



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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NALC WEBINAR SERIES:

Redefining Responsibility Over Packaging:
An Overview of U.S. Extended Producer Responsibility Laws



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OFW Law

Presenters:

John Dillard
OFW Law



Thurs., November 20, 2025
Noon ET
No cost to register

SNAP Update. As of November 1, 2025, the United States Department of Agriculture's (USDA) funding for the Supplemental Nutrition Assistance Program (SNAP) has lapsed due to the continuing federal government shutdown. At this time, the Trump Administration has stated that it will use congressionally appropriated SNAP contingency funds to partially cover the cost of SNAP benefits for the month of November. This decision is in compliance with **orders** from two U.S. District Court Judges directing the agency to use the contingency funds for this purpose. However, the administration has not yet given guidance to state agencies regarding dispersion of the partial benefits.

New Life for New Jersey Farm. After initial attempts to seize portions of a 175-year-old New Jersey farm for the construction of a new affordable housing development, the New Jersey township of Cranbury seems to be changing course. In a **letter** recently filed with the court, Cranbury and the owners of the farm have indicated an intent to reach a settlement agreement excluding the farm from the housing development plan. The proposed agreement states that Cranbury will refrain from using eminent domain to seize the farm and utilize more time to consider alternative sites for the housing development plan. The parties have requested additional time to discuss the settlement and produce a formal settlement proposal. The parties state that they, "believe this is the best path forward and will likely result in a final settlement agreement that will resolve the vast majority of claims in the submitted challenges."

California: Treated Seeds. California's Department of Pesticide Regulation (DPR) has released a **draft proposal** that seeks to incorporate seeds treated with pesticides into the state's pesticide regulatory framework. The proposal would require pesticide users to report information on use of treated seeds to DPR, including the amount of treated seeds planted and the type of crop or commodity the seeds were planted to produce. DPR's proposed rule is the result of a settlement agreement reached between environmental groups and the Department last year which requires DPR to finalize treated seed regulations by 2027. Interest in regulating treated seeds has grown in recent

years, and while a **bid launched** by environmental groups to have treated seeds regulated more strictly at the federal level ultimately failed, attempts to regulate on the state level could be more successful. A public comment period on DPR's proposal is open through December 1. To submit a comment, click [here](#).

Supreme Court Declines to Hear Corner Crossing Case. On October 25, the United States Supreme Court **declined** to hear an appeal of the Tenth Circuit Court of Appeals' **decision** in *Iron Bar Holdings v. Cape*. In that decision, the Tenth Circuit upheld a lower court decision permitting hunters to access federal lands by "corner-crossing" private lands, so long as they did not physically touch the private lands. Because the Supreme Court declined to hear the case, the Tenth Circuit's decision will stand. This means that "corner-crossing" private land to access federal lands, so long as the private lands are not physically touched, is lawful within the Tenth Circuit's jurisdiction. The affected states include Wyoming, Colorado, Utah, New Mexico, Kansas, and Oklahoma. To learn more about "corner crossing" click [here](#). To learn about the filing and appeals process in federal courts, click [here](#) to read NALC article, "Procedures: Filing."

North Dakota Disaster Relief Program. North Dakota state officials **announced** at a **recent meeting** of the North Dakota Industrial Commission that the Bank of North Dakota would be developing a disaster relief program for agricultural producers. According to state officials, the program will cooperate with local banks and credit unions to assist agricultural producers in refinancing their outstanding debts. State officials assert that the goal of the program is to support state agricultural producers without needing to rely on a potential federal relief program.

Michigan: CAFO Regulation. The state of Michigan will **begin enforcing** stricter controls on pollution from concentrated animal feeding operations (CAFOs) five years after the tighter regulations were first announced. In 2020, the Michigan Department of Environment, Great Lakes, and Energy (EGLE) announced updated terms for the state's general pollution discharge permit which covers discharges of pollutants made by CAFOs which are subject to the federal Clean Water Act. Under those updated terms, Michigan CAFOs would have been prohibited from spreading manure from agricultural fields from January through March to prevent nutrient pollutants from seeping off of frozen ground and entering nearby waterbodies. While the updated general permit prompted lawsuits from farm groups, both the **Michigan Supreme Court** and an **administrative law judge** ruled that EGLE had a right to issue the permit. To view EGLE's 2020 General Permit, click [here](#).

Animal Activist Found Guilty. After **taking four chickens** from a Perdue Farms poultry plant, an animal activist in California is now facing prison time. The activist, a member of California's Direct Action Everywhere animal rights group, was charged with two misdemeanor counts of trespassing, a misdemeanor count of tampering with a vehicle, and a felony conspiracy charge. After less than a day of deliberation, a Santa Rosa jury found the activist **guilty on all counts**. The sentencing date is currently set for Dec. 3, and the activist is facing a maximum jail sentence of four and a half years.

Monsanto Must Pay Millions. The Washington state Supreme Court **reinstated a \$185 million verdict** against Monsanto, owned by Bayer, for claims of chemical contamination brought by teachers at a Washington state school. The case was initially brought by over 200 students, employees, and parents who claimed they were exposed to chemicals made by Monsanto, including polychlorinated biphenyls (PCBs) that were leaking from the school's light fixtures and thus caused significant health problems. PCB's were banned in the U.S starting in 1979 but Monsanto produced PCBs from 1935 up until 1977. The Washington state Supreme Court's recent ruling may impact the remaining PCB cases on appeal against Monsanto which have been paused while the Washington Supreme Court considered the teacher's lawsuit. Since Bayer acquired Monsanto in 2018, it has been subject to tens of thousands of legal claims involving chemicals manufactured by Monsanto, including PCBs and the widely-used pesticide glyphosate. Bayer **has stated** that the ongoing litigation threatens its ability to continue manufacturing glyphosate. To learn more about lawsuits involving glyphosate, click [here](#) to view NALC's series "Plaintiffs & Pesticides."

North Dakota AFO Permit. On October 22, the Dakota Resource Council filed a **lawsuit** to challenge a recent permitting decision from the North Dakota Department of Environmental Quality's (DEQ).

Specifically, the plaintiffs seek to overturn DEQ's **final decision** to issue an animal feeding operation (AFO) permit which allows the construction of a 25,000 dairy cattle operation. The plaintiffs allege that the operation will negatively impact the water quality of the Red River and "cause waste to be placed in locations likely to cause pollution." Under North Dakota state law, DEQ is only permitted to issue an AFO permit if it determines that the animal feeding operation will not pollute surface waters within the state. The plaintiffs argue that because the dairy operation plans to store liquid manure in ponds located on a floodplain, DEQ was wrong to conclude that operation of the AFO would not cause pollution of state waters. Additionally, the plaintiffs claim that DEQ also violated federal law by failing to issue a Clean Water Act discharge permit to the dairy operation. The plaintiffs ask the court to reverse DEQ's decision to issue the permit.

SNAP Waiver Requests. On October 28, the state of Ohio submitted two SNAP food restriction waiver requests to the USDA. The **first waiver** requests permission to restrict the purchase of sugar-sweetened beverages which includes beverages that contain "sugar, corn syrup, high-fructose corn syrup, or similar caloric sweeteners as the primary ingredient, or as the second ingredient if the first ingredient is carbonated water." The **second waiver** requests the purchase of "hot, prepared, non-breaded, non-fried chicken" be allowed under the regulatory requirements of SNAP benefits. Ohio's SNAP waiver requests must be approved by the USDA prior to implementation. Ohio is the seventeenth state to submit a waiver, and so far, only 12 have been **approved** by the USDA. To learn more about the process of submitting a SNAP waiver to USDA, click **here** to read NALC article "Excluding 'Junk' Food from SNAP Benefits."

Grazing Allotments Face Legal Challenge. A trio of environmental groups have **filed a lawsuit** against the United States Forest Service (USFS) over its 2019 management plan for the Colville National Forest in Washington state. The groups argue that USFS failed to address what they describe as a longstanding practice of allowing "excessive and harmful" cattle grazing on the 1.1 million-acre national forest. According to the groups, USFS violated multiple environmental laws by authorizing 58 grazing allotments that cover roughly two thirds of the Colville National Forest despite existing USFS analysis which found that only about a quarter of the forest was able to sustain grazing. The groups are asking the court to suspend the grazing authorizations and restrict grazing activities in the Colville National Forest. For more information, click **here** to view NALC article "Environmental Groups Challenge Forest Plan."

BE Foods. The Ninth Circuit Court of Appeals recently **held** that USDA's Agricultural Marketing Service (AMS) should have included highly refined foods in its uniform disclosure standard that governs the use of genetically modified ingredients in food products. Specifically, the court found that AMS failed to include highly refined foods in their definition of "bioengineered (BE) foods." Finalized in 2018, the National Bioengineered Food Disclosure Standard requires food manufacturers, importers, and certain retailers to disclose the presence of BE foods or BE food ingredients in certain foods. The court held that the AMS regulation at issue should be remanded back to AMS for further consideration. To learn more about the National BE Food Disclosure Standard, click **here** to read NALC article "AMS Updating the National Bioengineered Food Disclosure Standard's List of Bioengineered Foods."

California Groundwater. A California appellate court has ruled that state water officials may go ahead with enforcement of the state's landmark groundwater regulation law, the **Sustainable Groundwater Management Act** (SGMA). Under SGMA, California identifies aquifers that have become depleted and then requires local authorities to develop management and restoration plans. In 2024, the Tulare Lake subbasin located in southern California became the first area to be put on "probation" under SGMA for not having an adequate groundwater management plan. As a result, the state took steps to reduce groundwater pumping from local agricultural operations. In response, the Kings County Farm Bureau and local landowners filed a lawsuit in California state court, arguing that compliance with SGMA would place an undue hardship on growers in the region. The court sided with the plaintiffs, issuing an injunction against the state which halted enforcement of SGMA and called into question the ability of the state to implement the law. However, a recent ruling from an appellate court has overturned that initial decision and will allow California to proceed with SGMA enforcement. It has yet to be seen whether the matter will be appealed up to the California Supreme Court. To read

the court's decision, click [here](#).

Non-UPF Certification Label. On October 30, 2025, the Non-UPF Program **announced** that it will be extending its certification mark for non-ultra-processed foods (UPF) to the entire food industry. The Non-UPF Program is a nonprofit that created the first U.S. certification for non-UPF foods. This program uses the Nova Classification System to determine if foods are UPF or not and offers the certification mark to those under the UPF threshold. To learn more about Nova and other efforts to define UPFs, click [here](#) to read NALC article "'MAHA' Movement: Defining Ultra-processed Foods." To learn more about certifications like the non-UPF program, click [here](#) to read NALC article "Food Foundations: What are Third-Party Certifications?"

North Carolina: Agency Deference. Two separate rulings from the North Carolina Supreme Court issued in recent months have changed the nature of when judges in the state may defer to agency interpretations of state law in their decisions. On August 22, the court issued ***Savage v. Dep't of Transportation*** which held that North Carolina state judges should not defer to state agency interpretations of state laws. While the court acknowledged that state judges may allow agency statutory interpretations to "inform" their decisions, such interpretations may not "control" a judge's decision. The ruling is in line with last year's ***Loper Bright v. Raimondo*** decision from the United States Supreme Court which held that federal judges should not defer to agency interpretations of federal law. More information on *Loper Bright* and its impact is available [here](#). More recently, on October 17, the North Carolina Supreme Court issued ***Mitchell v. Univ. of N.C. Bd. of Governors*** which expanded upon the *Savage* decision and held that courts must also not defer to agency interpretations of agency rules and regulations. The court ruled that while "[a] state agency's interpretation of its own rules and regulations can inform a court's judgement [...] the agency's interpretation is never binding." The ruling takes North Carolina beyond what is required on the federal level where the Supreme Court ruling ***Auer v. Robbins*** provides that an agency's interpretation of its own regulations is controlling unless the interpretation is "plainly erroneous." For more information on *Auer* deference, click [here](#).

EPR Laws. This month, the **Textile Renewal Alliance** debuted its brand and website aimed at helping producers meet their obligations under applicable U.S. Extended Producer Responsibility (EPR) Laws. Textile Renewal Alliance, a non-profit organization, was formed with the hope of being designated as a Producer Responsibility Organization (PRO) under California's new EPR laws for textiles. Under the law, a PRO is tasked with implementing programs to ensure products are collected, repaired, reused, and recycled after use, and all producers and importers of textiles are required to join and fund a PRO. EPR laws are often applicable to products beyond textiles though and their implementations could have impacts on manufacturers and distributors of food, feed, and other agricultural products.

- Webinar Opportunity (November 20): Kayla Kaplan, Associate Attorney, Olsson Frank Weeda Terman Matz PC Law and John Dillard, Principal, Olsson Frank Weeda Terman Matz PC Law will present "Redefining Responsibility Over Packaging: An Overview of U.S. Extended Producer Responsibility Laws." To register, click [here](#).



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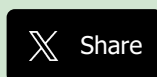
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