



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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The National Agricultural Law Center

Monthly Webinar Series

What's in a Food?

A 2026 Snapshot of Food Ingredient Changes at the State and Federal Levels



Wed., November 18, 2026
Noon ET
No cost to register

Presenter:

Emily Stone

Staff Attorney, National
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Chapter 12 Farm Bankruptcy Filings. According to third-quarter data released by **federal bankruptcy courts**, Chapter 12 farm bankruptcies are on the rise in 2026. Chapter 12 of the federal bankruptcy code provides specific protections for farmers and fishermen in debt to help them avoid complete liquidation of their operation. Nationwide, 91 Chapter 12 bankruptcy filings were filed in the third quarter. Arkansas is the state with the most filings to date, where 32 agricultural operations have requested Chapter 12 protection this year. The increased filing of Chapter 12 bankruptcies highlights the financial pressures faced throughout the agricultural sector. To learn more about the updated number of Chapter 12 bankruptcy filings, click **here** to read NALC's news release. For more information on what farmers with outstanding loans can expect when facing financial difficulties, click **here** to read NALC's series "Between a Rock and a Hard Place."

- *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**.*

Arizona Seeks to Join Colorado River Lawsuit. Arizona **has asked to join** Nevada's federal lawsuit challenging the Bureau of Reclamation's operating plan for Lakes Powell and Mead- both key Colorado River infrastructure- in 2027 and 2028. Under Reclamation's plan, Arizona, which together with California and Nevada make up the Colorado River's Lower Basin, would face water reductions of up to 760,000 acre-feet annually. This translates to roughly one third of the state's annual allocation of 2.8 million acre-feet. Conversely, Reclamation's plan imposes no mandatory water reductions on the four Upper Basin states of Colorado, New Mexico, Utah and Wyoming. Arizona and Nevada contend that the federal government failed to enforce Upper Basin obligations to deliver Colorado River water to the Lower Basin and unlawfully placed the burden of water shortages on the Lower Basin. **Nevada's lawsuit** seeks to halt the plan and set aside Reclamation's operating guidelines for 2027 and 2028. On a slightly different path, Arizona has requested that if the court finds the 2027 and 2028 guidelines unlawful, it send the

guidelines back to Reclamation for further review. Although the court has yet to rule on Arizona's request to join the case, judges typically grant such requests when the party has a significant legal interest in the lawsuit that would be impacted by the court's final decision. To learn more about the plan from Reclamation, click [here](#) to read NALC article "Reclamation Releases Final EIS for Colorado River."

BE Labels Update. USDA has submitted a **proposed revision** of the National Bioengineered Food Disclosure Standard to the White House for interagency review. The proposal responds to rulings in *Natural Grocers v. Rollins* that affected USDA's 2018 labeling regulations. In that case, the Ninth Circuit held that USDA improperly excluded highly refined foods from the definition of "bioengineered food." It also directed the lower court to vacate provisions that allowed manufacturers to use QR codes or text messages to make required disclosures. The district court subsequently ordered those provisions to expire by January 1, 2028. The proposed rule's text will remain unavailable until the Office of Management and Budget completes its review and USDA publishes it for public comment. To read more about the lower court's most recent decision, click [here](#) for Southern Ag Today article "Update for National Bioengineered Food Disclosure Standard." For more information on the Ninth Circuit's ruling, click [here](#) to read NALC's article "Ninth Circuit addresses *Natural Grocers v. Rollins*."

SOI: Salt. FDA has **finalized a rule** allowing manufacturers to replace added salt with a safe and suitable substitute in foods with a federal standards of identity (SOI). SOIs are established in regulation by FDA to ensure that the characteristics, ingredients, and production processes of certain foods meet consumer expectations. Previously, many standardized foods with salt included in their SOI were prohibited from replacing salt with a substitute and still meeting their federal requirements. For example, the SOI for tomato juice, codified at **21 CFR § 156.145**, is now amended to allow for seasoning by either salt or a salt substitute. This means that tomato juice can now be seasoned with a salt substitute without violating the federal SOI. The change is voluntary and does not require the use of a particular substitute. The rule takes effect December 14. To learn more about SOIs, click [here](#) to read NALC article "Food Foundations: Standards of Identity."

USDA Signs Data MOU with NASA. On October 24, 2026, USDA Secretary Brooke Rollins signed a **Memorandum of Understanding (MOU)** with the administrator of the National Aeronautics and Space Administration (NASA). The MOU seeks to integrate NASA's methodologies and technologies with USDA's data modernization plan. According to the MOU, the parties plan to explore opportunities to improve crop performance by integrating NASA's observation technologies, geospatial analytics, and statistical methodologies. The MOU describes the scope of the cooperation to include agricultural statistics, remote sensing science, modeling, geospatial data engineering, and super intelligence/machine learning. For more information on agricultural data rights generally, click [here](#) for previously recorded NALC webinar "Agricultural Data Rights: A New State Law Landscape."

SNAP: Proposed EBT Cards. USDA has **proposed** rulemaking that it claims will help stop fraud in the Supplemental Nutrition Assistance Program's (SNAP) administration. Specifically, this rule would require state agencies to issue SNAP electronic benefit (EBT) cards with chip and contactless-payment technology to reduce theft through fraudulent methods like card skimming and cloning. If finalized, SNAP retailers would also have to upgrade their systems to accept chip and contactless transactions. The proposal would prohibit commonly used PINs, require cards to remain inactive until recipients activate them, and give households more information about account activity and security-related changes. Additionally, USDA is proposing operating standards intended to keep the EBT system aligned with payment-industry security practices. The proposal does not include any additional administrative funding for SNAP. Instead, state and local administrators of SNAP will be responsible for costs associated with the required changes. Comments will be accepted on this rule until December 22, 2026, and can be made [here](#). For more information on SNAP and other nutrition programs generally, click [here](#) to visit NALC's Nutrition Programs reading room.

MI Proposes Tax Credit for Selling to Beginning Farmers. Michigan lawmakers have introduced legislation that would provide tax credits for selling or renting agricultural assets to qualifying beginning farmers. **HB 6437** allows sellers of eligible assets such as farmland, livestock, buildings, facilities, and farm machinery, to claim 5% of the sale price or fair market value, whichever is lower, up to \$32,000, or they can apply to receive tax credits for the first three years of a cash or share-rent agreement, subject to annual limits of \$7,000 or \$10,000. To qualify for the tax credit, sellers must confirm the buyer is a beginning farmer, Michigan resident, entered farming within the past 10 years, and intends to provide most of the operation's labor and management. The proposed legislation would cap approved tax credits at \$5 million annually and generally exclude transactions between family members. HB 6437 was introduced this month and has been referred to the Michigan House of Representative's Committee on Economic

Competitiveness. It must be passed by both chambers of Michigan's legislature and be signed by the governor before it becomes law.

USDA Announces Programs for Fuel & Fertilizer. On October 19, 2026, the Trump Administration **announced** the Harvest Fuel Relief Program, which will make \$8 billion available to producers, as a one-time payment, to help offset 2026 losses caused by high fuel costs. The program will be administered by the Farm Service Agency, and funds are authorized under the Commodity Credit Corporation Charter Act. It will use a uniform, national loss average from FSA reported planted acres, ERS cost of production estimates, and projected yields and prices from the World Agricultural Supply and Demand Estimates. According to USDA's press release, commodity-specific payment rates for Title I commodities will be released in November. Specialty crop producers, fishermen, and other producers of non-Title I commodities are encouraged to contact USDA at HarvestFuel@usda.gov to provide information on increased fuel costs to help the agency determine payment rates. To learn more about other recent attempts to address high fuel costs, click [here](#) to read NALC's "Recent Changes to Dyed Diesel Regulations."

Last week, USDA **announced** that eight fertilizer manufacturing projects will receive funding from USDA's Fertilizer Investment & Expansion for Long-Term Domestic Supply (FIELDS) program. The projects represent approximately \$1.34 billion in total investment, and support the expansion of domestic fertilizer production and manufacturing capacity for nitrogen, phosphorus, potassium, and sulfur fertilizer. The FIELDS program is funded through the Commodity Credit Corporation and is administered by USDA Rural Development's Rural Business-Cooperative Service.

EPR: California. CalRecycle is accepting comments through November 13 on Circular Action Alliance's revised **five-year plan** for implementing California's packaging producer-responsibility law. **SB 54**, passed in 2022, requires producers to fund and manage the collection and recycling of covered packaging and single-use plastic food-service ware. The plan addresses producer fees, investments in recycling and reuse systems, reimbursements for local programs, and standards governing where recovered materials may be sent. It also proposes temporary compliance pathways for some covered materials that face substantial barriers to meeting the recycling rate targets and deadlines outlined in SB 54, and creates a process to help manufacturers "phase out" materials that are not able to achieve recyclability at scale. CalRecycle has until December 27, 2026 to approve it, approve it with conditions, reject it, request additional information or establish a longer review timeline. The state intends to begin implementing the program in 2027. Comments can be made [here](#). For more information on EPR laws generally, click [here](#) for previously recorded NALC webinar "Redefining Responsibility Over Packaging: An Overview of U.S. Extended Producer Responsibility Laws." For an update on other recently enacted California laws related to food law, click [here](#) to read NALC article "Food Law in the States: 2026 California Update."

USDA's SPUR Guaranteed Loan Program. On October 23, 2026, USDA **announced** the Strengthening Processing for U.S. Ranchers (SPUR) Guaranteed Loan Program as part of the Trump Administration's **America First Seafood Strategy**. The **SPUR Guaranteed Loan program** will provide a 90% loan guarantee to commercial lenders who make loans to individuals or entities working in an eligible meat, poultry, or seafood processing business. Although seafood labeling and processing, other than for certain types of catfish, is not under the regulatory jurisdiction of USDA, the agency does maintain an **Office of Seafood** to support aquaculture and fishing operations. The program is being administered by the Rural Business-Cooperative Service of USDA's Rural Development mission area, and applications opened on October 27, 2026. To learn more about current legislative proposals on meat processing, click [here](#) to read a NALC article.

US Caught Seafood. Under the **America First Seafood Strategy**, the Administration is introducing a new voluntary "US Caught Seafood" labeling designation. In support of this, FDA is **publishing** a draft guidance for industry titled "U.S.- Origin Statements on Seafood." While the Office of Seafood is located at USDA, FDA is the federal agency with regulatory labeling authority over most seafood products. Though the agency does not require pre-market approval of food labels, it does require statements on FDA-regulated foods to be truthful and non-misleading. Thus, the draft guidance clarifies that producers who choose to use this designation must substantiate, or justify through evidence, their origin claim. However, the guidance does not currently provide information on how or to whom this justification should be given. At this time, the agency is working to finalize the guidance and is accepting public comments until December 28, 2026. To make a comment, click [here](#). To learn more about the federal regulation of seafood products, click [here](#) to read NALC article "Food Foundations: Seafood Regulation."

California Nitrogen Rules Challenged. California dairy organizations and the California Farm Bureau have **filed a lawsuit** in state court to block portions of a **state order** addressing nitrogen pollution from dairies in the Central

Valley. Adopted in September 2026, the order directs regional regulators to establish new limits for nitrogen entering groundwater through dairy manure and wastewater. The lawsuit primarily centers on compliance deadlines for dairies that expand their operations. Existing operations participating in regional nitrate-management programs may receive up to 35 years to meet the forthcoming limits, but expanding dairies would generally have only five years to come into compliance. The groups argue that this distinction improperly prevents regional regulators from granting expanding dairies the longer compliance periods available under existing water-quality programs. The lawsuit asks the court to set aside those provisions and return that discretion to the regional water board.

Food Importer Challenges Canadian Tariffs. Gellert Global Group, a New-Jersey based food importer, filed a **lawsuit** in the U.S. Court of International Trade, seeking to block 50% of the Trump Administration's tariffs on certain Canadian goods. Gellert Global Group estimates that the duties on Canadian cheese could cost it \$40 million annually, and wants the court to order the Administration to refund the duties collected, with interest. The tariffs were imposed under Section 338 of the Tariff Act of 1930, which authorizes the Administration to take action against countries that discriminate against U.S. commerce. The complaint argues that subsequent trade laws superseded or limited Section 338 authority by establishing procedures for responding to unfair foreign trade practices. The complaint also alleges that Section 338 permits the President to act "only upon a finding 'as a fact'" that a foreign country has imposed unreasonable charges on U.S. products or is discriminating against U.S. commerce. Gellert Global Group alleges that the Canadian measures cited as the reason for the Administration's tariffs were not discriminatory, and the Administration began collecting duties on newly added cheese products after seven days despite a 30-day waiting period required under Section 338. The complaint asks the court to stop the Administration from enforcing the tariffs, declare that Section 338 has been impliedly repealed and does not authorize the tariffs at issue. For more information, click [here](#) to visit NALC's "International Agricultural Trade" reading room.

FSMA Draft Guidance. FDA has released a new chapter in its "**Draft Guidance for Industry: Hazard Analysis and Risk-Based Preventative Controls for Human Food.**" While not binding, this document offers guidance for food facilities that are subject to preventative controls established through the Food Safety Modernization Act (FSMA). The **recently published chapter** clarifies how those food facilities can identify and control chemical hazards. It addresses hazards like pesticide and drug residues, natural toxins, heavy metals, PFAS, radiological hazards and contaminants created during food production. It discusses when manufacturers may use current good manufacturing practices, controls within their facilities or supply-chain controls to reduce or prevent those hazards. Comments can be made [here](#) until January 21, 2027.

- *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](#).*

Farm Groups Seek Reduction of Steelhead Habitat Designation. Three agricultural groups in California have **petitioned** the National Marine Fisheries Service (NMFS) to remove the Santa Maria River from designated critical habitat for the endangered Southern California steelhead. The petition argues that available evidence indicates steelhead have not occupied the river since the 1940s and that its intermittent flows cannot sustain a viable population. A critical habitat designation requires federal agencies to consult with NMFS before approving, funding or undertaking actions that may adversely modify the habitat. The groups contend that the designation consequently restricts agricultural land use and imposes costs along a river that remains dry much of the year. The petition seeks to remove the Santa Maria River from the designation without changing the steelhead's endangered status or protections elsewhere.

Drain Tile Setback Rule in Limbo?. Earlier this year, the United States Fish and Wildlife Service (FWS) made a formal request for information regarding its 2024 final rule for Drain Tile Setbacks on wetland easements in the Prairie Pothole Region. Under the 2024 rule, FWS would work with landowners of property encumbered by federally-owned wetland conservation easements to establish how far away drainage tiles could be installed from a protected wetland without violating the terms of an easement. Since then, several landowners in the region objected to the 2024 rule, arguing that it misinterprets the scope of their original easements. In an effort to address those concerns, FWS opened a two-week public comment period from late July to early August of this year, requesting additional public input on the efficacy of the 2024 rule and how FWS should calculate drain tile setbacks when requested to do so by a landowner. Although there is no requirement that a federal agency act after making a formal request for information, such requests can indicate that an agency is considering adopting new policy or making a rule change. So far though, FWS has not taken concrete action towards changing the 2024 rule. For more information, click [here](#) to view NALC article "Uncertainty in the PPR: Examining FWS 2024 Final Drain Tile Setback Rule."

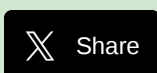


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