



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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Minors Working on the Farm: Child Labor Laws for Agricultural Employers

- ✓ August 19, 2026
- ✓ Noon - 1 p.m. ET
- ✓ No cost to register



This session will examine agricultural child labor requirements under the Fair Labor Standards Act, including key exemptions, particularly hazardous occupations, and the interaction between federal and state laws governing the employment of minors.

Presenter:
Audry Thompson

Staff Attorney, Penn
State Center for
Agricultural and
Shale Law



FDA Updates: GRAS & UPFs. On August 10, 2026, Department of Health and Human Services (HHS) Secretary Kennedy made **two announcements** related to the agency's "Make America Healthy Again" priorities. First, he announced **proposed reforms** to the "Generally Recognized as Safe," or "GRAS" pathway. Established in 1958, GRAS is a pathway that food manufacturers can utilize to introduce a new food substance into the market or create a new intended use for a substance currently on the market without either receiving approval from the FDA or being required to notify the agency. A substance will be GRAS if it is determined 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." Under the proposed rules, food manufacturers will now be required to notify the agency of their conclusions that food ingredients are generally recognized as safe for their intended uses. Further, food manufacturers with GRAS substances already on the market must follow a "time-limited streamlined submission pathway" to provide the agency with information about its uses. Public comments on the proposal are open until December 9, 2026, and can be made **here**. Second, Secretary Kennedy announced that HHS and the US Department of Agriculture (USDA) have submitted a white paper outlining their proposed definition of Ultra-Processed Foods (UPF) to the White House Office of Management and Budget for final review. To learn more about how GRAS substances are distinguished from other types of food ingredients, click **here** to read NALC article "Food Foundations: Categories of Food Ingredients." For more information on UPFs, click **here** to read NALC article "MAHA Movement: Defining Ultra-Processed Foods."

- *Upcoming article: Staff Attorney Emily Stone will be publishing an article highlighting the GRAS proposal on August 18.*

Updates to AFIDA. USDA recently **proposed** several revisions to the regulations implementing the Agricultural Foreign Investment Disclosure Act of 1978 ("AFIDA"), including amendments to key definitions that determine when foreign persons must report interests in U.S. agricultural land. If adopted, the proposal would broaden the definition of "agricultural land," narrow certain exemptions under the definition of "any interest," and lower the aggregate foreign ownership threshold used to determine when a domestic entity is considered a "foreign person" under AFIDA. A recently published NALC article, "AFIDA Updates Explained: Background and Proposed Definitions (Part 1),"

discusses the proposed revisions to existing definitions under the current AFIDA framework. To view that article, click [here](#).

Colorado River Post-2026. The Bureau of Reclamation has released a **final Environmental Impact Statement** (EIS) proposing a new framework for managing water resources throughout the Colorado River System, particularly Lakes Powell and Mead, after the current guidelines expire at the end of 2026. Reclamation developed the proposal after Arizona, California, Colorado, Nevada, New Mexico, Utah and Wyoming failed to agree on replacement rules. According to the management approach outlined in the final EIS, Reclamation would adopt a decision framework that would govern the river through 2036. The decision framework itself would not establish specific operating guidelines but rather would allow for operating guidelines to be developed and updated every two years according to a set of operational principles and limitations. Notably, those limits would require up to 3 million acre-feet of annual water reductions for the three Lower Basin states- Arizona, California and Nevada. That amount is roughly double the annual reductions those states proposed in a plan proposed earlier this year. The first set of operating guidelines would cover 2027-2028 and have yet to be finalized. However, a preliminary description of the 2027-2028 operating guidelines include water cuts for all three Lower Basin states with Arizona facing cuts of up to 760,000 acre-feet, almost a third of its annual allocation. For more information on the final EIS, click [here](#) to view NALC article "Reclamation Releases Final EIS for Colorado River." For more information on how the Colorado River is managed, click [here](#) to view CRS report "Management of the Colorado River."

Possible Federal Hemp Ban Delayed. On August 8, 2026 the Senate **passed** a continuing resolution (CR) to fund federal agencies through December 11. Included in that CR is a **provision** that will delay a federal ban on most hemp-derived THC products through December 11. The House version of the CR does not include a delay in the federal ban so the ban is currently scheduled to become effective on November 12. In order for the delay to take effect, it must be reconciled by the House to include the delay language and be signed by the president.

Farm Bill Fails To Advance. The Senate Agriculture Committee has **failed** to advance the **2026 Farm Bill** after a 10-11 vote. Absent from the vote were Republican Senators Mitch McConnell and Tommy Tuberville. According to **media reports**, disagreements regarding SNAP led to the Farm Bill stalling. More specifically, Democrats on the Committee have called for a delay on a provision that would require states to pay certain administrative SNAP costs, and disagreements regarding the duration of this delay have led to the current status. Committee Chair Senator John Boozman has since stated that the committee would reconvene to consider the Farm Bill in September, following the August recess.

- *Webinar Opportunity (September 16): Grant Ballard, Partner, Ark Ag Law, PLLC, and Kristine Tidgren, Director, Iowa State University's Center for Agricultural Law and Taxation (CALT); Dolezal Adjunct Associate Professor, Agricultural Education will present "2026 Update: USDA's Payment Limitations, Eligibility, & Ag Tax Considerations." To register, click [here](#).*

Pasteurized OJ. The Food and Drug Administration (FDA) has **finalized** its first significant revision to the federal standard of identity for pasteurized orange juice in more than 60 years. Beginning August 19, 2026, products labeled as pasteurized orange juice may contain up to 15% juice from mandarins or mandarin hybrids, an increase from the current 10% limit. The rule also lowers the minimum soluble-solids requirement from 10.5 to 10 degrees Brix, a measurement associated with sugar content. For more information on federal standards of identity, click [here](#) to read NALC article "Food Foundations: Standards of Identity."

Food & Color Additives. On July 23, FDA issued a final order revoking its approval of Orange B in food. Orange B is a color additive that was historically used to color sausage casings and surfaces, but had fallen out of use by industry for many years. Specifically, Orange B had not been certified for use in food since 1978. Its revocation will take effect September 8, 2026. FDA also proposed the revocation of its approval for Citrus Red No. 2 on the skins of mature oranges. FDA concluded that Citrus Red had also been abandoned by industry with its last batch being certified in 2020. Comments on the proposed Citrus Red No. 2 revocation are due August 24, and can be made [here](#). Further, FDA announced that it is reopening the public comment period- first opened in May of 2026- for butylated hydroxytoluene, or BHT. Specifically, it is a "Request for Information" on BHT's uses and safety in human food. The comment period will be open until August 31, and comments can be made [here](#). To learn more about FDA's efforts to eliminate synthetic color additives, like Orange B and Citrus Red No. 2, from the food supply, click [here](#) to read NALC article "FDA Announces Plan to 'Phase Out' Synthetic Food Dyes."

Section 301 Tariffs Challenged. On August 3rd, 2026, a coalition of states filed [suit](#) against President Trump and the Office of the United States Trade Representative, challenging tariffs **implemented** on July 23, 2026. The challenged tariffs were implemented under **Title III of the Trade Act of 1974**, also called “Section 301.” Section 301 allows for the implementation of tariffs in response to violations of U.S. trade agreements or certain foreign actions that burden U.S. commerce. The plaintiff-states assert that these tariffs are “arbitrary, capricious, and contrary to law.” According to the complaint, the tariffs are also too “broad” and insufficiently tailored to be allowed under Section 301. Instead, plaintiffs argue that these tariffs work as an “implementation of the President’s broad tariff policy” and not “the kind of tailored measure authorized under Section 301.” For updates on this litigation, click [here](#).

Childhood Diabetes Reduction Act Advances. The Senate Health, Education, Labor, and Pensions (HELP) Committee **voted** 12-10 to advance **S. 5026**, the Childhood Diabetes Reduction Act of 2026. The bill would restrict junk-food advertising directed at children and require warning labels on ultra-processed foods and other products containing specified sweeteners or high levels of nutrients such as added sugar, saturated fat, or sodium. It would also direct the National Institutes of Health to study the health effects of ultra-processed food consumption and require the Centers for Disease Control and Prevention to develop a public education campaign on food labels, obesity, and nutrition. To become law, the bill must be approved by the full Senate, the House of Representatives, and signed by the President.

Georgia Interstate Meat Sales. Georgia has **entered** into a Cooperative Interstate Shipment (CIS) agreement with the U.S. Department of Agriculture (USDA), allowing eligible state-inspected meat processors to ship their products across state lines. Ordinarily, products from state-inspected establishments may be sold only within the state where they were produced. Under the CIS program, very small establishments who choose to participate must comply with federal food-safety, sanitation, labeling, and inspection requirements. Georgia is the eleventh state to enter into a CIS agreement with USDA. For more information on state inspection programs, click [here](#) to view NALC’s compilation of Meat Processing Laws in the United States.

BE Food Labels. A federal district court has **ordered** three provisions of USDA’s National Bioengineered Food Disclosure Standard vacated effective Jan. 1, 2028. The case, filed in 2020 by Natural Grocers and a coalition of organic retailers and labeling advocates, challenged which foods require disclosures and how manufacturers may provide them. In October 2025, the Ninth Circuit held that USDA relied on an unlawful rationale to exclude foods lacking detectable modified genetic material, a category that can include highly refined oils and sugars. The appeals court also found unlawful provisions allowing QR-code or text-message disclosures in place of conventional on-package text or symbols. On remand, the district court rejected USDA’s request to delay vacatur until 2029 and set the 2028 effective date, leaving the current provisions in place while USDA develops replacements. To read more about the Ninth Circuit’s 2025 decision, click [here](#).

Child Labor. On July 21, 2026, human rights organization International Rights Advocates filed **suit** in the U.S. District Court for the District of Columbia against the Lindt chocolate company for alleged misrepresentations regarding child labor. According to the complaint, Lindt has made representations that it is working towards ending the use of child labor in its cocoa supply chain. However, the complaint asserts that “in reality Lindt continues to profit from child labor.” The complaint alleges that Lindt’s representations regarding child labor “deceive consumers” because the company has failed to take “meaningful action to address and prevent child labor in its supply chain.” International Rights Advocates asserts that it is filing this complaint “on behalf of the general public of the District of Columbia, in the interest of consumers.” However, the complaint specifies that it is not a class action, and no class certification will be sought.

- *Webinar Opportunity (August 19): Audry Thompson, Staff Attorney, Penn State Center for Agricultural and Shale Law will present “Minors Working on the Farm: Child Labor Laws for Agricultural Employers.” To register, click [here](#).*

Oregon IP 28 Fails to Qualify. **Oregon Initiative Petition 28 (IP 28)**, also known as the People for the Elimination of Animal Cruelty Exemptions (PEACE) Act, has failed to qualify for the November 2026 ballot. The proposal would have repealed or narrowed exemptions that protect lawful hunting and fishing, accepted animal husbandry practices, livestock slaughter, wildlife management, and other activities from prosecution under Oregon’s existing animal-cruelty laws. As a result, agricultural practices such as castration, dehorning, branding, tail docking, and artificial insemination could have been subject to criminal prosecution. Although proponents submitted enough signatures in raw numbers to potentially qualify the petition for this November’s ballot, the verification process credited the petition with only 73% of the valid signatures required. Because IP 28 failed to meet Oregon’s threshold of 117,173 valid

signatures, it will not be presented to voters in 2026. For more information on the proposal, click [here](#) to read NALC article “Oregon Initiative Petition 28 Draws Attention Ahead of 2026 Election.”

CARB Considers Regulating Farm Equipment. The California Air Resources Board (CARB) approved revisions to its ozone control plan for the San Joaquin Valley, South Coast, and Coachella Valley after federal actions reduced the emissions benefits expected from several state mobile-source rules. CARB is also considering whether to regulate older tractors and other diesel-powered agricultural equipment, which accounted for approximately 22% of mobile-source nitrogen oxide emissions in the San Joaquin Valley in 2020. Although a proposal to direct agency staff to begin developing regulations by January was withdrawn, CARB plans to revisit the issue as part of a broader plan update this fall. The agency has historically relied on financial incentives to encourage agricultural operators to replace higher-emitting equipment, but limited funding has led some board members to support mandatory requirements. Agricultural representatives urged CARB to continue using incentives, warning that producers may be unable to absorb the cost of replacing equipment. To learn more about related issues with diesel vehicles, click [here](#) to read NALC article “DOJ & EPA Clarify Stance on Diesel Vehicles Under the CAA.”

NMFS Seeking Public Comments. The National Marine Fisheries Service (NMFS) is [asking for public comments](#) on its rules governing the import of foreign seafood under the Marine Mammal Protection Act (MMPA). Specifically, NMFS is initiating a comprehensive review of these regulations in an effort to increase the program's efficiency. Under the MMPA, the US is required to restrict imported commercial fish or fish products if their processes lead to the “incidental kill or serious injury of marine mammals in excess of US standards.” NMFS is now seeking to alter the regulations implementing that rule, stating that the current rule is “resource-intensive and operationally complex.” Public comments are open on the proposed rule until September 28, 2026, and can be made [here](#). For more information on the federal regulation of seafood, click [here](#) to read NALC article “Food Foundations: Seafood Regulation.”

USDA Locks In Older Wetlands Determinations. In an interim rule, USDA has confirmed that it will treat wetland determinations made after November 28, 1990 as certified so long as the agency notified the affected producer and provided information on how to appeal the designation. A certified wetland determination is crucial for implementing the Swampbuster program which discourages agricultural producers from converting wetlands to croplands by making those who do so ineligible for certain USDA program benefits. Certified wetland determinations indicate areas USDA considers to be wetlands for the purposes of Swampbuster. Once a determination is certified, it will typically remain in effect while the land is utilized for agriculture unless the producer requests a review. The interim rule took effect July 29, 2026, and public comments are due September 28, 2026. To view the rule and learn how to submit a comment, click [here](#). For more information on the Swampbuster program, click [here](#) to view past NALC webinar “Stuck in the Swamp: Swampbuster Basics.”

USDA Data Modernization Plan. On August 4, 2026, U.S. Secretary of Agriculture Brooke Rollins [announced](#) that USDA leadership would be hosting listening sessions across the country regarding the USDA's Data Modernization Plan. In July, Secretary Rollins [announced](#) that the USDA would be releasing a plan to revamp the National Agricultural Statistics Service (NASS). This modernization plan is intended to “streamline” NASS data reporting and improve transparency. USDA's announcement of the listening sessions claims that the sessions are “an important step in putting Farmers First” and “increasing survey response rates.” For more information on recent state legislation concerning agricultural data, click [here](#).

- *Webinar Opportunity (October 21): D. Reed Freeman, Partner, ArentFox Schiff Privacy Practice Group Leader, and Karen Ellis Carr, Partner, ArentFox Schiff FDA Practice Leader and Agriculture & AgTech Industry Group Leader will present “Agricultural Data Rights: A New State Law Landscape.” To register, click [here](#).*

ESA Rule Challenged. Seven environmental organizations [filed a lawsuit](#) in federal court on August 6 to challenge a recently finalized rule from the United States Fish and Wildlife Service (FWS) that changes how the agency decides whether to exclude areas from critical habitat designation under the Endangered Species Act (ESA). Under the ESA, federal agencies must ensure that their actions do not destroy or adversely modify areas designated as critical habitat. Under the new rule, FWS must exclude an area from designation if it determines that the benefits of exclusion outweigh the benefits of designation. The plaintiffs argue that the ESA permits, but does not require, such exclusions and that the rule unlawfully limits the agency's discretion. The rule takes effect Aug. 20 and applies to FWS critical habitat decisions finalized after that date. For more information on the final rule, click [here](#).

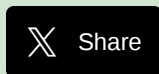


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