

Fravel, Dennis**From:** Bill Grutter [wgrutter@hitechfpa.com]**Sent:** Thursday, December 03, 2009 8:42 AM**To:** Fravel, Dennis**Subject:** RE: Proposed U.S. tariff suspension on imports of cooling machinery for certain snack items

Dear Mr. Fravel,

Our company and subsidiaries oppose this bill. At a time when US businesses are struggling to survive, and US tax paying citizens are losing jobs to foreign competition, I find it very concerning to think our representatives would assist the rest of the world at a cost to US businesses and citizens. Allowing foreign competition to freely import will further erode US business. Now is NOT the time to remove support of domestic production and employment!

We, Hi Tech/FPA Group are manufacturers of Food Processing Equipment. One division of our business is FPA (Food Process Automation) and two major product lines are Ovens for baking and drying, and Cooling Tunnels for cooling of food products. Our Industry has suffered business loss due to foreign competition, and some of that competition is coming from foreign companies in which the foreign government encourages, supports, and assists their constituents in exporting their products. Surely it is obvious that providing support to imports and foreign countries undermines the very country that employs our congressional congressmen considering these bills.

Sincerely,

William G Grutter

President

Hi-Tech/FPA Group

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111TH CONGRESS
1ST SESSION

S. 2320

To reduce temporarily the duty on parts of machinery for the industrial preparation or manufacture of dried vegetable snack (small portions of food usually eaten other than at meal times) items.

IN THE SENATE OF THE UNITED STATES

OCTOBER 29, 2009

Mr. NELSON of Nebraska introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To reduce temporarily the duty on parts of machinery for the industrial preparation or manufacture of dried vegetable snack (small portions of food usually eaten other than at meal times) items.

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

1 **SECTION 1. PARTS OF MACHINERY FOR THE INDUSTRIAL**
 2 **PREPARATION OR MANUFACTURE OF DRIED**
 3 **VEGETABLE SNACK (SMALL PORTIONS OF**
 4 **FOOD USUALLY EATEN OTHER THAN AT**
 5 **MEAL TIMES) ITEMS.**

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

“	9902.01.00	Parts of machinery for the industrial preparation or manufacture of dried vegetable snack (small portions of food usually eaten other than at meal times) items (provided for in subheading 8438.90.90)	0.8%	No change	No change	On or before 12/31/2011	”.
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10 (b) **EFFECTIVE DATE.**—The amendment made by
 11 subsection (a) applies to goods entered, or withdrawn from
 12 warehouse for consumption, on or after the 15th day after
 13 the date of the enactment of this Act.

