

farmdoc**DAILY** LIVE | Coronavirus and Ag
Agricultural Law Issues
and the COVID-19 Pandemic



ILLINOIS

Agricultural &
Consumer Economics

COLLEGE OF AGRICULTURAL, CONSUMER
& ENVIRONMENTAL SCIENCES



Harrison Pittman

Jonathan Coppess

A. Bryan Endres

How are you hearing us?

Poor Audio

- Normal function of your internet connection
- **Solution:** Call in by following instructions in email



No Audio on computer

- Ensure computer audio is selected and check output device
- Check that speakers are not muted or very low volume
- If all else fails call in by following instructions in email

Housekeeping

- Handout available via GoToWebinar control panel
- Webinar will be archived and available on farmdoc
- Submit questions during the webinar
- Please complete the survey after the webinar



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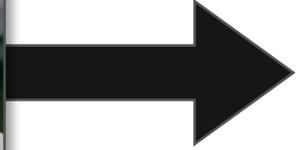
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Renegotiate?



Included in contract?



Impossible, not just economically impractical



Certainty of trigger

The National Agricultural Law Center

The nation's leading source of agricultural and food law research and information



Harrison Pittman
Director, National Agricultural Law Center

About the Center

The National Agricultural Law Center is the nation's leading source for agricultural and food law research and information.

- Created in 1987, the NALC is a unit of the University of Arkansas System Division of Agriculture
- The Center also works in close partnership with the USDA Agricultural Research Service, National Agricultural Library

We provide objective, non-partisan research and information regarding laws and regulations affecting agriculture



Broader Context of “Ag Law” Issues

- Economic stimulus packages
- Cattle/Meatpacker issues
- Labor & Employment
- Contracts
- Estate Planning/End-of-Life decision-making
- Specialty Crops/Direct Marketing
- Defense Production Act & Executive Order(s)
- Ag Finance & Credit
- Ag Mediation



Resources for Producers, Attorneys, & Others

Agriculture and COVID-19

Resources & FAQs



Specific Areas to Highlight

- **States' Meat Inspection Laws**
 - Processing Revival and Intrastate Meat Exemption (PRIME) Act (H.R. 2859)
 - New Markets for State-Inspected Meat and Poultry Act (S. 1720)
- **Defense Production Act and recent Executive Order**
- **Depopulation of poultry and livestock**
- **“Honorable Mentions”**
 - Perishable Agricultural Commodities Act
 - Packers and Stockyards Act of 1921
 - Agricultural liens
 - Farm “moratoriums” (i.e., mandatory mediation and farm foreclosure laws)



States' Meat Inspection Laws

- **All starts with the Federal Meat Inspection Act**
 - Under FMIA, USDA Food Safety Inspection Service has legal authority/responsibility for inspecting meat in interstate commerce
- **27 States have FSIS inspection**
- **23 States have a state inspection program**
 - Must be “equivalent” to federal standard
 - Allows for **intra**state sales
- **Custom Harvest facilities are exempted from FMIA**
 - Allows owner of animal to harvest for own use
 - Less stringent requirements



States' Meat Inspection Laws

- **Processing Revival and Intrastate Meat Exemption (PRIME) Act (H.R. 2859)**
 - Primary thrust is to exempt custom slaughter facility from FMIA and be governed by state law
 - Would allow for intrastate sales of meat
- **Controversial issue**
 - Proponents feel it would address “long-standing problem . . . of lack of accessible, small-scale meat processing facilities.”
 - Opponents are concerned it could undermine uniformity of food safety system
 - Also raises question about impact on international trade



States' Meat Inspection Laws

- “New Markets for State-Inspected Meat and Poultry Act of 2019” (S. 1720)
- S. 1720 would create a legal pathway for the **inter**state sale of meat and poultry products processed under state inspection programs



Defense Production Act & Recent Executive Order

Defense Production Act of 1950

“. . . provides the President with an array of authorities to shape national defense”

For example:

- Gives federal government priority in contracts and orders
- Allows President to establish guaranteed loan programs for private institutions and private businesses
- President can provide “appropriate incentives to develop, maintain, modernize, restore, and expand the productive capacities of domestic sources for . . . materials”



Defense Production Act & Recent Executive Order

April 28, 2020 Executive Order highlights:

- *meat and poultry in the food supply chain* meet the criteria specified in § 4511(b) of the Act
- “. . . the Secretary of Agriculture shall take all appropriate action under that section to ensure that meat and poultry processors continue operations consistent with guidance for their operations jointly issued by CDC and OSHA.”
- Secretary “may identify additional specific food supply chain resources that meet the criteria in § 4511(b)



Defense Production Act & Recent Executive Order

What is the criteria at § 4511(b)?

“. . . (1) that such material is a scarce and critical **material** essential to the **national defense**, and (2) that the requirements of the **national defense** for such material cannot otherwise be met without creating a significant dislocation of the normal distribution of such material in the civilian market to such a degree as to create appreciable hardship.”

EO applies to “meat and poultry in the food supply chain”, “food supply chain resources”, and “food supply chain resources, including meat and poultry”



Defense Production Act & Recent Executive Order

Other quick DPA highlights:

- Authorizes the President to “prescribe such regulations and issue such orders as the President may determine to be appropriate to carry out” the Act
Note: The DPA exempts this process from the Administrative Procedures Act
- “No person shall be held liable for damages or penalties for any act or failure to act resulting directly or indirectly from compliance with a rule, regulation, or order issued” *even if such rule, regulation, or order is later declared invalid*



Depopulation of Poultry and Hogs

- Problem emerging as result of meat processor “bottleneck”
- On April 25, USDA announced launch of the National Incident Coordination Center
 - Administered via the Animal and Plant Health Inspection Service (APHIS)
- Will coordinate with State Veterinarians and other officials to help find alternative markets or (when necessary) advise/assist with depopulation and disposal methods
- USDA Natural Resources Conservation Service providing technical assistance and cost-share



“Honorable Mentions”

COVID-19 Resources Page nationalaglawcenter.org/covid19/

Recent and Upcoming Webinars nationalaglawcenter.org/webinars/

Perishable Agricultural Commodities Act nationalaglawcenter.org/research-by-topic/paca/

States’ Meat Processing Laws nationalaglawcenter.org/state-compilations/meatprocessing/

Packers & Stockyards Act nationalaglawcenter.org/research-by-topic/packers-and-stockyards/

Agricultural liens: States’ Agricultural Liens Chart
nationalaglawcenter.org/state-compilations/agricultural-liens/

Regulation of States’ Grain Dealer and Storage laws
nationalaglawcenter.org/state-compilations/grainsalesstorage/

Farm “Moratorium” laws – i.e., Farm Foreclosure laws and mandatory ag mediation
nationalaglawcenter.org/state-compilations/alternative-dispute-resolution-adr/





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The screenshot shows the homepage of the National Agricultural Law Center. At the top, there is a navigation bar with the center's name and a search icon. Below this is a main banner area with a large image of a field and a tractor, overlaid with the text: "Up next in our webinar series: Mediation as a Problem Solving Tool for Farmers and Agribusiness" by Matt Strassberg, Daniel Kos & Lucy Pauley. To the left of the banner is a sidebar menu with categories like "ABOUT THE CENTER", "PROFESSIONAL STAFF", "CENTER NEWS", "PARTNERS", "RESEARCH BY TOPIC", "2020 AG & ENV. LAW CLE", "CENTER PUBLICATIONS", "STATE COMPILATIONS", "FARM BILL RESOURCES", "AG LAW BIBLIOGRAPHY", "AG LAW GLOSSARY", "AG LAW REPORTER", and "GENERAL RESOURCES". Below the banner are four featured content boxes: "Ag & Food Law Webinars", "Meat Processing Laws: A State Compilation", "Agriculture & COVID-19 Resources & FAQs", and "The Deal with Dicamba". A section titled "LEARN ABOUT THE NATIONAL AGRICULTURAL LAW CENTER" provides information about the center's location in Fayetteville, Arkansas, and its role as a partner of the USDA National Agricultural Library. Below this is a "OUR TWITTER FEED" section showing a tweet from the center about a Department of Justice investigation into meat packers. To the right of the tweet are "RECENT AG LAW & FOOD NEWS" articles, including "The Ag & Food Law Daily Update: May 7, 2020" and "Cleanup of Abandoned Oilfield Locations: Who is Responsible?". At the bottom of the page, there is a "HELP SUPPORT OUR WORK. MAKE A GIFT TODAY." call to action with a "DONATE NOW" button, and a footer with contact information, social media links, and a newsletter sign-up form.

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Upcoming Webinars

PPP – Eligible Uses and the Loan Forgiveness Process

11:00 to 11:45am CT, Tuesday May 12th

Many businesses, including farmers and other agricultural enterprises, applied for and received Payroll Protection Program (PPP) loans. To qualify for loan forgiveness, loan funds can only be used to pay for certain expenses. Join Bob Rhea and Dale Lattz from FBFM and Nick Paulson from the farmdoc team to discuss these issues.

A brief disclaimer...

Today's presentations and Q&A session is for **educational purposes only**. Legal issues are very fact and situational specific, and we offer general comments and examples only to illustrate legal rules.

Our responses are not intended to, and should not be construed as, legal advice or the formation of an attorney-client relationship.

No viewer, user, or browser of this webinar should act or refrain from acting on the basis of information presented here without first seeking legal advice from counsel in the relevant jurisdiction.

Thank You for joining us!

Please submit your questions



The screenshot shows the farmdoc website interface. At the top, there's a navigation bar with 'ILLINOIS', 'EXTENSION', 'farmdocDAILY', and 'Farm Policy News'. Below that, the 'farmdoc DECISION OUTREACH CENTRAL' logo is on the left, and navigation links for 'Market Prices', 'Sections', 'Tools', 'Publications', 'Events', 'Sponsors/Donate', and 'About Us' are on the right. The main content area is titled 'Coronavirus and Ag'. It features a paragraph about the team discussing the impact of the coronavirus and a 'Submit Questions' button. Below this, there's a section for 'farmdoc daily live: Coronavirus and Ag' with links to 'View All', 'See Upcoming', and 'Register For Series'. The page displays a grid of webinar recordings with titles, dates, and 'Watch Video'/'Download Slides' buttons. The recordings include: 'Setting the Stage' (March 17th, 2020), 'Lessons from Infectious Disease and Livestock' (March 24th, 2020), 'Financial Perspectives on Agriculture and Coronavirus' (March 27th, 2020), 'Global Transportation and Cash Flow Considerations' (March 31st, 2020), 'Outlook and Farm Policy Moving Forward' (April 3rd, 2020), 'Acreage Decisions 2020' (April 7th, 2020), 'Impacts of Covid-19 on Agricultural Assets and Lending Markets' (April 10th, 2020), 'Scott Irwin and Jeff Bunting on Crop Supply Logistics this Spring' (April 14th, 2020), 'Rural Economy Stimulus: CARES and PPP Funding' (Thursday, April 16th, 2020 at 1:30 CST), 'Getting the 2020 Crop Planted' (April 17th, 2020), 'The Impact of the Coronavirus Pandemic on Food Prices and Retail Food Sector' (April 21st, 2020), and 'An Update on Policy and Political Outlook for Coronavirus Pandemic Relief' (April 24th, 2020).

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