

Agricultural Enterprises Under Fire

Balance, Technology, Innovation Needed for Farmers/Ranchers to Survive

Summary

Background

Agriculture is confronted with a myriad of issues challenging its viability into the 21st century. Restrictions are being imposed on almost every aspect of farming. The lack of water, lack of an available workforce, increase in the minimum wage, changes in agricultural overtime laws, restrictions on pesticide use, constraints on land use, protection for endangered species, and restrictions on air quality are but a few of the challenges agriculture faces.

Pesticides

Ever-tightening regulations on the use of pesticides is an ongoing challenge for farmers. In addition to California having some of the most restrictive registration and labeling requirements for pesticides, some of those products used on specialty crops are being banned, phased out or are becoming restricted use materials. Once a pesticide is categorized as a restricted use material, a licensed pest control operator or qualified applicator is required to apply these materials to crops, which drives up the cost of doing business. It also is costly to find alternative pesticides to replace those that are banned or are being phased out if alternatives are available at all. Alternatives often are not as effective, which can result in using higher concentrations.

Recently, the Department of Pesticide Regulations (DPR) released draft regulations that would impose extensive restrictions on farming within a quarter-mile of K–12 public schools and licensed child care facilities, Monday through Friday between 6 a.m. and 6 p.m. Existing rules already provide many layers of protection, have been carefully developed by DPR to provide safety, and have been used without incident for many years. The draft regulations are extremely restrictive and would delay or prohibit pesticide applications without improving safety, but jeopardizing crop health. The proposal is not based on scientific principles of DPR or the federal government, but is based on a study by another state agency which stipulates that the “study results cannot be used to predict possible health impact.”

Water

Farmers and ranchers have been losing access to water supplies over the last 30 years. An early court decision in 1978 set the stage by affirming that the State Water Resources Control Board (Board) has authority to set standards for water quality and salinity control for protection of fish and wildlife in the Delta and Suisun Marsh. Further court action also stated that the Board has authority to condition and amend water rights permits for the Central Valley Project (CVP) and the State Water Project and that the public trust doctrine applies to water rights permits. Since then, there has been a clear reduction in the amount of water allocations from both projects.

In particular, when the Central Valley Project Improvement Act passed in 1992 and was subsequently amended in 2000, 800,000 acre-feet of water had to be redirected for fish and environmental uses. Farmers in the Central Valley were affected the most because many are supplied by the U.S. Bureau of Reclamation, which operates the CVP. Continuing declining fish numbers have resulted in further reductions in the amount of water available for agriculture, even though those reductions have yet to prove definitively beneficial for survival of fish.

The five-year drought in California further exacerbated the problem with orders from the Board cutting off or greatly reducing the amount of water supplied to many agricultural permit holders in order to provide enough water for endangered fish and to hold back salinity encroachment in the Delta. For the first time, very senior water rights holders were included in the cuts.

More cuts are coming to farmers with the passage of the state Sustainable Groundwater Management Act. This will be the first time that groundwater will be regulated. The goal of the act is to bring water basins into balance by eliminating overdrafts. Many farmers switch over to pumping groundwater when surface water is unavailable. When the Act is fully implemented, farmers will suffer cuts in the amount of water they pump in over-drafted basins—which encompass most of the Central Valley.

Labor

The passage of a new \$15-an-hour minimum wage adds to the burdens of farmers and ranchers. Even though the increase is phased in starting with \$10.50 beginning in 2017 and culminating in \$15 by 2022, it is likely to lead to job losses throughout agriculture. Growers of labor-intensive crops such as stone fruit, berries, row crops and vines will find it nearly impossible to compete in the global marketplace unless they can find a way

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to use less labor. This likely will result in a trend toward crops that use less labor, along with a trend toward more research into mechanization.

The other shoe for agriculture was the passage of the agricultural overtime bill. Currently, agricultural workers who work more than 10 hours a day receive overtime pay at 1.5 times the regular rate of pay. Beginning in 2019 and continuing until 2022, the daily hours at which overtime pay begins is phased in, with the time being reduced by a half-hour per day per year until reaching 8 hours per day or 40 hours per week. Employers of 25 or fewer employees get an additional three years to comply.

The combination of a higher minimum wage and the new agricultural overtime regime will likely force more mechanization and also may result in agricultural operations seeking to relocate out of California.

Land Use

Endangered species restrictions have limited farmers' and ranchers' ability to use their property. Once a species is listed as endangered, the law requires that no activity be allowed which threatens the well-being of the species unless permission to "take" is granted by the Department of Fish and Wildlife (DFW). Agriculture does not have safe harbor for routine and ongoing agricultural activities, but every year environmentalists attempt another bill or administrative action to limit or take away the safe harbor.

A bill was introduced in 2016 that would have allowed DFW to unilaterally adopt plans that call for the conservation of vast tracts of public and private land even if those lands already are in the General Plan and zoned for development. Although participation in mitigation based on these plans is "voluntary," their mere existence would have posed problems for agricultural lands adjacent to or near the conservation areas. It is reasonable that the species might leave the conservation area or mitigation bank and wind up on agricultural lands, forcing the landowner to limit operations to avoid a take situation. The bill was amended to several pilot projects, but still is a concern for agriculture.

Air Quality

As air quality regulations continue to tighten, farming operations are being forced to reduce even more emissions. Those emissions come from a variety of sources, like pesticides, farm equipment, farming practices, livestock, etc. Farm equipment like tractors for instance have a long operational life, but new emission reduction laws have forced owners, where possible, to replace engines or when not possible retire older models and invest in new ones.

Large sources of particulate matter in the San Joaquin Valley include black carbon, ammonium nitrate from fertilizers, and dust. Reduced fertilizer applications and paving rural roads are becoming a necessity to improve air quality. Other sources of emissions facing regulation include agricultural water pumps, wine fermentation and the use of commercial dryers.

Future Outlook

Agriculture will have to become more productive using fewer resources if it is to survive. Great strides have been made, but more are necessary to compensate for the challenges ahead. Mechanization may help with the labor problem, but moving to less labor-intensive crops also will be an option if markets can be found. Technology will be key to solving emission issues, along with reformulation of chemical products. Agriculture must be open to change in order to thrive.

CalChamber Position

The California Chamber of Commerce supports a balanced approach between environmental protection and social economic progress. Environmental regulations should be based on sound science and peer reviewed. The challenges that agriculture faces are different in many regards than other types of businesses. There should be acknowledgment that farmers provide a very basic necessity for survival—food. The state's farmers produce crops under strict regulations for health and safety, and environmental concerns, all of which increase the cost of doing business in California. The state's farmers and ranchers compete in the marketplace with other states and countries that are not subject to the same safeguards or expenses, but are allowed to sell into the California market.

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