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

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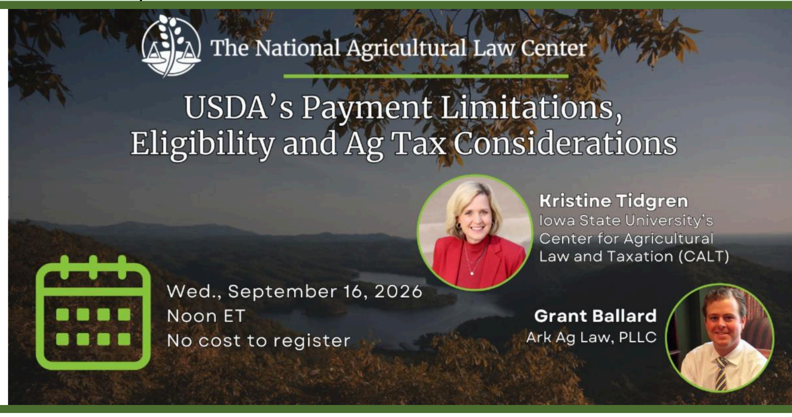


Federal Actions Affecting Beef Production. Over the last few weeks, the federal government has initiated several actions affecting the beef supply chain. On August 26, President Trump signed a **proclamation** to allow up to 300,000 additional metric tons of lean beef trimmings to enter the United States at a lower tariff rate during a 90-day period beginning on September 1. The trimmings are intended for blending with domestic beef, with the administration citing reduced domestic production and elevated consumer prices as reasons for the temporary increase in imports. In response, U.S. Rep. Shomari Figures (D-Ala.) introduced the "Protecting American Beef Producers Act" (**HR. 10229**) to reverse the increase and prohibit the President from suspending or reducing tariffs on beef imports unless permitted by Congress. Days later, on August 31, **USDA announced** the Ranchers First Initiative which the agency described as a "package of actions" intended to increase the U.S. cattle herd and expand regional meat processing. Through this Initiative, USDA is prioritizing heifer retention, lending opportunities for regional processing facilities, federal purchasing of locally processed beef, and support for beginning and veteran ranchers. For more information on meat processing, click **here** to read NALC article "Food Foundations: Livestock & Poultry Slaughter and Processing."

Most recently, on September 4 President Trump signed two executive orders directing agencies to review policies affecting ranchers, strengthen livestock-market enforcement, and pursue broader interstate market access for meat products. Under the **first order**, the White House directed USDA and other federal agencies to, in part, review its authority to require mandatory country of origin labeling for beef products. That review should be completed by December 3rd. It also instructed the U.S. Fish and Wildlife Service to consider removing the gray wolf from Endangered Species Act protection. The **second order** directs USDA to increase participation in existing state and federal inspection programs such as the Cooperative Interstate Shipment Program, and the Talmadge-Aiken Cooperative Inspection Program, while also identifying statutory and regulatory barriers to allowing interstate sale of state-inspected meat. This review should be completed by November 3rd. Further, it includes instructions to expand Packers and Stockyards Act investigations and increase enforcement capacity for anticompetitive behavior. Additionally, the order calls for financial assistance for small and regional beef processors through a guaranteed loan program. Look for an upcoming article about recent Packers and Stockyards Act developments on September 24.

H-2A Wage Rule Held Unlawful. On August 25, 2026, a federal district court **held** that the current methodology used for calculating adverse effect wage rates (AEWRs) in the H-2A foreign labor program was unlawful. AEWRs are a state or region-specific minimum wage, set by the Department of Labor (DOL), and intended to prevent adverse effects on the wages of domestic workers caused by H-2A laborers. In October 2025, DOL published an **interim rule** which overhauled the methodology used to calculate AEWRs. The interim rule was **challenged** in federal court, leading to this case. According to the court, the 2025 interim rule did not adequately justify the new methodology and also failed to follow notice and comment requirements for agency rulemaking. While the court determined the rule to be unlawful, it did not vacate the current AEWR methodology. Instead, the court has ordered DOL to begin creating a new methodology for determining AEWRs, with the 2025 rule remaining in place until a new rule is created. Additionally, the court ordered DOL to notify H-2A employers that they may be required- depending on the new AEWRs- to pay backpay for the period between the order and publication of new AEWRs. To read a discussion of UFW's complaint that led to this ruling, click **here**. NALC will publish an article with further analysis of the court's decision on September 17.

EPA Issues Supplemental WOTUS Proposal. The Environmental Protection Agency (EPA) has **issued a supplemental proposal** seeking additional comment on certain aspects of the regulatory definition of the Clean Water Act (CWA) term "waters of the United States" (WOTUS) that EPA originally proposed last November. The definition of WOTUS is crucial for implementing the CWA because only those waters that are considered WOTUS fall under the statute's permitting authority. However, the term has proven difficult to define and EPA has struggled to adopt a WOTUS definition that holds up to legal scrutiny. A full timeline of the definition of WOTUS can be found **here**. Most recently, in 2023 the **Supreme Court issued *Sackett v. EPA***, which limited WOTUS to "relatively permanent waters" and the wetlands that share a surface connection with such waters. EPA **updated the WOTUS definition later that year** to reflect the ruling, and in **November 2025** put forth another proposed definition intended to bring WOTUS even more in line with the *Sackett* decision. Now, EPA is asking for comment on supplemental changes to the November 2025 proposal. Specifically, EPA is requesting comment on whether "relatively permanent" should be defined as bodies of water that have "standing or continuously flowing water every day of the year during ordinary conditions." Similarly, the agency is looking for feedback on whether only those wetlands that have a "perennial surface water connection" with a "relatively permanent" water should receive WOTUS protection. Should this proposal be finalized, it would be the narrowest definition of WOTUS that EPA has enforced since the CWA was passed in 1972. A period of public comment on the proposal opened on September 9 and will close on October 9. To view the rule and learn how to submit a comment, click **here**. NALC will publish an article with further analysis of the proposal on September 15.

USDA's Data Modernization Plan. On September 1, 2026, Secretary Rollins **announced** USDA's Data Modernization Plan. According to USDA, this plan will overhaul its collection and storage of agricultural data to reduce producer burdens and improve the "timeliness, accuracy, and usefulness" of its data. The department plans to make greater use of information already collected by its agencies, while expanding mobile and prefilled surveys to reduce duplicative reporting. A pilot will test whether administrative records, satellite imagery, geospatial observations and crop models can improve acreage and yield estimates while retaining producer-reported information. For a full overview of the plan, 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**.*

EPA Herbicide Approval Challenged. Three environmental organizations have **petitioned the Ninth Circuit Court of Appeals** to overturn a recent EPA decision to register trifludimoxazin, a broad-spectrum herbicide, for use on crops including corn, wheat, soybeans, fruit and nuts. The groups argue that the registration decision violates the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), the primary federal statute regulating pesticide use in the United States, because EPA failed to properly assess to cancer risks that trifludimoxazin may pose to farmworkers and others exposed to the herbicide. Trifludimoxazin is a relatively new pesticide that EPA originally approved for use in 2021. Environmental groups challenged EPA's 2021 approval of trifludimoxazin which prompted the herbicide's manufacturer, BASF, to voluntarily cancel registration of the product. In 2025, EPA once again proposed to register trifludimoxazin for use, and on June 30, 2026, **EPA formally registered the product for use**. While EPA recognizes that trifludimoxazin has been associated with tumors in rodents, the agency asserts that the herbicide is unlikely to be carcinogenic to humans.

CA Labeling Initiatives. Both chambers of California's legislature have passed **AB 2244**, a bill which would establish a voluntary "Non-Ultraprocessed Certified" seal for qualifying foods and beverages. If this landmark bill is signed by the governor, it would direct the Department of Public Health (CDPH) to create the seal and begin accrediting certification agents by June 1, 2029. Last year, with the enactment of **AB 1264**, California created the first statutory definition of Ultraprocessed Food (UPF). AB 1264 also directed CDPH to establish definitions for the terms "UPF of concern" and "restricted school foods." Products will only qualify for the "Non-Ultraprocessed Certified" seal if they fall outside the state's statutory definition for UPF and its forthcoming definitions of "UPF of concern" and "restricted school foods." Gov. Gavin Newsom has until September 30 to sign or veto the bill before it becomes law without his signature. To learn more about California's UPF definition, click **here** to read NALC article "MAHA Movement: Defining Ultraprocessed Foods."

- *Webinar Opportunity (November 18): Emily Stone, Staff Attorney at the National Agricultural Law Center, will present "What's In A Food? A 2026 Snapshot of Food Ingredient Changes at the State and Federal Levels." To register, click* ***here****.*

Stopgap Law Extends Hemp, Grain Deadlines. On September 2, 2026, President Trump signed the "**Continuing Appropriations and Extensions Act, 2027**" (the Act) into law, funding federal agencies through December 11, 2026. In addition, the Act also postpones the effective date of certain provisions in the new federal hemp **definition**, originally set for November 12, 2026 to December 11, 2026. This includes the total-THC standard and per-container limit for finished hemp-derived cannabinoid products. The remaining hemp restrictions in the new definition will be delayed by 29 days. Additionally, the Act extends authorities under the U.S. Grain Standards Act through December 11. This will allow federal grain inspections to continue as intended through the stopgap period. To learn more, click **here** to read NALC article "Policy and Legislative Update on Hemp."

Utah Monument Reductions Challenged. A coalition of conservation groups and Native American Tribes have asked a D.C. federal court to reopen two lawsuits challenging President Trump's recent reductions of Bears Ears and Grand Staircase-Escalante national monuments. The monuments were dramatically reduced in July 2026 when the President signed proclamations that shrunk the size of each monument by more than 90%. In 2017, during his first administration, President Trump also shrunk both monuments, a move that was later reversed by President Biden. The current plaintiffs **initially** filed **lawsuits** in 2017 to challenge the reduction of both monuments, claiming that the move exceeds the president's authority to establish national monuments under the Antiquities Act. Those lawsuits were paused after President Biden reversed the 2017 monument reduction. Now, the plaintiffs are looking to reopen those original lawsuits to challenge the 2026 reductions. The plaintiffs' motions to reopen each case are available **here** and **here**.

DEBT Project. On September 3, USDA ERS **released** the latest U.S. farm sector income and wealth statistics, including financial indicators. The ERS forecasts the total farm debt to increase by 4.6% from 2025. In partnership with the National Association of State Departments of Agriculture, the National Agricultural Law Center recently announced the launch of a new project that tracks bankruptcy trends across the agricultural sector. The "Data on Economic and Bankruptcy Trends in Agriculture" or "DEBT" project, provides a more comprehensive view of agricultural bankruptcy filings by identifying ag filings under both Chapter 11 and Chapter 12. Historically, agricultural bankruptcy tracking has been done by tracking only Chapter 12 filings- the bankruptcy chapter specifically designed for family farmers and fishermen. In the period between January 2021 and June of this year, 1200 Chapter 12 cases were filed. However, some agricultural businesses do not qualify for Chapter 12, and instead might file under Chapter 11. By cross referencing bankruptcy filings with FSA data, the project was able to identify an additional 201 Chapter 11 cases filed by agricultural entities. In other words, bankruptcies affecting ag businesses were at least 16% higher than anyone had previously realized. To view the data and learn more about the project, click **here**. Look for an upcoming NALC article examining agricultural lending options and a farm borrower's path from loan default to debt resolution on September 10.

Grazing Rules Face Setbacks. A slate of changes to grazing rules on public lands that have been proposed or finalized by the Department of Interior's Bureau of Land Management (BLM) earlier this year are facing legal challenges. On August 13, an environmental organization filed a lawsuit in federal court against the Department of Interior and USDA over their jointly administered "Grazing Action Plan," a **series of proposed rules BLM issued in May**. The plaintiffs allege that the Plan violates the ESA because the agencies did not sufficiently consider impacts it would have on listed species. If the court agrees, it could delay finalization and implementation of the proposals. For more information, click **here** to view NALC article "Lawsuit Challenges Joint USDA-DOI Grazing Action Plan." Similarly, a different federal court has **temporarily prevented** BLM from canceling grazing permits issued to the conservation group American Prairie, which have allowed them to graze bison on federal land. BLM moved to cancel the bison grazing permits earlier this year, claiming that its new interpretation of the term "livestock" under the Taylor Grazing Act would prevent issuing grazing permits to animals not used for meat, milk or fiber. American Prairie filed a lawsuit challenging that decision and on September 4, the court issued an injunction preventing BLM from revoking the grazing permits until the lawsuit is resolved.

USDA Streamlines Farm Loan Programs. The USDA Farm Service Agency (FSA) **announced** updates to its direct and guaranteed farm loan programs. FSA administers direct and guaranteed farm loans to farmers and ranchers who cannot receive financial support from traditional lenders. FSA has permanently established the Application Fast Track process, which uses financial benchmarks and repayment history to expedite underwriting for direct loan applicants considered unlikely to default. FSA states that about 23% of direct-loan customers qualified since the start of the AFT pilot, reducing the average processing time by approximately eight days. The rule allows experienced lenders in FSA's Preferred Lender Program to certify that applicants meet federal creditworthiness, financial-feasibility, and collateral requirements without a more detailed agency review. USDA plans to introduce electronic applications and document submission for guaranteed loans in early 2027, although lenders may continue using paper forms.

- *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) will present "2026 Update: USDA's Payment Limitations, Eligibility, & Ag Tax Considerations." To register, click* ***here****.*

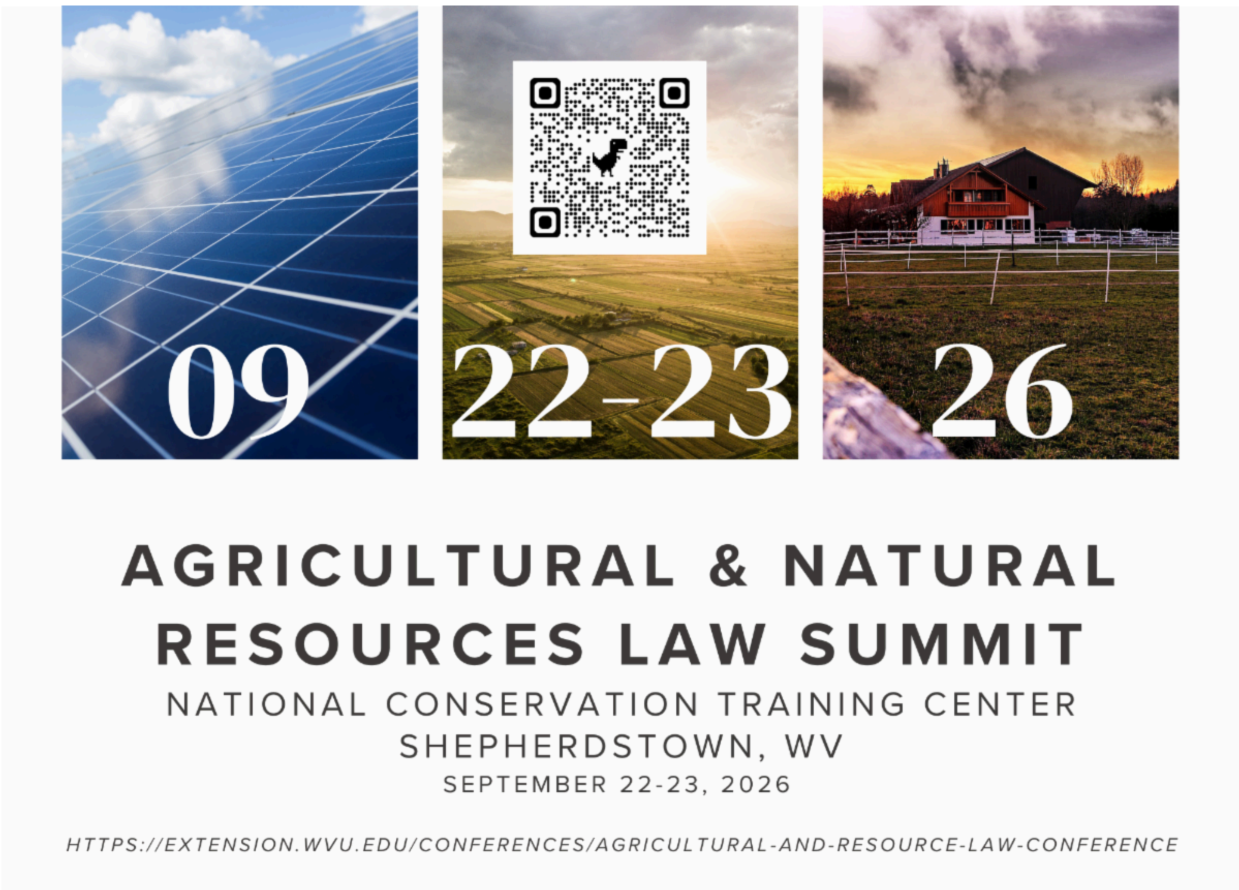
Retailers Seek SNAP Stocking Delay. Nearly **250 convenience and fuel retailers** have asked USDA to delay enforcement of its new **SNAP stocking standards** until six months after the agency issues comprehensive compliance guidance. Under the final rule, most SNAP-authorized stores must comply by November 4 with requirements to continuously stock seven varieties in each of four staple-food categories, up from three. Stores must also carry a perishable variety in at least three categories and maintain three stocking units of every required variety. Snack bars, jerky, butter and other "accessory foods" cannot count toward those minimums. The retailers say unanswered questions about how USDA will classify products leave insufficient time to identify inventory gaps, arrange new suppliers and restock stores. Retailers that fail to meet the standards could lose SNAP authorization and generally must wait six months before reapplying. To learn more about the final rule, click **here** to read NALC article "USDA Updates Stocking Standards for Authorized SNAP Retailers."

South Dakota Seeks SNAP Restrictions. South Dakota has **asked** USDA for permission to exclude soft drinks from purchases made with SNAP benefits. The proposed restriction covers nonalcoholic beverages containing natural or artificial sweeteners but exempts milk, milk substitutes and certain juices. A state law enacted in March required the South Dakota Department of Social Services to submit the request and directed the department to implement the restriction within six months if USDA approves it. If approved, South Dakota would be the **24th state** to receive approval of a food-restriction waiver. Its submission follows a federal court decision that struck down five of the approved waivers in June. The five states included in the lawsuit – Colorado, Nebraska, Iowa, Tennessee, and West Virginia – may not enforce their approved waivers; however, the ruling had no effect on the other 18. To learn more about the federal court decision, click **here** to read NALC article "Court Rules SNAP Waivers Violate APA."

USDA Reorganization Can Proceed for Now. A federal district judge in California has **refused** to block the USDA's implementation of an agency reorganization, allowing the department to continue moving Washington D.C.-area employees to regional hubs. Unions and other organizations sought to add the dispute to an existing lawsuit challenging administration-wide workforce-reduction directives, alleging that USDA's current plan violates 2026 fiscal appropriations restrictions. The federal judge found that the claims concerning USDA's reorganization raise factual and legal questions distinct from those in the original case and must be brought in a separate lawsuit. As a result, the organization's request to supplement their complaint and request for a preliminary injunction was denied. However, on September 8, the coalition filed a new **lawsuit** in federal district court, requesting a preliminary injunction to stop the USDA's planned reorganization.

Allulose Class Actions. Over the past month, a number of proposed class action lawsuits have been filed against producers of food and beverage products labeled "no sugar" but containing allulose. Scientifically, allulose is classified as a rare monosaccharide, or single-molecule sugar, but the FDA has **historically not required** its inclusion in a food's "total sugars" count on its nutrition facts panel. However, in July, the Seventh Circuit ruled in *Franco v. Chobani, LLC* that allulose was considered a sugar under certain federal labeling laws. Consequently, this decision determined that allulose must be included in a "total sugars" count and that a product containing over .5g of allulose could not bear a "no sugar" label. In the following weeks, several other products that claim "no sugar" but contain allulose have been targeted by class action litigation. For more information on *Franco v. Chobani, LLC*, click **here** to read NALC article "Seventh Circuit Reinstates Chobani 'Zero Sugar' Case."

DOJ Broadens Beef-Price Probe. The Justice Department has requested records from eight major food retailers as it expands its investigation into potential anticompetitive conduct in the beef industry. The requests went to Kroger, Walmart, Costco, Publix, Albertsons, Aldi, Amazon and Ahold Delhaize USA. DOJ is seeking information covering 2020 through 2026 about beef prices, costs, profit margins, purchasing arrangements and pricing strategies. The requests extend an existing investigation focused on possible collusion and foreign ownership among major meatpackers. DOJ said in May that investigators had reviewed more than 3 million documents and interviewed hundreds of industry participants.



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