

Federal Preemption of State Law – A Look at Several Court Cases

The proliferation of legislation and regulation at both federal and state levels has led to increasing claims that state law is preempted by federal authority.

Preemption claims arise under Article VI of the U.S. Constitution, the so-called Supremacy Clause. Preemption may be express – that is, Congress clearly states in federal law that the regulated subject is preempted – or it may be implied (inferred) by statutory language, legislative history, the “pervasiveness” of the federal administrative scheme, or the importance of uniformity or the national interest. Federal preemption occurs not only when state law conflicts directly with federal law, but also when state law obstructs or “frustrates” congressional purposes or policies. Preemption court cases tend to turn on the particular regulatory schemes at issue.

Here’s a brief look at several of the major cases cited by the U.S. Department of Agriculture for its position that federal warehouse operators cannot be required by state governments to be dually licensed or comply with state warehousing or grain dealer laws or regulations, which USDA articulated at the NGFA’s Sept. 9 Board of Directors meeting.

Rice v. Santa Fe Elevator Corp.: In this landmark 1947 decision [*331 U.S. 218 (1947)*], the U.S. Supreme Court resolved claims of federal preemption involving the U.S. Warehouse Act (USWA) [*7 U.S.C. 241 et seq.*] in response to a challenge to the authority of the Illinois Commerce Commission brought by USWA-licensed grain warehouse operators. The High Court noted that grain warehousing traditionally was a subject of state concern, and that the original version of the USWA, enacted in 1916, specifically deferred to state law as the controlling authority. However, as the Supreme Court stated, the USWA had been amended in 1931, to terminate the dual system of regulation provided under the original statute, and instead had granted exclusive “power, jurisdiction and authority” to the secretary of agriculture over all federal licensees.

In this decision, the High Court determined a strong and clear intent by Congress that a “licensee under the federal Act can do business ‘without regard to State acts’; that the matters regulated by the federal Act cannot be regulated by the States; that on those matters a federal licensee... is subject to regulation by one agency and by one agency alone. That is to say, Congress did more than make the Federal Act paramount over state law in the event of conflict.” The standard set forth by the Supreme Court in this frequently cited case is, therefore, “whether the matter on which the state asserts the right to act is in any way regulated by the Federal Act. If it is, the federal scheme prevails though it is a more modest, less pervasive regulatory plan than that of the State.”

Demeter Inc. v. Werries: Nine grain warehouse operators challenged state legislation requiring them to join the Illinois Grain Insurance Fund or to supply bonds. The U.S. District Court [*676 F. Supp. 882 (C.D. Ill. 1988)*] reiterated that the

1931 USWA amendments ended the dual system of regulation and substituted exclusive federal regulation over USWA licensed warehouses. As in the other cases, this court expressly rejected the argument that the state scheme be allowed to “supplement” the USWA. The Illinois State Department of Agriculture had argued that there was no preemption issue because its legislation addressed grain merchandising and grain insurance – not grain warehousing. But the court ruled that the state “cannot mask the fact that the purpose and effect of the amendments is to regulate federally licensed warehousemen – thereby putting the amendments in conflict with federal regulation. In such a situation, the state law must yield.”

Heart of America Grain Inspection Service v. Missouri Department of Agriculture:

The Missouri Department of Agriculture sought exclusive control over USWA-licensed inspectors employed by warehouses to certify and weigh grain in the state. The U.S. Court of Appeals for the Eighth Circuit [*123 F.3d 1098 (8th Cir. 1997)*] ruled that the USWA preempted state law regarding the certification of grain weighing in federally licensed warehouses. The court noted that the USWA provided for licensing of individuals who weigh and supervise weighing in federally licensed warehouses, and while Congress specifically deferred certain aspects of the grain warehousing industry to state law, these functions were not among them.

Appley Brothers v. U.S.A.: The federal government’s role and authority involving grain warehousing was further developed by the U.S. Court of Appeals for the Eighth Circuit (twice in the same litigation) [*7 F.3d 720 (1993)*] and [*164 F.3d 1164 (1999)*]. The claimants in this case had sold or stored grain at Bird Grain Company, a federally licensed warehouse in South Dakota. In November 1988, USDA suspended Bird Grain’s license after discovering massive grain shortages. The grain depositors alleged USDA was negligent in that a proper inspection in August should have revealed the shortages that were first detected during an inspection in April. They claimed this would have resulted in revocation of Bird Grain’s license and prevented further losses at that time. The federal government countered that the suit was barred as a discretionary function under the Federal Tort Claims Act. The appellate court disagreed; however, finding that USDA’s *Warehouseman’s Handbook* afforded the inspector no discretion as to whether he should have checked in August on the status of the shortages reported in April. In determining whether this negligence provided a cause of action, the appellate court looked to South Dakota state law and held that the government owes a so-called Good Samaritan common law duty to warehouse depositors because a primary purpose of the USWA is to protect them. This case is significant because USDA indicated that it could result in new grain merchandising regulations, and an expanded role for the USDA in the inspection of merchandising activities of federally licensed warehouse operators.