



# MABA Newsletter

MONTANA AGRICULTURAL BUSINESS ASSOCIATION

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## Calendar:

### November 9

Montana Department of Agriculture  
Section 18 Meeting, Helena

### November 28

MABA Board of Directors Meeting,  
Great Falls

### January 3

Montana Legislature Convenes,  
Helena

### January 24-26

MABA-MGEA Convention, Great Falls

### February 2

CCA Exam

### February 27-28

Professional Applicator Training,  
Glasgow, Cottonwood Inn

### March 16

MABA Board of Directors Meeting,  
Helena

## Chemical Security Legislation Enacted

Congress has passed and the President has signed the first-ever federally mandated legislation meant to improve security at chemical plants including retail locations selling crop protection and plant nutrient products.

The House and Senate conferees attached chemical facility security legislation to the FY 2007 Department of Homeland Security Appropriations legislation, paving the way for its passage this year.

The compromise language, which was drafted in late September allows DHS to apply risk-based performance standards for securing the nation's chemical facilities which present the highest levels of risk. The compromise language includes several positive provisions:

- Allows facilities to select a layered security approach to appropriately address vulnerabilities;
- Gives a specific exemption for Maritime Transportation Security Act (MTSA) regulated facilities;
- Does not allow the Secretary to disapprove a plan based on the "presence or absence of a particular security measure" (anti-Inherently Safer Technology--IST--language.)
- Grants protection of information meaning basically that information about your facility is not available to the public except for law enforcement and first responders, etc.
- Does not allow for private right of action against an owner or operator of a facility. That is, citizen legal suits against a facility to force compliance are not permissible.

Not so positive language includes a provision that allows the Secretary of DHS to shut down a facility found non-compliant during audits. In addition, the legislation does not contain preemption language, meaning that states and localities could still enact more stringent laws and ordinances.

The authority provided by the act expires three years after the date of enactment. This will probably mean legislation will be introduced in the next Congress to enable environmentalists and others to attempt to get IST and other more stringent provisions.

MABA has discussed this legislation for the past five years with the members of Montana's Congressional delegation when we have been in Washington D.C., leaving the message that we want to do our part to protect America, but that we should not be under the same rules as a large chemical plant in New Jersey.

A session on chemical facility security is planned for the MABA-MGEA Convention in January. The Senate-House compromise legislation is on page three of this newsletter. **[From The Fertilizer Institute]**