



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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Failure to Warn:



Brigit Rollins,
Staff Attorney,
National Ag Law Center

A Look at Recent State and Federal Action on Pesticide Labeling

- ✓ May 20, 2026
- ✓ Noon - 1 p.m. ET
- ✓ No cost to register



2026 Farm Bill. On April 30, the U.S. House of Representatives voted to pass **the Farm, Food, and National Security Act of 2026**, more commonly known as the 2026 Farm Bill. This marks the furthest a farm bill has advanced since the 2018 Farm Bill was signed into law. The 2026 Farm Bill reauthorizes and amends numerous federal programs affecting commodity support, conservation, nutrition, trade, crop insurance, and rural development among others. Notable changes include the addition of hot rotisserie chicken to items eligible for the SNAP program; the reauthorization of the Conservation Reserve Program; the transfer of authority under the Food for Peace Act to USDA; increased loan limits for farm ownership and operating loans; and a prohibition on the purchase of agricultural land by foreign adversaries and state sponsors of terrorism. Now, the 2026 Farm Bill will head to the Senate for debate, which will likely result in further amendments.

- *Conference Opportunity (June 5): Hunt Shipman, Principal and Director, Cornerstone Government Affairs and Dr. Andrew Muhammad, Professor, University of Tennessee Institute of Agriculture, Department of Agricultural and Resource Economics will present "Update from the Potomac: Farm Bill(?), Ag Trade, MAHA, & More" for in-person and online attendees at the 13th Annual Mid-South Agricultural and Environmental Law Conference. To register, click **here**.*

Foreign Ownership. The North Carolina legislature is considering the "NC Farmland and Military Protection Act" (**HB 133**, see also **SB394**), which would prohibit "adversarial foreign governments" from acquiring "agricultural land" as well as real property within a certain radius of a "military installation". At the federal level, **the Farm, Food, and National Security Act of 2026** included provisions to expand CFIUS review of transactions involving agricultural land, including but not limited to CFIUS notification of transactions reported under AFIDA, restrictions on use of federal funds for solar projects on covered farmland using parts from certain foreign countries. To learn more about state regulation of foreign ownership, click **here** to read NALC article "Soil for Sale? South Dakota Amends State Foreign Ownership & Reporting 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**.*

Geographic Indicators. A California bill that would impact wine labeling standards passed out of its first committee reading last week. **AB 1585** would prohibit winemakers from selling wine in California that was labeled as “American” or a “United States” product unless the product was completely made from grapes grown in the U.S. Specifically, the bill would allow the California Department of Alcoholic Beverage Control to seize any product not complying with the new requirement. In related news, a recent **report** from the Office of the U.S. Trade Representative (USTR) has placed the European Union on a watch list for failing to provide adequate intellectual property protection for U.S. products and brands. The USTR maintains a list of foreign countries where American producers may face challenges trading in foreign markets, categorized as either a priority foreign country, a country on the priority watch list, or a country on the watch list. The EU joins several other countries on the watch list, including Mexico, Guatemala, and Canada. Mexico and Argentina were recently moved from the priority watch list to the lower-level watch list based on their efforts to address the USTR’s intellectual property concerns. To learn more about regulation of geographic indicators, click **here** to read NALC article “Food Foundations: Geographic Indicators on Agricultural Products.”

SCOTUS Hears Pesticide Preemption Case. On April 27, the United States Supreme Court heard oral argument in *Durnell v. Monsanto*, a lawsuit filed by a plaintiff who claims that Monsanto (now owned by Bayer) failed to warn him that using its pesticide Roundup could cause him to develop cancer. The case is one of thousands that have been filed over the last decade by plaintiffs asserting that they were not warned of the cancer risk allegedly presented by using glyphosate, the active ingredient in Roundup. In response, Bayer has argued that state law failure-to-warn claims raised by the plaintiffs are preempted by the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) which prohibits states from adding language to a federally approved pesticide label. Bayer claims that the only way to resolve the plaintiffs’ failure-to-warn claims is to add a cancer warning to the Roundup label, a warning that is not included in the federally registered label for the product. The question of preemption has become central to this litigation and to date, three federal Circuit Courts of Appeal have considered the matter. The Ninth and Eleventh Circuits found that FIFRA does not preempt failure-to-warn claims, while the Third Circuit found the opposite. The Supreme Court decision will impact thousands of on-going cases and likely set the tone for pesticide liability lawsuits going forward. A final decision is expected sometime this summer. To learn more about *Durnell v. Monsanto*, click **here** to view NALC article “Supreme Court Agrees to Hear Pesticide Preemption Lawsuit.”

- *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**.*

New York GRAS Legislation. Both chambers of New York’s legislature have passed a bill related to the federal “generally recognized as safe” (GRAS) food ingredient pathway. If signed by the governor, **S.1239** would require food manufacturers that sell products with GRAS ingredients to submit mandatory reporting about the presence and safety of those ingredients. These reports will be submitted to the New York Commissioner of Agriculture and Markets, and will be maintained in a publicly available database. Under the federal GRAS pathway, companies may include a food ingredient in their product without notifying the FDA if the company determines that the substance is “generally recognized, among experts qualified by scientific training and experience to evaluate its safety, as having been adequately shown to be safe under the conditions of its intended use.” Additionally, S.1239 would prohibit the sale, manufacture, or distribution of foods containing potassium bromate, propylparaben, or Red Dye No. 3 in New York while also imposing additional restrictions on certain color additives in foods served as part of school meals. A similar piece of legislation has been introduced in California. If passed by both chambers of California’s legislature and signed by their governor, **AB 2034** would also require recordkeeping and disclosure for foods that contain GRAS ingredients. To learn more about the different federal categories of food ingredients, click **here** to read NALC article “Update on Proposed Food Additives Ban.”

Draft Fungicide Strategy. EPA has officially released a **draft version of its Fungicide Strategy**, the latest step in the agency’s efforts to reduce pesticide exposure to endangered wildlife. The draft Fungicide Strategy is largely similar to the Herbicide and Insecticide Strategies which EPA issued in 2024 and 2025, respectively. All three Strategies focus on reducing pesticide spray drift and runoff to further limit pesticide exposure to species protected under the Endangered Species Act. Currently, a 60-day period of public comment is open for the draft Fungicide Strategy. It will close on June 29. To submit a comment, click **here**. For more information on the Fungicide Strategy, click **here** to view NALC article “EPA Announces Draft Fungicide Strategy.”

CA UPFs Lawsuit. A lawsuit challenging nine food manufacturers’ production of ultra-processed foods (UPF) was **sent back** to state court last month by a federal judge in the Northern District of California. The lawsuit, filed in 2025 by the City of San Francisco, alleged that food manufacturers intentionally designed UPFs to be addictive and knowingly marketed the products to children. The City also alleged that the public health crisis in San Francisco is

caused by UPFs, and brought claims under public nuisance and violations of the state's unfair competition law. However, last month, the court found that the state is the real party in interest in the lawsuit rather than the specific municipality. The court remanded the lawsuit to the state to determine the resolution of the issues, and the litigation remains ongoing. To learn more about UPFs and specifically the state of California's attempts to define them, click [here](#) to read NALC article "'MAHA' Movement: Defining Ultra-processed Foods." To learn more about a recent consumer led legal challenge against the manufacture of UPFs, click [here](#) to read "'MAHA' Movement: State Agency Actions and Consumer Legal Challenges."

SNAP Stocking Standards. On May 7, 2026, the **USDA** published a final rule changing stocking requirements for retailers participating in the Supplemental Nutrition Assistance Program (SNAP). This rule, which applies to all retailers other than specialty stores such as butchers or farm stands, requires retailers to offer at least seven varieties of four staple food categories. Staple food categories include dairy, vegetables or fruits, grains, and protein. A variety is **defined** as "a food that is distinct from another food in the same staple food category." For example, within the category of protein, fresh chicken and dry beans are two separate varieties. Further, the final rule requires a perishable variety in at least three of the four staple food categories to be offered. The rule also updates the classification of certain foods from "staple foods" to "accessory foods." This rule goes into effect on November 4, 2026, and SNAP retailers that do not meet the new requirements will be withdrawn from the program and unable to accept SNAP funds. To read the final rule, click [here](#).

Iowa "MAHA" bill. Both chambers of Iowa's legislature have passed the "Iowa Make America Healthy Again Act." If signed by their governor, **HF 2676** would achieve a number of "MAHA" priorities – some related to food and agriculture and many not. For example, the legislation would direct Iowa's Department of Agriculture to "continuously maintain state participation in SNAP in accordance with waiver guidelines" that require "eligible foods . . . are healthy foods." Though Iowa currently has an **approved waiver** from USDA restricting the purchase of items deemed "unhealthy," this legislation would codify the requirement that Iowa "continuously" request this waiver and would expand it to their Summer EBT program. Further, the legislation would restrict food and beverages containing specified food additives and color additives from being served as part of school meals. In addition, this proposal includes language about a number of non-food related priorities, such as over-the-counter sales of ivermectin, time-limits for technology use in kindergarten through fifth grade classrooms, and the reinstatement of the presidential physical fitness test. To read more about other state laws that have passed and been enacted this year, click [here](#) to read NALC article "Food Law in the States – 2026 Update."

EWG Seeks Petition Response. In late April, the Environmental Working Group filed a **lawsuit** in the D.C. Circuit Court of Appeals challenging the Environmental Protection Agency (EPA) over its delay in responding to a 2018 petition requesting a modification to the pesticide tolerance level for glyphosate. EPA primarily regulates pesticides under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). However, pesticide residue tolerances on food crops are regulated under the Federal Food, Drug, and Cosmetic Act (FFDCA). A pesticide residue tolerance refers to the amount of pesticide that can remain on a food item when it enters the marketplace. When EPA approves a pesticide for use on a food crop under FIFRA, it must set a corresponding pesticide tolerance under the FFDCA. The FFDCA provides that food tolerances must be set at a "safe" level to ensure that no harm will result from aggregate exposure to the pesticide. In 2021, the Ninth Circuit Court of Appeals ruled that EPA should review an established pesticide tolerance once it becomes aware of "genuine questions" as to its safety. In its 2018 petition, EWG requested that EPA review the glyphosate tolerance for oats, claiming that evidence shows that the current tolerance is unsafe for children. The present lawsuit asks the court to require EPA to make a final response to the 2018 petition. Should EPA ultimately deny the petition, EWG could then challenge the denial in federal court. To learn more about the lawsuit, click [here](#) to read NALC article, "Environmental Group Sues EPA for Delayed Response to Glyphosate Petition."

Iowa Farm Security. On April 23, a federal judge in the Eighth Circuit **dismissed** an appeal challenging the constitutionality of Iowa's farm security law. Farm security laws, also known as "ag gag" laws, prohibit the recording, filming, or photographing of agricultural operations while trespassing on private property. Iowa's **law** was enacted in 2021 and later challenged by several animal-welfare groups. According to the animal-welfare groups, the law chills free speech in violation of the First Amendment. More specifically, they argue that the statute violates their First Amendment rights by prohibiting them from recording on property that is otherwise open to the public when the owner asks them to leave but does not ask them to stop recording. The Eighth Circuit rejected this argument, noting that the Supreme Court has never held that a trespasser "may exercise general rights of free speech on property privately owned and used nondiscriminatorily for private purposes." This led the court to uphold the constitutionality of Iowa's law and reject the challengers' claims.

California Labor Legislation. On April 22, a California state bill that aimed to offset overtime costs for agricultural employees through the use of state tax credits failed to pass out of committee. Under **SB 921**, eligible employers would have been able to claim a tax credit equal to the amount of overtime wages paid in a quarter. However, a bill that would establish a minimum hourly wage has advanced to a second round of committee review. **AB 2646**, if passed into law, would establish a minimum wage of \$19.75 an hour for agricultural workers. If passed, AB 2646 would take effect on January 1, 2027.

H-2A Litigation. The Supreme Court has **agreed** to hear an appeal of a 3rd Circuit **decision** which held that the Department of Labor (DOL) cannot impose fines on employers' violations under the H-2A labor program. When the DOL alleged that Sun Valley Orchards had violated H-2A requirements, it ordered the operation to pay roughly \$580,000 in back wages and fines. Sun Valley first challenged this decision with an administrative law judge, then in a district court, arguing that the DOL's fines were in violation of the Constitution. Primarily, Sun Valley argued that the DOL had adjudicated private rights in violation of Article III of the Constitution. Article III establishes and clarifies the judicial power of the United States. The 3rd Circuit agreed with Sun Valley, finding that the growers were entitled to have their case decided by an Article III court. The DOL appealed to the Supreme Court, who granted its writ of certiorari. The Supreme Court has limited its review to two questions. First, whether Article III precludes the DOL from adjudicating proceedings to collect monetary remedies from employers who have allegedly violated the terms and conditions of employment of H-2A workers and domestic workers in corresponding employment. Second, whether federal law authorizes those same proceedings. The case presents questions similar to those raised in the 2024 Supreme Court case, *SEC v. Jarkesy*. There, the Court was asked to consider whether a civil fine imposed by the Securities and Exchange Commission (SEC) through an administrative adjudication system was constitutional. Ultimately, the Court ruled that when the SEC is seeking civil penalties for a legal violation that resembles common law fraud, the defendant is entitled to a jury trial. For more information, click [here](#) to read NALC article "Supreme Court of the United States Rules SEC Administrative Proceedings Unconstitutional."

Indiana Drone Laws. Beginning July 1, an Indiana **drone law** will be expanded to include not only people, but livestock, crops, and farm operations. Currently, the law prohibits any person from operating an unmanned aerial vehicle (UAV) in a manner that is intended to subject another person to harassment. Under the **amended version** of this law, individuals are prohibited from operating a drone "with the intent to harass, disturb, or injure a vertebrate animal on the other person's property." The law will also prohibit any operation of a drone over the property of another person without their consent and the knowing or intentional dispersal "of any substance" onto another person's property. To learn more about state laws regarding UAVs, click [here](#) to view the NALC's compilation of UAV laws.

PFAS Suit Dismissed. The D.C. Circuit Court of Appeals has **dismissed a lawsuit** filed by environmental groups seeking to halt production of PFOA, a class of per- and poly-fluoroalkyl substances (PFAS) formed when making plastic containers. The plaintiffs had filed their lawsuit against EPA, claiming that the agency had violated the Toxic Substances Control Act (TSCA) by failing to regulate PFOA. The TSCA directs EPA to regulate chemical substances that "present an unreasonable risk of injury to health or the environment." The plaintiffs allege that as of March 2023, EPA possessed "conclusive data" showing that PFOA is carcinogenic to humans and has no safe level of exposure. According to the plaintiffs, the TSCA imposed a mandatory duty on EPA to act as soon as it had that information. The plaintiffs argued that EPA's failure to do so is a violation of the TSCA. However, the court dismissed the plaintiffs' lawsuit after finding both that EPA had initiated a TSCA-related rulemaking concerning the risks posed by PFOA in 2024, and that the plaintiffs lacked standing to bring their case. Last October, a federal court in D.C. also dismissed a case filed by Texas farmers seeking to compel EPA to regulate PFAS under the Clean Water Act. There, the court concluded that the farmers should have first petitioned EPA directly to adopt stricter regulation. To learn more about that case, click [here](#) to view NALC article "Court Dismisses PFAS Case Brought by Farmers Against EPA."

Colorado River. On May 1, the state of Arizona, California, and Nevada **announced a plan** to conserve up to 1 million acre-feet (MAF) of Colorado River water through 2028. This is in addition to conservation commitments already made by the three states and Mexico and would bring the total amount of proposed water saving to 3.2 MAF. The proposal comes as current operating guidelines for the Colorado River are set to expire later this year. Currently, it remains unclear what the post-2026 operating framework for the Colorado River will be as the seven states that rely on the river - Arizona, California, Colorado, Nevada, New Mexico, Utah, and Wyoming - have not reached an agreement. The Bureau of Reclamation which operates critical infrastructure along the river, including key reservoirs Lakes Powell and Mead, have proposed several options but has not made a final decision. A public comment period

on Reclamation's proposed options closed on March 2, 2026. For more information on post-2026 options for the Colorado River, click [here](#).

Timber Theft. Earlier this year, a resident of Coweta County, Georgia, was indicted by the Georgia Forestry Commission for the charges of failure to pay for natural products and theft by conversion. This indictment was issued following an investigation regarding suspected timber theft. Jeremy Evens of Senoia, Georgia was charged following an incident in February 2025 where a landowner alleged that Evens had conducted a timber harvest and failed to tender payment. In an official [news release](#), the Georgia Forestry Commission claimed that this case "highlights the importance of protecting Georgia's landowners and forest resources."

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

Iowa Farm Act. The Iowa state legislature successfully passed an agricultural policy package known as the [Iowa Farm Act](#) and sent it to the Governor to be signed into law. The legislation represents the first comprehensive farm policy bill to be passed in the state. Included in the Iowa Farm Act are provisions intended to provide tax relief for farmers, new initiatives intended to support beginning farmers and ranchers, and expanded market support aimed at diversifying revenue streams and boosting access to new markets. Not included in the final bill was an amendment related to Iowa's grain indemnity program which would have introduced audit requirements to certain small grain dealers. Instead, the amendment was removed and replaced with language that requires farmers engaged in credit sales to either undergo an unqualified audit or provide a financial statement that has been reviewed by a certified accountant. The bill is currently on the Governor's desk.

Tariffs. In a recent [decision](#), the U.S. Court of International Trade (CIT) invalidated and enjoined (with respect to the named plaintiffs) a 10% global tariff rate [imposed](#) via proclamation by the Trump Administration. This rate was implemented under section 122 of [the Trade Act of 1974](#), which allows the President to address specified international payment problems with import surcharges and other restrictions. [According](#) to the CIT, the case hinged on whether the President asserted the existence of conditions required by section 122 to lawfully proclaim the tariffs. In the court's view, the proclamation imposing the tariffs failed to "assert that those required conditions have been satisfied." This led the CIT to declare the tariffs invalid, order refunds to the importer plaintiffs, and permanently enjoin the proclamation with respect to the importer plaintiffs. However, on May 12, the U.S. Court of Appeals for the Federal Circuit issued an [order](#) which mandated that the judgment and permanent injunction entered by the CIT would be temporarily stayed while the court considered the parties' motions for a stay pending appeal. To learn more about the section 122 tariffs, click [here](#).

EPA Permitting Map. On May 6, EPA [announced](#) the launch of its new EPA Permitting Authority Map. The interactive map identifies the regulatory agencies with authority to issue permits for all of the various permitting programs and environmental statutes EPA administers. According to the agency, the new map will provide the public with the ability to make a "quick determination" as to whether permitting authority lies with EPA or has been delegated to a state or local agency. To access the map, click [here](#).

Iowa Right to Repair. The Iowa House recently advanced [HF 2763](#), a bill that would establish a legal "right to repair" for farm equipment owners in the state. Under this bill, equipment manufacturers would be required to provide parts, software, documentation and tools to farmers and independent repair shops on "fair and reasonable terms." Further, this bill establishes that an agricultural producer is entitled to the "raw agricultural data" generated by the producer's equipment or agricultural production. Under the text of the bill, "raw agricultural data" includes yield data; soil data; crop data; livestock data; GPS coordinates; and diagnostic data among others. With its passage by the House, the bill now moves to Iowa's Senate. If passed and signed into law, the bill would take effect on July 1, 2027. To learn more about recent Right to Repair developments, click [here](#).

Organic Milk & FMMO. Four legal actions have been filed challenging the manner in which organic dairy producers are treated under the [Federal Milk Marketing Order](#) (FMMO) program. The [Coalition for Organic Dairy Exemption](#) (CODE) filed three of the actions in federal district courts (two in Wisconsin and one in Colorado), challenging the constitutionality of a requirement that the organic dairy industry participates in the FMMO. To read the Colorado case, click [here](#), and to read the Wisconsin cases, click [here](#) and [here](#). The fourth action is a [proposed class action](#) brought in the U.S. Court of Federal Claims by several certified organic dairy farmers who are members of a dairy processor that is a "handler" under the FMMO, alleging that the placement of portion of producers' proceeds into "producer settlement funds" violate the Takings Clause of the Fifth Amendment of the U.S.

Constitution. For more information on marketing orders, including FMMOs, visit the NALC Marketing Orders Reading Room [here](#), and NALC webinar "Understanding Federal Milk Marketing Orders and Current Dairy Risk Management Tools" [here](#).



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