



**Agricultural Law Press**  
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# Agricultural Law Digest

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## Effects of Adversity in the Agricultural Sector

-by Neil E. Harl\*

No one likes adversity (except for those who believe they can out guess the contours of the economic system). Currently, the massive agricultural part of that system in this country is going through the third wrenching adjustment in a century.<sup>1</sup>

After the boom times of 1914 and the years immediately following, the pain of the Great Depression had been riveted in people's minds for years. That period of our economic history continued to affect economic decision-making until well after World War II. The second period of adversity in a century was the Farm Debt Crisis of the 1980s<sup>2</sup> which was heavily influenced by the shift in economic policy in the late 1980s to rein in inflation after a period of high inflation which had continued for several years. Finally, the current downturn is heavily weighted by over production, which has been shaped by technological advances boosting the ability to produce and the inability (or unwillingness, much of which are in the form of limits on income) to increase consumption sufficiently to absorb the increased output.

*During the years leading up to the onset of the latest period of adversity one could hear the refrain "the great need now is to increase output because population increases and higher incomes around the world will assure that the demand will be there."<sup>3</sup> That cry, to produce more, was heard at every turn, but is heard less often now that supply in most commodities has exceeded demand at prices needed to assure unfettered economic success for the producers.*

Reality supports the idea that farmers and ranchers worldwide will respond positively to economic incentive. Historical observations tend to support the idea that farmers and ranchers will be influenced more by potential profitability than by encouragement by bystanders voicing the message that it is their duty to produce more.

### **So what should be the guideposts for decision makers in the agricultural sector?**

Of course, the fact that farmers and ranchers are limited in their planning because of weather variability tends to discount the influence of economic factors when farmers and ranchers are tooled up to produce farm commodities. That is a powerful incentive to plant crops and continue livestock production because of the uncertainty of the factors

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which, in theory, should be influencing production levels. Idling land and other factors of production to influence price is almost unknown except in marginal areas of production.

### Basic principles

U.S. farm policy in recent years has tended to be shaped more by political factors than by the delicate process of influencing agricultural production to assure the desired level of social gain. Adverse weather conditions, widespread disease outbreaks and other production-related factors complicate the drafting of farm policy, as everyone knows. It is not a simple matter, but that is hardly an excuse to ignore the steps that coincide with rational policy.

We should keep in mind that farm policy has become a major policy issue and deserves a rational policy base if we are to achieve the results that occasionally rise up in governmental circles worldwide. Few issues are more compelling than to pursue economically rational policies in every country that enable the

populations to achieve an adequate diet at an achievable cost.

### ENDNOTES

<sup>1</sup> See Harl, *The Farm Debt Crisis of the 1980s*, Iowa State University Press, 1990.

<sup>2</sup> *Id.*

<sup>3</sup> In 2013, the author was the third speaker at a sizeable gathering at Iowa State University; the first two speakers extolled the merits of pushing the incentives to produce more in order to feed a hungry world by 2050. The third speaker, this author, was criticized for going easy on the acceleration of production and reminded the group that, with our capacity to produce in this country, we could easily over produce several times between now and 2050. It turned out that it was less than five years before the over production became a significant problem once again.

## CASES, REGULATIONS AND STATUTES

by Robert P. Achenbach, Jr

### FEDERAL FARM PROGRAMS

**IMPORTS.** The APHIS has issued proposed regulations which would amend the regulations in 9 CFR part 93 to change the identification requirements of bovines imported from Mexico. At present, cattle from Mexico carry at least two forms of identification, generally a brand and an approved ear tag. Cattle imported from Mexico for other than immediate slaughter, are required to be branded with an “M” for steers, an “Mx” for spayed heifers, and an “MX” brand or tattoo for breeding bovines. The proposed regulations provide that all bovines imported from Mexico be branded with a single “M” to avoid branding uncertainties. In order to distinguish between feeder and breeding cattle, the brand for steers and spayed heifers would be placed on the back hip and the brand for breeding cattle would be placed on the shoulder. Cattle imported from Mexico would still require an approved ear tag. **83 Fed. Reg. 15756 (April 12, 2018).**

**ORGANIC FOOD.** The AMS has announced an extension of the comment period, to May 14, 2018, for the following proposed regulation. The AMS has issued a proposed rule which would amend the National List of Allowed and Prohibited Substances provisions of the organic regulations to implement recommendations submitted to the Secretary of Agriculture by the National Organic Standards Board. This rule proposes to change the use restrictions for 17 substances allowed for organic production or handling on the National List: Micronutrients; chlorhexidine; parasiticides; fenbendazole; moxidectin; xylazine;

lidocaine; procaine; methionine; excipients; alginic acid; flavors; carnauba wax; chlorine; cellulose; colors; and, glycerin. This rule also proposes to add 16 new substances on the National List to be allowed in organic production or handling: Hypochlorous acid; magnesium oxide; squid byproducts; activated charcoal; calcium borogluconate; calcium propionate; injectable vitamins, minerals, and electrolytes; kaolin pectin; mineral oil; propylene glycol; acidified sodium chlorite; zinc sulfate; potassium lactate; and, sodium lactate. The proposed rule would list the botanical pesticide, rotenone, as a prohibited substance in organic crop production. The proposed rule would remove ivermectin as an allowed parasiticide for use in organic livestock production. **83 Fed. Reg. 16010 (April 13, 2018).**

### FEDERAL INCOME TAXATION

**BAD DEBT DEDUCTION.** The taxpayer loaned money to a boyfriend over several years to assist the boyfriend in creating a comic strip. The loans were consolidated in 2010 and the boyfriend made some payments on the debt. In December 2010 the boyfriend stated that he had no more money and in 2011 the taxpayer sued for collection of the debt. A judgment was obtained in 2012 but no payments were made. Negotiations for payment of the debt continued through the end of 2012. The taxpayer then formed an LLC and transferred the promissory notes to the company. The court found that the debt was not worthless in 2010, the debt was not related to a business of the taxpayer, the taxpayer was not in the trade or business of lending