



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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Farm Bill. Senate Republicans have introduced the Federal Agriculture Risk Management Enhancement and Resilience Act (FARMER Act) which seeks to make changes to crop insurance programs in the upcoming farm bill. The FARMER Act would raise premium subsidies on the 80% coverage level from 68% to 77%, and on the 85% coverage level from 53% to 68%. The bill would also look to improve crop insurance affordability by enhancing the Supplemental Coverage Option. Click **here** to view a one-page fact sheet on the FARMER Act.

- Conference opportunity (June 13-14, livestream available): Fitz Elder, Republican Staff Director, Committee on Agriculture, Nutrition, and Forestry at the United States Senate and Rosy Brummette, Policy Advisor, U.S. Senator Michael F. Bennet will present "Update from the Potomac: 2024 Farm Bill, Public Lands, & Related Federal Issues" at NALC's **Second Annual Western Agricultural & Environmental Law Conference**.

ESA: Regulatory Updates. The U.S. Fish and Wildlife Service (FWS) have published a series of final agency regulations to revise implementation of the Endangered Species Act (ESA) by rolling back certain regulatory changes made in 2019. The three new rules include: a regulation to reinstate language clarifying that decisions on whether to list a species under the ESA are to be made "without reference to possible economic" impacts; a regulation to restore FWS's "blanket 4(d)" rule which automatically grants species listed as threatened the same protections as species listed as endangered; and a rule clarifying the role of FWS during Section 7 consultation. To view all three rules, click **here**. To learn more about the ESA, click **here** to view NALC's "Endangered Species Act Manual: A Practical Guide to the ESA for Agricultural Producers."

ESA: Gray Wolves. A coalition of environmental groups have filed a federal lawsuit against FWS for its decision that gray wolves in the Western U.S. are not warranted for listing under the ESA. Various conservation groups petitioned FWS in 2021 asking that the gray wolf receive ESA protection due to "alarming new pressures on wolves from state management in Montana, Idaho and Wyoming."

However, FWS denied that petition, prompting the current lawsuit. If the gray wolf were listed under the ESA, it would be a violation of federal law to harm any member of the species. To read the lawsuit, click [here](#). To learn more about the ESA, click [here](#) to view the NALC ESA Reading Room.

WOTUS: Agency Guidance. The U.S. Army Corps of Engineers (“the Corps”) has released a guidance memo on how the agency will approach its civil works projects following the Supreme Court’s ruling in *Sackett v. EPA* and the updated definition of the Clean Water Act (CWA) term “waters of the United States.” The Corps is responsible for implementing the CWA’s wetlands permitting program and managing various aquatic resources throughout the country. In its memo, the Corps noted that following the *Sackett* decision, only those wetlands that share a “continuous surface connection” with a waterbody protected under the CWA will fall under CWA jurisdiction. As a result, some wetlands will lose federal CWA protection. The memo directs the Corps, in carrying out its civil work actions, “to use applicable authorities and available resources to engage in specific actions to protect, restore, and enhance our Nation’s waters and wetlands[.]” To view the memo, click [here](#). For more information on the *Sackett* decision, click [here](#) to view NALC article “WOTUS Update: U.S. Supreme Court Revisits Wetlands Jurisdiction Under the CWA.”

- Conference opportunity (June 13-14, livestream available): **Tess Dunham**, Partner, Khan, Soares & Conway, LLP will present “WOTUS & Water Quality in the West in a Post-Sackett World” at NALC’s **Second Annual Western Agricultural & Environmental Law Conference**.

Pesticides: Paraquat. The California State Legislature is considering a new bill that, if passed, would ban use of the pesticide paraquat throughout the state. Under **AB 1963**, it would be unlawful for anyone to manufacture, sell, deliver or hold any product containing paraquat after January 1, 2026. Currently, paraquat is used widely throughout California for a variety of agricultural uses. In recent years, several lawsuits have been filed against paraquat manufacturers by plaintiffs who claim that exposure to the pesticide caused them to develop Parkinson’s Disease.

- Webinar opportunity (May 15): “The Deal with Dicamba: Overview of Recent Legal Developments.” To register, click [here](#).
- Conference opportunity (June 7, in person and livestream available): **Rod Snyder**, Senior Advisor for Agriculture to the EPA Administrator and Brigit Rollins, Staff Attorney, National Agricultural Law Center will present “Tomorrow’s Harvest: An Overview of the Regulatory and Litigation Landscape for CropProtection Products” at NALC’s **Eleventh Annual Mid-South and Environmental Law Conference**.

Climate Disclosure. The U.S. Securities and Exchange Commission (SEC) announced on April 4 that it is voluntarily delaying implementation of new climate disclosure regulations while a lawsuit challenging the regulations is on-going. Under the new disclosure rules, businesses would need to disclose information related to their climate impacts to the federal government. The final rules were released in early March and the earliest compliance deadline is set for 2026. Shortly after the final disclosure rules were published, a lawsuit was filed in the Eighth Circuit Court of Appeals by various plaintiffs claiming that the disclosure requirements violate the First Amendment of the U.S. Constitution. The SEC will hold off on implementing the new regulations until the lawsuit has concluded. To learn more about the SEC’s climate disclosure rules and related legal challenges, click [here](#) to read NALC article “SEC Rules and California Laws on Climate-Related Disclosures Face Legal Challenges.”

Cottage Food. Arizona and Virginia have both passed new cottage food bills, updating the regulation of homemade food products in both states. Arizona’s **HB 2042** creates a new section for cottage food products within the state’s legislative code. The new law expands the definition of cottage foods, requires food handler training courses for people preparing cottage food products, and establishes conditions that must be met for cottage food products to be sold online. In Virginia, **HB 759** removes the state prohibition on advertising cottage food products on the internet. Following passage of the bill, cottage food producers in Virginia will be able to advertise their products online for the first time. To learn more about these laws and other cottage food bills introduced to state legislatures during the most recent legislative sessions, click [here](#) to read NALC article “Update on Cottage Food Laws - 2024 Proposed Legislation.”

Cell-Cultured Meat. The Iowa House of Representatives has passed an amended version of an Iowa Senate bill that would regulate labeling of protein-based food products. Under **SF 2391**, no food product made from cell-cultured meat could be labeled as “meat.” Any such food product that was affixed with a label describing it as “meat” would be considered misbranded and could not be legally sold within the state of Iowa. Misbranding a food product under SF 2391 could result in civil penalties of up to \$10,000. The bill now goes back to the Iowa Senate for further consideration. To learn more about proposed federal legislation to regulate the marketing of cell-cultured and alternative meat products, click [here](#) to read NALC article “FAIR Labels Act of 2024.”

WIC Updates. The USDA’s Food and Nutrition Service (FNS) have released finalized updates to the Special Supplemental Nutrition Program for Women, Infants and Children, otherwise known as WIC. FNS first proposed changes to the program in 2022 to bring the program inline with the latest nutrition science. The new updates include expanding whole grain options to cover foods like quinoa and blue cornmeal, providing more options in the dairy category including plant-based yogurt and lactose-free milk, and requiring canned beans to be offered in addition to dried. For more information on these updates from USDA, click [here](#). To learn more about WIC and other USDA nutrition programs, click [here](#) to visit NALC Nutrition Programs Reading Room.

California: “Clean” Trucks. The California State Legislature is considering a bill to establish an assistance program for small agricultural producers transitioning to cleaner trucks. **AB 2900** would direct the California State Air Resources Board to establish a Small Agricultural Truck Fleet Assistance Program that would focus on providing technical and funding assistance to agricultural producers who own small trucking fleets. The program would particularly prioritize assistance for near-zero-emission or zero-emission trucks where possible. The California State Air Resources Board has recently adopted the Advance Clean Fleets regulation which aims to transition trucking fleets to zero emission vehicles. To learn more about federal regulation of air quality, click [here](#) to visit NALC Clean Air Act Reading Room.

Foreign Ownership of Ag Land. So far in 2024, at least five states have signed foreign ownership measures into law, including Idaho (HB 496), Indiana (HB 1183), South Dakota (HB 1231), Utah (HB 516). On April 9, Iowa Governor Kim Reynolds signed **SF2204** into law. The Georgia legislature enacted SB 420, which has been sent to Governor Kemp. To view states’ laws restricting foreign ownership of private agricultural land, click [here](#).

- Conference opportunity (May 14, online only): Harrison Pittman, Director, National Agricultural Law Center, **Ben Maddox**, VP of Business Development, AcreTrader, and **Elise Alexander**, VP & General Counsel, AcreTrader will present “Practical Update on Foreign Ownership and Other Ag Land Transaction Issues” as part of NALC’s Online “Early Bird” Agenda for the **Eleventh Annual Mid-South Agricultural and Environmental Law Conference**.

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Registration is Open!

Agricultural & Environmental Law Conferences

Mid-South

June 6-7, 2024

University of Memphis

Cecil C. Humphreys School of Law

Western

June 13-14, 2024

University of Nevada, Reno



Livestream option available for both conferences.



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