



The Feed

Recent Developments in Ag Law & Policy

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

Volume 4, Issue 10

May 27, 2026

Thank you to all our subscribers! Please forward **the subscription link** to your network. All previous issues of The Feed are available **here**. Send any questions, concerns, or suggestions to **NALC Director Harrison Pittman**.

Follow us on social:



Join us for a webinar on Timber Trespass Statutes

✓ June 17, 2026

✓ No cost to register

✓ Noon - 1 p.m. ET



Ross Pifer,
Penn State University
Center for Agricultural
& Shale Law



The National
Agricultural Law
Center

Treated Seeds. On May 4, the Center for Food Safety (CFS) sued the Environmental Protection Agency under the Freedom of Information Act (FOIA), requesting documents regarding the use and disposal of seeds at ethanol plants treated and coated with neonicotinoid insecticides. CFS initially requested this information in 2023, but according to its **complaint** filed with a federal court in Washington D.C., EPA has not yet fulfilled the request. CFS claims that EPA has violated FOIA by failing to produce the requested records. Treated seeds are regulated under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), which provides that no pesticide product may be sold in the United States until EPA registers the product for use. Treated seeds are exempt from being considered pesticide products in and of themselves, an exemption that CFS petitioned EPA to remove in 2017. EPA denied that petition in 2023 and a federal court affirmed EPA's denial in 2024. To learn more about that lawsuit, click **here**.

In related news, on May 15, the California Department of Pesticide Regulation **announced** a newly proposed **regulation** to strengthen the state's regulation of treated seeds. Specifically, the proposal would formally define treated seeds, clarify when treated seeds are exempt from pesticide registration requirements, and would introduce reporting requirements for the use of treated seeds in California. The Department is accepting public comment on the proposal through June 29, 2026.

Foreign Ownership. On May 8, Florida enacted **HB 905**, which, among other items, prohibits certain entities (including governmental entities) from entering into certain contracts with foreign sources of concern, and mandates registration with the state by specified entities and agents of foreign countries of concern. In Louisiana, several proposals have had some type of movement in recent days, including **HB 192** that would amend the state constitution to prohibit certain foreign adversaries or agents therefore from taking or damaging property and **SB466** (passed House on 5/18) that would, among other items, restrict certain property within 50 miles of a military base from being sold or donated to certain foreign powers, aliens, or corporations. Other Louisiana proposals with recent activity include **SB200**, **HB816**, **SCR 23**, and **SR 145**. In Missouri, **HB 1705** was referred to House Emergency Issues on May 15, seeking in part to restrict any alien or foreign business from acquiring any ag land in the state. Further, Missouri **HB 2277**, would amend existing law to define "designated country", "real property", and "transnational criminal organization", and was also referred to House Emergency Issues. North Carolina continues consideration of **SB394**. On May 11, Oklahoma signed **HB3431** into law, which amended existing law to expand the

list of restricted foreign investors, among other items. To learn more about a recent, and similar, law in Utah, click [here](#) to read NALC article “Soil for Sale? Utah Amends State Foreign Ownership Law.”

- *Webinar Opportunity (July 15): Harrison Pittman, Director of the National Agricultural Law Center will present “Foreign Ownership of Ag Land: Federal & State Legislative and Litigation Update.” To register, click [here](#).*

BLM Proposes New Grazing Regulations. Earlier this month, the Bureau of Land Management (BLM) announced a proposed rule to amend BLM’s grazing program on federal lands. Among other changes, the proposed rule would update how rangeland health is measured, allow use of targeted grazing to mitigate wildfire risk, and make it easier for operators to adjust grazing practices without additional permission from BLM. The proposed rule is open for public comment through July 17, 2026. To view the proposal and learn how to submit a comment, click [here](#). The same day BLM published that proposed rule in the Federal Register, it **formally rescinded** a 2024 rule that would have created a new leasing program allowing BLM to issue leases of federal lands specifically for conservation purposes. More information on that now rescinded rule is available [here](#).

Vermont Bans Paraquat. On May 26, the Governor of Vermont signed **H0739**, a bill that bans the use and sale of the herbicide paraquat within the state. This makes Vermont the first state to ban the use of paraquat, with legislators citing research showing links between paraquat and Parkinson’s disease. The ban is set to go into effect on November 1, 2026. Agricultural producers who grow fruit-producing tree orchards or crops that fall within USDA’s Berry and Small Fruit Crop Group may apply to Vermont’s agriculture secretary for a written exemption permitting the sale, use, or application of paraquat on or before December 31, 2030. However, these permits will only be valid for three years or until the December 31, 2030 expiration date. After that date, paraquat will be banned entirely. While Vermont is now the first state to officially ban paraquat, other states have considered legislation that would ban or heavily restrict paraquat use.

State Water Agencies Weigh in on PFAS Dispute. On May 12, the National Association of Clean Water Agencies (NACWA) filed an **appellate brief** in the D.C. Circuit asking the court to uphold the dismissal of a lawsuit filed by farmers against EPA over how the agency regulates per- and polyfluoroalkyl substances (PFAS). The case, *Farmer v. EPA*, was filed in 2024 by a group of Texas farmers claiming that EPA had violated the CWA by failing to regulate PFAS chemicals present in biosolids which are used as fertilizer on agricultural land. A federal court in Washington D.C. dismissed the case after concluding that EPA had not violated the CWA by declining to adopt regulatory measures for eleven PFAS chemicals recently identified as present in biosolids. The farmer plaintiffs appealed that decision to the D.C. Circuit Court of Appeals. NACWA has intervened as a defendant-appellee in the case. In its brief to the D.C. Circuit, the group urges the court to uphold the lower court’s ruling and hold that the CWA does not set deadlines for EPA to regulate additional pollutants found in biosolids. To learn more about the lawsuit and the district court’s dismissal, click [here](#) to read NALC blog post “Court Dismisses PFAS Case Brought by Farmers Against EPA.”

AEWR Injunction Denied. On May 14, a federal judge in California **denied** a petition that sought to block the implementation of the most recent Adverse Effect Wage Rate (AEWR) rule in the H-2A program. The H-2A program allows agricultural employers facing a labor shortage to hire nonimmigrant foreign workers on a temporary basis. Within that program, AEWR rules set a “floor” for wages and are intended to protect domestic workers from suffering an “adverse effect” from wages paid to H-2A laborers. Here, the United Farm Workers (UFW) sought to block an **interim final rule** issued in October 2025 which revised the methodology used to determine and set AEWRs. According to the court, UFW failed to show that they were likely to suffer irreparable harm in the absence of an injunction. Because of this, the October AEWR rule will remain in effect. However, the litigation brought to challenge the rule may continue. To learn more about the UFW’s lawsuit challenging the interim final rule, click [here](#).

- *Conference Opportunity (June 5): Brandon Davis, Partner, Phelps Dunbar LLP, will present “Ag Labor, ICE, & Related Issues: What you Need to Know” for in-person and online attendees as part of the 13th Annual Mid-South Agricultural and Environmental Law Conference. To register, click [here](#).*

NC Right-to-Farm. North Carolina’s General Assembly is currently considering a bill that would amend the state’s constitution to include the right to engage in farming and forestry. **SB 1081**, if passed, would secure the right of North Carolina’s citizens to cultivate crops, raise livestock, harvest timber, produce dairy and apiary products, and engage in “other practices for the production of agricultural and forestry commodities.” If advanced, the bill will be submitted to North Carolina voters during the state’s general election in November 2026. This bill is similar to the constitutional

amendment enacted in Texas in 2023 available [here](#). To learn more about the traditional Right-to-Farm laws which provide a defense to nuisance lawsuits, click [here](#) for a NALC overview.

Timber Theft. In Harlan County, Kentucky, a local man was **recently arrested** for allegedly stealing timber. According to local authorities, 57-year-old Jeff Howard was arrested pursuant to a multi-agency warrant issued for “illegal logging and timber theft.” Howard was charged with criminal trespassing and theft by unlawful taking, with an estimated \$510,300 in damages.

- *Webinar Opportunity (June 17):* Ross Pifer, Penn State University, Center for Agricultural and Shale Law will present “Timber Trespass Statutes.” To register, click [here](#).

Right-to-Repair. On May 14, an Illinois-based landscaping company filed a **class-action lawsuit** against equipment manufacturer John Deere & Company (“Deere”) over its repair restrictions. According to the complaint, Deere has hindered competition in the repair services market through its repair restrictions and agreements with Deere dealerships. Plaintiffs assert that Deere has violated federal antitrust laws by gatekeeping hardware and software necessary for repairs, thereby forcing customers to go to licensed Deere dealerships for repairs. Deere recently agreed to a **proposed settlement** that would remove similar repair restrictions on its line of large agricultural equipment. Here, the plaintiffs are seeking similar remedies for Deere’s line of construction and forestry equipment. According to the plaintiffs, “few have noted the impact of similar anticompetitive restrictions” in Deere’s construction and forestry business.

Colorado River. In early May, the states of Arizona, California and Nevada **proposed a new plan** to avoid lower water levels for key reservoirs on the Colorado River for the next two years while officials continue to negotiate over long-term management for the river after current management guidelines expire at the end of this year. Under the proposal, the three Lower Basin states would conserve 3.2 million acre-feet of water in 2027 and 2028 to help “stabilize the system.” On top of those cuts, the states also suggested conserving an additional 700,000 acre-feet over those two years. However, the future of the proposal faces uncertainty as the Bureau of Reclamation announced that it is considering a new water-sharing plan for the Colorado River that could cut up to 40% of current water supplies to Arizona, California, and Nevada. While the states’ proposal would see voluntary reductions of 3.2 million acre-feet over two years, the proposal from Reclamation would cut 3 million acre-feet of water per year, double what the states have proposed. Although Reclamation has not made a final public announcement, earlier this year the agency took public comment on five possible options for managing the Colorado River post-2026. For more information on those proposals, click [here](#) to view NALC article “Looking Ahead: As Guidelines on the Colorado River Set to Expire, Attention Turns to What Comes Next.” For more information on how water is managed in the Colorado River Basin, click [here](#) to read a recent CRS Report on “Management of the Colorado River: Water, Allocations, Drought, and the Federal Role.”

Roundup Settlement Faces Challenge. Lawyers for several plaintiffs have **filed an objection** to a \$7.25 billion settlement agreement covering thousands of claims filed against Bayer by plaintiffs who claim that use of the herbicide Roundup caused them to develop cancer. The proposed nationwide settlement was filed in February in a state court in Missouri and would address on-going as well as potential future cases. The proposal received preliminary approval in March and the court is currently set to consider a final approval for the agreement in early July. However, some plaintiffs are objecting to the settlement and have asked the court to find the proposal unconstitutional. The plaintiffs argue that the agreement would create a “futures class” of potential litigants who would be unable to bring their Roundup lawsuits to court. In 2021, a similar settlement agreement was **denied by a federal court** in California after the judge concluded that \$1.3 billion proposal would unfairly prohibit potential future plaintiffs from having their claims heard. Plaintiffs have until June 4, 2026 to opt-out of the current settlement proposal and it is possible that further objections to the agreement could be filed before that date. Additionally, the Supreme Court recently heard oral argument in *Monsanto v. Durnell* which has asked the Court to determine whether federal law preempts at least one of the claims typically brought by plaintiffs in Roundup litigation. For more information on that lawsuit, click [here](#) to view NALC article “Supreme Court Agrees to Hear Pesticide Preemption Lawsuit.”

SCOTUS Asked to Revisit WOTUS. The Supreme Court is currently considering whether to hear *Andrews v. United States*, a case concerning the scope of wetlands jurisdiction under the CWA. The underlying dispute concerns a private landowner who the federal government alleges filled in wetlands located on his property without a necessary CWA permit. Under the CWA, it is illegal to fill in a wetland classified as a “water of the United States” (WOTUS) without first receiving a CWA permit. In the 2023 landmark ruling *Sackett v. EPA*, the Supreme Court held that a

wetland would be considered a WOTUS only when it shares a “continuous surface connection” with a waterbody already recognized as a WOTUS such that the wetlands are “as a practical matter indistinguishable” from the waterbody. In *Andrews*, the district court that first heard the case determined that the wetlands at issue were WOTUS because they shared “continuous surface flow paths” with a water recognized as a WOTUS. The Second Circuit upheld this decision. Now, the landowner has appealed the Second Circuit’s ruling up to the Supreme Court, claiming that the court misinterpreted *Sackett* by extending WOTUS status to wetlands that are not “indistinguishable” from a waterbody. Additionally, EPA is currently in the middle of a rulemaking to update the regulatory definition of WOTUS to bring it in line with the *Sackett* decision. Should the Court agree to hear *Andrews*, it is not yet clear how that would impact the rulemaking. For more information, click [here](#) to view NALC article “Supreme Court Asked to Revisit Definition of WOTUS.”

FDA Food Chemical Safety Post-Market Assessment Program. On May 12, the U.S. Food and Drug Administration (FDA) **announced** the finalization of its new post-market food chemical safety assessment program. While every color additive and most food additives are required to undergo pre-market safety assessments, traditionally, the FDA has only conducted post-market safety reviews following a request by external stakeholders or the discovery of evidence that brings the chemical's safety into question. However, under this new process, FDA will now conduct annual reviews. FDA released a **document** that outlines the process the agency will follow to identify and prioritize certain food chemicals for review, highlights the structure the assessments will take, and describes the agency's plan to communicate risk management goals. Further, the FDA published a **framework** that will help prioritize the assessments.

Similarly, FDA announced it was reassessing the safety of two chemical food additives and issued requests for information (RFI) regarding the use and safety of the additives. The additives, butylated hydroxytoluene (BHT) and azodicarbonamide (ADA), are found in certain common food products. Comments and information on the chemical additives RFI's must be submitted by July 13, 2026, and can be found [here](#) and [here](#). To learn more about how the FDA categorizes food ingredients, click [here](#) to read “Food Foundations: Categories of Food Ingredients.”

Fertilizer Shippers. The U.S. Department of Transportation (DOT) has granted a **waiver** that will exempt fertilizer haulers from specified hours-of-service rules. Hours-of-service rules are limits set by the Federal Motor Carrier Safety Administration (FMCSA) on driving hours for commercial drivers. The waiver will apply to motor carriers and drivers transporting fertilizer for commercial farming and agricultural purposes and will allow haulers to drive up to 16 hours in any 24-hour period. The DOT asserts that this waiver is necessary to “cut red tape” and ensure that farmers are able to access fertilizers. The waiver will be effective from May 26, 2026, to August 26, 2026.

Alternative Proteins: Louisiana. Both chambers of Louisiana’s legislature have considered and passed two bills pertaining to alternative proteins. First, the legislature passed **HB 512**, which bans the “manufacturing, sale, offering for sale, or distribution of any cell cultured food product.” This bill, which is still awaiting signature from Louisiana’s governor, includes language specifying that it will not become effective until a final ruling is issued by the Supreme Court of the United States “holding that prohibitions on cell cultured food products do not violate the United States Constitution.” Additionally, Louisiana’s legislature passed **HB 717**, a labeling law that creates specific requirements for cell-cultured food products being sold in the state. While **La. Stat. Ann. § 3:4744** already prohibits “representing a cell cultured food product as a meat product,” HB 717 would require a cell cultured food product to “bear a clear and conspicuous disclosure” of “not less than thirty-point font.” HB 717 is awaiting signature from the governor, and if signed, would become effective on August 1, 2026. To see how other states have handled cell-cultured meat, click [here](#) to view NALC’s Alternative Protein Laws State Compilation.

Atrazine Not Likely to Cause Jeopardy. The United States Fish and Wildlife Service (FWS) has concluded that atrazine, one of the most widely used agricultural herbicides, is not likely to jeopardize the existence of threatened and endangered species or destroy designated critical habitat when used according to its label. Atrazine is used to control annual grasses and broadleaf weeds. It is registered for use on a variety of agricultural crops including corn and sorghum. EPA is currently in the process of conducting a mandatory fifteen-year review for atrazine to determine whether the pesticide continues to meet requirements outlined in FIFRA. As part of that review, EPA consulted with FWS to ensure that reauthorizing atrazine for another fifteen years would not cause any species protected under the Endangered Species Act to go extinct. During its initial assessment, EPA determined that atrazine was likely to adversely affect more than 1,000 protected species. However, the **final Biological Opinion** produced by FWS determined that registering atrazine is not likely to jeopardize the continued existence of any listed species.



**LIVESTREAM
AVAILABLE!**

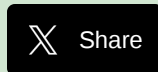
13th Annual Mid-South Agricultural & Environmental Law Conference

June 4-5, 2026 | Memphis, TN

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

Share This Issue of The Feed:



National Agricultural Library
U.S. DEPARTMENT OF AGRICULTURE

This material is based upon work supported by the National Agricultural Library, Agricultural Research Service, U.S. Department of Agriculture

The National Agricultural Law Center | NationalAgLawCenter.org

National Agricultural Law Center | DTAN 2549 N. Hatch Ave. | Fayetteville, AR 72704 US

[Unsubscribe](#) | [Constant Contact Data Notice](#)



Try email marketing for free today!