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NORTH AMERICAN EQUIPMENT DEALERS ASSOCIATION e-newsletter

Thursday, March 24, 2011

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CEO Blog

My 100th anniversary!
 March 2011

No, I am not quite that old, but this month marks my 100th "The Way I See It" column. I want to thank each and every one of you who have put up with my rantings, opinions and sometimes off-the-wall ideas over the years. I truly enjoy writing this column, but most of all, I enjoy receiving feedback from you – good or bad – about my articles.

Some of the topics have been about sensitive issues. These seemed to touch a nerve and drew quick and sometimes unexpected reactions. For instance, I drew heavy fire from some manufacturers about comments I made about market share, purity, titling and registration of equipment, and warranty concerns. The good news is we were eventually able to have an open debate and reach a better understanding regarding such issues. I certainly never intend to offend anyone with my comments and appreciate the willingness to forgive in those instances when I have done so.

On other occasions, I have poked fun at government policies, politics, politicians, and decisions which, in my opinion, simply didn't pass the common sense test or that violated deeply held philosophies of my own. We won't agree all the time, but maybe a little levity might create more understanding, or at least, make us feel better about the issue or situation we find ourselves in.

Then there were the articles I wrote about practical ideas for use around the dealership. I recall an early column I wrote about customer relationships. Someone wrote to me afterwards and suggested I write a book about the topic. In that regard, I'll let you in on a little secret: By the time I write an entire article like that one, you have heard everything I know about the topic and then some! Pulling off an article? Yes... pulling off an entire book... that's a whole different matter!

And let's not forget those wacky articles I've written where I challenged conventional wisdom by asking off-the-wall questions or posing preposterous actions just to see if anyone was paying attention. I love when you write that such articles did hit your "aha" button and the light bulb in your own mind got switched on about the subject. These are my favorite types of articles to write. Getting us all to think outside the box,

Industry & Manufacturing News

Kawasaki and Maruyama backpack blowers recalled

Gas-powered backpack blowers made by Kawasaki and Maruyama have been recalled by the Consumer Product Safety Commission because the gas tanks can split and leak fuel, posing a fire hazard. The recalls involve 22,250 units sold in the U.S. and Canada.

Maruyama has recalled 18,750 backpack blowers sold under 10 different model numbers (see the recall notice for full details). The company has received 25 reports of leaking tanks. Made in Japan, the blowers were sold by authorized service dealers from April 2008 through December 2010 for between \$320 and \$820.

The 3,500 Kawasaki backpack blowers were sold with five different model numbers (see recall notice) by authorized service dealers from August 2008 through February 2011 for between \$420 and \$490.

[Read more](#)

Source: Home Improvement Ninja

On-farm renewable energy production shows tremendous growth

The number of solar panels, wind turbines and methane digesters on America's farms and ranches has increased significantly over the past decade and there are now 8,569 operations producing their own renewable energy, according to the results of the 2009 On-Farm Renewable Energy Production Survey.

Conducted by the U.S. Department of Agriculture's National Agricultural Statistics Service, this was the first-ever nationwide survey that looked at renewable energy practices on America's farms and ranches.

[Read more](#)

Source: USDA

Komatsu production slowly returning; company providing equipment in Japan disaster

Komatsu has started production gradually at some plants in earthquake-affected Japan, but production remains stopped at three plants.

The company is providing relief assistance largely in the form of lending construction equipment, forklift trucks, temporary housing, power generators and other equipment all free of charge.

[Read more](#) to learn of Komatsu's relief efforts, the status of its Japanese plants and the delays to be expected on some equipment and parts.

Source: AED

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Legislative & Regulatory News

Take a stand for fair labor practices

When the U.S. Congress drafted the Railway Labor Act (RLA), it explicitly stated that a majority of employees shall have the right to determine if they wish to be represented by a union. That right has been denied by a new ruling, but you can change that by helping to repeal the new rule.

For more than 75 years, this Congressional directive had been interpreted to mean that a labor union can only be certified as the bargaining representative of employees if a majority of those employees have voted in favor of representation. Last year, at the AFL-CIO's request, the National Mediation Board (NMB)—the federal agency that oversees elections under the RLA—reinterpreted the law to allow unions to organize much more easily and with no requirement that a majority of workers in the group ever indicate their support for the union. While this new regulation makes it easier to unionize, it does nothing to address rules that make it nearly impossible to decertify an unwanted union. The process used by the NMB to adopt this new rule "has made a mockery of the regulatory process and effectively changed long-standing laws without a single vote by the duly-elected Congress," according to a statement from the U.S. Chamber of Commerce.

Fortunately, the FAA Reauthorization and Reform Act (H.R. 658) includes a provision that would repeal the new rule. If adopted, this provision will ensure that no employee will be forced by the NMB to join a labor union unless an actual majority of his or her co-workers votes to do so. It will also restore the intent of Congress and send a strong signal to agencies that may choose to circumvent the democratic process in an attempt to regulate on behalf of special interests.

Write to your members of Congress now and encourage them to support this provision within the FAA Reauthorization and Reform Act (H.R. 658).

Debate rages over bill to delay new debit-card fee rules

Sen. Jon Tester (D-MT) introduced S. 575, the Debit Interchange Fee Study Act of 2011, which would postpone swipe fee reductions included in last year's Dodd-Frank Wall Street Reform and Consumer Protection Act by two years and require a study of the issue.

Meanwhile, House Financial Institutions and Consumer Credit Chairwoman Shelley Moore Capito, (R-WV), introduced H.R. 1081, the Consumers Payment System Protection Act, which would require a one-year delay and a study.

Retailers countered that the issue has already been thoroughly reviewed by Congress and federal agencies, and no delay is needed.

Source: *Wall Street Journal*

House Ways & Means chair proposes top tax rate of 25 rather than 35 percent

House Ways and Means Committee Chairman Dave Camp (R-MI), has proposed a plan that would cut the

whether we agree or disagree, is a great way to explore new ideas and new ways of approaching problems and issues. That kind of subject matter is right up my alley. It gets my blood pumping and excites the few brain cells I have left that operate near 100 percent.

This month, I simply wanted to say thanks... thanks for being such loyal readers. I'd love to hear from even more of you as I start my journey towards the next 100 articles. Let me know what types of articles and topics you would like to see.

We've made responding easier by posting my columns as blog posts on www.naeda.com, where you can make comments. You can also reach me the old fashioned way... write a letter to the editor, call or, what the heck, send a telegram (do people still do that?) Well, anyway, I enjoy hearing from you. I admire what dealers do day in and day out and am proud to think I play a small role in providing thoughts, ideas and opinions for you to contemplate. Happy 100th! And that's the way I see it.

PAUL KINDINGER is president/CEO of the North American Equipment Dealers Association. The association provides educational, legal, legislative, and financial services to approximately 5,500 retail agricultural, construction, large property/rural lifestyle, and outdoor power equipment dealers in the United States and Canada.



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About NAEDA Update

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top U.S. tax rate from 35 percent to 25 percent for individuals and corporations and reduce or eliminate many deductions.

The odds of quick action taking place on his proposal appear slender. Camp's tax overhaul isn't designed to specifically cut the U.S. budget deficit. Overall revenues would remain at recent average levels of about 18 percent to 19 percent of gross domestic product.

The top U.S. tax rate for both individuals and corporations has been 35 percent for most of the past decade since President George W. Bush pushed through his big tax cut for individuals in 2001.

Previously, the top rate for individuals was 39.6 percent. Mr. Obama proposes to return the rate for individuals to 39.6 percent. An analysis by the conservative Heritage Foundation concluded that reducing the corporate rate to 25 percent would help generate more than 500,000 jobs a year over the coming decade.

Source: *The Wall Street Journal*

What the 2011 payroll tax holiday means for your business

As part of the tax deal Congress reached in December 2010, payroll taxes have changed for 2011. As an employer, here's what you need to know about the payroll tax holiday:

- 1) The "payroll tax holiday" applies to an employee's portion of Social Security taxes, not an employer's portion. In 2011 employees are only required to contribute 4.2 percent; employers are still required to contribute 6.2 percent.
- 2) As an employer, you must start withholding less from your employees' paychecks to reflect this change. The change was effective Jan. 31, 2011.
- 3) Because of this reduction in payroll taxes, the Making Work Pay credit does not apply in 2011. That means the income tax withholding tables for 2011 are not adjusted for the Making Work Pay credit and have changed.
- 4) For any Social Security tax over-withheld in January (or subsequent months, if you have not changed your process yet), employers are required to make offsetting adjustments in workers' checks as soon as possible, but no later than March 31, 2011.
- 5) This payroll tax holiday lasts for one year only: It should be applied only to wages earned in 2011.
- 6) Self-employed persons, who pay both portions of social security tax, are only required to pay 10.4 percent instead of the usual 12.4 percent.
- 7) The Social Security tax is still capped at \$106,800.
- 8) Medicare taxes have not changed. Employers and employees are still required to pay 1.45 percent each.

Source: *NFIB*.

U.S. Supreme Court makes it easier to sue employers under FLSA

The U.S. Supreme Court has given broader protections for employees who make oral complaints under the Fair Labor Standards Act (FLSA).

In a 6-2 decision authored by Justice Stephen Breyer, the Court held that the FLSA language "filed any complaint" that triggers potential retaliation protection for an employee includes oral as well as written complaints.

In *Kasten v. Saint-Gobain Performance Plastics Corp.*, the employee had orally "raised a concern" that location of the company's time clocks was "illegal." After the plaintiff lost his job, he sued his employer for retaliation under the FLSA. Both the district court and the Seventh Circuit ruled in favor of his employer, finding that the FLSA covers only written complaints.

But a majority of the Supreme Court disagreed. The Court said if an oral complaint is "sufficiently clear and detailed for a reasonable employer to understand it, in light of both content and context, as an assertion of rights protected by the statute and a call for their protection," then the FLSA prohibits retaliation against the complaining employee.

In *Kasten*, the Supreme Court interpreted the language "filed a complaint" broadly. Although the Court says on the one hand that it did not need to decide the question of whether an internal company complaint is protected, the language of the decision clearly advises employers to take all employee "complaints" seriously.

In the dissent, Justice Antonin Scalia wrote that he would affirm the Seventh Circuit's decision, but on the grounds that the FLSA "does not cover complaints to the employer at all." Scalia scolded the majority for not providing clarity regarding the proper recipient of complaints (i.e. the employer or external federal agencies) to be protected from retaliation under the FLSA. "[W]hether [the FLSA] covers intracompany complaints is 'predicate to an intelligent resolution of the question presented' in this case."

This ruling is a guidepost for employers on the employee's right to complain and the seemingly increasing prohibitions against retaliation. It also underscores the need for strong internal compliance programs and for effective training of supervisors.

What should employers do?

- Establish a consistent policy on addressing both oral and written complaints.
- Review timekeeping and anti-retaliation policies.
- Do not discount comments or complaints during a conversation.

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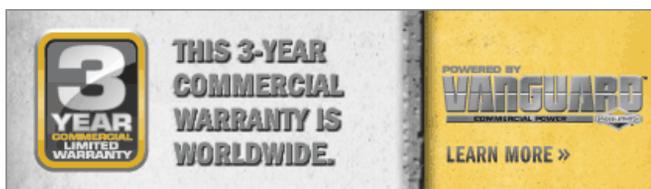
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- Document verbal complaints or conversations and investigate.
- Train managers about how to handle complaints appropriately.

This information should not be construed as legal advice or legal opinion on any specific facts or circumstances. It is intended for general informational purposes only. You are urged to consult your attorney on any specific legal questions you may have concerning your situation.



NAEDA, Association & Program Partner News

NAEDA Installs new officers



Roger Gjellstad,
NAEDA chairman

NAEDA Executive Committee (*l-r*): President/CEO Paul Kindinger, Second Vice Chairman Tom Nobbe, Chairman Roger Gjellstad, First Vice Chairman Joe Nash, and Immediate Past Chairman Lester H. Killebrew.

Roger Gjellstad elected chairman of NAEDA board; other officers elected
Roger Gjellstad, of Stanley, N.D., has been elected chairman of the board of directors of the North American Equipment Dealers Association (NAEDA), effective as of March 1, 2011.

Gjellstad is president and general manager of Stanley Equipment Inc., a Case IH dealership with seven locations under two corporations serving western North Dakota and Montana. The dealership's Web site is www.stanleyequipment.com.

"Roger's enthusiasm and leadership ability will serve the organization and members well," says Paul Kindinger, president/CEO, NAEDA. Immediate Past Chairman of NAEDA Lester Killebrew concurs, "Roger has a great vision for our industry."

Gjellstad's vision involves seeing "all equipment dealers join their local associations and benefit from being part of their regional associations and NAEDA." He says, "It's the best investment equipment dealers will ever make."

Gjellstad became a member of the NAEDA board in 2007. He represents the North Dakota Implement Dealers Association, one of 17 North American dealer associations affiliated with NAEDA. Since joining the board, Gjellstad has served as second vice chair, then first vice chair and on the following NAEDA committees: member services, manufacturing relations and executive.

Locally, Gjellstad is an active member of the American Lutheran Church. He has served on numerous civic organizations and boards and is an active member of the volunteer fire department.

Gjellstad grew up on a farm and ranch near Velva, N.D. He graduated from Velva High School and then from North Dakota State University in 1972 with a BS degree in Agriculture, where he was a member of the Theta Chi fraternity. He has been active in the equipment industry since college graduation when he worked in sales for International Harvester. He began working for Stanley Equipment in 1974. He purchased the company two years later.

[Gjellstad was installed as board chairman](#) March 10, 2011, during NAEDA's annual meeting in Scottsdale, Ariz. [Joe Nash \(first vice chairman\)](#) and [Tom Nobbe \(second vice chairman\)](#) will serve as vice chairs of the NAEDA board for 2011-12.

Nash represents the SouthEastern Equipment Dealers Association. Nobbe represents the Midwest Equipment Dealers Association.

NAEDA-affiliated Mississippi Valley association votes for dissolution
After careful consideration, the Mississippi Valley Equipment Association (MVEA) Board of Directors voted

to recommend to its members dissolution of the association. At a membership meeting held on Feb. 24, MVEA members voted to approve the board's recommendation.

"Continuing changes in the industry have reduced the number of dealerships, which has led to overall declining member revenues," said Joe Dykes, executive vice president, MVEA. While MVEA has worked out of the North American Equipment Dealers Association (NAEDA) office for the past three years to help reduce operating costs, it is not a viable long-term solution, Dykes said.

Tom Nobbe, Wm. Nobbe & Co., Waterloo, IL, past president of MVEA and currently its representative on the NAEDA board, says the decision to dissolve MVEA was difficult. Established in 1907, MVEA has had a rich heritage, he said. But because of continued industry consolidation and consequently a decline in member revenues, MVEA could not provide the increasing expense of representation in state legislatures and with manufacturers, Nobbe said.

Upon dissolution of the MVEA, Illinois dealer members will automatically become members of the Midwest Equipment Dealers Association (MEDA), which represents dealers in Illinois and Wisconsin. Missouri dealer members will become members of the SouthWestern Association, which represents dealers in Missouri, Kansas, Oklahoma, Texas, and New Mexico.

The former MVEA members' dues will transfer to the respective associations and be kept at the same level for the balance of 2011. The balance of MVEA's financial resources will be contributed to the Equipment Dealers Foundation, the publicly supported 501(c)(3) charitable organization of NAEDA. The resources will be divided into the Foundation's general fund, for use by dealers in the former MVEA for education programs and for the disaster relief fund, Dykes said.

Going forward, dealers who had belonged to MVEA will become part of a larger voice in representing the retail equipment industry in Illinois and Missouri, Dykes said. MEDA currently has 300 members and the SouthWestern Association has approximately 700 members.

Moreover, Tom Nobbe will be MEDA's representative to the NAEDA Board of Directors; and a former MVEA member will serve on the SouthWestern Association's board for the next two to three years.

Jeff Flora, CEO, SouthWestern Association, points out that SouthWestern's membership is divided into districts so the former MVEA will have two representatives in the organization for the first couple of years.

The decision for MVEA members to automatically become members of either MEDA or the SouthWestern Association depending on their home state makes sense, Flora says. "This will make it simpler to represent all of Missouri's dealers in their state legislature." Flora added that his staff will be calling dealers over the next couple of months to welcome them to the association.

Gary Manke, executive vice president and CEO, MEDA, also welcomes former MVEA dealers from Illinois. "We will continue to provide them the same high quality services along with adding new services," he says. MEDA staff also will be calling on dealers over the next couple of months to welcome them to the association.

SouthEastern member Blanchard Equipment Co. Inc. acquires Guess Farm Equipment

The acquisition means Blanchard has added Guess Farm Equipment's three John Deere dealerships in Orangeburg, St. Matthews and Hampton, S.C., to its dealership group.

Blanchard, which sells John Deere farm and lawn and garden equipment, now has a total of eight locations in South Carolina and Georgia.

[Read more](#)

Source: *The Times and Democrat*

ICE crackdown on employers of illegal immigrants

The office of U.S. Immigration and Customs Enforcement (ICE), a unit of the Department of Homeland Security, announced a new audit office, the Employment Compliance Inspection Center. The center will be staffed with specialists who will review I-9 employee files collected during audits.

In the fiscal year that ended Sept. 30, 2010, ICE conducted audits of more than 2,740 companies, nearly twice as many as the previous year.

[Read more](#)

Source: KPA

Canadian News

Flaherty's budget gets thumbs down from opposition parties, Tories could be defeated

The stage is set for a dramatic confidence vote to defeat the Canadian government March 25.

The vote may come after New Democratic Party Leader Jack Layton's snap decision to join the other opposition leaders and oppose the federal budget.

Mr. Layton's (Toronto-Danforth, Ont.) move was a shocker, after many journalists in a day-long budget lockup felt "air was going out of the balloon" of election chances after Finance Minister Jim Flaherty (Whitby-Oshawa, Ont.) produced a fiscal plan that seemed to have something for everyone—including \$300 million for up to 680,000 targeted seniors, mostly women, who live below the poverty line.

[Read more](#)

Source: *The Hill Times*

Quake to affect Canadian farmers

The fallout from Japan's earthquake will batter Canadian farmers as it reverberates through agriculture markets, although the impact is likely to be short term.

Japan is a major customer for many crops including corn, soybean and wheat. The country ranks among the top five customers for the Canadian Wheat Board (CWB), the global marketer for wheat grown in Western Canada.

"Sometimes they are our largest-volume export customer," said Maureen Fitzhenry, a Wheat Board spokeswoman. "Last year, they were third." Ms. Fitzhenry added that Japan is a particularly lucrative market for Canadian farmers because Japanese buyers demand the highest quality wheat "for which we ask a premium price."

Friday's earthquake damaged some of Japan's ports, feed mills and meat processing facilities. That prompted some analysts to speculate the country would reduce imports, at least in the short term. Ms. Fitzhenry said the CWB expects some short-term delays in shipments but added "we do not anticipate reduced overall exports to Japan, as they need to eat, and rely on shipments of top-quality Canadian grain."

Some analysts have estimated Japan's corn and soybean imports could fall up to 8 percent. That would hit U.S. farmers especially hard.

The U.S. farm sector centres around corn and soybeans. The country is the world's largest corn producer and the crop is the most valuable grown in the U.S., worth an estimated \$66 billion (U.S.) in total. Soybeans are second at about \$39 billion, followed by wheat at \$12 billion. Japan is the biggest buyer of U.S. corn and among the largest buyers of soybeans and wheat.

[Read more](#)

Source: *Globe and Mail*

Budget to pare back deficit by 25 percent in coming year, Canadian PM VOWS

Prime Minister Stephen Harper has said the upcoming federal budget will hold the line on spending and slash Ottawa's deficit by another 25 percent without "job-killing" tax increases.

Mr. Harper also seeks to blunt concerns among cash-strapped provincial premiers, saying Ottawa would not reduce the amount of money granted to provinces for health care and education through federal transfers, even as it continues to cut its own substantial budget shortfall.

Source: *The Globe and Mail*

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