



2019 Legal Outlook

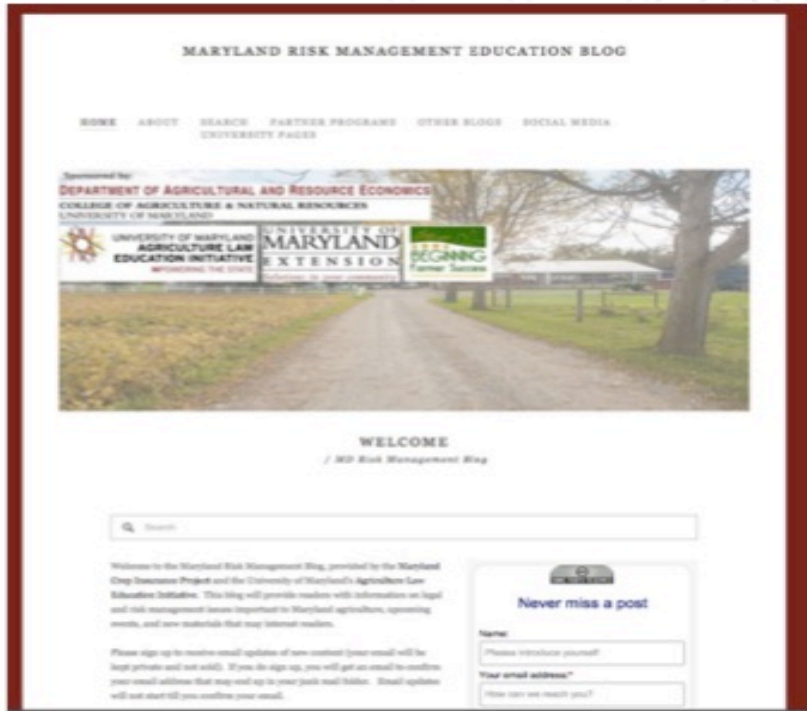
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Md. Risk Management Blog



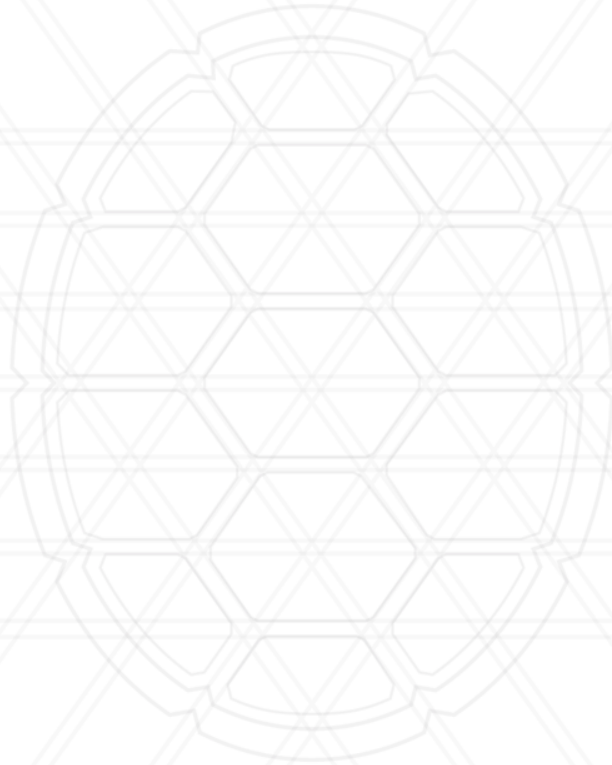
- Department of Ag and Resource Econ's blog updated periodically with timely legal, crop insurance, farm policy, and water conservation information.
- www.agrisk.umd.edu
- Signup for updates on the site to get new posts emailed to you, or
- Text 999066 to 1-781-262-3877 to signup

Podcast

- New episodes 2x per month covering risk management education issues
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OVERVIEW



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FEARLESS IDEAS

Overview

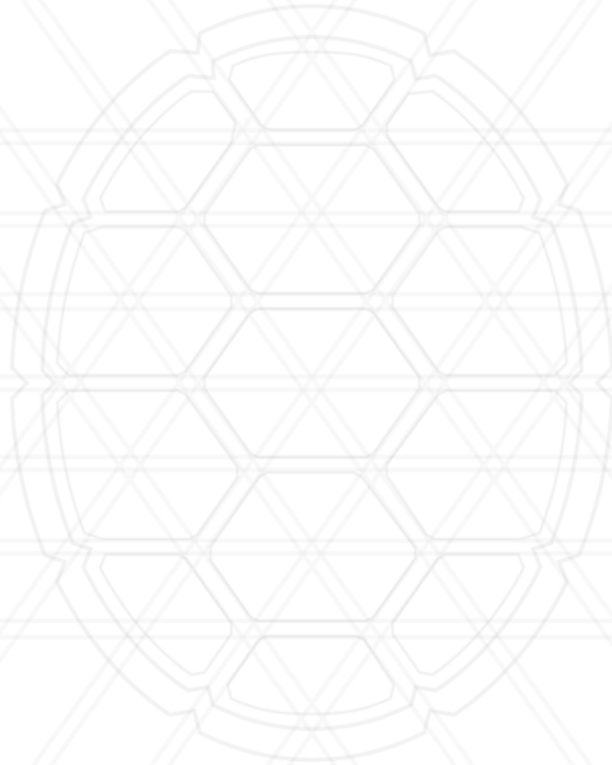
Number of issues involving animal agriculture, pesticides, bankruptcy, and environmental to be on the lookout in 2019 and moving forward into 2020

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)



WOTUS



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FEARLESS IDEAS

WOTUS

- 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.

WOTUS



- Rule was immediately challenged
- Rule implemented in some states but not in others.

WOTUS

- EPA and Army COE recently announced repeal
- End of first step, in two step process to issue new rule



WOTUS

- 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?

WOTUS

- What to look forward to in 2020?
- LAWSUITS! Once the new rule is announced



THE END
(OR IS IT?)

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 9th Circuit found that it was covered.

BANKRUPTCY



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FEARLESS IDEAS

Bankruptcy

- Through June 30, 2019, Chapter 12 filings are up 13.1 percent.
- This increase comes after filings fell during 2018.

Bankruptcy

Figure 2. Total Chapter 12 Farm Bankruptcies by State

July 2018 to June 2019

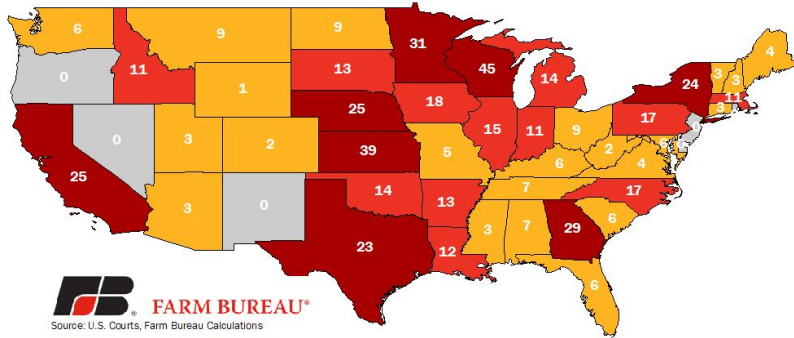
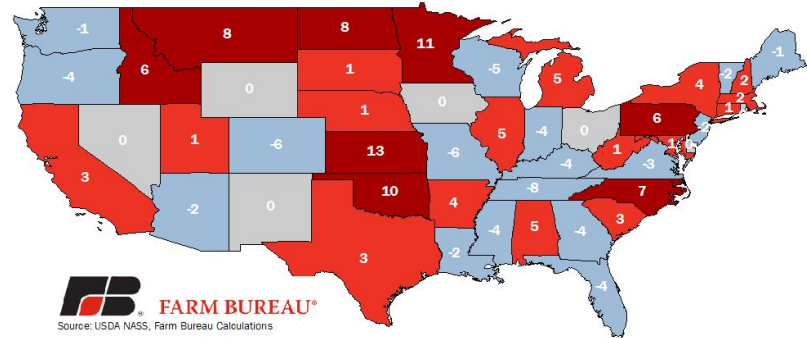


Figure 3. Year-Over-Year Change in Chapter 12 Bankruptcy



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.

Bankruptcy

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)



Animal Agricultural Issues

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

Currently being
challenged

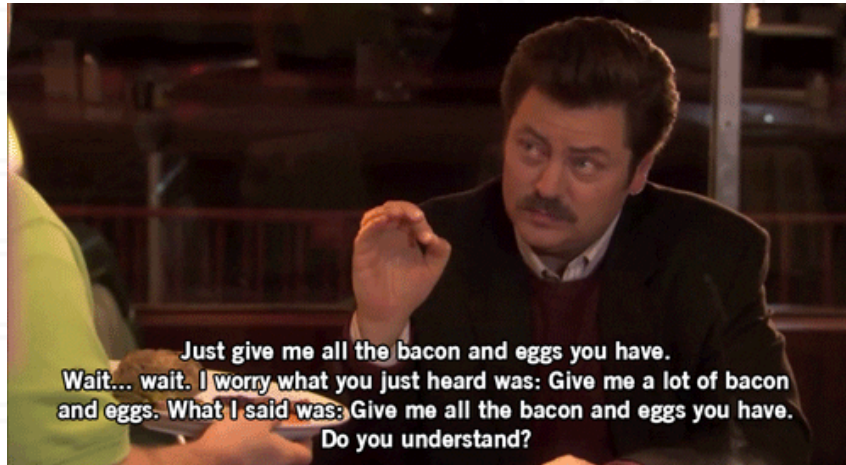


Animal Agricultural Issues

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

Animal Agricultural Issues



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



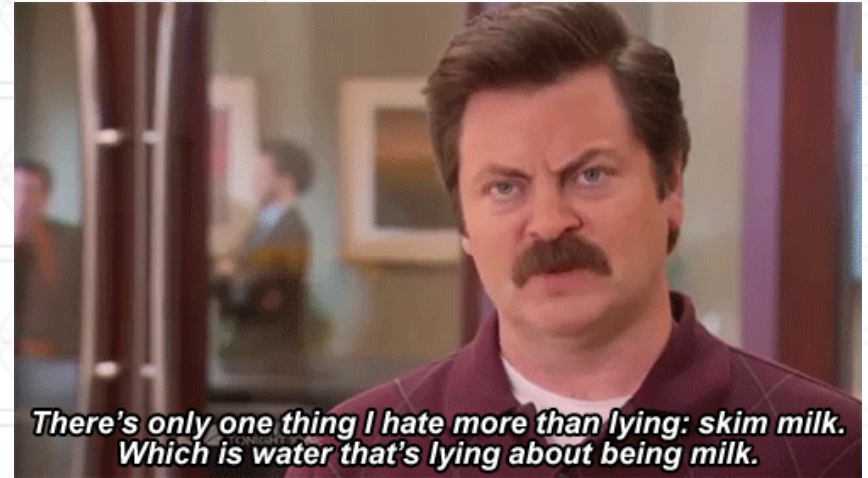
NC Hog Farm Litigation
still ongoing with
appeals filed.

Challenge to USDA loan
guarantee for MD
poultry farm still on-
going.

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



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FEARLESS IDEAS

Roundup Class Actions

- How many people have seen the ads?
- Litigation is based around products liability theory



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



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FEARLESS IDEAS

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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