

#### **2019 Legal Outlook**

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#### **Md. Risk Management Blog**

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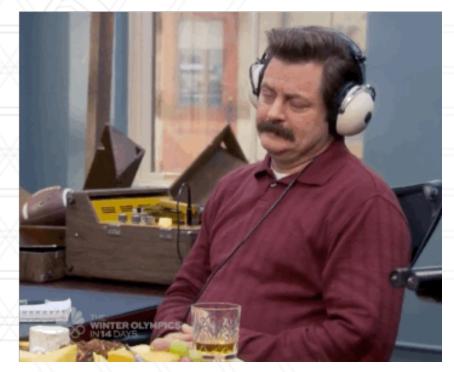
Department of Ag and Resource Econ's blog updated periodically with timely legal, crop insurance, farm policy, and water conservation information.

- www.agrisk.umd.edu
- Signup for updates on the site to get new posts emailed to you, or
- Text 999066 to 1-781-262-3877 to signup



#### Podcast

- New episodes 2x per month covering risk management education issues
- <u>www.marylandagpodcast</u> .org
- Find also on iTunes, Google Play, and TuneIn











Number of issues involving animal agriculture, pesticides, bankruptcy, and environmental to be on the lookout in 2019 and moving forward into 2020



#### **Overview**

- Not covering today:
  - Hemp (As of yesterday, USDA not released rule)
  - H2A rule change last week.
  - Number of Farm Bill changes (others will talk about those)









 2015: EPA and Army COE issued rule defining "waters of US" or WOTUS.

 Goal was to provide a more consistent definition of waters that fall under the Clean Water Act.





 Rule was immediately challenged

 Rule implemented in some states but not in others.



 EPA and Army COE recently announced repeal

 End of first step, in two step process to issue new rule





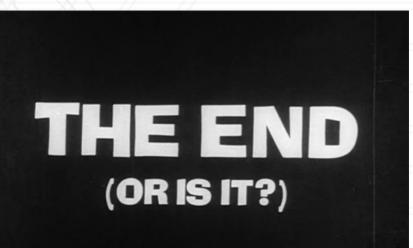
Unclear what final rule will look like.

 President wants one based around 2006 SCOTUS opinion in *Rapanos* but does that rule still have SCOTUS support?



• What to look forward to in 2020?

 LAWSUITS! Once the new rule is announced





#### **Other Clean Water Act Issues**

- SCOTUS will hear appeal on do point source discharges into groundwater that eventually reach a WOTUS covered?
- Trial court and 9<sup>th</sup> Circuit found that it was covered.



#### BANKRUPTCY



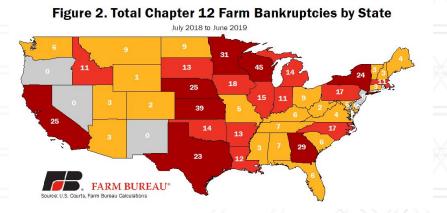


• Through June 30, 2019, Chapter 12 filings are up 13.1 percent.

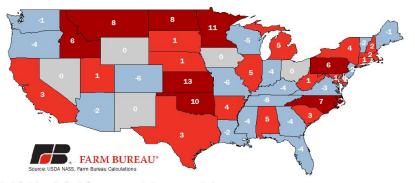
 This increase comes after filings fell during 2018.



#### **Bankruptcy**



#### Figure 3. Year-Over-Year Change in Chapter 12 Bankruptcy







# Family Farmer Relief Act recently signed by President

#### Law increases aggregated debt limits from \$4.1 million to \$10 million to allow more growers to qualify for Chapter 12 relief.





What to watch for in 2019 and 2020:

Will the recent changes in Chapter 12 lead to an increase in filings?

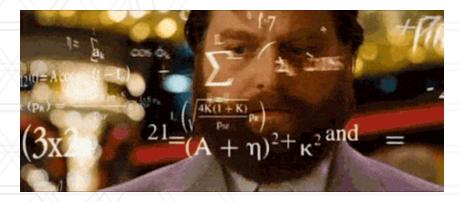




#### **ANIMAL AGRICULTURAL ISSUES**



Challenges to animal operations continue to be a hot issue in 2019 (and will probably be for the near future)





MO new law requiring county health ordinances to be no more stringent than state CAFO laws

## Currently being challenged



Urban poultry farming is a great way to reduce our carbon footprint.

MO feedlot closed down after expanding from 900 head to 6,999 (7,000 would have required odor plan)

Neighbors and other sued the operation





Pushes for states to take into account air quality when permitting new CAFOs

This is a growing area of concern in many states.



#### Indiana Right-to-Farm

- Himsel is an Indiana court challenge to a hog farm by neighboring landowners
- Farm was established in 1941 and the non-ag uses in 1971. To the court the area was predominately ag
- Court also highlights time to challenge a CAFO is in permitting process



#### **On-going Issues in Animal Agriculture**



NC Hog Farm Litigation still ongoing with appeals filed.

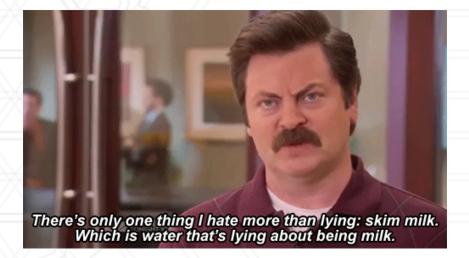
Challenge to USDA loan guarantee for MD poultry farm still ongoing.



#### **On-going Issues in Animal Agriculture**

#### Confinement issues:

California will have confinement requirements go into place in 2020 and 2022 passed in 2018





#### **PESTICIDE ISSUES**



#### **Roundup Class Actions**

 How many people have seen the ads?

**ROUNDUP WARNING** 

If you or a loved one has

 Litigation is based around products liability theory



eJustice

www.roundupcancerlawsuits.com CALL 800-797-6286



#### **Roundup Class Actions**

- Juries in California have awarded
  - \$81 million
  - \$300 million
  - \$2 Billion (reduced to \$86.7 million)
- Argument is that Roundup caused their cancers.



#### **Roundup Class Actions**



Currently over 11,000 cases filed and awaiting trial – currently in mediation

 Should not be ignored could have huge impact on using Roundup



#### **Dicamba Class Action**

# First trial in dicamba class action will start next month (Oct. 2019).

# First trial will involve Missouri peach grower, Bader Farms, who claimed damage in 2015 and 2016.







### Wrap Up

#### 2020 will probably see a number of legal concerns remain at the forefront





## Wrap Up



#### Concerns about:

- Livestock issues
- Pesticides
- CWA and WOTUS

## All will continue to be issues in 2020



#### Any Questions??

#### Thank you!





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