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

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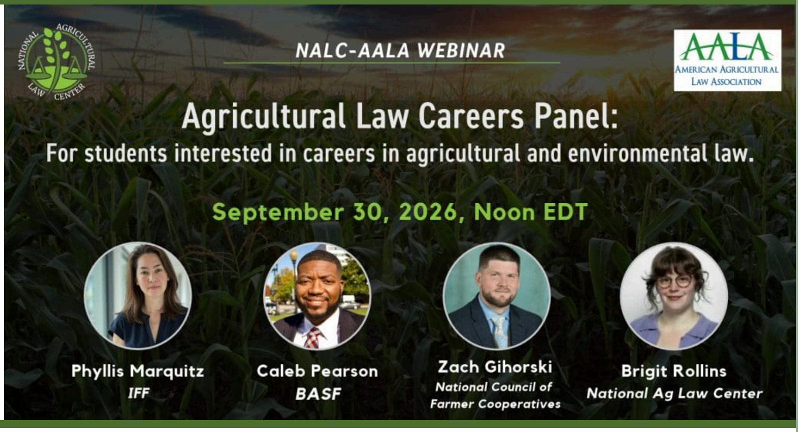


Senate Ag Committee Advances Farm Bill. On September 16, 2026, the Senate Agriculture Committee voted to advance the Agricultural Act of 2026 out of the committee with a vote of 12-11. Text of the bill has not been made available on **congress.gov**, although an **older version** is available on the Senate Agriculture Committee's website. It contains titles allocating funding and authorizing programs covering commodities, conservation, trade, nutrition, credit, rural development, research, forestry, energy, horticulture, and crop insurance. Based on the draft language and statements made by various Senators in regards to the proposal, the Senate's version would raise Farm Service Agency loan limits, expand drought and disaster assistance, reauthorize the Conservation Reserve Program with a 27 million-acre enrollment cap, and increase funding for agricultural export programs. It would also permanently authorize nationwide year-round sales of E15 and permit certain state-inspected meat and poultry products to be sold online across state lines directly to consumers. Additionally, it includes a provision that would delay a cost-sharing requirement for states with SNAP payment error rates of at least 6% to FY 2029. The bill now awaits action by the full Senate. If passed, it must be reconciled with the **House-passed farm bill** before reaching the President. To learn about the House's version, click **here** to read NALC article "Farm Bill 2026: Overview." For a comparison of the House and Senate proposals, click **here** to read CRS Report, "The 2026 Farm Bill: Comparison of the House and Senate Bills with Current Law."

USDA Expands State Meat Inspection. USDA has **launched** the Stand-Up Program, offering up to $50 million to help states establish or expand meat and poultry inspection programs. State programs must enforce food-safety requirements at least equal to federal standards and they allow participating establishments to sell state-inspected products within the state. Interstate sales require a separate Cooperative Interstate Shipment (CIS) agreement, under which inspections must meet the same standards as federal inspection. Two days after announcing the initiative, USDA finalized an agreement with the New Mexico Livestock Board making New Mexico the 31st state with an approved meat and poultry inspection program. New Mexico has not joined the CIS program, so products inspected through its new program may only be sold in New Mexico. For more information on meat processing, click **here** to read NALC article, "Food Foundations: Livestock & Poultry Slaughter and Processing."

States Challenge ESA Rules, FWS Revises "Take". On September 9, 2026, a coalition of 21 states filed two lawsuits in federal court challenging three Endangered Species Act (ESA) rules finalized by the United States Fish and Wildlife Service (FWS) earlier this year. The **first lawsuit** challenges the Rescission Rule which formally rescinded the regulatory definition of "harm" under the ESA. More information on that rule is available **here**. The **second lawsuit** challenges the decision to eliminate what is known as the Blanket 4(d) Rule, which in the past FWS has used to automatically extend full ESA protection to species listed as "threatened." The second lawsuit also challenges a rule that alters how FWS considers excluding areas from critical habitat designations. Further information on both those rules may be found **here**. In both lawsuits, the states allege that the rule changes exceed FWS's authority under the ESA. Days after the lawsuits were filed, FWS released an **internal memorandum** clarifying that the agency understands the "harm" Rescission Rule to mean that only acts intended to "directly and purposefully" kill or injure protected wildlife would be considered "take" under the ESA. This represents a departure from the past 50 years of ESA implementation which has considered actions that result in death or injury to protected species to be "take" regardless of whether the action was intended to impact species. It is unclear what impact the memo will have on lawsuits challenging the Rescission Rule. To learn more about the ESA, click **here** to view NALC's ESA Manual.

IRS Issues 45Z Guidance. On September 8, 2026, the IRS issued **Notice 2026-53**, providing the 2026 emissions-rate table and additional guidance for the Section 45Z Clean Fuel Production Credit. The credit applies to qualifying transportation fuel produced in the United States, with the amount determined by the fuel's lifecycle greenhouse-gas emissions. The notice allows producers to account for qualifying agricultural practices, such as no-till farming, when calculating the carbon intensity of agricultural feedstocks under USDA guidelines. For fuel produced in 2025, taxpayers may use the 2026 carbon-intensity calculator if they satisfy USDA's chain-of-custody, auditing and verification requirements. The notice also provides transition relief from certain nutrient-budget requirements for fuel produced in 2025 and 2026, although taxpayers must document nutrient applications. The 2026 emissions-rate table includes fuels made from dairy and swine manure, with updates for poultry and beef manure expected later this year.

House Advances Higher Bankruptcy Debt Limits. On August 3, 2026, the U.S. House of Representatives passed the Bankruptcy Threshold Adjustment Act, which would permanently expand eligibility for two streamlined bankruptcy processes. **H.R. 7730** would raise the debt ceiling for small businesses seeking reorganization under Subchapter V of Chapter 11 to $7.5 million. Subchapter V generally offers qualifying businesses a faster and less costly alternative to a traditional Chapter 11 reorganization. The measure would also establish a single $2.75 million debt limit for individuals and married couples filing under Chapter 13, replacing separate limits for secured and unsecured debt. The Senate passed substantively identical companion legislation in August, but one chamber must still approve the other's exact text before the measure can go to the president.

- *Project Spotlight: 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. To view the data and learn more about the project, click **here**.*

Federal Reserve Raises Benchmark Interest Rate. On September 16, 2026, the Federal Open Market Committee unanimously voted to raise the federal funds benchmark by one-quarter percentage point, to a target range of 3.75%–4%. The increase, which took effect September 17, was the Federal Reserve's first rate hike since 2023. The federal funds rate governs overnight lending between banks and influences borrowing costs throughout the economy, although it does not directly set the rates charged on individual loans. The committee said economic activity continued to expand at a solid pace, but inflation remained elevated, and that the increase would support a return to its 2% inflation target. This interest rate increase comes at a time when many farmers are facing high input costs, drought-conditions, and severe financial stress. To learn more agricultural lending options and a farm borrower's path from loan default to debt resolution, click **here** to read NALC article, "Between a Rock and a Hard Place: A Roadmap for Distressed Agricultural Borrowers."

Group Sues EPA for Dicamba Records. The environmental group Center for Biological Diversity **filed a federal lawsuit** against Environmental Protection Agency (EPA) claiming that the agency failed to release records the group requested under the Freedom of Information Act (FOIA) concerning EPA's decision to allow over-the-top use of the herbicide dicamba on dicamba-resistant soybeans and cotton during the 2026 and 2027 growing seasons. Although dicamba was traditionally applied as a pre-emergent due to its tendency to evaporate into the air and drift off-target, in 2016 EPA approved a new dicamba-based product for direct use on dicamba-resistant soybeans and cotton. Since then, two different federal courts have overturned EPA approval decisions for over-the-top dicamba use, **most**

recently in 2024. In February of this year, EPA announced that it had once again approved over-the-top dicamba for use in 2026 and 2027. Prior to EPA's February approval, Center for Biological Diversity had begun submitting FOIA requests to the agency seeking documents related to dicamba and certain officers within EPA's Office of Chemical Safety and Pollution Prevention. The environmental group's recently filed lawsuit claims that EPA has improperly withheld certain documents and asks the court to order EPA to promptly release the requested information. For more information on EPA's 2026 dicamba approval, click **here**.

EPA Seeks Comment on WOTUS Rule. On September 9, 2026, EPA announced that it was seeking additional public comment on a **proposed rule** to supplement an earlier proposal to redefine the Clean Water Act (CWA) term "waters of the United States," also known as WOTUS. EPA issued its latest proposed WOTUS definition on November 20, 2025, but has yet to finalize the rule. The supplemental proposal offers new definitions for the terms "perennial," "relatively permanent," and "continuous surface connection." All three terms help to determine which waters and wetlands are considered WOTUS for the purpose of CWA permitting programs. Should the supplemental proposal become the final rule, it would represent the narrowest WOTUS definition EPA has ever enforced. Comments on the supplemental rule must be submitted by October 9. To view the proposal and learn how to submit a comment, click **here**. To learn more about the supplemental rule, click **here** to view NALC article "WOTUS Update: EPA Seeks Comment on Supplemental Proposal."

Court Blocks New Mexico PFAS Labeling Rule. A federal judge has temporarily **barred** New Mexico from enforcing a **rule** that would require manufacturers to label most consumer products containing intentionally added PFAS. PFAS are a broad class of chemicals used to make products resistant to heat, water, oil, and stains. Under New Mexico's rule, products containing PFAS would be required to bear a label consisting of a laboratory flask with the letters "PFAS" beginning on January 1, 2027. Industry groups **challenged** the mandate under the First Amendment, arguing that the labelling requirement was an improper commercial disclosure. The presiding judge concluded that while the label conveys factual and noncontroversial information, New Mexico had not shown a reasonable connection between the disclosure and its stated goals of protecting public health and the environment. The preliminary injunction will remain in effect while the lawsuit proceeds, but applies only to the labeling mandate. The law's reporting requirements and phased product prohibitions will remain in place for now.

Western Water Bill Would Fund Temporary Use Reductions. On September 15, 2026, Sens. Ron Wyden and Jeff Merkley introduced the **Western Water Reinvestment Act**, which aims to expand federal support for water infrastructure and conservation projects in Western states. The bill would authorize the Bureau of Reclamation to use its **WaterSMART** program to compensate farmers and other eligible water users for temporarily reducing consumptive water use, which is water that is consumed rather than returned to the available supply. WaterSMART currently provides cost-share funding and technical assistance for projects involving water efficiency, drought resilience, watershed management, and ecosystem restoration. The bill would additionally authorize up to $3.5 million annually from fiscal years 2027 through 2031 for direct payments or credits to agricultural producers who create or maintain waterbird and shorebird habitats.

Mexico Agrees to Colorado River Cuts. United States and Mexico have signed **Minute 334**, a formal agreement authorized under **The Mexican Water Treaty of 1944**, to govern Colorado River operations through 2028. The agreement reduces annual deliveries to Mexico by 250,000 acre-feet in both 2027 and 2028, lowering its usual 1.5 million-acre-foot allocation to 1.25 million acre-feet. During the same period, U.S. operating guidelines require Arizona, California and Nevada to reduce their combined deliveries by 1.25 million acre-feet annually. If water forecasts worsen, the countries will consult on possible additional reductions in 2028. If forecasts indicate that Lake Mead could reach an elevation of 1,125 feet or higher, the International Boundary and Water Commission will consider procedures for proportionally increasing deliveries to Mexico. To learn more about Colorado River management after current operating guidelines expire at the end of 2026, click **here** to view NALC article "Reclamation Releases Final EIS for Colorado River."

FDA Recommends Food Code. On September 17, 2026, the U.S. Food and Drug Administration (FDA) **released** the FDA Food Code for 2026. The Food Code is a compilation of recommended statutes, regulations, and ordinances to ensure the safety of food and to protect public health. It is offered for adoption by governing bodies with responsibilities for food service, distribution, and retail. The Food Code is developed in partnership with USDA FSIS, the CDC, EPA, and participants in the Conference for Food Protection. The FDA encourages adoption of the Code in order to reduce foodborne illnesses and to create uniform standards for retail food safety.

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

Trump Revokes Chesapeake Bay Restoration Order. President Trump has revoked a **2009 executive order** directing federal agencies to coordinate Chesapeake Bay restoration and pollution-control efforts. The **new executive order** requires EPA and five Cabinet departments to reevaluate Chesapeake Bay programs and "assess the financial burdens" such programs have caused while prioritizing projects that produce "measurable" water-quality improvements. Agencies are instructed to redirect resources from activities that cannot demonstrate progress toward projects that reduce nitrogen, phosphorus and sediment entering the bay and its tributaries. EPA must also work with the six watershed states and the District of Columbia to assess the costs of stormwater-management fees, explore alternatives that do not increase residents' costs and encourage repeal of state and local fees paid by residents. The order comes less than a year after EPA and the six Chesapeake Bay states **recommitted to a pollution plan** after failing to meet a 2025 deadline for cleanup.

New Data Tool from NASS. On September 16, 2026, USDA's National Agricultural Statistics Service (NASS) announced the launch of a new tool to disseminate data as part of a recent modernization initiative. **AgInsights** is intended to provide producers with access to the latest agricultural data in a navigable and interactive format by enhancing currently available data products. The application offers comprehensive data displayed on a single webpage using tables, charts, and maps. Users are able to filter and sort the date as needed. NASS conducts surveys and reports on U.S. agriculture and disseminates the findings to be used by agricultural producers.

- *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****.*

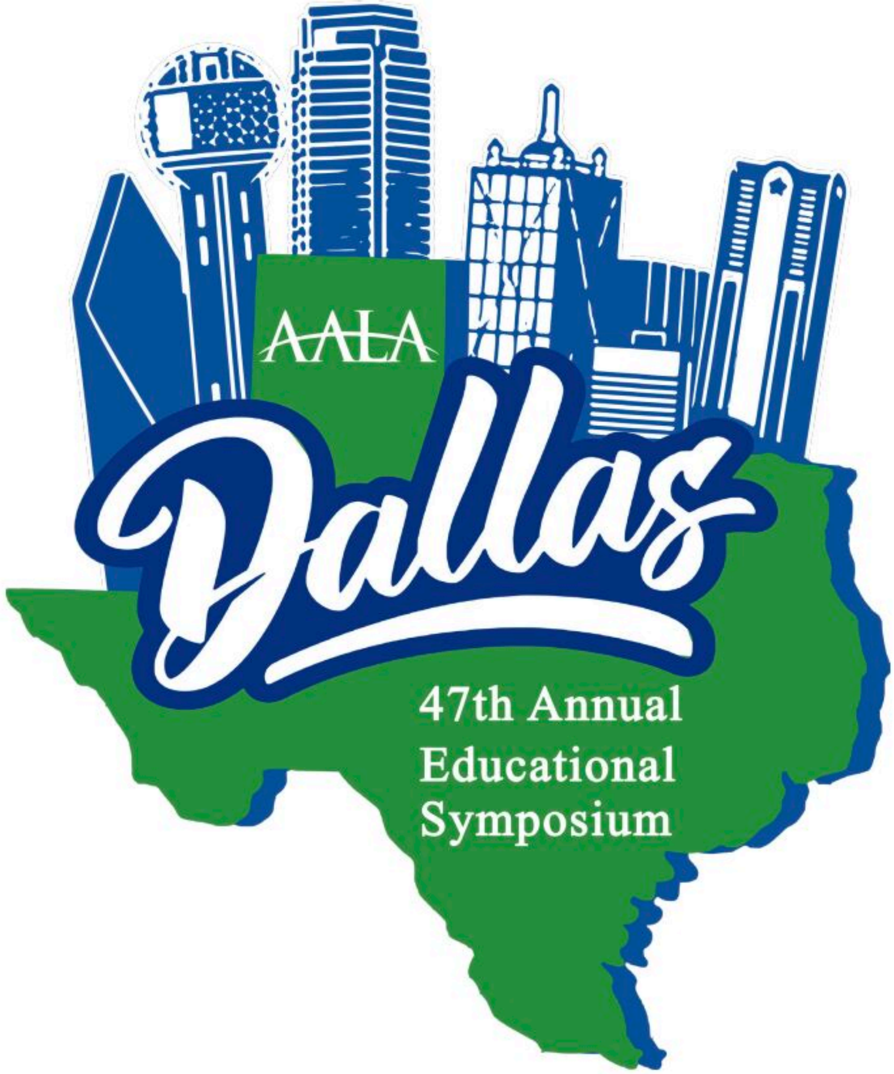
H-2A Fraud. The U.S. Department of Justice (DOJ) recently published a **press release** announcing an indictment charging five individuals with conspiring to defraud the H-2A labor program. According to the release, five individuals in Georgia fraudulently obtained temporary visas to bring foreign laborers into the U.S. The indictment alleges that the five individuals provided false information regarding workers' residences and demanded improper payments during the application process for H-2A visas. Additionally, the individuals are alleged to have confiscated and withheld identification documents belonging to the H-2A workers, preventing them from leaving employment. Finally, the indictment alleges that the conspirators would charge additional improper payments to relocate the H-2A workers after their visas had expired. The indictment was unsealed in the Southern District of Georgia. To learn about a recent court decision that will impact wage rates under the H-2A program, click **here** to read NALC article "2025 AEWR Ruled Unlawful."

ARC/PLC Program Enrollment Open. On September 16, 2026, USDA's Farm Service Agency (FSA) **announced** open enrollment for the Agriculture Risk Coverage (ARC) and Price Loss Coverage (PLC) programs for the 2026 crop year. ARC/PLC programs provide income support for farmers of covered commodities if market prices decline. Earlier this year, USDA **provided** landowners with the opportunity to review base acre increases on farms enrolled in the ARC/PLC programs as authorized by the One Big Beautiful Bill Act. This created the potential for over 30 million base acres to be enrolled. FSA also announced the application of a 3.69% reduction to all newly allocated base acres. Producers will receive base allocation notifications starting on September 16. Producers may make their 2026 elections and enroll from September 16 through December 11, 2026. Additionally, producers can elect and enroll for the 2027 crop year starting November 2, 2026, through March 15, 2027.

- *Webinar Spotlight: Grant Ballard, Partner, Ark Ag Law, PLLC and Kristine Tidgren, Director, Iowa State University's Center for Agricultural Law and Taxation (CALT) presented "2026 Update: USDA's Payment Limitations, Eligibility, & Ag Tax Considerations." To view the recording, click* ***here****.*

USDA Reorganization Paused. On September 14, 2026, a federal district judge issued a **pause** on USDA's reorganization plan that seeks to move Washington D.C.-area employees to regional hubs. This pause is an administrative stay that stops USDA from enforcing deadlines requiring employees to relocate or accept or decline reassignments. USDA is also prohibited from moving forward with disciplinary or termination action against an employee who chooses not relocate or declines a reassignment. The court issued the stay to provide time for the court to address the plaintiffs preliminary injunction motion, and accommodate USDA's request for additional time for briefing. The court stated that the stay is effective through October 2, 2026, and applies to the following mission areas: Food and Nutrition Administration; Research, Education, and Economics; Forest Service; Foreign Agricultural Service; Rural Development; Farm Production and Conservation; Office of the General Counsel; and Office of the Assistant Secretary for Civil Rights. Importantly, the administrative stay does not apply to the relocation or reassignment of USDA employees located in Washington, D.C. elsewhere in the D.C. region. This order is the latest development in a series of lawsuits brought by employee unions and other organizations challenging USDA's reorganization plan. Following a court's **refusal** to halt the reorganization as part of an existing lawsuit challenging administration-wide workforce-reduction directives, the coalition filed a new **lawsuit** on September 8. The coalition requested a preliminary injunction to stop the reorganization. To follow along with this case, click **here**.

Beef Antitrust Case: Class Controversy. On August 25, 2026, a group of beef packers including National Beef, Tyson, and Cargill **challenged** a class certification in an ongoing price-fixing antitrust case. The challenge stems from multi-district litigation in which the beef packers were named as defendants. According to the plaintiffs, the beef packers conspired to lower prices for cattle producers while raising costs for purchasers of beef. Defendants argue that the court erred by improperly shifting the burden of proof from the producers to the packers when determining whether class certification was appropriate. Additionally, the defendants have asserted that material disputes as to the extent of injuries within the classes have not been resolved. The petition was filed in the U.S. Court of Appeals for the Eighth Circuit. To learn more about competition issues in protein production, click **here** to read the latest NALC article, “Regulating Competition through the Packers and Stockyards Act: History and Recent Changes.”



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