



The Feed

Recent Developments in Ag Law & Policy

The Feed highlights recent legal developments affecting agriculture, with issues released twice a month.

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Audry Thompson,
Penn State Center for
Agricultural and Shale Law

Homing in on H-2A:

An Overview of the Temporary Agricultural Worker Program

- ✓ March 18, 2026
- ✓ Noon - 1 p.m. ET
- ✓ No cost to register



Tariffs. On February 20, 2026 the United States Supreme Court issued its **opinion** in *Learning Resources, Inc. v. Trump*. In a 6-3 decision, the Supreme Court ruled that the International Emergency Economic Powers Act (IEEPA) does not authorize the President to impose tariffs on China, Mexico, and Canada. In its opinion, the Court held that a President must have “clear” authority from Congress to enact tariffs. According to the court, the language relied upon in IEEPA did not meet this bar. As of the time of writing, the Government has made no announcements regarding refunds for the tariffs. To learn more about the Court’s decision, be on the lookout for an upcoming NALC analysis.

FWS Faces Monarch Butterfly Lawsuit. On February 12, environmental groups filed a **lawsuit** against the United States Fish and Wildlife Service (FWS) over the agency’s failure to issue a final decision to list the monarch butterfly under the Endangered Species Act (ESA) by the statutory deadline. According to the ESA, once FWS proposes a species for listing, it has 12 months to issue a final rule. If FWS does not issue a final rule within 12 months, the ESA allows citizens either individually or as a group to file a lawsuit against FWS to enforce the mandatory deadline. FWS issued a proposal to list the monarch butterfly as a threatened species under the ESA in December 2024. It has yet to issue a final listing decision, which prompted two environmental groups, the Center for Biological Diversity and the Center for Food Safety, to ask a court to order FWS to issue a final decision. To learn more about the proposed decision to list the monarch butterfly, click **here** to view NALC article “FWS Proposes Listing the Monarch Butterfly as ‘Threatened’ Under the ESA.”

Colorado River: Interior to Finalize Post-2026 Guidelines. The United States Department of the Interior (Interior) has **announced** that it will proceed with plans to finalize operating guidelines for the Colorado River without full consensus on the framework from the Colorado River Basin states. The current operating guidelines for the Colorado River expire this year, and Interior has said it plans to finalize new operating guidelines by October 1, 2026. Currently, the Colorado River is managed according to guidelines established in 2007, which were updated in 2019 to accommodate historical drought in the region. The “basin states,” which include Arizona, California, Colorado, Nevada, New Mexico, Utah, and Wyoming, were tasked with collaborating on developing new guidelines for the River to replace the framework established in 2007, but have been unable to reach an agreement. Recently, Interior, through its Bureau of Reclamation, released a **draft Environmental Impact Statement** outlining five possible

approaches for managing the Colorado River after the current guidelines expire. Through the process of finalizing that document Interior will determine which of the options will be used to manage the Colorado River. To learn more about the options proposed by Interior, click [here](#) to view NALC article “Looking Ahead: As Guidelines on the Colorado River Set to Expire, Attention Turns to What Comes Next.”

Draft Farm Bill. On February 13, 2026, the U.S. House Committee on Agriculture released a draft version of a potential farm bill, titled the “**Farm, Food, and National Security Act of 2026**.” (FFNS). At over 800 pages, FFNS contains provisions on transferring Food for Peace programs to USDA, Dietary Guidelines for Americans, USDA loan limits, and pesticide labeling requirements. Other notable provisions include language preventing any state from imposing a “condition or standard” for raising covered livestock out-of-state and language creating an advisory panel for specialty crop crop insurance. Committee Chairman Glenn “GT” Thompson stated in a recent **press release** that the FFNS Act of 2026 “is an important step forward in providing certainty to our farmers, ranchers, and rural communities.” The House Agriculture Committee is currently scheduled to hold a markup hearing on the draft bill on March 3. The Committee will need to vote to pass the bill before it can be heard by the whole House. To read the short Title-by-Title Overview of the House Committee on Agriculture’s 2026 Farm Bill, click [here](#). To read the Title-by-Title Summary of the 2026 Farm Bill, click [here](#).

H-2A Fraud. A recent **press release** from the U.S. Department of Justice (DOJ) reports that a federal grand jury indictment has charged three Mexican citizens who allegedly exploited the H-2A temporary worker program. According to the release, the three individuals operated a farm labor contracting company in North Carolina, called “Las Princesas.” The Government alleges that Las Princesas falsely certified its compliance with H-2A program requirements regarding employment conditions and recruitment. Specifically, the Government claims that Las Princesas would charge foreign workers steep recruitment fees, confiscate identification documents to prevent foreign workers from leaving, and keep foreign workers in the U.S. even after their H-2A visas had expired.

- *Webinar Opportunity (March 18): Audry Thompson, Staff Attorney, Penn State Center for Agricultural and Shale Law will present “Homing in on H-2A: An Overview of the Temporary Agricultural Worker Program.” To register, click [here](#).*

Food Additives Labeling Law: Texas. On February 11, the U.S. District Court for the Western District of Texas **issued** a preliminary injunction halting the enforcement of a new food and beverage labeling law. Section 9 of Texas **SB 25** requires a food manufacturer to ensure that every food product intended for human consumption sold in the state of Texas bears a disclosure label if the product contains certain listed ingredients, such as bleached flour and red dye 40. Per the law, the food product must include a label using the following language: “WARNING: This product contains an ingredient that is not recommended for human consumption by the appropriate authority in Australia, Canada, the European Union, or the United Kingdom.” The court held that the manufacturers did show a substantial likelihood of success on the merits of their claim that Section 9 violates the First Amendment. As a result of the court’s order, the Texas Attorney General is prohibited from enforcing Section 9 against food manufacturers. Notably, a **new study**, commissioned by Americans for Ingredient Transparency, has estimated that the recent state law ingredient bans and labeling requirements will impose increased costs on consumers. To learn more about another recent food law case in Texas, click [here](#) to read NALC article “Texas Food Law Litigation Updates: Part 1.”

Foreign Ownership. California recently introduced a new bill that would ban certain foreign entities from purchasing, leasing, acquiring, or holding a controlling interest in agricultural land in the state. **SB 1176** applies to “prohibited foreign actor[s]”. The bill defines a “prohibited foreign actor” as a business, government, agent, trustee, or fiduciary of a business or government from a country that is either designated as a nonmarket economy or a national security risk by the U.S. Director of National Intelligence. If a foreign actor is found to be in violation of the bill, they will be required to divest themselves of all interests within 90 days. If passed, the bill would only apply to any control interest in farmland held after January 1, 2027. The bill is currently in committee and must be passed by both chambers and signed by the governor before becoming law. To learn more about foreign ownership laws in other states, click [here](#).

Farmer Bridge Payments. On February 20, 2026, USDA **announced** the enrollment period for Farmer Bridge Assistance (FBA) program. The enrollment period opened on February 23 and will remain open until April 17, 2026. The FBA Program will provide \$11 billion in bridge payments to producers of row crops. Authorized under the Commodity Credit Corporation Charter Act, the program will be administered by the Farm Service Agency (FSA). According to the press release, eligible crops will include barley, chickpeas, corn, cotton, lentils, oats, peanuts, peas, rice, sorghum, soybeans, wheat, canola, crambe, flax, mustard, rapeseed, safflower, sesame, and sunflower. To learn more about how to apply, click [here](#).

Roundup Settlement. Bayer, the chemical manufacturer which owns Monsanto, has agreed to a **proposed \$7.25 billion settlement** to resolve thousands of active lawsuits alleging that the company failed to warn consumers that the popular herbicide Roundup could cause cancer. If approved by the court, the settlement would resolve not only current lawsuits, but future claims as well through a long-term claims program that would be paid out over the course of 21 years. The settlement agreement would cover individuals who were exposed to Roundup before February 17, 2026, and either have non-Hodgkin lymphoma or have received a diagnosis within 16 years of final court approval. The proposed settlement comes after the United States Supreme Court has agreed to hear *Durnell v. Monsanto*, a case filed by a plaintiff who claims that Bayer failed to warn him of the potential health risks of using Roundup. Specifically, the Court has been asked to decide whether federal pesticide law preempts the plaintiff's failure to warn argument. **According to Bayer**, regardless of how the Supreme Court rules, the settlement agreement would help to resolve ongoing litigation.

- *Webinar Opportunity (May 20): Brigit Rollins, Staff Attorney, National Agricultural Law Center will present "Failure to Warn: A Look at Recent State and Federal Action on Pesticide Labeling."* To register, click [here](#).

Anti-Dumping Investigation. On February 10, 2026, the U.S. International Trade Administration (ITA) and the U.S. Department of Commerce **announced** an antidumping duty investigation on fresh winter strawberries imported from Mexico. In a **notice** published to the Federal Register, ITA explained that a petition submitted by the Strawberry Growers for Free Trade on December 31, 2025, prompted the investigation. That petition alleges that winter strawberries imported from Mexico are being sold in the U.S. at a price lower than fair value, in violation of the Tariff Act of 1930. The petition further claims that those imports are harming the U.S. strawberry industry by "dumping" product into the market at low prices. According to a recent press release by the ITA, the alleged dumping margin of winter strawberries from Mexico is estimated to be 18.32%. The International Trade Commission is scheduled to release a preliminary determination by March 6, 2026.

USDA Guidance for Child Nutrition Programs. The USDA's Food Nutrition Service (FNS) recently **published** guidance that encourages state and regional child nutrition program administrators to incorporate the **Dietary Guidelines for Americans, 2025-2030** into program meal offerings. The guidance encourages the prioritization of fiber-rich whole grains, healthy fats, fruits, and vegetables, and urges only limited consumption of highly processed foods, refined grains, and foods high in added sugars and refined carbohydrates. Agency guidance documents do not have the force of law, thus program operators are not mandated to make these suggested adjustments. However, in the guidance, USDA states that it is currently developing a proposed rule to update child nutrition program standards and meal requirements to match the new dietary guidelines. In addition, the FNS also **published** guidance encouraging child nutrition program operators to incorporate local beef in school meal offerings. This guidance is in response to the new dietary guidelines as well as the recent **USDA Plan to Fortify the American Beef Industry**. The guidance document provides resources on sourcing, purchasing, and food safety, as well as funding opportunities for child nutrition program operators trying to incorporate local beef. To learn more about the recently updated Dietary Guidelines, click [here](#) to read NALC's article "HHS and USDA release 'The Dietary Guidelines for Americans, 2025-2030.'"

Glyphosate Executive Order. On February 18, President Trump signed an **Executive Order** directing USDA to ensure the production of a "continued and adequate" supply of phosphorous and glyphosate-based herbicides. The order invokes the Defense Production Act, which allows the president to prioritize the production of critical minerals and resources for national defense. Phosphorus, a key ingredient in glyphosate, was designated as a critical mineral by the Department of the Interior in 2025. The executive order claims that establishing an adequate supply of phosphorus and glyphosate is "crucial" to national security because glyphosate is the most widely used crop protection tool in the United States. Along with the order itself, the White House also released a **fact sheet** which identifies phosphorus and glyphosate as "essential" to military readiness. It is not clear what the immediate impact of the Executive Order will be or what steps USDA will take to increase phosphorus and glyphosate production.

Dicamba Lawsuit Filed. On February 20, a coalition of environmental groups **petitioned** the Ninth Circuit Court of Appeals to review and set aside the EPA's recent decision to register three dicamba-based herbicides for direct use in dicamba-resistant soybeans and cotton. According to the environmental groups, the registration decision violates both the Federal Insecticide, Fungicide and Rodenticide Act as well as the Endangered Species Act. EPA formally **approved** XtendiMax, Engenia and Tavium for use during the 2026 and 2027 growing seasons. This decision is the fourth time that EPA has authorized dicamba for direct "over-the-top" use since XtendiMax was initially approved for use in 2016. In that time, at least two separate courts, including the Ninth Circuit, have overturned EPA's decision to

approve over-the-top use of dicamba. The petition for review was filed by the same plaintiffs who filed the previous lawsuits to challenge EPA's past dicamba registration decision and they have requested that the new challenge be heard by the same Ninth Circuit panel that handled the past litigation, arguing that the judges would already be familiar with the scientific data underlying the dispute. For more information on EPA actions and lawsuits concerning dicamba, click [here](#) to view NALC's article series "The Deal with Dicamba."

Pork & Poultry Line Speed Proposals. USDA's Food Safety and Inspection Service (FSIS) have issued a **proposed rule** that would increase maximum line speeds for young chicken processing facilities operating under the New Poultry Inspection System. This increase would permit young chicken establishments to operate at line speeds of up to 175 birds per minute (bpm) while turkey establishments could increase maximum line speeds from 60 bpm. Currently, young chicken slaughter establishments under NPIS are permitted to run a maximum line speed of 140 bpm, while turkey establishments are at 55 bpm. Along with the proposal to increase line speeds for certain poultry operations, FSIS has **also proposed** to increase speeds for establishments operating under the New Swine Slaughter Inspection System. This rule would permit facilities to determine their own line speeds "based on their ability to maintain process control." However, FSIS did note that an FSIS inspector may reduce the line speed at any point if they believe there is a loss of process control or a carcass-by-carcass inspection cannot be effectively made. Both proposed rules will be open for public comment through April 20, 2026.

FDA Reviewing BHA. On February 10, the U.S. Food and Drug Administration (FDA) **announced** a reassessment of butylated hydroxyanisole (BHA), a preservation chemical commonly used in food products. The FDA has issued a notice of Request for Information, meaning the agency is seeking comments from the public on the current uses of BHA in food products. The notice states that the FDA plans to use the information to determine whether BHA is still safe under the chemical's current uses in food and as a food contact substance. The public comment period is open until April 13, and comments can be submitted [here](#).

FDA: Animal Medicine Guidelines. On February 12, the FDA's Center for Veterinary Medicine (CVM) published industry **guidance** for setting limits to feeding "medically important" antibiotics to livestock. This guidance suggests that drug sponsors should revise their drug labels to include a clarification for when farmers should and should not feed the drug to animals. The non-binding guidance also encourages establishing defined durations to "mitigate the development of antimicrobial resistance."

Pesticide Labeling. On February 13, the Kentucky legislature introduced **SB 199** which seeks to amend Kentucky law so that a federally registered pesticide label would be considered a "sufficient warning" for any state law concerning the duty to warn. The move makes Kentucky the latest state to introduce such legislation, with at least six states introducing similar bills so far in 2026. These state laws seek to address the thousands of lawsuits filed across the country against pesticide manufacturers by plaintiffs who claim that the companies failed to warn them about potential health risks of using their pesticide products. While courts have been asked to consider whether federal pesticide law should preempt such failure to warn claims, which arise out of state law, some states have sought to address the issue by passing legislation to clarify that a federally registered pesticide label would satisfy any state law duty to warn consumers about potential health risks. For more information, click [here](#) to view NALC article "2026 Update on State Pesticide Liability Limitation Bills."





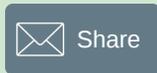
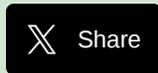
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