



New regs keep ARA hopping

ARA challenges run the gamut from transportation to environmental stewardship

By Heather Hudson

Just past the one-year mark in office in Washington, D.C., a new administration is intent on reform in America. As a result, a host of new regulations and proposed legislation is keeping our sister organization on high alert near Capitol Hill.

“With this particular administration and congressional leadership there’s no shortage of issues flying at us,” says the Agricultural Retailers Association’s (ARA) President and CEO Daren Coppack.

“It seems like they’ve got a new rulemaking coming out every week. We have expected for quite awhile that there would be a number of regulatory challenges that would come given some of the appointments that were made... and those fears have come true.”

Here are just a few of the major issues that ARA is managing.

On the road

There’s long been a law limiting the number of hours in a 24-hour period that truck drivers can be on the road. And for almost as long there’s been an exemption for agricultural use, which says that during peak periods – when retailers and producers are hustling to get their fertilizer and grain in the bin – those limits don’t apply. It seems this exemption is now under review.

“There’s been a pretty aggressive effort to roll back that exemption so that the limits would apply at least to the distribution of retail sectors, if not all the way to the farm. We’ve been working pretty hard to make sure that doesn’t happen,” says Coppack.

On the rails

There are just four Class 1 railroads in America and, in some parts of the country only one serves the entire state, which eliminates the value that comes out of healthy competition.

“We’re trying to make a business which is inherently a monopoly because of the way it’s built, act like there’s actually competition out there and address shipping practices, rates, service issues,” says Coppack.

Some railroads are also saying they don’t want to hold anhydrous ammonia anymore, are jacking the cost for its transportation or transferring liability to the shipper or receiver even while it’s in their care. Coppack predicts that issues like these will lead to an increase in the cost of shipping substances like anhydrous ammonia.

“We’re working with the regulatory agency and congressional committees that have oversight to make sure that as they deal with rail issues, whether it’s rulemaking or new laws, they state that common carrier obligation comes first.”

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On environmental stewardship

Aggressive and shortsighted environmental initiatives are threatening the agricultural industry, says Coppack and the ARA is being forced to take a stand on a number of issues.

Just one is the U.S. Environmental Protection Agency’s (EPA) move to target spray drift.

“They’re trying to incentivize drift reduction technology either by requiring it or by encouraging people to develop products that could reduce drift. The problem is, they’re not being very forthcoming with what their rules, expectations and liability protections would be.”

A proposed rule that Coppack calls a real “game changer” could open up a litigation can of worms. Under the old rule, spray drift is only an issue if there is a documented case in which an application drifted off target. Under the proposed rule, which could go final in the middle of 2010, sprayers could be liable for the possibility of drift rather than actual impact.

“Under the proposed rule, you can make an extreme case where if there had been someone standing next to the stream when you went by with your spray rig, they could question whether there could have been an adverse impact. Not did it have an impact, but could it. These are liabilities that nobody can control or offset.”

Other issues on the table at ARA include:

- The EPA’s move for total maximum daily loads for things like nitrogen phosphorus in streams, as well as limits on pesticides, including the possible requirement for a discharge permit when applying a crop protection product.
- Chemical site security requiring retailers to adopt safer technology, which could be too costly to implement.
- A shortage of irrigation water available to California this year, which could affect production and how much producers in that state will buy in the way of fuel, fertilizer, seed and chemical.

Coppack isn’t yet sure on which of these issues the ARA is going to lead the charge, but he plans to keep his finger firmly on the pulse of Washington. ♦

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