



The Feed

Recent Developments in Ag Law & Policy

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

Volume 1, Issue 15

August 8, 2023

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Foreign Ownership of Ag Land: Federal Legislation. On July 25, the Senate voted 91-7 to include an **amendment**—known as the Promoting Agriculture Safeguards and Security Act (“PASS Act”)—to the National Defense Authorization Act for the 2024 fiscal year (**S. 2226**), which seeks to restrict certain foreign investments by China, Iran, North Korea, and Russia in U.S. agriculture. To learn more about the PASS Act, read NALC’s article titled “Senate Votes to PASS a Foreign Ownership Law,” available **here**. Also, Senator Cory Booker (D-NJ) recently introduced the Farmland for Farmers Act, which would ban certain domestic and foreign corporations, pension funds and investment funds from acquiring an interest in farmland located within the U.S. The text of the bill is available **here**.

Question 3. Triumph Foods has filed a lawsuit challenging a Massachusetts ballot initiative known as **Question 3**, and passed by voters in 2016. Similar to California’s Proposition 12, Question 3 requires out-of-state pork producers to adhere to Massachusetts’ pig confinement rules, and bans pork sales from animals raised in non-compliant conditions. In its complaint, Triumph Foods argues that the law discriminates against non-Massachusetts farmers and pork processors, and violates the United States

Constitution. The outcome of this lawsuit could have significant implications for pork producers and the enforcement of animal welfare regulations in Massachusetts. The complaint was filed in a Massachusetts federal court, and Triumph Foods has requested injunctive relief. To read the complaint, click [here](#).

Earlier this year, the U.S. Supreme Court upheld California's Prop. 12, finding that the law did not violate the Constitution. While it is still too early to tell how the court will rule on the challenge to Question 3, the Supreme Court's decision will likely be a factor in litigation. To learn more, click [here](#) to read NALC article "What's Cooking with Prop 12?: SCOTUS Decision."

Animal Confinement. New Jersey Governor Phil Murphy signed **A-1970/S-1298**, a bill that requires the State Board of Agriculture and the Department of Agriculture to create rules and regulations for the treatment and confinement of breeding pigs and veal calves. The rules, which must be established within 180 days, will come with penalties for any violations. The bill will prohibit the confinement of breeding pigs and calves in ways that restrict their movement, grooming abilities, and visual contact with others. The restrictions will only apply to operations located in the state of New Jersey.

Labor: Heat Hazards. The Labor Department issued its first-ever **hazard alert for heat** due to record-breaking temperatures nationwide. The alert noted that under the General Duty Clause of the federal Occupational Safety and Health Act, employers are required to protect workers from known safety hazards, including extreme heat. The Labor Department also stated that it has plans to enhance enforcement in high-risk industries like agriculture and construction, focusing on vulnerable worker populations. President Biden highlighted the alert, stating that it builds on a national standard for occupational heat exposure that the Labor Department is working on.

- Webinar Opportunity: Brandon Davis, Partner, Phelps Dunbar, will present a webinar on agricultural labor law, with a highlight on heat illness. Webinar and registration information are available [here](#).

Pesticide Data. EPA has announced that it will be making pesticide incident data publicly available for the first time. The newly available Incident Data System covers a period of 10 years and includes reports on incidents involving adverse effects or product defects related to pesticides. However, EPA warns that the information might not be entirely accurate or valid since the reports are based on individual perspectives of what happened. The agency advises users to exercise caution when analyzing the data and does not guarantee the completeness or adequacy of the contents of the dataset. To access the Incident Data System, click [here](#).

Carbon Pipeline. North Dakota regulators have denied a route permit for the Summit Carbon Solutions carbon capture pipeline project. The proposed project would transport greenhouse gases from ethanol plants across five states to an underground carbon storage site. The denial was based on deficiencies in Summit's permit application, including inadequate consideration of alternative routes, landowner concerns, impacts on waterfowl protection areas, and cultural resources. Summit plans to reapply for the permit and expressed commitment to addressing the outlined considerations. The project, initially set to start construction in 2023, has faced resistance and concerns from landowners and has fallen behind schedule. The pipeline would have been the largest of its kind in the Midwest, capturing emissions from ethanol plants for sale in low carbon fuel markets.

Estate Tax. Reps. Jimmy Panetta, D-Calif., and Mike Kelly, R-Pa., have reintroduced the **Preserving Family Farms Act**, a bill aimed at supporting family-owned farms after a family member's passing. The legislation proposes to modify tax law, allowing farmers and ranchers to pay estate taxes based on the agricultural use value of their land. The bill has gained support from organizations like the American Farm Bureau Federation and the National Cattlemen's Beef Association. In the previous congressional session, a similar bill stalled in the Ways and Means Committee, but proponents are hopeful for a different outcome this time around.

Meatpacking Trends. According to a new report from the USDA's Economic Research Service, the meatpacking industry in the United States has experienced significant consolidation over the past 40

years. The report, titled "**Concentration and Competition in U.S. Agribusiness**," highlights that the share of pork processed by the four largest companies increased from 34% in 1980 to 67% in 2019. Similarly, the concentration of steers and heifers processed by the four largest companies rose from 36% to 85%, with the majority of this increase occurring between 1980 and 1995. In comparison, data from poultry producers, which goes back to 1995, shows less pronounced consolidation compared to other meat sectors. This consolidation trend has important implications for the meatpacking industry and raises questions about competition within the sector.

Water Funding. The Department of the Interior is allocating \$152 million for water storage and conveyance projects in the Western United States through the **Bipartisan Infrastructure Law**. Interior Secretary Deb Haaland stated that these investments will accelerate essential water storage projects and enhance water security in the region. The proposed **Sites Reservoir Project** will receive \$30 million, adding to the total federal contribution of \$244 million, with additional funding from local stakeholders and the state. Colorado is set to receive \$100 million to bolster drinking water supplies, while \$2 million will go to Washington for small water projects. These investments aim to support water infrastructure and address water needs in the Western states.

Cottage Foods. California Gov. Gavin Newsom signed **Assembly Bill 1325** into law, enhancing opportunities for home cooks selling food to the public. The new law expands on **Assembly Bill 626**, which allowed home-based cooking businesses with limited permits. AB 1325 permits microenterprise home kitchen operations (MEHKOs) to operate from private residences with updated guidelines. Under AB 1325, MEHKOs can now prepare and sell up to 90 individual meals per week, up from the previous limit of 60 meals. The maximum annual sales cap has also been increased to \$100,000 from the previous \$50,000. The law clarifies that a meal includes main dishes, appetizers, side dishes, beverages, baked goods, or desserts.

Animal Processing. On August 2, New Hampshire Gov. Chris Sununu signed **House Bill 119** into law. It allows farmers to slaughter their own uninspected bison, elk, or red deer for sale, instead of requiring them to use an inspected or custom slaughter facility to do so. The signed bill addresses the shortage of slaughterhouses and provides farmers more options to process USDA exempt species. The provisions regarding elk and red deer are temporary, and include a 2025 sunset clause.

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