



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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International Ag Trade Update: Tariffs, IEEPA, Refunds, & Related Issues

- ✓ April 15, 2026
- ✓ Noon - 1 p.m. ET
- ✓ No cost to register



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USDA Forest Service Move. On March 31, USDA **announced** it will transfer the headquarters for the Forest Service (USFS) from Washington, D.C. to Salt Lake City, Utah. This move is part of a major reorganization of USDA, transitioning from USFS's current regional model to a state-based system. As part of that transition, USFS will close all existing regional offices over the next year and distribute 15 state directors throughout the country to oversee operations. Additionally, USFS will also close several research stations across the country and consolidate that work to a single operation located in Fort Collins, Colorado. The USFS Fire and Aviation Management program structure will remain the same, with USDA noting that "there will be no interruption or change to our field-based operational firefighters or their positions". Almost 90% of National Forest System Land is located in the Western United States; Utah is the 11th ranked state for national forest coverage.

- *Conference Opportunity (May 6): Judge Stephen Alexander Vaden, Deputy Secretary, U.S. Department of Agriculture will present the Keynote Address, "Litigation, Regulation, Adjudication: Perspectives on USDA, Trade, & Related Issues" at the Agricultural & Food Law Policy Briefing. To register, click [here](#).*

Pesticide Liability Limitation Passes in KY. Kentucky became the most recent state to pass a bill limiting liability for pesticide manufacturers after state lawmakers overrode the Governor's veto of SB 199. Similar to bills passed in Georgia and North Dakota last year, SB 199 amends Kentucky law so that a federally registered pesticide label would be considered a "sufficient warning label" for any state law concerning the duty to warn. The law is intended to address lawsuits filed by plaintiffs in state court who argue that a pesticide manufacturer failed to warn consumers about health risks related to use of a particular pesticide, often when the federally registered label for the pesticide does not require such a warning. Over the last decade, thousands such cases have been filed across the United States, specifically focused on the widely-used Roundup pesticides manufactured by Bayer. Following the passage of SB 199, pesticide manufacturers sued for failure to warn in the state of Kentucky will be able to rely on their federally registered pesticide labels as a complete defense. For more information, click [here](#) to view NALC article "2026 Update on State Pesticide Liability Limitation Bills."

- *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](#).*

FDA Delays Effective Date of Natural Color Dyes' Approval. On March 20, the U.S. Food and Drug Administration (FDA) announced the indefinite delay of the administration's **final orders** that would allow the use of **beetroot red** and the expanded use of **spirulina** as color additives in human foods. The final orders were issued in February and were set to go into effect on March 23, 2026. However, the FDA gave notice of the delay to allow responses to objections and hearing requests on the final orders. Despite this delay, the administration maintains that there is a "reasonable certainty of no harm" if the color additive is used as intended. The agency received objections to the approval of the use of beetroot red, alleging the dye does not qualify as a "natural" food dye because its components are produced through genetic engineering. Additionally, a national defense contractor objected to the approval of spirulina extract's expanded uses because it is primarily manufactured in other countries and might create national security concerns. The approval of beetroot red and expanded uses for spirulina extract were actions in line with FDA's six pronged plan to "phase out" synthetic color dyes. To learn more about the plan, click [here](#) to read NALC article "FDA Announces Plan to 'Phase Out' Synthetic Dyes."

Cottage Food Bills: VA & CO. In March, both chambers of the Virginia legislature passed **HB402**, a bill that expands Virginia's laws to allow cottage food operators to sell their products at any location, online, or by phone without state inspection. If signed by the governor (or becomes law without the governor's signature), the law would also expand to permit cottage foods to be delivered in person, by mail or by a delivery service. However, the law still prohibits cottage foods from being "offered for sale. . . or for consumption in retail food establishments." Similarly, the Colorado legislature is considering a bill that would expand the state's cottage food laws. **HB26-1033**, also known as the "Tamale Act," would permit the sale of specific cottage foods like tamales, burritos, tortas, and products that require refrigeration. This is notable because most cottage food laws, for food safety reasons, only extend to food products that do not require time/temperature controls. For example, most food products that contain cheese, like a burrito or tamale, will require a temperature control, like refrigeration, to remain safe for human consumption. Typically, this requirement would prohibit a food from being eligible for cottage food exceptions. The bill also removes the net revenue cap that can be earned under the state's cottage food laws. To learn how other states treat cottage foods, click [here](#) to view NALC's Cottage Food State Law Compilation.

CA Certified: Ultra-Processed Foods. The California legislature is currently considering **AB-2244**. This proposal would create the first-in-the-nation standardized state seal to certify food products as not ultra-processed. Products that are considered ultra-processed, restricted school food, or an ultra-processed food of concern may not be certified as "California Certified." The bill requires a large food facility to display the certified product in prominent places in the store, such as at the end of an aisle or a checkout aisle. This effort follows California's landmark 2025 legislation that created the first statutory definition of ultra-processed foods. To read more about the 2025 law, click [here](#) to read "'MAHA' Movement: Defining Ultra-processed Foods." Additionally, the idea of certifying foods as "non-ultra-processed" is being pursued by a number of third-party, private certifications, such as the **Non-UPF Program**, the **WISEcode Non-UPF Shield**, and **Non-UPF Verified**. To learn more about third-party certifications generally, click [here](#) to read NALC article "Food Foundations: What are Third-Party Certifications?"

Alt. Proteins Legislation Update. On March 23, a Mississippi bill became law that creates the nation's first ban on the manufacturing, sale, and distribution of cell-cultured dairy products. **HB1153** defines cell-cultured dairy products as "derived from animal cells cultured outside of a live animal" and includes "products produced through the growth of mammary or other animal cells in vitro." The law will go into effect on July 1, and institutes fines of \$500 per day, with a maximum of \$10,000, for violations. Additionally, Idaho's governor just signed into law a bill that would institute labeling requirements for cell-cultivated protein products sold, distributed, or offered for sale in the state. **SB 1270** would require the label to appear on the principal display panel, be legible, and at least equal in prominence to the product name. The bill would also require restaurants to provide labeling on their menus. Notably, this bill also includes prohibitions against cell-cultivated protein products bearing certain terms commonly associated with specific meat cuts, such as "steak" or "brisket." The Idaho law goes into effect on July 1, 2026. Similarly, Virginia's governor just signed into law **SB 186**, a bill that creates labeling standards for "manufactured-protein food products." This Virginia law will go into effect on July 1, 2026. In related news, Wisconsin's governor recently vetoed a **bill** that would have prohibited the sale of products that contain cultured animal cells or tissue if it is not labeled as "lab-grown meat." To learn more about state alternative proteins laws, click [here](#) to view NALC's Alternative Proteins Laws State Compilation.

Alt. Proteins Litigation Update. On March 23, 2026, the Eleventh Circuit published an **opinion** upholding a district court's denial of a preliminary injunction in *Upside Foods, Inc. v. Simpson, et al.* Specifically, the court affirmed the lower court's decision to uphold **Florida's ban** on the manufacture, distribution, and sale of lab-grown meat and found that the Florida law was likely not preempted by the Poultry Products Inspection Act. This ruling is notable

because it was one of the first appellate decisions that weighed in on the issue of state regulation of alternative protein sales. Despite the Eleventh Circuit's ruling, the plaintiff's Dormant Commerce Clause claims remain before the district court and the litigation is ongoing. For more information on the ruling, click [here](#) to read NALC article "Eleventh Circuit takes up Florida's Ban on Cell-Cultured Meat."

Metal Tariffs. In 2025, the Trump Administration implemented a 50% tariff rate on steel, aluminum, copper, and products made from those metals. Now, President Trump has signed a proclamation changing how those tariffs will be calculated. According to a recently released [fact sheet](#), articles made "almost entirely" of aluminum, steel, or copper will pay a flat 50% tariff rate of their full value. Derivative articles, which are products made primarily of the listed metals, will pay a flat 25% of their full value. However, if those products were made entirely with American steel, aluminum, or copper, they would only be required to pay a 10% rate. Certain metal-intensive industrial equipment will be subject to a 15% rate through 2027, to "accelerate the massive industrial based buildout." Finally, products made of 15% or less steel, aluminum, or copper will be exempt from the metals tariffs. For more information on recent trade developments, click [here](#) to view NALC article "Supreme Court Vacates IEEPA Tariffs: What Comes Next?"

CWA Section 404 Permitting: Florida. The D.C. Circuit Court of Appeals has [upheld](#) a lower court decision to invalidate Florida's state-run Clean Water Act (CWA) Section 404 permitting program after concluding that the U.S. Fish and Wildlife Service (FWS) ignored important endangered species regulations when approving the program. Section 404 of the CWA prohibits dredged or fill material into wetlands or other waterways without a federal permit. The court determined that FWS had violated the Endangered Species Act (ESA) by issuing a "no jeopardy" finding when considering whether the Florida permitting program would jeopardize the continued existence of any endangered species. FWS failed to conduct either species- or site-specific analysis when reaching the "no jeopardy" conclusion, which the district court held violated ESA requirements. States may assume Section 404 permitting authority so long as they comply with the CWA. In 2021, Florida became the third state to gain authority over its Section 404 permitting program. However, following the D.C. Circuit Court's ruling, that authority has been vacated. The federal government will once again take responsibility for issuing Section 404 permits within the state of Florida. To learn more about the lower court's opinion, click [here](#) to view NALC article "Federal Court Revokes Florida's CWA Section 404 Permitting Authority."

- *Conference Opportunity (June 4-5): Brigit Rollins, Staff Attorney (Environmental Law), National Agricultural Law Center will present "Environmental Law: Regulatory & Litigation Ag Industry Update" at the 13th Annual Mid-South Agricultural and Environmental Law Conference. To register, click [here](#).*

HHS: Hospital Nutrition. Last month, the U.S. Department of Health and Human Services' (HHS) Centers for Medicare & Medicaid Services issued [guidance](#) directing hospitals to follow the 2025-2030 Dietary Guidelines for Americans. The guidance also directs hospitals to reduce "ultra-processed foods, sugar-sweetened beverages, refined carbohydrates, and added sugars." This guidance was [announced](#) at a press conference hosted by HHS Secretary Kennedy at a hospital in Florida. The press conference also highlighted a new partnership between Florida's Department of Agriculture and Consumer Sciences and Florida farmers. This partnership will encourage hospitals to source patient food from Florida producers. The Nicklaus Children's Hospital, where the event was held, was the first hospital to sign the partnership's "Food is Health: Take Back Your Health pledge." To learn more about the Dietary Guidelines, click [here](#) to read NALC article "HHS and USDA release 'The Dietary Guidelines for Americans, 2025-2030.'"

Phosphate Tariffs. Agricultural producers Mosaic and Simplot have [reportedly](#) voiced their support for keeping countervailing duties in place for Russian and Moroccan phosphate fertilizer. A countervailing duty is a tariff on imports and is intended to offset subsidies provided to foreign producers. In 2021, Mosaic filed a [countervailing duty case](#) which resulted in tariffs being imposed on the two foreign nations. Now, those tariffs are in the midst of a mandatory five-year "sunset" review. During such a review, the International Trade Commission (ITC) and Commerce's International Trade Administration will reassess the tariffs to determine whether they are still necessary. Amidst this "sunset" review, Mosaic filed a [document](#) with ITC in which the company voiced its support for keeping the tariffs in place. According to Mosaic, a revocation of the tariffs would likely lead to "injury to the domestic industry within a reasonably foreseeable time." For more information on the review process, click [here](#) to read the ITC's notice of review.

- *Webinar Opportunity (April 15) Leslie Alan Glick, Director of International Trade, Business and Finance Practice Group, Fenmore Law will present "International Ag Trade Update: Tariffs, IEEPA, Refunds, &*

Swiss on Oat Milk. Last month, Switzerland's Federal Supreme Court issued a ruling prohibiting plant-based beverages from using the term “milk” on their labeling. This case was prompted by an oat-based drink's usage of the slogan “Shhh...this is not milk,” which challengers argued could confuse customers as to whether it was cow's milk. In Switzerland, the current law instructs plant-based alternative products to avoid using language that could be confused with animal products. Last year, the Swiss Federal Supreme Court made a similar ruling prohibiting plant-based protein products from bearing terms that are traditionally associated with meat products. The court's 2026 ruling has now expanded this law to ban the use of the word “milk” in any capacity on a plant-based product. The full judgement has not yet been published but click [here](#) to read a press release on the decision translated into English. To learn more about how other foreign countries are handling alternative proteins, click [here](#) to read NALC article “Foreign Food Labeling Updates: EU Court of Justice Decisions.”

‘God Squad’ Meeting. On March 31, the Endangered Species Committee, sometimes called “the God Squad,” issued an Endangered Species Act (ESA) exemption for all oil and gas activities in the Gulf of Mexico. This includes exploration, development, and production as sanctioned by the Bureau of Ocean Energy Management's and the Bureau of Safety and Environmental Enforcement's Outer Continental Shelf Oil and Gas Program. U.S. Secretary of Defense Pete Hegseth asserted this exemption was necessary for national security reasons. At the Committee's meeting, Secretary Hegseth stated that “to be secure as a nation, we need a steady, affordable supply of our own energy.” Environmental groups have already filed suit to challenge the decision, arguing the Committee has violated procedural safeguards outlined in the text of the ESA. This is only the third time the Committee has voted to exempt activity from ESA requirements since it was initially created in 1978. To learn more about the “God Squad” click [here](#) to read NALC article “Department of Interior Seeks to Convene the Endangered Species Committee.”

ESA Regulations Invalidated. On March 30, a federal judge **invalidated** four challenged Endangered Species Act (ESA) regulations instituted by the first Trump administration and the Biden administration. The challenged regulations fall under Section 7 of the ESA, which requires federal agencies to consult with the U.S. Fish and Wildlife Service (FWS) and the National Marine Fisheries Service (NMFS) before taking actions that may impact a species listed under the ESA. According to the court, the four regulations were unlawful because they contained “serious” errors and “undercut the efficacy of Section 7 consultation.” Among the overturned regulations was a 2019 rule which directed the Services to only consider impacts of agency actions that were “reasonably certain to occur.” According to the court, this violated the ESA's requirement that the Services rely on “the best available data” when considering impacts to protected wildlife. The court also overturned a rule which limited protections for designated critical habitat which the court found contradicted the text of the ESA. On April 14, NALC will publish further analysis of the court's ruling on its [Ag and Food Law Update](#). Check back for more information.

Nebraska's Agricultural Data Privacy Act. Nebraska's legislature is considering a **bill** to safeguard agricultural data in the state. The Agricultural Data Privacy Act, or LB525, would require data controllers to establish security practices and sign consent agreements with producers before providing, using, or selling agricultural data. The bill defines agricultural data as any data, including land, agronomic, weather, livestock, sustainability, and management data, that is created, collected, or produced in the state and is linked to an agricultural producer. Additionally, the bill includes an amendment requiring AI operators to clearly and conspicuously disclose to minor account holders that they are interacting with AI. The amendment would require recurring disclaimers, limit account holder rewards to increase engagement, and prevent the AI service from producing inappropriate content. The bill states the Nebraska Attorney General is authorized to bring an action against violators of both acts. To submit comments on the bill, click [here](#).



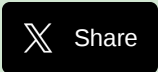
13th Annual Mid-South Agricultural & Environmental Law Conference

June 4-5, 2026 | Memphis, TN

- ✓ CLE/CE Approved
- ✓ Ethics Session
- ✓ Networking
- ✓ New "Roundtable for Students"
- ✓ Practical Resources
- ✓ Ag Policy Updates
- ✓ "Beer & BBQ" Reception



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