



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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EPA Approves OTT Dicamba. The Environmental Protection Agency (EPA) [announced on February 6](#) that it has once again approved the herbicide dicamba for over-the-top application on soybeans and cotton. According to EPA, the approval implements the “strongest” protections for over-the-top dicamba application that the agency has ever adopted. The approval decision covers three dicamba products - XtendiMax, Engenia, and Tavium - and will make those products available during the 2026 and 2027 growing seasons. The new labels include a variety of new application restrictions, including temperature-based application limits, a cut to the maximum application rate, and mitigation measures intended to reduce dicamba exposure to threatened wildlife species. Previous EPA decisions to approve dicamba for over-the-top use have been overturned by courts on two separate occasions, once in 2020 and more recently in 2024. It is likely that the newly approved labels will also face litigation. To learn more about EPA’s regulation of over-the-top dicamba, click [here](#) to view NALC article “The Deal with Dicamba: EPA Proposes Unconditional Registration for Over-the-Top Use.”

Pork Price-Fixing Settlement: Tyson Foods. On January 27, a proposed [settlement](#) was filed in federal district court in response to a class-action lawsuit against Tyson Foods. The class action claimed the company conspired to “artificially constrict” the pork supply in the U.S. since 2009. Under the proposed settlement, Tyson Foods will pay \$48 million to be distributed to the members of the certified class. The certified class is defined as entities that purchased pork products between June 28, 2014, and June 30, 2018, for use in commercial food preparation such as uncooked pork bacon, loins, shoulder, ribs, hams, or pork chops (either fresh or frozen) from Tyson Foods. The proposed settlement currently awaits approval by the federal district court.

Federal Bills for Local Foods. On January 28, U.S. Senators Mark Kelly and John Husted introduced the [“Delivering for Rural Seniors Act of 2026.”](#) This bill would establish a pilot program that would award grants to state and local agencies to facilitate the delivery of commodities to the homes of low-income elderly individuals. Specifically, the bill directs state distributing agencies to prioritize funding entities that serve commodity supplemental food program (CSFP) participants in rural areas. Senator Kelly and Husted’s bill is a companion bill to [H.R.1538](#), introduced in 2025. Additionally, last month, Representatives Lauren Underwood and Jeff Van Drew introduced the bipartisan [“Farmers to Families Act.”](#) This legislation would allow participants of the Special Supplemental Nutrition Program for Women, Infants, and Children (WIC) to use cash-benefits and coupons to purchase local, nutritious foods from “covered agricultural entities,” such as farmers markets or community supported agriculture operations.

Community Supported Agriculture:

A Field Guide for Producers and Consumers



Emily Stone,
National Agricultural
Law Center

✓ February 18, 2026

✓ Noon - 1 p.m. ET

✓ No cost to register



To learn more about CSFP, WIC, and other USDA nutrition programs, click [here](#) to visit NALC's Nutrition Reading Room.

- *Webinar Opportunity (February 18): Emily Stone, NALC Staff Attorney, will present "Community Supported Agriculture: A Field Guide for Producers and Consumers." To register, click [here](#).*

Cell-Cultured Protein: South Dakota. Earlier this week, South Dakota's Governor vetoed a bill that would have banned the sale of cell-cultured proteins. **HB. 1077** would have classified "cultivated-protein food products" as adulterated, meaning that under South Dakota law, it would have been a Class 2 misdemeanor for a person to manufacture, ship, transport, sell, or offer it for sale. In his [veto announcement](#), Governor Rhoden stated that he was vetoing HB 1077 and instead supporting the amending and passage of SB 124. To see the amendments to SB 124 the Governor is advocating for, click [here](#) to read his letter to the legislature. South Dakota law already has requirements for the labeling of these products and restrictions on the use of state money to purchase cell-cultured proteins. To learn more about current South Dakota law and how other states have addressed alternative proteins, click [here](#) to view NALC's Alternative Proteins State Law Compilation.

Pesticide Liability Legislation. On January 29, the Kansas legislature's House of Representatives passed a bill that would make a federally registered pesticide label a complete defense to state law challenges that the label lacks health and safety warnings. Specifically, **HB 2476** provides that any pesticide label registered by EPA under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) would satisfy any state law concerning the duty to warn consumers about risks of using the product so long as the label is consistent with both the pesticide's most recent human health risk assessment and EPA's carcinogenicity classification for the pesticide. The bill has now reached the Kansas Senate chamber and awaits further action. If passed, the bill would take effect as soon as it is published in the state statutes. Last year, several states introduced similar legislation with both Georgia and North Dakota successfully signing their bills into law. So far in 2026, **Florida, Missouri, and Wyoming** have joined Kansas in introducing similar pesticide liability legislation. To learn more about the recent trend of state pesticide liability bills, click [here](#) to view this 2025 article "Update on State Pesticide Liability Limitation Bills."

U.S. - India Trade. On February 6, 2026, the Trump Administration [published](#) a joint statement with India detailing the terms of a framework for an "Interim Agreement." Per the joint statement, India will eliminate or reduce tariffs on U.S. agricultural goods including: dried distillers' grains; red sorghum for animal feed; tree nuts; fresh and processed fruit; soybean oil; and wine and spirits. Further, the two nations have pledged to work towards "enhancing ease of compliance with applicable technical regulations." The joint statement is light on concrete details and will likely be subject to change as the two nations negotiate. As a "framework" for an "interim agreement," this joint statement is neither final nor binding. To learn more about recent developments in U.S. trade, click [here](#).

U.S. - Argentina Trade. On February 5, 2026, the U.S. and Argentina signed a reciprocal trade [agreement](#). The trade agreement states that 80,000 metric tons of U.S. beef will be eligible for duty-free importation in 2026. Because the trade agreement is reciprocal, Argentina will also be allowed to export 80,000 metric tons of lean beef trimmings to the U.S. in 2026. The 80,000 metric ton quota will be added to Argentina's preexisting 20,000 metric ton quota. Other products that are included in the agreement include cheese, potatoes, almonds, and pistachios. Further, the trade agreement asserts that the two nations will work together to "address non-tariff barriers affecting trade in food and agricultural products." Under the text of the agreement, the terms will enter into force 60 days after the February 5 signing.

Alternative Proteins: Texas Litigation. On January 28, the U.S. District Court for the Western District of Texas [struck down](#) a Texas law that created labeling requirements for alternative protein products. The law required that an "analogue product" bear a disclaimer that clarified the food's contents. Per the law, an "analogue product" includes plant-based, insect-based, or fungus-based protein products. The constitutionality of the bill was challenged, with plaintiffs alleging that the labeling requirements limited their free speech and required them to change their current product labels. In response to summary judgment motions by both sides, the court held that the labeling requirements under the law violated the First Amendment. As a result, the court issued a permanent injunction against enforcement of these provisions. No appeal has yet been filed, and the parties have not made public statements about their intended next steps. To learn how other alternative protein labeling laws have been treated in the courts, click [here](#).

- *Upcoming article: On February 24, 2026, NALC Staff Attorney Emily Stone will publish an article detailing this decision.*

AEWR Litigation. On January 29, 2026, the North Carolina Chamber (NCC) filed a “friend-of-the-court” **brief** in the case *United Farm Workers v. U.S. Department of Labor*. The case, which began in November of 2025, challenged an **interim final rule** (IFR) which amended the methodology used to calculate wages under the H-2A program. In its brief, the NCC petitions the court to deny UFW’s **request** for a preliminary injunction which would prevent the Department of Labor from implementing the rule. The NCC asserts that it has filed the brief to protect employers in the H-2A program, whose farming operations would be “disrupted” by blocking enforcement of the rule. In its brief, the NCC claims that UFW has failed to demonstrate standing, which is a prerequisite for filing suit. Additionally, the NCC claims that UFW has failed to satisfy the factors required for preliminary relief. To learn more about the UFW’s suit against the Department of Labor, click [here](#).

- *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](#).*

Letter Expressing Concern about DGA. On February 2, a **letter** from over 200 members of the medical and research community was sent to USDA Secretary Brooke Rollins and HHS Secretary Kennedy expressing concern for the new 2025-2030 Dietary Guidelines for Americans (DGA). The letter claims that the updated DGA does not meet the legal mandate that it is based on “the preponderance of the scientific and medical knowledge which is current at the time the report is prepared.” Additionally, the letter’s authors claim that the new DGA is based on inconsistent scientific standards. For example, it claims that some of the guidelines’ recommendations have no scientific justification or directly contradict other guidelines. The letter asks the USDA and HHS to “issue science-based dietary guidance that truly promotes health and prevents chronic disease” and guidance on implementation. To learn more about the updated DGA, click [here](#) to read NALC article “HHS and USDA release ‘The Dietary Guidelines for Americans, 2025-2030.’”

Color Additives: FDA Labeling. On February 5, the FDA sent a **letter** to food manufacturers detailing the administration’s intent to use “enforcement discretion” on the voluntary labeling claim, “no artificial colors.” Currently, the definition of **“artificial color”** includes both naturally occurring and synthetic color dyes. This means that under the legal standard a product with naturally occurring color dyes would be prohibited from using the “no artificial colors” label. However, the agency is now stating that it will use its discretion to allow products with naturally occurring color dyes to bear the label. Additionally, FDA also announced that it had approved two new naturally occurring color dyes – **beetroot red** and **spirulina extract** (previously approved for use but expanded for other uses). To learn more about color additives and how state laws concerning them are being litigated, click [here](#) to read NALC article, “Preliminary Injunction Halts Enforcement of West Virginia’s Food Dye Ban.”

Raw Milk. The New Mexico Department of Health has issued a **warning** for its citizens against the dangers of consuming raw milk. The warning comes after a newborn baby passed away earlier this year from a listeria infection likely caused by its mother’s consumption of raw milk during pregnancy. The warning stated specifically that pregnant persons, young children, elderly citizens, and others with a weakened immune system should avoid drinking unpasteurized milk. Similarly, a Utah raw milk operation owned by social media influencers- Ballerina Farm- has reportedly paused its milk production after **failing state milk safety tests**. The Utah Department of Agriculture and Food health inspectors discovered two violations while conducting milk testing in the summer of 2025. At the same time, a bill has been introduced in the Utah legislature that would add additional requirements to the state’s raw milk registration process. **H.B. 283** requires the producer to create a product recall plan, post conspicuous signage communicating that the product being sold is raw milk, and imposes increased penalties for product adulteration or a foodborne illness outbreak. If passed, this bill would take effect on May 6, 2026. To learn more about raw milk, click [here](#) for NALC article “Amos Miller and the Regulation of Raw Milk.”

DOJ, EPA Clarify CAA Stance. Both the Department of Justice (DOJ) and EPA have made recent announcements regarding the scope of the Clean Air Act (CAA). First, in late January, DOJ announced on social media that it would no longer criminally prosecute those who manufacture, distribute or use “defeat devices,” which are used to disable air emissions control systems in diesel-powered vehicles. The text of the CAA makes use of a defeat device a felony, and as recently as last year, those convicted of using a defeat device have been sentenced to prison. However, DOJ has chosen to pause criminal prosecution, based on an argument that the use of such devices may be exempt from such penalties. Civil penalties, however, are still an option. Following DOJ’s announcement, EPA issued a guidance document of its own, clarifying that anyone who disables an emissions monitoring system in a diesel vehicle to make a repair will not face penalties under the CAA. According to EPA, manufacturers of diesel-powered vehicles such as

John Deere had previously claimed that the exemption applied only to repairs performed by the vehicle manufacturer. However, EPA has concluded that the exemption applies to anyone who makes a repair so long as the emissions monitoring system is only temporarily disabled for the amount of time necessary to make the repair and the system is functional after the repair is complete. For more information, click [here](#) to view NALC article "DOJ & EPA Clarify Stance on Diesel Vehicles Under the CAA."

Direct Farm Payments. According to [data](#) recently published by the Economic Research Service (ERS), direct farm payments from federal programs are expected to increase in 2026. In 2025, over \$30 billion in direct payments were made to U.S. farmers, mainly through USDA programs and supplemental assistance provided for by Congress. In 2026, ERS is predicting this number to increase to \$44.3 billion. ERS attributes this increase to higher expected payments under the Farm Bill program, which are triggered by decreases in commodity prices. ERS also anticipates both supplemental and ad hoc disaster assistance payments to remain high. To learn about the process for challenging a denial of program benefits, click [here](#).



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