

Significant Current Developments in Rural Law: United States

XXIX European Congress of Agricultural Law
20-23 September 2017, Lille (France)

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Abstract

As the world's population increases, and disruptive droughts and floods adversely affect human activities, food production will become increasingly critical. Technological innovations, particularly genetic technologies, affect food production in the United States and are the focus of recent legal developments. Federal agencies approved two new types of genetically engineered (GE) food products: a transgenic salmon and Arctic apples. Congress required labels for GE food, preempting state labeling laws. Regulatory agencies have begun to modernize the US regulatory system to take account of innovative genetic technologies that may escape regulation -- or face excessive regulation - under current rules. Companies that develop new products through genetic technologies have legally-recognized property rights, which are protected by contract and by criminal law.

Both federal and state legislation and administrative agency regulations continue to govern livestock production and the marketing of livestock products. In response to decisions by the WTO Appellate Body, Congress repealed country of origin labeling for some meat products. To address the issue of antibiotic resistance, the Food and Drug Administration (FDA) amended its Veterinary Feed Directive rules, which require veterinary authorization for use of certain antibiotics in animal feed. Marketing claims inform consumers, and the US Department of Agriculture (USDA) allows claims that meat products came from animals that did not receive added hormones or beta agonists. New USDA rules for organic animal production address animal welfare concerns, including living conditions for livestock and poultry. On the state level, California requires more space for laying hens and other farm animals, and a law prohibits sale of eggs raised in battery cages.

Production of food in the United States raises environmental concerns with international importance. Although research is inconclusive, application of systemic pesticides, along with other stressors, may be related to declining bee populations and the resulting problems with crop pollination. The United States has not banned the application of neonicotinoids, but it has withdrawn registration for sulfoxaflo. Globally, the use of glyphosate herbicides has increased dramatically, due in part to cultivation of glyphosate-resistant GE crops. The US Environmental Protection Agency, like the European Food Safety Authority, concluded that glyphosate is unlikely to be carcinogenic. Some researchers disagree, and more studies and monitoring are needed.

Two important developments will improve the safety of food in the United States. A new FDA regulation amends regulatory criteria that determine when a substance is generally regarded as safe (GRAS) and thus exempt from regulation as a food additive. The GRAS determination must be supported by scientific evidence, and the GRAS notification procedure, which remains voluntary, will provide scientific data to the FDA for evaluation. In another important development for human health, the FDA has banned the use of partially hydrogenated oils -- industrially produced trans fats -- from food, effective in June 2018. The FDA declared that partially hydrogenated oils are not GRAS for use

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in human food. The ban does not affect trans fats that occur naturally in dairy products and meat from ruminants.

In the United States, technological innovations, particularly GE technologies and the use of herbicides and insecticides, have raised concerns about protection of human health and the environment. Consumers demand information about their food products and about the welfare of livestock and poultry. In light of scientific, technological, and social developments, new statutes and regulations help to ensure the safety of food produced for consumers in the US and in other nations. In the United States, as in Europe, agrarian law must continue to respond to the challenges of providing food and fiber and protecting the environment for future generations.