LAW 6474
Agricultural Law and Policy

Agriculture: An Introduction

I. Defining Agriculture

A. Why define?

1. Necessary for many elements of legal practice
   a. EXAMPLES: Some of the most common sources of disputes and litigation
      1) Property classification
      2) Anti-trust exemption
      3) Employment
I. Defining Agriculture continued

B. Importance of agriculture

1. Historical importance
   a. Foundation of modern civilization
      1) Societal stability

2. Economic importance
   a. U.S. Economy
   b. Florida Economy

3. Environmental importance
   a. Habitat preservation
      1) Conservation easements
      2) Open range

II. Agricultural Policy

A. Early 1800s
   1. Getting land into agriculture

B. Mid-1800s to present
   1. Establishment of USDA
   2. Agricultural education
      a. Land Grant Acts
         1) 1862 Morrill Act
         2) 1890 Morrill Act
         3) 1994 Improving America’s School Act
      b. Land grant assistance acts
         1) 1887 Hatch Act
         2) 1914 Smith Lever Act
         3) Modern land grant mission
II. Agricultural Policy continued

B. (Mid-1800s to present, continued)

3. Farm Lending
   a. Federal Farm Credit Admin. (FFCA)
      1) Oversees the Farm Credit System (FCS)
      2) Farm Service Agency (FSA)
         a) Farm loan guarantees
            - Up to 95% for loss of principal and interest

II. Agricultural Policy: First Look at Farm Bills

B. (Mid-1800s to present, continued)

4. Farm Bills: George Santayana “Those who cannot remember the past are condemned to repeat it.”
   a. Why Farm Bills?
      1) Defined: Omnibus legislation primarily addressing agricultural production and food policy
      2) Purpose: Stabilize crop prices
      3) Common subjects
         a) Commodity support
         b) Conservation
         c) Rural development
         d) Trade policy
      4) Amended every five years
         a) Not passed: Reverts back to 1949 federal price support levels
         b) Congressional extension?
II. Agricultural Policy: First Look at Farm Bills continued

B. (Mid-1800s to present, continued)

5. Deregulation of Agriculture: Free Markets
   a. 1985 Farm Bill: Food Security Act of 1985
      1) Decoupling of subsidies and quotas
   b. 1990 Farm Bill: Food Agriculture, Conservation & Trade Act of 1990
      1) Permission to plant to market signals
   c. 1996 Farm Bill: Federal Agricultural Improvement and Reform Act of 1996
      1) Introduction of Market Transition Payments

   d. Government’s reentry: Free Markets?
      1) 2002 Farm Bill: Farm Security and Rural Investment Act of 2002
         a) Reemphasis of government support
         a) Similar provisions of earlier bills
      3) 2014 Farm Bill: The Agricultural Act of 2014
         a) New crop insurance options
         b) Program changes
         c) Expires September 30, 2018
      4) 2018 Farm Bill: Agriculture Improvement Act of 2018
         a) SNAP reforms previously called for rejected in the 2018 Farm Bill
II. Agricultural Policy

C. U.S. Agricultural Trade

1. Vital to U.S. economy
2. Trade-based on international agreements
   a. EXAMPLES:
      1) GATT of 1947
      2) Uruguay Round Negotiations of 1986-1994
         a) Replaced GATT
         b) Created World Trade Organization
            * Established trading rules
      3) Doha Round negotiations
         a) Purpose: Increase economies of developing countries
         b) Focus: Agricultural subsidies
         c) Negotiations failed: US and EU would not reduce subsidies
II. Agricultural Policy

C. U.S. Agricultural Trade, continued

3. Hemispheric trade zone agreements of importance to Florida
      1) Under NAFTA expansion: Proposed Free Trade
         Agreement of the Americas (FTAA)
   b. Dominican Republic-Central America U.S. Free Trade
      Agreement (CAFTA-DR)
   c. U.S and targeted southern hemispheric trade agreements
      1) Goal: Establish hemispheric trade alliances
   d. Cuba?
      1) Cuba's transition to alternative agricultural production
         a) "The Special Period"
            * Following collapse of the Soviet Bloc in 1990
         b) Food security concerns causing agriculture to move closer to urban centers to meet food
            demands
         c) Led to widespread "organic" farming practices
   c) "The world's first national experience in sustainable agriculture."
   2) Cuba's "Agricultural Crossroads"
      a) As its economy improves, Cuba may begin to transition to a more industrial agricultural production system.
         - Foreign Investment Law 118/2014
         : Assurance of protection to investors/provides greater incentives to attract foreign investment
         - Mariel Special Development Zone 313/2013
         : Established a special system for investment within the province of Artemisa
      b) Question: If transition occurs will Cuba continue its sustainable/organic experiment, and at what scale?
         - Norma Cubana 500/2010
         : National organic standard modeled after the EU
II. Agricultural Policy continued

C. U.S. Agricultural Trade, continued

3. - continued
d. Cuba

3) Cuba's transition back to traditional agricultural production?
a) Impacts
   - Increases agricultural production
   - Decreases agricultural labor
   - Increases pesticide use
   - Increases farm worker pesticide exposure
   - Increases environmental degradation
   - Increases the loss of established alternative agricultural production systems

4) Cuba's continued emphasis on alternative agricultural production?
a) Impacts
   - Decreases agricultural production
   - Increases agricultural labor
   - Decreases pesticide use
   - Decreases farm worker pesticide exposure
   - Decreases environmental degradation
   - Increases Cuba's alternative agricultural systems and enhances Cuba's alternative agricultural reputation
   - Enhances future organic export opportunities
II. Agricultural Policy continued

C. U.S. Agricultural Trade, continued

3. continued
   d. Cuba
      5) US/Cuba Agricultural Trade 2019
          a) Trade Sanctions Reform Act of 2000 still in effect
          b) Trump curtails Obama's Cuba Trade Policy:
             Limited effect
          c) Agricultural sector push back: Corn and Soybean
          d) Note: While limited impact on agricultural trade
             tourism trade impacted through cruise ship
             restriction. Air travel not restricted. (Summer
             2019)

4. Future of U.S./Cuba Agricultural Trade
   a. Political Impasse?
   b. Impact to Florida: Fresh fruits and vegetables
II. Agricultural Policy continued

C. U.S. Agricultural Trade, continued

5. European Union (EU) Challenge
   a. Resistant to U.S. imports
      1) Food safety arguments
         a) GMOs
         b) Antibiotics
         c) Additives
      2) Country of Origin Labeling (COOL)
         a. 2002 Farm Bill
         b. Rationale: Provide consumers with origin of foods
         c. Cloaked trade restriction

III. Agricultural Policy continued

C. U.S. Agricultural Trade, continued

6. Future export trends
   a. Decrease: Europe
   b. Increase: Canada, Mexico, Americas and Asia
         a) Fresh fruit and vegetables: Issues with anti-dumping
         b) Corn, soybeans and wheat
      c. Trump Mexico tariff threat to curtail illegal immigration from Central America
II. Agricultural Policy continued

D. Foreign ownership of U.S. Farmland

1. Catalyst for foreign ownership
   a. Cheap land

2. U.S.

3. Florida

4. Agricultural Foreign Investment Disclosure Act of 1978

E. Farmland Preservation

1. Why protect?

2. Loss of farmland
   a. U.S.
   b. Florida
   c. Causes
      1) Urban sprawl
      2) Economic downturn
      3) Technology
II. Agricultural Policy continued

E. Farmland Preservation, continued

   a. Why study?
   b. 1981 Farm Bill: Agriculture and Food Act
      1) Focus: minimize impact of converting farm lands to non-farm lands

4. Future of farmland preservation
   a. Federal protection programs
      1) 1996 Farm Bill
         a) Earmarks for conservation easements
         b) Continuous Farm Bill support
      2) Oversight:
         a) USDA Natural Resource Conservation Service (NRCS)
III. Agricultural Policy continued

E. Farmland Preservation, continued

b. Farm Land Zoning
   1) Area-based Zoning: Development fixed on acreage limits
      a) Challenge
         • Maintaining and enforcing
   2) Large Lot Zoning: Minimum of five acres
      a) Challenge
         • Doesn’t discourage development
   3) Cluster Zoning: Portion developed/portion set aside for agricultural use
      a) Challenge
         • Inhibits commercial agriculture
   4) Buffering: Separation of farm from residential
      a) Challenge
         • Enforcement

4. Future of farmland preservation continued
   c. Right-to-Farm Laws
      1) Protection from nuisance lawsuits
II. Agricultural Policy continued

F. Urban Agriculture

1. History
2. Importance
3. Challenge
   a) Zoning
      1) Euclid v. Ambler Reality
         272 U.S. 365 (1926)

G. Natural Resources

1. Corn to ethanol
   a. Impact
      1) Food costs
      2) Land values
      3) Environmental degradation
      4) Maintenance costs with increase of 10% - 15% in 2019

2. Water allocation
3. Invasives
4. Genetically Modified Organisms
   a) Malthus versus Boserup
   b) Environmental impact
5. Agrichemicals and non-point source pollution
II. Agricultural Policy continued

H. Agroterrorism

1. A subset of bioterrorism
   a. Tactic since the beginning of civilization
      1) Roman Empire: Salting and burning of fields
   b. World War I
      1) German use of infectious disease glanders
   c. World War II
      1) Japanese special division Unit 731
   d. Soviet Union
      1) Glanders in Afghanistan
References


8. The Nelson Amendment, Act of 1907, ch. 2907, 34 Stat. 1256, 1281-82 (authorizing increases in each state’s annual appropriation by $5000 for the first year, and an additional $5000 each year thereafter until the total was $50,000).


13. Florida Department of Agriculture and Consumer Services Online, (last visited May 8, 2019)


22. The Farm Loan Act of 1916, 12 U.S.C. § 2001 (1994) (creating the Farm Credit System to provide agricultural loans. The authorizing statute states is the ‘policy of Congress...that the farmer-owned cooperative Farm Credit System be designed to accomplish the objective of improving the income...by furnishing sound, adequate, and constructive credit and closely related services to [farmers], their cooperatives, and to selected farm-related businesses necessary for efficient farm operations.”).


25. Green, S. Article, The Search for a National Land Use Policy: For the Cities’ Sake, 26 FORDHAM URB. L.J. 69, 71 (1998) (noting the failure of the National Land Use Plan, and arguing for “the need for a federally mandated land use policy.”). See also COUNCIL ON ENVIRONMENTAL QUALITY, THIRD ANNUAL REPORT, 165-197, 224-230 (1972) (pointing out three basic deficiencies in existing local land use schemes).


27. Farm Security and Rural Investment Act of 2002 (7 U. S. C. Section 7901 et seq.).


38. *Agricultural Foreign Investment Disclosure Act of 1978*, Pub. L. No. 95-460, 7 U.S.C. § 3508, and 7 C.F.R. § 781 (requiring “any foreign person [who] acquires or transfers” any interest (other than a security interest) in U.S. agricultural land (including, ranch lands and timberlands) to file a report of ownership within 90 days after acquisition or transfer with the USDA’s Agricultural Stabilization Conservation Service, in the county office where the land is located. The Act provides penalties up to 25 % of the property’s fair market value, and requires all filings to be subject to public inspection).

40. Farm and Ranch Lands Protection Program repealed by the Agricultural Act of 2014 and replaced by the establishment of the Agricultural Conservation Easement Program (ACEP) (last visited May 12, 2016).


51. Ansbacher, S. F., Olexa, M.T. and Maurer, K. Florida’s Downtowns are Free to Grow Broccoli... and Chickens (Sometimes), Florida A&M Law Review. Vol.2, No.1. Fall 2015.


