



# 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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**Ag Labor Pointers & Pitfalls for Farming Operations:  
A Conversation with Ag Attorney  
William Mencer**

Wed., August 20, 2025  
Noon ET  
No cost to register

**William Mencer**  
Law Office of William L. Mencer

**Reconciliation.** On July 4, President Trump signed into law what has been commonly referred to as the **One Big Beautiful Bill Act** (OBBBA). Along with finalizing other spending changes, the OBBBA incorporated various legislative provisions that are typically included in the Farm Bill. Provisions that extended the authority for Title 1 safety net provisions such as ARC and PLC, increased reference prices for covered commodities, and modified requirements for programs housed under the Nutrition Titles were all included in the final text of the OBBBA. The NALC has taken a closer look at the Farm Bill-related components of the OBBBA and what they mean for agriculture. To learn more about changes to the Supplemental Nutrition Assistance Program, click **here** to view NALC article "One Big Beautiful Bill Act: Nutrition Title." For a roundup of resources related to other provisions of the OBBBA, including changes made to conservation program spending and tax provisions, click **here** to view NALC article "One Big Beautiful Bill Act: Resource Roundup."

While the OBBBA addresses various Farm Bill programs, the reconciliation process is limited only to federal spending and revenue laws which leaves some Farm Bill components uncovered. Because of this, lawmakers in Congress have been considering passing a "skinny" Farm Bill later this year to address programs not included in the OBBBA.

**Pesticides: Dicamba.** The Environmental Protection Agency ("EPA") has proposed to re-register the pesticide dicamba for use directly on top of dicamba-resistant soybean and cotton plants. The proposed re-registration decision includes additional mitigation measures for dicamba, intended to reduce the on-going challenges of environmental impacts and off-target damage to crops. Newly proposed mitigation measures include a prohibition on aerial applications, limits on the number of applications, a 240-foot buffer zone, and a requirement of three mitigation points from EPA's runoff/erosion mitigation menu. Dicamba was first approved for use directly on dicamba-resistant soybean and cotton crops in 2016, but has had its registration revoked twice by federal courts, first in 2020 and most recently in 2024. In 2020, **the Ninth Circuit Court of Appeals** vacated the registration for over-the-top uses of dicamba after the court determined that EPA had failed to

consider various environmental and social concerns when registering the pesticide. In 2024, **federal court in Arizona** vacated the registration for over-the-top dicamba after finding that EPA had failed to follow the proper registration procedures. A comment period on the proposed registration is open through August 22, to find more information on how to submit a comment, click [here](#). For more information on dicamba, click [here](#) to view the NALC's "The Deal with Dicamba" series.

**Salmon & the ESA.** In late June, the National Marine Fisheries Service (NMFS) agreed to reach a final decision on whether to list three species of salmon under the Endangered Species Act (ESA). According to a recently filed settlement agreement, NMFS will complete its decision to list the Oregon Coast and southern Oregon/Northern California coast Chinook salmon by November 3, 2025, and its decision to list the Washington coast spring-run Chinook salmon by January 2, 2026. The settlement agreement comes as the result of a lawsuit filed in February by environmental groups who had originally petitioned NMFS to list the salmon species in 2022 and 2023. In those petitions, the groups argued that the species should receive ESA protection after experiencing population declines in part driven by dams and water diversions. The three salmon species are located in the Eel and Klamath River watersheds, both areas where agriculture relies on in-stream flows and groundwater for support. Farmers and ranchers in Northern California and Southern Oregon have already experienced increased water restrictions in recent years as the ESA often requires the maintenance of minimum in-stream flows to maintain species protection. It is possible that additional salmon listings could increase future restrictions. To view the settlement agreement, click [here](#). To learn more about how the ESA can impact agriculture, click [here](#) to view the NALC's ESA Manual.

**No NEPA Review for GE Plants.** The USDA's Animal and Plant Health Inspection Service (APHIS) has announced that it will no longer conduct a National Environmental Policy Act (NEPA) analysis when approving genetically engineered (GE) seeds as "unregulated articles" that can be freely sold in the interstate market. APHIS regulates GE organisms under **7 C.F.R. Part 340**. Those regulations allow APHIS to grant unregulated status to a GE seed if the plant grown from the GE seed would not pose a greater pest risk than a similar organism. In the past, APHIS has also conducted NEPA reviews when granting unregulated article status to a GE seed to fully consider the expected environmental impacts of the decision. However, following the recent United States Supreme Court ruling in **Seven Cnty. Infrastructure Coal. v. Eagle Cnty.** where the Court held that agencies are not required to conduct NEPA reviews of actions where they do not have the statutory discretion to consider environmental impacts. **According to APHIS**, when granting unregulated status to GE seeds, the agency is not allowed to consider environmental impacts, making NEPA review inappropriate. This could make it easier for GE seed developers to bring new products to market.

**EPIA Preemption Challenge.** On July 9, the Trump administration filed a lawsuit against the state of California over several of its animal confinement laws, including the controversial Prop. 12. In its complaint, the government argues that California's Prop. 12 and Prop. 2 have contributed to the national rise in egg prices by increasing regulatory costs for poultry and egg production. The government claims that the federal Egg Products Inspection Act preempts California's animal confinement laws. To view the complaint, click [here](#). This is not the first time a lawsuit has been filed over Prop. 12. In 2023, the Supreme Court issued **National Pork Producers Council v. Ross**. To learn more about that decision, click [here](#) to view NALC article "What's Cooking with Prop. 12?: SCOTUS Decision." For more information on the most recent lawsuit, click [here](#) to read NALC article "Challenge to California's Hen Housing Laws."

**Nebraska v. Colorado.** The state of Nebraska has filed a lawsuit against the state of Colorado alleging violations of the 102-year-old South Platte River Compact. According to the Compact, Colorado agrees to maintain an average flow of 120 cubic feet per second (cfs) to pass the South Platte River to Nebraska during the irrigation season. The Compact also grants Nebraska the right to build a canal to divert 500 cubic feet per second during the nonirrigation season. In its complaint, Nebraska argues that Colorado has violated both these provisions by allowing unauthorized diversions of water that frequently drop the flow of the South Platte River below 120 cfs, and by opposing Nebraska's plan to build the Perkins County Canal. Farmers and ranchers in both Colorado and Nebraska rely on water from the South Platte River. While the lawsuit is likely to take some time to resolve, the outcome is likely to impact agriculture in the region. To view Nebraska's complaint, click

[here](#).

**Date Labels & Donations.** Pennsylvania Governor Josh Shapiro signed into law a bill that creates protections for individuals and organizations donating food that has passed its “best by...” date. **HB 615** provides immunity from criminal and civil liability to donors of food if the donor has reasonably inspected the food and finds it to be fit for human consumption. Specifically, the bill states that the condition of the food is not deemed unacceptable because of a “labeled date code recommended by the manufacturer.” To learn more about date labels generally, click [here](#) to read NALC article “Date Labels and the New California Law.”

**Black Vulture Relief Act.** The House Natural Resources Committee recently held a full committee markup on the **Black Vulture Relief Act of 2025**. Introduced to the committee in late March, the bill would allow farmers and ranchers the ability to “capture, kill, or disperse of” a black vulture that is causing or expected to cause death or injury to livestock. Black vultures are federally protected by the Migratory Bird Treaty Act (MBTA) which makes it illegal for anyone to kill or injure a protected bird species. However, in recent years, black vultures have posed an increasing threat to livestock, particularly newborn calves. The proposed Black Vulture Relief Act would essentially create an exemption to the MBTA for someone who disposes of a black vulture in the above situation.

**USDA Memo.** U.S. Department of Agriculture Secretary Rollins sent a memo that directs the department to “place America First in provisioning all USDA funds.” Specifically, the memo requires department employees to provide information within the next 30 days about current arrangements with foreign persons or entities. Those arrangements will be reviewed and might be terminated if it poses a potential risk to American agriculture. Per the memo, new arrangements with foreign parties must be reviewed by the Office of Homeland Security, the Office of General Counsel, and the Office of the Chief Scientist. To read the memo in its entirety, click [here](#). To learn more about foreign ownership of agricultural land and the Trump administration’s recent movement on the topic, click [here](#) to watch NALC Director Harrison Pittman’s interview on C-SPAN’s Washington Journal.

**Farm Animal Confinement.** On July 23 the House Committee on Agriculture held a hearing titled “An Examination of the Implications of Proposition 12”. The recorded hearing is available [here](#). Also on July 23, Rep Ashley Hinson and several colleagues introduced the “**Save Our Bacon Act**” proposal, which would prevent States and local jurisdictions from interfering with the production and distribution, in interstate commerce, of agricultural products derived from covered livestock. It is similar in structure to the language included in the 2024 House Farm Bill proposal. Earlier in the month, thirty two **Senate Democrats** sent a letter to Senate Agriculture Committee leadership objecting to the “**Food Security and Farm Protection Act**” and its inclusion in the next Farm Bill. The senators claim that the Food Security and Farm Protection Act would threaten state laws that prevent invasive pests and other animal welfare standards, and would create unnecessary litigation. To read the letter, click [here](#).

**National “MAHA” Updates.** On July 14, the FDA **announced** its approval of the natural food coloring Gardenia Blue. This blue-colored food dye is derived from the fruit of the gardenia, and has been approved for use in multiple drinks and candies. This follows the FDA’s approval of three other natural colors in May and the announcement of its six-pronged plan to phase out synthetic dyes in April. To learn more about that plan, click [here](#) to read NALC article “FDA Announces Plan to ‘Phase Out’ Synthetic Dyes.” When the announcement about Gardenia Blue was made, the FDA was holding a **joint press conference** with USDA where the International Dairy Foods Association voiced its commitment to eliminate artificial food dyes from ice cream products. Specifically, this commitment pledged to eliminate the use of Red 3, Red 40, Green 3, Blue 1, Blue 2, Yellow 5, and Yellow 6 from ice cream by 2028. IDFA joins a number of food manufacturers and trade associations who have made similar voluntary pledges. Additionally, earlier this month, HHS Secretary Kennedy and USDA Secretary Rollins joined Senator Roger Marshall (R-Kan) for the inaugural **MAHA Roundtable** on Capitol Hill. The focus of this roundtable was **soil health** with Secretary Kennedy calling most modern soil practices “unsustainable” and stating that top soil could be eliminated within 50 years. This conversation comes as stakeholders prepare for the expected publication of the MAHA Commission’s next report in August. Lastly, USDA and HHS have **announced** a joint Request for Information (RFI)

seeking data to help them create a federal uniform definition for ultra-processed foods. The RFI will be published in the **Federal Register** this week. For an update on FDA's six-pronged plan, click [here](#) to read an article from NALC partner Southern Ag Today, "Two Months In: Assessing the Movement on FDA's Plan to 'Phase Out' Synthetic Dyes."

**State "MAHA" Updates.** Oklahoma's State Superintendent **announced** an initiative this month to reform school meals in his state. Specifically, this initiative will implement "free, healthy meals for all Oklahoma students." The reform will start in the 2025/2026 school year, and will require local districts to use existing state and federal operational dollars to pay for the cost of meals. Additionally, this reform requires that all meals and snacks served in Oklahoma's schools are "free of seed oils, artificial food dyes, ultra-processed foods, pesticide laden foods, and junk food vending machines." In particular, a **letter** from the superintendent details the "new MAHA standards" that will be required in Oklahoma schools. This includes the elimination of "ultra-processed junk like packaged snacks, sugary drinks, and processed meats" and "foods grown with pesticides like glyphosate," and will mandate "fresh, locally sourced ingredients and more scratch cooking." To learn about other state "MAHA" initiatives, click [here](#) to read NALC article "State Level 'MAHA' Movement: New Texas and Louisiana Laws."

**Proposals for 2026 Spending.** The House Appropriations Committee passed its **FY26 Interior, Environment, and Related Agencies Appropriations Bill** which would, among other things, cut the budget for the Environmental Protection Agency (EPA) by 23%. Along with making budget cuts, the proposal would prohibit EPA from adopting any pesticide labeling changes that are inconsistent with either a human health assessment of a particular pesticide product or a particular product's carcinogenicity classification. Additionally, the proposal would prohibit the Fish and Wildlife Service (FWS) from using any funds allocated by the bill to enforce a series of Endangered Species Act (ESA) regulations that FWS passed during the Biden administration that modified or overturned ESA regulations adopted during the first Trump administration. Additionally, FY2026 proposals for USDA and related agencies have been passed by both the **House** and the **Senate** Appropriations Committees. An overview of the House's proposal is available in [this](#) recent report from the Congressional Research Service.

**Tomatoes.** The United States has officially withdrawn from and terminated a 2019 tomato suspension agreement with Mexico. This agreement was first put into place in 1996 and re-signed 4 other times for the purpose of protecting US tomato producers from injury via dumped Mexican tomato imports. It required Mexican tomato producers, among other things, to sell at or above certain minimum selling prices and to eliminate at least 85 percent of the dumping found in the initial agreement's investigation. Because of the agreement's termination, the U.S. Department of Commerce is now **issuing** an antidumping duty order that will result in duties of 17.09 percent on most imports of tomatoes from Mexico. To read the withdrawal notice published in the Federal Register, click [here](#).

**Ag Labor.** A House Representative from Texas has recently introduced a proposed piece of legislation titled the Bracero Program 2.0 Act which is aimed at improving the agricultural workforce by "streamlining" the current H-2A visa program. While text for the bill is currently unavailable, a **press release** put out by Congresswoman Monica De La Cruz's office states that the proposed legislation would consolidate the H-2A application process into a single online portal, expand the program to include greenhouses and indoor farms, set wages for H-2A workers at the state's minimum wage plus \$2 an hour, and clarify terms of the H-2A visa. Once available, the bill text will be published [here](#).

- Webinar opportunity (August 20): William L. Mencer, Law Office of William L. Mencer, will present "Ag Labor Pointers & Pitfalls for Farming Operations: A Conversation with Ag Attorney William L. Mencer." To register, click [here](#).

**Pesticide Legislation.** Senator Cory Booker introduced the **Pesticide Injury Accountability Act of 2025** on July 17. If passed, the bill would amend the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) to allow anyone who is injured by a registered pesticide product to file a civil suit against the product's manufacturer. The bill would also clarify that "nothing in" FIFRA preempts state law legal claims that an injured party could bring against a pesticide manufacturer. Senator Booker's



proposal comes in part as a response to the ongoing legal battle over whether FIFRA, the primary federal law regulating pesticides in the United States, should preempt state laws related to product safety. The issue is currently on appeal to the Supreme Court, although it is unclear whether the Court will hear the case. To learn more, click [here](#) to view NALC article "Plaintiffs & Pesticides: Failure to Warn Claims in Pesticide Injury Lawsuits."

**TX AG & Mars, Inc.** On July 16, 2025, Texas Attorney General Ken Paxton **announced** an investigation into Mars, Inc., the maker of M&M's and Skittles, for violating Texas consumer rights. Specifically, Paxton claims that Mars engaged in deceptive and illegal trade practices after pledging to "remove all artificial colors from its human food products" in 2016 and later not following through on that pledge. As part of this investigation, a Civil Investigative Demand has been issued to Mars to obtain specific relevant documents. Earlier this year, Paxton launched a similar **investigation** into General Mills for its use of the "healthy" label on foods that contain petroleum-based food colorings. General Mills made a similar pledge to remove artificial colors and failed to do so, and Texas also **sought** to obtain documents relevant to that decision through a Civil Investigative Demand.

**Nebraska Alt. Proteins.** Earlier this month, Nebraska Governor Pillen held a **ceremonial signing** for **LB 246**. Officially signed in May, the law bans manufacturing, producing, importing, distribution, promotion, displaying for sale, offering for sale, attempting to sell, and selling of cultivated meat in the state of Nebraska. It will go into effect in September. For a more detailed update on recent state alternative meat proposals, click [here](#) to read an article from NALC partner Southern Ag Today "A Steak by Any Other Name: How States Are Shaping the Future of Cultivated Meat."

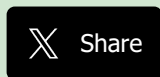
**FDA Standards of Identity.** The FDA **announced** its intention to revoke 52 standards of identity for food products. Standards of Identity (SOI) was established in 1939 to combat economic adulteration through ensuring that the characteristics, ingredients and production processes of foods are consistent with consumer expectations. There are currently 250 foods with a SOI - including milk, milk chocolate, peanut butter and ketchup. To revoke the 52 SOIs, FDA has released a directive final rule and two proposed rules. The **direct final rule** will revoke the SOI for 11 types of canned fruits and vegetables. One **proposed rule** revokes the standards for 18 types of dairy products, and the **other** revokes standards for 23 types of food products such as bakery products, macaroni and noodle products, canned fruit juices, fish and shellfish, and food dressings and flavorings. The proposed rules have comment periods open until Sept. 15, 2025, and the final rule has a comment period open until August 18, 2025. To learn more about other recent FDA updates, click [here](#) to read NALC article "FDA Updates: June 2025."



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