



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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Arkansas Enforces Foreign Ownership Law. Arkansas Attorney General Tim Griffin has ordered a subsidiary of Syngenta Seeds, a company ultimately owned by a Chinese state-owned enterprise, to divest its ownership interest in about 160 acres of land due to the state's recently enacted foreign ownership law. In 2023, the Arkansas state legislature passed **SB 383**, which restricts certain countries, including China, from investing in land within the state. Additionally, the state has imposed a \$280,000 penalty on Syngenta for failing to file a required notice of their landholdings to the Arkansas Department of Agriculture. For more information on foreign ownership of ag land, please visit our resource page **here**.

Chevron Deference. The U.S. Supreme Court has announced that it will hear a second case challenging the legal doctrine known as *Chevron* deference. The case, *Relentless, Inc. v. U.S. Dep't of Commerce*, asks the Court to either overrule or clarify *Chevron* deference, a legal doctrine directing judges to defer to federal agencies' reasonable interpretations of ambiguous laws. *Relentless, Inc. v. U.S. Dep't of Commerce* arises from a challenge to a National Marine Fisheries Service rule under the Magnuson-Stevens Act and is identical to *Loper Bright Enters. V. Raimondo*, which is also before the Supreme Court. Both cases will be heard in tandem and are expected to be argued in January 2024. The plaintiffs' brief in *Relentless, Inc. v. U.S. Dep't of Commerce* is available **here**. To learn more about the legal issues involved in both cases, click **here** to read NALC article "Doctrine of *Chevron* Deference Challenged at the High Court."

PFAS Regulation. The Environmental Protection Agency ("EPA") issued a **final rule** requiring PFAS manufacturers to disclose details about their chemical production. The rule is meant to build a comprehensive dataset of PFAS in the U.S., with companies having 18 months to provide information on environmental and health effects, disposal, and worker exposure. The definition of PFAS was expanded to include 41 additional chemicals, totaling at least 1,462 PFAS for regulation. Reporting requirements were streamlined, and the rule clarified that "all existing information" pertains to data the entity already possesses, lessening the collection burden. To learn more about the current

regulatory status of PFAS, click [here](#) to view NALC webinar "Not Your Grandfather's Corn Maze - Regulatory and Legal Responses to Challenges Faced by Agriculture Due to PFAS Contamination."

California: Ag Labor. On October 8, California Governor Newsom signed **SB 831**, a bill that would lay the groundwork to establish a permanent residency program for noncitizen farmworkers in California. This legislation empowers the governor to enter into an agreement with the United States Attorney General to designate farmworkers as essential workers, allowing them to work and live in the United States. The proposed pilot program outlines criteria for agricultural employees to attain lawful permanent resident status, including residing in the U.S. for five years, demonstrating good moral character, and having no criminal record. For more NALC resources on ag labor, click [here](#).

Right-to-Repair. On October 10, California Governor Newsom signed **SB 244**, the highly-anticipated right-to-repair bill that grants California customers new access to parts, tools, and repair information for consumer electronics and appliances. However, the final legislation does not cover agricultural and forestry equipment. For more information on right-to-repair laws throughout the country, click [here](#) to view NALC webinar "Right to Repair Statues: Overview, Issues Presented, and Current Status of State Legislation."

Mass. Q3. Attorneys general from 13 U.S. states have filed an **amicus brief** supporting a lawsuit challenging Question 3, a Massachusetts law regulating the production and sale of pork raised in specific living conditions. In their brief, the states argue that Question 3 violates several constitutional clauses, including the Dormant Commerce Clause, Import-Export Clause, and Full Faith and Credit Clause. To learn more about the lawsuit challenging Question 3, click [here](#) to read NALC article "Farm Animal Confinement: Legal Challenges to Mass. Question 3."

Antitrust Litigation. Direct purchasers have now recovered more than \$284 million in settlements as part of a class-action lawsuit filed against major U.S. chicken companies in 2016. In the lawsuit, the plaintiffs alleged that these companies conspired to manipulate and maintain the prices of broiler chicken in the U.S. The most recent settlements include House of Raeford Farms agreeing to pay \$27.5 million and Koch Foods paying \$47.5 million. These companies will also provide assistance to the direct purchasers in their case against the remaining defendant, Sanderson Farms. Other companies, such as Pilgrim's Pride, Tyson Foods, and more, have previously settled in this lawsuit. For more information, click [here](#).

Ag-Gag. The U.S. Supreme Court has declined to hear an appeal by North Carolina in a case involving a law that prohibits undercover employees at farms and workplaces from taking documents or recording video. The state law, similar to so-called ag-gag laws in other states, was challenged by People for the Ethical Treatment of Animals (PETA) on grounds that it could hinder newsgathering activities. The Fourth Circuit Court of Appeals ruled that the law could not be enforced against PETA when its undercover work was related to newsgathering activities. This decision follows a trend of courts striking down such laws over free speech concerns. The Supreme Court's decision not to review the case means the ruling in favor of PETA stands. Click [here](#) to read the Fourth Circuit's decision.

Clean Water Act. Democrats in the U.S. House of Representatives have proposed an amendment to the Clean Water Act that aims to more clearly define the federal government's jurisdiction. The proposed **Clean Water Act of 2023** replaces the term "waters of the United States" (WOTUS) with "protected water resources." These resources would be broadly defined to include waters subject to ebb and flow of the tide, territorial seas, and all interstate and intrastate waters and their tributaries. The proposed amendment comes in response to concerns about the narrowing of wetlands protection under the Supreme Court's rulings. To learn more about the Supreme Court's recent WOTUS decision, click [here](#) to read NALC article "WOTUS Update: U.S. Supreme Court Revisits Wetlands Jurisdiction Under the CWA."

Lab-Grown Meat. The Texas State Legislature is currently considering a measure that seeks to restrict the distribution of lab-grown meat. Specifically, **HB 158** would prohibit the sale, production, and distribution of lab-grown meat within the state of Texas. The bill defines lab-grown meat as "a

food product derived in a laboratory by harvesting animal cells and artificially replicating those cells in a growth medium separate from a parent animal[.]”

Livestock Grazing. A federal court in Arizona has ruled against the plaintiffs in a lawsuit challenging the U.S. Forest Service’s (“USFS”) decision to authorize livestock grazing in the Apache-Sitgreaves and Gila National Forests. The plaintiffs had challenged the USFS decision for violating the National Environmental Policy Act (“NEPA”) which requires all federal agencies to take a “hard look” at the environmental impacts of their proposed agencies actions. In *Western Watersheds Project v. Perdue*, the plaintiffs claimed that USFS failed to take a “hard look” at the impacts that livestock grazing would have on endangered Mexican Gray Wolves found in the project area. However, the court disagreed, finding that USFS had appropriately analyzed the expected impacts when it concluded that grazing was likely to only minimally affect Mexican Gray Wolves. The court upheld the decision from USFS, allowing authorized grazing to proceed. Click [here](#) to read the court’s decision.

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