

Legal Outlook for 2021

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INTRODUCTION

Introduction



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FEARLESS IDEAS

Introduction



ROUNDUP LITIGATION



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FEARLESS IDEAS

Roundup Litigation

- Products liability claims that glyphosate is defectively designed and causes Non-Hodgkin's Lymphoma (NHL).
- Currently a little under 100,000 claims filed in the class action litigation.

Roundup Litigation

- Bayer in June 2020 proposed \$10 billion settlement
 - \$8 to \$9 billion to settle current claims
 - \$1 billion to settle future claims

Roundup Litigation

- Proposed settlement would
 - Provide \$1 billion in payments
 - Develop panel of scientific experts who would determine if Roundup usage causes NHL. This would be binding on class members
 - Grant program to help people get tested for NHL
 - Grant program for those already diagnosed in the class
 - Funding for research into diagnose and treatment of NHL

Roundup Litigation



- Settlement has been initially rejected by the federal district court
- Did not like that scientific panel would take decisions out of hands of jury

Roundup Litigation

- Second try at settlement announced on Feb. 3, 2021
- New settlement would include \$2 billion for future claims. Establish fund to pay between \$5,000 to \$220,000 to future plaintiffs. To be available for 4 years
- Scientific panel that raised concerns earlier, is still apart of the settlement

Roundup Litigation

- In May, 2021, judge again rejected settlement due to how future claims treated
- Bayer has added additional \$4.5 billion to cover costs of ongoing settlements



Roundup Litigation



Bayer has also petitioned US Supreme Court to review 9th Circuit decision

9th Circuit upheld \$25 million verdict for homeowner who used product around his house.

AIR EMISSIONS AND CAFOS



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FEARLESS IDEAS

Air Emissions

In March, Montgomery County Circuit Court in MD held that state had to take into account air emissions from CAFOs in water discharge permit.

Air Emissions

- Court based this on an expansive view of the word “emit” in the statute
- The court agreed with arguments that ammonia could come out of exhaust fans and eventually go into covered waters.



Air Emissions



This decision is currently under appeal, expect decision in 2022.

Air Emissions

I highlight this decision because growing push to regulate CAFO air emissions

In past seen pushes for EPA and states to regulate

NEPA AND USDA LOAN GUARANTEES

NEPA and USDA Loan Guarantees

- Rise over the years of challenges to NEPA review with USDA loan guarantees.
- Refresher: NEPA required agencies to review environmental impacts of actions that fall under the Act.

NEPA and USDA Loan Guarantees

- Had seen used with hog farm in AR
- More recently saw used with a poultry farm in MD



NEPA and USDA Loan Guarantees



- In 2020, CEQ revised NEPA regs for first time since 1979
- USDA loan guarantees now excluded.

NEPA and USDA Loan Guarantees

- 2021, Fed. Court of Appeals found environmental groups in MD had no standing to challenge NEPA review
- Court also declined to touch the issue of did CEQ actually have authority to revise NEPA

NEPA and USDA Loan Guarantees

- Issue is CEQ is not an independent agency with authority to issue binding regulations
- Current challenges to changes are ongoing.
- Biden administration has expressed interest in relooking at these rules.

BEEF CHECKOFF UPDATE



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FEARLESS IDEAS

Beef Checkoff Update

- R-CALF has argued that beef checkoff is unconstitutional compelled speech.
- 9th Circuit held that the checkoff is not unconstitutional compelled speech.

Beef Checkoff Update

- Past court decisions had looked at control by government over speech
- MT's Beef Council had entered into MOU with USDA
- USDA approved all promotional activities by MT BC

Beef Checkoff Update

R-CALF can still appeal
to US Supreme Court



LAST BITS



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FEARLESS IDEAS

Last Bits

- Challenges to Paraquat's use
- EPA cancelled the registration of chlorpyrifos based on 9th Circuit Ruling

Last Bits

- EPA and Corps no longer enforcing Navigable Water's Protection Rule and will develop new definition
- TX Court of Appeals decision finding poultry farm is a nuisance – RTF law does not apply, and decision is under appeal.

Last Bits



Tyson and Perdue has settled with growers and settlement details will be up on Sept. 22 at <https://www.broilergrowersantitrustsettlement.com/>

WRAP UP



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FEARLESS IDEAS

Wrap Up

- Lot keeps going on with law and impacts on agriculture
- Just check out Southern Ag Today On Fridays to keep up



BUT YOU CAN ALSO

NALC's Blog



- Includes Ag Law Daily Update and other posts



- Available at <https://nationalaglawcenter.org/ag-and-food-law-blog/>

AgriLife.org/TexasAgLaw

Click for a hub of Extension resources related to the current COVID-19 situation. **COVID-19 Resources**

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TEXAS AGRICULTURE LAW BLOG by Tiffany Lashmet

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January 29, 2021 Weekly Round Up

Posted on January 29, 2021 by [tiffany.daniell](#)

Happy Friday! It's been a busy week here as I have been working with several of my colleagues in the Texas A&M Agricultural Economics Department on a series of educational videos on the legal and economic issues related to hemp production. If this is a topic of interest to you, be sure you subscribe to this blog as we will be releasing our videos and written materials within the next month! Here are some of the ag law stories in the news over the past couple of weeks....

[Read More →](#)

January 15, 2021 Weekly Round Up

Posted on January 15, 2021 by [tiffany.daniell](#)

Happy 2021, friends! We hope you all had a happy, healthy holiday and we are excited to be back for our first Weekly Round Up of the year. Here are some of the major agricultural law stories in the news over the past couple of weeks. * Lawsuit filed seeking to overturn recent dicamba registration. On December 22, several environmental groups filed suit against the US Environmental Protection Agency challenging the recent approval of the use of over-the-top dicamba products through 2023. Specifically, the lawsuit claims that the...

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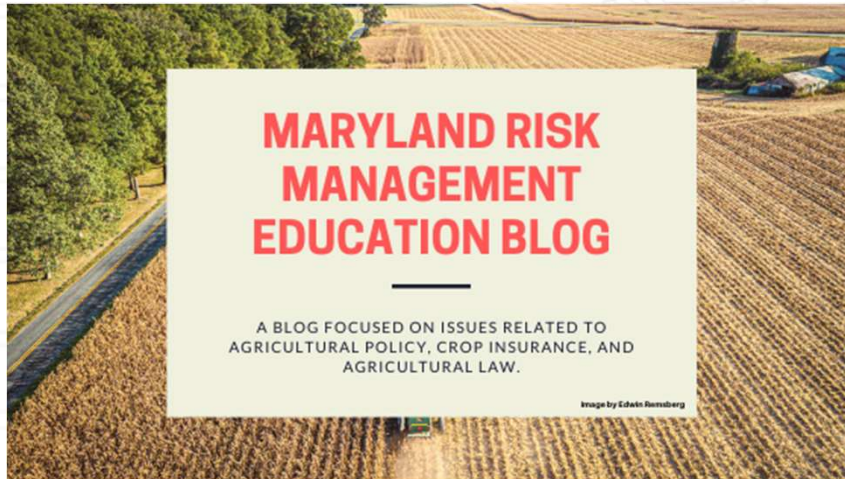
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Any Questions??

Thank you!



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