



The National Agricultural Law Center

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Second Quarter, 2021

Ag & Food Law Quarterly Report: Second Quarter 2021

April 1, 2021 – June 30, 2021

The National Agricultural Law Center provides the *Ag & Food Law Quarterly Report* as part of its mission to serve as the nation's leading source of agricultural and food law research and information. The *Quarterly Report* is a comprehensive but not exhaustive summary of notable federal and state level regulatory, legislative, and judicial agricultural and food law legal quarterly developments. This edition covers the Second Quarter of 2021, April 1 through June 30, 2021. Links to additional resources for each development are provided, as appropriate. For daily updates, both archived and upcoming, please visit the National Agricultural Law Center (NALC) *Ag & Food Law Update*, available on the NALC website [here](#).

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Subjects:

[Animal Welfare](#)

[Food Safety & Labeling](#)

[Biofuels](#)

[Hemp](#)

[Biotechnology/Genetic Engineering](#)

[International Trade](#)

[Carbon/Climate](#)

[Labor](#)

[Checkoff Programs](#)

[National Environmental Policy Act](#)

[Clean Water Act](#)

[Pesticides](#)

[Conservation](#)

[Public Lands](#)

[Economic Stimulus](#)

[Racial Equity](#)

[Endangered Species Act](#)

[Right to Farm](#)

[Finance, Credit, & Tax](#)

[Water Law](#)

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I. Animal Welfare

Criminalizing Farm Trespass. In April, the Iowa legislature enacted a law, available [here](#), that seeks to criminalize certain types of trespass on Iowa farms. The intent of the law is to help prevent animal activists and others from secretly documenting on-farm activities.

PAUSED Paused. In June, the Colorado Supreme Court struck down “[Initiative 16](#)”, a state ballot measure known by proponents as the Protect Animals from Unnecessary Suffering and Exploitation (PAUSE) Initiative. PAUSE sought, among other things, to modify the state’s animal cruelty law to add fish to the definition of livestock in the Colorado animal cruelty act, define the natural lifespan term for turkeys, chickens, ducks, rabbits, pigs, sheep, and cows, and expand the definition of “sexual act with an animal”. For a 50-state compilation of states’ animal cruelty statutes, see *States’ Animal Cruelty Statutes*, available on the NALC website [here](#).

Supreme Denial. In June, the United States Supreme Court denied a petition to review California’s Proposition 12, also known as the Farm Animal Confinement Initiative. Proposition 12 established, among other items, new housing requirements for veal calves, breeding pigs, and egg-laying hens. The California Department of Food and Agriculture provides a comprehensive resource on Proposition 12, available [here](#).

Organic Standards. In June, the USDA announced that it will issue more stringent animal welfare standards under the National Organic Program (NOP). The announcement is the latest development in the long running debate over NOP animal welfare standards under the NOP. The Obama Administration issued a final rule in late 2017. The Trump Administration initiated the process to withdraw that rule shortly thereafter, which spawned a legal action filed by the Organic Trade Association in 2017 in the United States District Court for the District of Columbia. That litigation will continue despite the USDA’s announcement that it will revive the 2017 rule. For more information on the National Organic Program, visit the NALC National Organic Program Reading Room [here](#).

II. Biofuels

COVID Aid. In June, USDA announced additional economic assistance to the agriculture sector provided through the USDA Pandemic Assistance for Producers initiative, including \$700 million to domestic biofuels producers. Additional details are available on the USDA website [here](#).

Supreme Biofuels Decision. In June, the United States Supreme Court issued a decision in *Hollyfrontier Cheyenne Refining, LLC v. Renewable Fuels, Ass’n* that allow small fuel refineries to take advantage of an exemption from a Clean Air Act requirement for domestic refineries to blend renewable fuels into the transportation fuels they produce, even if the small refinery in question has not used the exemption in prior years. For additional summary and discussion of this case, see *From Supreme Court to State Courts, Important Enviro Rulings From*

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June 2021, available on the NALC website [here](#) and *Hanging on a Word: U.S. Supreme Court Rules in Favor of Refineries in Renewable Fuels Case*, published by NALC partner (The Ohio State University Agricultural & Resource Law Program) [here](#).

Bipartisan Biofuels Proposals. In late June, Senators Amy Klobuchar (D-MN), Joni Ernst (R-IA), and Jim Thune (R-SD) introduced three new legislative proposals designed to expand the availability and use of renewable fuels. The proposals are *The Biofuel Infrastructure and Agricultural Product Market Expansion Act* ([S. 2271](#)), *The Clean Vehicles Act* ([S.2267](#)), and the *Low Carbon Biofuels Credit Act* ([S. 2262](#)). A press release about the proposals is available [here](#).

III. Biotechnology/Genetic Engineering

Border Corn War. In May, a court in Mexico rejected a request to stop a plan by the Mexican government to institute a ban on genetically modified corn and glyphosate over the next three years. If fully implemented – and if the ban ultimately applies to corn used for animal feed – the ban would present a significant challenge to one of the most significant foreign markets for U.S. corn. The issue has potential to trigger debate over whether the ban complies with current wording of the United States-Mexico-Canada Agreement (USMCA).

IV. Carbon/Climate

Senate Advancement. In June, the U.S. Senate overwhelmingly passed the *Growing Climate Solutions Act* on a 92-8 vote. The bill proposes to facilitate the participation of farmers in voluntary carbon markets by creating a USDA certification program that would provide agricultural producers with technical assistance. The bill would also direct USDA to create “recognized protocols” for voluntary carbon markets to help ensure consistency. For further information on the *Growing Climate Solutions Act*, see *Senate Advances Carbon Market Bill* available [here](#) on the NALC website.

State Action. At least three states recently enacted climate-specific legislation. In May, Nebraska enacted the Nebraska Geologic Storage of Carbon Dioxide Act, [here](#), a new law that authorizes creation of a regulatory framework to allow for geologic sequestration of carbon by ethanol plants. In April, Montana enacted [HB394](#), which creates property tax exemptions for certain carbon capture equipment. In May, Georgia enacted [HB355](#), a law that established the Georgia Carbon Sequestration Registry. HB355, among other items, permits registry participants to voluntarily report the utilization of carbon sequestration and “embodied carbon results” and allows certified third-party organizations to measure the amount of carbon sequestered from building materials that sequester carbon dioxide.

V. Checkoff Programs

Ninth Circuit Appeal 2.0. On June 10, oral arguments were held before a 3-judge panel of the Ninth Circuit Court of Appeals. The core issue discussed in the oral arguments is whether checkoff funding provided to third parties by the Montana Beef Council (and other “Qualified

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State Beef Councils”) constitutes “government speech” vis-a-vis the Memoranda of Understanding that several state beef councils have entered into with the USDA Agricultural Marketing Service. An audio recording of the oral arguments is available [here](#) and video recording of the arguments are available [here](#).

VI. Clean Water Act

Here We Go . . . Again. In June, EPA and the U.S. Army Corps of Engineers [announced their intention](#) to change the regulatory definition of “waters of the United States” (WOTUS). This announcement marks the third time in six years that changes to the regulatory definition of WOTUS have been proposed. For a history of the changes to the WOTUS definition from the time the CWA was passed to the present, see *Waters of the United States: Timeline of Definitions* available [here](#) on the NALC website.

Show Me State Water Quality Standards. In *Missouri Coal. for the Env’t Found. v. Wheeler*, a federal court in Missouri determined that EPA had appropriately approved Missouri’s proposed CWA water quality standards for nitrogen, phosphorus, and chlorophyll. The court based its decision on EPA’s scientific determination that the water quality standards satisfied the CWA. For a brief summary of the case, visit the NALC website [here](#).

VII. Conservation

Swampbuster Buster? In May, a South Dakota farmer filed a lawsuit against USDA claiming that the Swampbuster program is an unconstitutional violation of the Commerce Clause, Due Process Clause, and the Tenth Amendment. This action is the latest in an ongoing battle the producer has had with NRCS and stems from a violation determination on 0.8-acre area of land on the farmer’s land. For further information on this case, see *Recently Filed Lawsuit Claims that Swampbuster is Unconstitutional*, available [here](#). For background information on the Swampbuster program, see *Farm Bill Conservation Programs: Swampbuster and Sodbuster* [here](#) on the NALC website.

Centennial State Ag/Energy. Colorado enacted [SB21-235](#) which provides funding to support renewable energy and efficiency efforts conducted by the Colorado Department of Agriculture. One of the programs funded by this legislation is aimed at helping the agricultural industry cut energy costs and develop energy resources.

Premium Pandemic Coverage. USDA Risk Management Agency offered via the “Pandemic Cover Crop Program”, [here](#), a \$5 per acre insurance premium benefit to most producers who insured their spring crop and planted an eligible cover crop during the 2021 crop year. Enrollment ended June 15.

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on the farmer's land. For further information on this case, see *Recently Filed Lawsuit Claims that Swampbuster is Unconstitutional*, available [here](#). For background information on the Swampbuster program, see *Farm Bill Conservation Programs: Swampbuster and Sodbuster* [here](#) on the NALC website.

VIII. Economic Stimulus

Further Aid Underway. On June 15, 2021, USDA announced it would make available additional financial assistance to agricultural producers and businesses under the Pandemic Assistance for Producers initiative. The USDA provided this assistance to producers and businesses that did not receive financial aid from previous rounds of assistance. To finance this aid, USDA used the pandemic assistance funds allocated to it under the Consolidated Appropriations Act of 2021. For additional information, visit the USDA website [here](#).

Supplementing the Supply Chain. USDA recently dedicated over \$4 billion to strengthen the supply chain in the farm sector. This decision by USDA came after pandemic-related market disruptions and the recent cyberattack on JBS, which is one of the largest meatpackers in the nation. To create a more resilient food system, the USDA will use the funds to invest in food production, improve food processing, and create new market opportunities within the supply chain. For more details on the agency's investment see the press release issued by the USDA [here](#).

IX. Endangered Species Act

Delay in Spotted Owl Rule. The United States Fish and Wildlife Service (USFWS) issued a [final rule](#) delaying the effective date of a regulation it originally published in January 2021, which sought to revise the designation of critical habitat for the northern spotted owl. USFWS is delaying the effective date of the rule until December 15, 2021 while it prepares to either revise or withdraw the regulation.

It's That Time Again. USFWS published a [notice](#) that it is conducting 5-year status reviews for 23 animal and plant species that are listed under the ESA. Under the ESA, USFWS is required to conduct a review of every listed species at least once every five years. As part of its announcement, USFWS is also requesting the submission of any information about the 23 species that has become available since the last review.

Water Regulation Likely Not ESA Violation. A federal court in Oregon declined to grant a preliminary injunction because it was unlikely the plaintiff would be able to show that the Bureau of Reclamation was failing to comply with the terms of its Incidental Take Statement. The Bureau is charged with regulating water flow in the Klamath River Basin, which is currently experiencing historically low levels. The plaintiffs filed suit, arguing that the Bureau is releasing water from the Upper Klamath Lake at a rate that is detrimental to threatened and endangered fish populations, and asking for a preliminary injunction that would prevent the releases while the case is litigated. The court declined to grant the injunction, finding that the plaintiffs would be unlikely to succeed on the merits of their claims. For more information, visit the NALC website [here](#).

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New, Removed, Or? The second quarter of 2021 saw a variety of different ESA actions, including adding species to the list of threatened and endangered species, removing or reclassifying a species on the list, and designating critical habitat for listed species. There were also a series of proposed actions that could result in more listings or designations of critical habitat in the future. Check to see if any species in your area have been affected.

Newly Listed. The following species have been added to the list of threatened and endangered species: the Yangtze sturgeon (endangered); Carolina madtom fish (endangered); Neuse River waterdog salamander (threatened)

Removed or Reclassified. The following species have either been removed from the list of threatened and endangered species or had its status on that list change: dwarf-flowered heartleaf (remove from list)

Critical Habitat Designated. The following species have had critical habitat newly designated: candy darter fish (habitat designated in Virginia and West Virginia); yellow lance mussel (habitat designated in North Carolina, Virginia, and Maryland); northern Mexican gartersnake (habitat designated in Arizona and New Mexico)

Proposals. The following is a list of proposals from FWS on future ESA actions: proposal to list the Suwannee alligator snapping turtle as a threatened species; proposal to reclassify the beach layia succulent as a threatened species; proposal to remove the San Clemente Bell's sparrow, San Clemente Island bush-mallow, San Clemente Island paintbrush, San Clemente Island lotus, and San Clemente Island larkspur from the list of threatened and endangered species; proposal to list two distinct population segments of the lesser-prairie chicken under the ESA; proposal to designate critical habitat for the Texas hornshell mussel

X. Finance, Credit, & Tax

Consumer Protection for Producers. On May 18, 2021, the Tennessee legislature passed a bill, available [here](#), which requires a manufacturer of farm machinery, under certain circumstances, to replace farm machinery or accept return of the farm machinery and refund the full purchase price and related repair costs.

Just Peachy. In May, Georgia enacted [HB 498](#), which expands property tax exemptions for agricultural equipment and certain farm products held by certain entities to include entities comprising two or more family owned farm entities, and to add dairy products and unfertilized eggs of poultry as qualified farm products with respect to such exemption.

Evaluating Collateralized Ag Property. The Farm Credit Administration issued a proposed rule, available [here](#), that would amend the current appraisal and evaluation requirements for property serving as collateral for loans made by the Farm Credit System. When a producer offers real, personal, or intangible property as collateral for an FCS loan, the FCA values the property in accordance with its evaluation regulations, policies and procedures. The proposed rule would

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clarify the valuation practices for each type of collateralized property, and also add requirements for the use of automated valuation tools.

Out With the Old . . . On May 20, 2021, the Farm Credit Administration issued a direct final rule, available [here](#), to repeal certain conservatorship and receivership regulations that have been superseded by the Agricultural Improvement Act of 2018.

Debt Relief Funding Available. On May 21, 2021, the Farm Service Agency issued a notice of funding availability, available [here](#), which contains guidance on eligibility requirements and procedures the agency will use to implement the debt relief program established under Section 1005 of the American Rescue Plan Act of 2021. The NOFA explains that the FSA will pay 120% of socially disadvantaged farmer's and rancher's direct loan balances held as of January 1, 2021. The NOFA specifically applies to borrowers with direct loans under the Farm Loan Programs and Farm Storage Facility Loan Programs. Additionally, the NOFA explains that the FSA will publish a separate NOFA which addresses debt relief for guaranteed loans held by socially disadvantaged farmers and ranchers.

Protecting the State's Working Farmland. The Maine State Legislature passed a bill, available [here](#), which created a Working Farmland Access and Protection Program within the state's Department of Agriculture. According to the text of the legislation, the program will be administered by the state's Department of Agriculture to protect and preserve farmland properties that are managed and available for commercial production of agricultural products within the state.

Challenging the Constitutionality of USDA's Debt Relief Program. Several agricultural producers across the nation have filed lawsuits in different jurisdictions against the U.S. Department of Agriculture alleging that the debt relief program established under Section 1005 of the American Rescue Plan Act of 2021 violates the U.S. Constitution. The plaintiffs in each of these separate cases claim the debt relief program is unconstitutional because the statutory provision forgives USDA loans based on racial classifications and prohibits certain borrowers from participating in the program. On June 23, 2021, a federal judge in Florida presiding over one of the lawsuits challenging the program issued a preliminary injunction, which means the USDA is currently prohibited from distributing debt relief payments under the program. A detailed discussion of the preliminary injunction issued by the judge is available on the NALC website [here](#).

XI. Food Safety & Labeling

Proposed Changes to GRAS. In June, Congresswoman Rosa DeLauro introduced the Toxic Free Food Act, available [here](#), which seeks to fundamentally alter the Food and Drug Administration process for food additives that are "Generally Recognized As Safe" (GRAS).

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Beef With Beef Labeling. In June, the National Cattlemen’s Beef Association (NCBA) [petitioned](#) USDA Food Safety Inspection Service for notice and comment rulemaking on “Product of USA” labels “and related labeling claims.” The petition requests that the “Product of USA” labeling claims be eliminated “but continue to allow for more appropriately descriptive generic claims such as ‘Processed in the USA’” that “can be accomplished voluntarily without the imposition of new regulatory requirements.”

Homemade Food in the Natural State. The Arkansas legislature enacted the Arkansas Food Freedom of 2021 which expands upon the previous cottage food law. In addition to baked goods, jams and jellies; the new act permits homemade pickled goods, some salsas and some sauces so long as the pH is less than 4.6 or the food product has a water activity of less than 0.85. The Arkansas Department of Health is creating guidelines to assist food entrepreneurs comply with the newly expanded law. To read the new law click [here](#). To learn more about cottage food laws across the country click [here](#).

Homemade Food in Big Sky Country. In April, Montana enacted the Montana Local Food Choice Act, available [here](#), which exempts certain homemade food producers from food licensure, permitting, certification, packaging, labeling, and inspection regulations.

State Meat Processing. In April, Wyoming enacted [HB51](#), which establishes a temporary grant program designed to expand state meat processing in Wyoming to provide for the expansion of state meat processing.

Moooving Along. In May, USDA Agricultural Research Service [reopened](#) the comment period on its 2015 proposed rule that would amend the National Organic Program requirements for dairy animals. The comment period ends July 12.

Disease Traceability. Wyoming enacted [HB 229](#), a law that allows producers, for purposes of animal disease traceability, to identify animals using any method set forth in 9 C.F.R. part 86, as well as any additional methods that are later approved by the Wyoming livestock board as “official identification”.

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Animal Traceability Lawsuit Dismissed. In May, the United States District Court for the District of Wyoming dismissed a [lawsuit](#) that USDA Animal and Plant Health Inspection Service violated the Administrative Procedure Act as part of its process on the Cattle Traceability Working Group and the Producer Traceability Council.

To Pasteurize or Not to Pasteurize - That's Not Really the Question. In *McAfee v. U.S. Food & Drug Admin.*, a federal court in the District of Columbia concluded that FDA had appropriately denied the plaintiff's request to remove butter from the pasteurization rule so that unpasteurized butter could be sold in interstate commerce. The court deferred to FDA's conclusion that banning the sale of unpasteurized butter in interstate commerce is necessary to prevent communicable diseases. A summary of the case is available [here](#).

No De-Fibbin'. In June, the USDA Food Safety and Inspection Service issued a [final rule](#) that removed requirements for defibrination of livestock blood saved as an edible product. In issuing the final rule FSIS noted that removal of the defibrination requirement "will not affect food safety, but it will allow the industry to meet a demand for non-defibrinated blood products."

Challenge to Swine Rule Clears Hurdle. A federal court in *Farm Sanctuary v. U.S. Dep't of Agric.*, declined to dismiss the plaintiffs' complaints challenging both USDA's 2019 adoption of the Modernization of Swine Slaughter Inspection rule, and USDA's decision to decline the plaintiff's 2019 petition for rulemaking to ban the slaughter of all "downed" pigs. USDA had asked that the complaints be dismissed for lack of standing, but the court found that the plaintiffs had established sufficient standing for the jurisdiction. See a summary of the decision on the NALC website [here](#).

XII. Hemp

In April, the Governor of Montana signed a [new bill](#) into law allowing for hemp to be fed to "pets, specialty pets, horses or for other livestock." It is important to point out that while the state of Montana has allowed for hemp to be fed to pets and livestock this is not the case at the federal level. The Center for Veterinary Medicine within the FDA must also approve the use of hemp as a pet or livestock feed which has not yet occurred. For comprehensive resources on hemp, visit the NALC Industrial Hemp Reading Room [here](#). A state-by-state compilation of states' hemp law is available on the NALC website [here](#).

XIII. International Trade

Cuba. In May, the "Freedom to Export to Cuba Act of 2021", [S. 1694](#), was introduced, which seeks to amend several laws that create barriers to economic activity between the U.S. and Cuba.

Suspended in the Air. In June, the United States, European Union, and the United Kingdom reached an agreement to suspend retaliatory tariffs for five years, which includes retaliatory tariffs on some U.S. agricultural goods. The agreement was part of a broader framework

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triggered by an agreement related to the long-standing dispute over certain aircraft. An International Trade Administration statement about the agreement is available [here](#).

XIV. Labor

Colorado Labor Law. In June, Colorado enacted [SB 87](#), a law that authorizes agricultural employees to organize and join labor unions, engage in protected, concerted activity, and engage in collective bargaining. The legislation also removes the exemption of agricultural labor from state and local minimum wage laws. For further discussion of this law, see *Colorado Passes Law Changing Agricultural Law Within the State*, published by NALC partner (The Ohio State University Agricultural & Resource Law Program), available [here](#).

Supreme Court Identifies Unconstitutional Taking. A U.S. Supreme Court decision issued on June 23 concluded that a California law allowing farm labor organizers to enter private property for three hours a day up to 120 days a year amounts to an unconstitutional taking. In *Cedar Point Nursery v. Hassid*, the Court found that the California law amounted to a *per se* physical taking because it represented a government-authorized invasion of private property. The case has been remanded back to the Ninth Circuit for further proceedings consistent with the Supreme Court's findings. See [here](#) for the Court's full opinion.

XV. National Environmental Policy Act (NEPA)

Challenge - Dismissed. In *Wild Virginia v. Council on Env'tl. Quality*, a federal court in the Western District of Virginia dismissed a lawsuit challenging NEPA regulations that were issued in 2020. The regulations represented the first major overhaul of NEPA since the statute was first passed in the 1970s, and made significant changes to the NEPA process. Ultimately, the court determined that the plaintiffs' challenge was not ripe for review because the new regulations had not yet been used to conduct a NEPA process. See [here](#) for a summary of the decision.

Plaintiffs Lack Standing in FONSI Challenge. The D.C. Circuit Court of Appeals dismissed the plaintiffs' complaint in *Food & Water Watch v. United States Dep't of Agric.*, for a lack of standing. This lawsuit began in 2017, when the plaintiffs filed a complaint against USDA over an FSA guaranteed loan that was granted to a chicken farm in 2015. Prior to granting the loan, FSA had conducted a NEPA analysis which resulted in a FONSI. The plaintiffs challenged the FONSI, arguing that more NEPA analysis should have been done. Ultimately, the court concluded that the plaintiffs did not have standing to bring their claims because they had failed to show how the court could redress their injury. A summary of the decision is available [here](#).

XVI. Pesticides

Chlorpyrifos Tolerances Reviewed. The Ninth Circuit Court of Appeals issued a decision in *League of United Latin Am. Citizens v. Regan* ordering EPA to either revoke all tolerances for chlorpyrifos or modify the tolerances to conform with the law. When EPA registers a pesticide for use under FIFRA, it must also set tolerances for pesticide residues on food under the FFDCFA.

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Since 2007, the plaintiffs have petitioned EPA numerous times to review the tolerances set for chlorpyrifos, claiming that studies have shown that the current tolerances are unsafe. According to the Ninth Circuit, the FFDCA requires EPA to review established pesticide residue tolerances anytime the agency finds evidence that the tolerances are unsafe. The court has given EPA 60 days to determine whether it will revoke or modify the chlorpyrifos tolerances. For more information, see *Ninth Circuit Finds Chlorpyrifos Tolerances Unlawful* available [here](#).

Roundup Rolls On. In May, the Ninth Circuit Court of Appeals upheld a \$25 million award granted to a plaintiff who claimed he contracted non-Hodgkin's Lymphoma after being exposed to Roundup. Monsanto had appealed the award granted in *Hardeman v. Monsanto*, arguing that the lower court had improperly admitted testimony from the plaintiff's expert witness, and that the plaintiff's state law claims were preempted by FIFRA. The Ninth Circuit found in favor of the plaintiff on both counts, concluding that the testimony had been properly admitted and that FIFRA did not preempt the state law claims. For more information on the Ninth Circuit's decision, see *Ninth Circuit Upholds \$25 Million Award to Plaintiff in Glyphosate Case* available [here](#) on the NALC website.

Additionally, a California district court declined to approve a \$2 billion settlement that was proposed for a class of potential plaintiffs who were exposed to Roundup or have been diagnosed with non-Hodgkin's lymphoma, but have not yet filed a lawsuit. For more information on the court's decision, see [here](#).

OIG Issues Report on 2018 Dicamba Label. On May 24, OIG issued a report titled "EPA Deviated from Typical Procedures in Its 2018 Dicamba Pesticide REgistration Decision." The report focused on EPA's 2018 decision to conditionally register three dicamba products under FIFRA, and determined that EPA's 2018 decision varied from written standard operating procedures. See *The Deal with Dicamba: Report Examines EPA Decision to Register Dicamba in 2018* for more information, available [here](#).

Applicator Adjustments. The Oregon legislature passed [HB 2031](#) which alters the definition of "pesticide applicator" to include any person who is spraying or applying pesticides for others. The legislation also adds violations of federal law to possible reasons for which the Oregon State Department of Agriculture may revoke, suspend, or refuse to issue a pesticide license or certificate.

Court Alley-oops Aldicarb. The D.C. Circuit Court of Appeals vacated a decision from EPA allowing the use of aldicarb on orange and grapefruit trees in Florida due to EPA's acknowledged failure to complete an ESA consultation. Although aldicarb has not been registered for use on citrus in nearly a decade, EPA approved its use in early 2021 to help producers in Florida combat citrus greening disease. Plaintiffs in *Farmworker Ass'n of FL v. Env'tl. Protection Agency* filed suit in March, claiming that EPA had violated both the ESA and FIFRA. EPA itself admitted it had not conducted an ESA consultation, which ultimately caused the court to decide to vacate the registration. For more details, see *Court Sets Aside Pesticide Registration for ESA Violations* available [here](#).

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Voluntary Cancellations. On June 22, EPA published a notice in the Federal Register that it had received requests from the registrants to voluntarily cancel the registrations for various products containing the pesticides atrazine and simazine, and/or to amend the registrations to terminate certain uses. More information is available [here](#).

Glyphosate Advances EU. Glyphosate cleared a major hurdle in the EU registration process after receiving a positive review from a group of regulators tasked with studying the pesticide's safety. A report from the regulators concluded that glyphosate "does meet" the criteria for a renewed approval in the EU. See [here](#) for more information.

XVII. Public Lands

Sheep Success. A federal court in the Eastern District of Washington declined to issue an injunction that would have prevented domestic sheep from grazing on certain allotments within the Okanogan-Wenatchee National Forest. The plaintiffs in *WildEarth Guardians v. Bail* argued that an injunction should be granted while the court considered the underlying NFMA and NEPA claims because continuing to allow grazing would risk the transfer of diseases from domestic sheep to wild bighorn sheep that live in the area. The court concluded that an injunction was not necessary due to a lack of evidence that issuing the injunction would prevent the harm the plaintiffs claimed was occurring. See [here](#) for more information about this decision.

XVIII. Racial Equity

Seeking Input. USDA issued a [notice](#) requesting public input on how USDA can advance racial justice and equity for underserved communities as part of its implementation of Executive Order 13985, "Advancing Racial Equity and Support for Underserved Communities Through the Federal Government." USDA is requesting input to identify barriers that people of color and underserved communities and individuals may face in obtaining information from USDA.

XIX. Right to Farm

The Sunshine State. This spring the Florida legislature substantially strengthened the state's right to farm statute. This new statute made several changes to the existing law including adding agritourism to the list of protected activities, increased the burden of proof needed for neighbors to successfully sue an agricultural operation for nuisance, limited the ability to sue to only neighbors that are located within ½ mile of the ag operation, capped damages for successful lawsuits brought against the ag operation, and provides for attorney's fees for ag operations that are sued unsuccessfully by neighbors. Another major change was to the scope of protection. All fifty states have a right to farm statute and those statutes protect against nuisance lawsuits. Florida has increased the scope of the protection by including other torts, such as trespass and negligence, if the underlying allegations look like they would fit within the tort of nuisance. To read more about the new Florida law click [here](#). To find your state's right to farm law click [here](#).

XX. Water Law

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Supreme Court Wades into Water Dispute. In April, the Supreme Court issued a ruling concluding that Florida had failed to show that Georgia’s water use was responsible for the collapse of Florida’s fisheries. Both Florida and Georgia rely on water from interstate rivers located in the Apalachicola-Chattahoochee-Flint River Basin. Georgia, the upstream state, relies on the water for both municipal water supplies and agriculture. Florida relies on the water to support its oyster fisheries and a wide range of wildlife. This lawsuit was originally brought in 2013 and resulted in a decision from a Special Master that Florida ultimately challenged. The Supreme Court upheld the Special Master’s decision, finding that Florida had failed to prove that Georgia’s water consumption was the cause of harm to Florida’s oyster fisheries. For more information, see *Supreme Court Rules in State Water Dispute* available [here](#).

No Standing for Plaintiffs in Raccoon River Dispute. The Iowa Supreme Court dismissed a lawsuit concerning regulation of the Raccoon River after determining that the plaintiffs lacked standing to bring their claims. The plaintiffs in *Iowa Citizens for Cmty. Improvement v. State* originally filed suit in 2019 asking the court to compel the State of Iowa to pass legislation that would require farmers in Iowa to adopt practices that would reduce the levels of nitrogen and phosphorous in the Raccoon River. The Iowa Supreme Court dismissed the case, concluding that the plaintiffs’ claims amounted to a “nonjusticiable political question” that the court was unable to hear. To read more about this decision, see *Iowa Supreme Court Dismisses Raccoon River Lawsuit* available [here](#).

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