

November 3, 2009

Dear Members of Congress:

We are writing to express our opposition to H.R. 2868, the “Chemical Facility Anti-Terrorism Act of 2009.” Despite changes made to the legislation in the Energy and Commerce Committee in an effort to remedy significant shortcomings in the bill, the measure would still impose an increased regulatory burden on U.S. agriculture and we urge members to vote against it.

There is no question that homeland security and the protection of America’s food supply are top priorities. The nation’s agricultural industry continues to take pro-active steps throughout the distribution chain to secure crops and livestock as well as critical crop input materials such as fertilizer and pesticides from the threat of potential terrorists. Our organizations and members have worked closely with U.S. Department of Homeland Security (DHS) officials in order to establish appropriate standards and ensure compliance with the Chemical Facility Anti-Terrorism Standards (CFATS) regulations.

Specifically, we strongly object to the Inherently Safer Technology (IST) provisions of this legislation; this part of the measure would allow DHS to mandate that businesses employ specific product substitutions and processes. If the IST mandate and assessments are put in place for the nation’s agricultural industry, they could well jeopardize the availability of widely used, lower-cost sources of essential plant nutrient products or certain agricultural pesticides used by farmers and ranchers.

IST is an engineering concept used to improve designs of worker safety protections at manufacturing facilities. We are concerned that this concept is being inappropriately applied to security issues. IST is not a security-based concept and we believe an important distinction must be made between safety and security. DHS has testified that IST requirements do not impact the security of a chemical facility. In addition, DHS stated that they do not have the expertise to evaluate IST options for each sector regulated. Furthermore, where appropriate, IST is already incorporated into the federal Occupational Safety and Health Administration’s Process Safety Management (PSM) program. The requirements within the chemical site security bill go beyond what is required under PSM and are duplicative and burdensome for facilities which currently comply with PSM.

We support efforts to permanently authorize the DHS CFATS regulations. However, any legislation considered on the House floor needs to take into account the regulatory and economic impact on American agriculture and the consumer for whom we provide essential food, fiber and bioenergy.

Thank you for taking our concerns into account as Congress considers H.R. 2868. We stand ready to work with Congress towards the implementation of a fair and responsible chemical facility security program.

Sincerely,

Agricultural Retailers Association
American Farm Bureau Federation
Chemical Producers and Distributors Association
National Agricultural Aviation Association
National Association of Wheat Growers
The Fertilizer Institute
USA Rice Federation