



# 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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**Corporate Transparency Act.** As a result of the Corporate Transparency Act of 2021 (“CTA”), starting January 1, 2024 most small business entities are required to file a report with the federal government disclosing information on individuals with a “beneficial ownership interest” in the entity. Existing entities will have until January 1, 2025 to come into compliance with the new reporting requirements, while all entities created or registered in 2024 will have only 90 days to file their reports. The CTA applies to both domestic and foreign businesses, and includes LLCs, limited partnerships, corporations, and some trusts. Penalties for failure to report range from \$500 to \$10,000 for each day of noncompliance, and can also include criminal penalties. The portal for submitting CTA disclosures is live and can be found **here**. To learn more about the CTA and its reporting requirements, click **here** to read “Small Entities Must File New Beneficial Ownership Information Reports in 2024” from NALC partner Center for Agricultural Law and Taxation.

- Upcoming webinar opportunity: *Small Entities Must File: Navigating the Corporate Transparency Act’s New Reporting Requirements*. To register, click **here**.

**GAO Publishes Report on Foreign Ownership.** On January 18, the U.S. Government Accountability Office (“GAO”) published a report detailing its findings from a review of foreign investments in U.S. farmland. In October 2022, U.S. House Republicans sent a letter to GAO requesting a study on foreign acquisitions of U.S. agricultural land and to evaluate USDA’s procedures for collecting and sharing the foreign investment data the agency receives through the Agricultural Foreign Investment Disclosure Act. In the report, GAO provides recommendations as to how USDA can improve the reliability of AFIDA data and enhance sharing this data with other federal authorities. The full report is available on GAO’s website **here**. For NALC resources on foreign ownership of ag land, click **here**.

**FSA Requests Public Comment on AFIDA Reporting Form.** Recently, FSA announced that it is **seeking public feedback**—due by February 16, 2024—on how foreign persons report their U.S.

agricultural land holdings under the Agricultural Foreign Investment Disclosure Act ("AFIDA"). FSA is proposing to update the AFIDA Report form (**FSA-153**) so that the reports can include data on long-term leases, data concerning the impacts of foreign investments in farmland on agricultural producers and rural communities, and to gather certain geographic information. According to FSA, these updates to the FSA-153 form will ensure that foreign persons required to report farmland holdings have clear instructions and will help the agency collect the "most precise and meaningful data" as it administers AFIDA. To submit a comment, click [here](#) and follow the instructions for submitting a comment. A recent NALC article discussing FSA's proposed changes to the FSA-153 form is available [here](#).

**Foreign Ownership of Ag Land.** So far in 2024, state level proposals have been or are expected to be formally introduced in more than half of the states. In the past few days, new proposals have been filed in Alaska (**HB 252**), Arizona (**HB 2407; HB 2439**), Florida (**HB 1455**), Hawaii (**SB 2617; SB 2624; HB 2541; HB 2542; HB 2594**), Maryland (**SB 392**), Mississippi (**SB 2025; HB 348**), Nebraska (**LB 1301**), New Jersey (**A 191**), Oklahoma (**SB 1705; SB 1773; SB 1953; SB 2002; HB 3077; HB 3125**), Tennessee (**SB 1950**), and Washington (**SB 6290**). To view states' laws restricting foreign ownership of private agricultural land, click [here](#).

**Water Law.** The U.S. Supreme Court has agreed to hear a case concerning whether the federal government can invalidate a water-sharing agreement among Texas, New Mexico, and Colorado. The underlying dispute arose in 2013 when Texas accused New Mexico of breaching the **1938 Rio Grande Compact**. Despite a deal reached by the states in 2022, the U.S. government objects, citing concerns about vague requirements on New Mexico and deviations from the original agreement. Texas, New Mexico, and Colorado, supported by 23 other states, oppose the federal challenge. Depending on how the Court rules, the outcome of this case could impact water-sharing agreements throughout the country. The docket for this case is available [here](#).

In related news, a federal court in Idaho heard a case earlier this week concerning whether the federal agencies can maintain water rights on public land for livestock watering, even if the agencies do not own the livestock. The case stems from a multi-decade process of determining water rights in the Snake River which concluded in 2014. During the adjudication process, some ranchers argued that the federal agencies should give up their stockwater rights, claiming that the agencies were not the ones putting the water to "beneficial use." The federal government initiated the current lawsuit in 2022 seeking to retain its stockwater rights. To view the government's initial complaint, click [here](#).

**Water Quality Standards.** A sixty-day comment period has opened on EPA's proposal to revise the guidelines for discharges from meat and poultry processing establishments. Along with setting phosphorous limits for large direct dischargers, the proposal would strengthen existing nitrogen limits for large direct discharges, and establish "pretreatment standards for oil and grease, total suspended solids, and biochemical oxygen demand" for the first time. While EPA is considering a range of different options as part of this rulemaking, the agency notes that its preferred option is expected to result in the fewest number of facility closures. Comments may be submitted through March 25, 2024. Click [here](#) to view the proposal.

**Right-to-Repair.** Michigan lawmakers are considering a bill that would grant farmers the right to repair and maintain agricultural equipment without relying on the equipment's original manufacturer. **HB 4673**, also known as the Agricultural Equipment Repair Act, would require manufacturers of farm equipment to provide equipment owners or independent equipment repair facilities with any parts, tools, or information needed to diagnose, repair, and maintain the equipment. If the bill passes, Michigan would become the second state to adopt a right-to-repair law. Colorado became the first state to do so when it adopted the **Consumer Repair Bill of Rights**. To learn more about right-to-repair and recent legal developments, click [here](#) to read NALC article "Update on Right to Repair Movement."

**Pesticides: Chlorpyrifos.** A planned phaseout of the pesticide chlorpyrifos entered its final stage in Oregon on December 31, 2023. The phaseout began in 2021 when **a regulation from the Oregon Department of Agriculture** went into effect, banning several uses of chlorpyrifos, including most aerial applications and applications in enclosed spaces. The final stage of the phaseout limits

chlorpyrifos use in Oregon even further, banning all uses except for use as a commercial pre-plant seed treatment, or use as a granular project. Oregon is one of a handful of states that have restricted or prohibited chlorpyrifos uses, including California, New York, and Hawaii. Along with state-level limitations, chlorpyrifos has face recent federal restrictions as well, although some of those restrictions have been lifted following a decision from the Eighth Circuit Court of Appeals. To learn more about federal regulation of chlorpyrifos, click [here](#) to read NALC article "Eighth Circuit Ruling Revives Food Uses for Chlorpyrifos."

**Pesticides: Anti-Trust.** A federal court in North Carolina has determined that pesticide manufacturers Syngenta and Corteva must face a lawsuit from the U.S. Federal Trade Commission and states, including California and Texas, alleging unlawful practices to hinder competition from generic pesticide rivals. The lawsuit claims that the companies' "loyalty programs" violate antitrust laws, artificially inflate pesticide prices and cause farmers to overpay by millions annually. The court rejected the companies' motion to dismiss, finding that the companies failed to show that market exclusion of generic products was due to competitive merit. The case will now proceed to an evidence-gathering stage. To read the court's decision, click [here](#).

**School Nutrition.** The U.S. House of Representatives recently passed the **Whole Milk for Healthy Kids Act**, led by House Agriculture Chair G.T. Thompson, aiming to reverse Obama-era changes to school milk menus that reduced sodium and fat. The bipartisan-supported bill is seen by some as addressing children's aversion to low-fat or nonfat milk options. Despite reservations from nutrition advocates, the bill, H.R. 1147, awaits Senate consideration. However, it remains unclear what the Senate's timeline for review will be.

**Nebraska: Land Use Tax.** The Nebraska Supreme Court has overturned a decision by the Tax Equalization and Review Commission to restore special valuation as agricultural land, otherwise known as "greenbelt status," to land owned by the plaintiff. Greenbelt status for the land was revoked after county authorities determined that the land was no longer being used primarily for agriculture resources. At court, the matter hinged on what date county assessors were required to determine whether a parcel of land qualifies for greenbelt status. In its decision, the Nebraska Supreme Court found that greenbelt eligibility should be determined according to the primary use of the property on January 1 of each year. Because the plaintiff's property had been evaluated based on its primary use on July 15, the court overturned the decision and remanded it for further consideration. The court's opinion can be read [here](#). For more information on the lawsuit, click [here](#) to view an article from NALC partner Center for Agricultural Law and Taxation.

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National Agricultural Law Center | University of Arkansas, 2549 N. Hatch Ave., Fayetteville, AR 72704

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