



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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CFIUS. A new **final rule** from the Treasury Department expands the Committee on Foreign Investment in the United State's (CFIUS) authority to review certain real estate transactions by foreign persons near more than 60 military bases and installations across 30 states. CFIUS, an interagency committee headed by the Treasury Department, is authorized to review certain transactions involving foreign investments and acquisitions of American companies and real estate to determine whether a transaction presents a threat to U.S. national security. Specifically, CFIUS regulations identify a subset of military installations, and this final rule significantly expands its authority to more military bases and installations. The rule will go into effect 30 days after its publication in the Federal Register. While not yet published in the Federal Register, an unofficial copy of the rule can be read **here**. To learn more about attempts from Congress to update CFIUS, click **here** to read NALC article "Focusing on Foreign Investments: Congress Aims to Add Agriculture to CFIUS."

Animal Rights. On October 24, 2024, the Colorado Supreme Court heard oral arguments in a lawsuit filed by an animal rights group challenging the captivity of five elephants at a Colorado zoo. According to the animal rights group, the elephants are "unlawfully confined" at the zoo and should be released to an elephant sanctuary. The primary issue in the case is whether elephants should be considered persons under the law, and therefore able to pursue a petition of habeas corpus to challenge their confinement. While the lawsuit specifically focuses on elephants, opponents warn granting elephants legal personhood would be a slippery slope that could lead to other animals more commonly used in agriculture eventually gaining the same or similar status. To read the lower court's opinion in the matter, click **here**. To see a recorded video of the oral arguments before the Colorado Supreme Court, click **here**.

Food Safety Litigation. McDonald's and Boar's Head are now facing suits from individuals who consumed contaminated food products linked to the two companies. First, McDonald's is facing a number of lawsuits filed by consumers who were sickened after consuming food products that may have been contaminated with *E. coli*. A recent outbreak of *E. coli* has been **linked** to onions served on McDonald's Quarter Pounders and other menu items. The onions have been traced back to Taylor Farms, a McDonald's supplier. Among the filed actions are lawsuits from Nebraska, Colorado, Montana, and a **proposed class action** suit from Chicago. Additionally, Boar's Head is facing a wrongful death suit, brought by the surviving family members of a man that consumed *Listeria*-contaminated Boar's Head products. The Center for Disease Control and Prevention (CDC) has **linked** the *Listeria* outbreak, which has infected 59 people and resulted in 10 deaths, back to Boar's Head products. To read the complaint, click **here**. To learn more about food safety, click **here** to visit NALC Food Safety reading room.

Nutrition Updates. Uber, alongside payments company Forage, has recently **announced** its plan to begin allowing SNAP EBT benefits to pay for grocery orders on its grocery delivery service, Uber Eats. Currently, the service allows SNAP EBT benefits to cover orders from Walgreens, Albertsons, and some regional grocers, with plans to expand coverage to more retailers. Uber will also be offering a free 3-month trial and no delivery fees to SNAP-eligible orders. Additionally, USDA **announced** a new rule prohibiting online junk fees for low-income families paying for school meals through the School Breakfast Program (SBP) and National School Lunch Program (NSLP). This rule, aimed at the 1 million students who receive SBP and NSLP reduced price school meals, eliminates the processing fees charged when families deposit money into student's online meal accounts. The rule will go into effect for the 2027-2028 school year, but USDA is encouraging schools to implement the rule as soon as possible. To learn more about federal nutrition programs, click **here** to visit NALC's Nutrition Programs reading room.

Endangered Species. The State of Texas has filed a lawsuit against the U.S. Department of the Interior, challenging the Fish and Wildlife Service's recent decision to list seven species of freshwater mussels native to Texas as threatened or endangered under the Endangered Species Act (ESA). Texas alleges that the decision to list the mussels violates the ESA because FWS failed to consider the ongoing state level conservation efforts and the economic impacts of the designation. Along with listing the mussels species, FWS' decision designated over 1500 river miles as critical habitat. For more information, click **here** to view NALC article "Texas Files Suit Against FWS for Decision to List

Mussels As Endangered.”

Measure 309. Denver voters rejected **Ordinance 309**, opting to keep the city’s only slaughterhouse, Superior Farms, in operation. Its passage would have required Superior Farms to close its plant by January 2026, eliminating approximately 160 jobs. Superior Farms’ Denver plant processes about 1,500 lambs daily, and its closure would have removed 15% to 20% of the total lamb slaughter capacity in the United States. Additionally, Ordinance 309 would have prohibited future slaughterhouse operations in Denver. Also on the Denver ballot was **Ordinance 308**, a measure that would have banned the manufacturing, sale, display, distribution, and trade of any fur product in the city. Ordinance 308 was also rejected by Denver voters.

Measure J. California’s Sonoma County has rejected **Measure J** with roughly 85% of voters rejecting the ballot initiative. Had it passed, Measure J would have made Sonoma the first county in the United States to ban large animal farms, likely resulting in the closure of some existing operations. The measure was initiated by the Coalition to End Factory Farming, a coalition of animal rights groups that have been operating in Sonoma County for years. Many groups that supported California’s controversial Proposition 12 also supported Measure J, with some seeing it as a bellwether initiative for similar efforts elsewhere. Opponents to Measure J included the Sonoma County Farm Bureau Federation, and both the Democratic and Republican Parties of Sonoma County.

Referred Law 21. South Dakota voters rejected Referred Law 21, a ballot measure related to carbon pipelines. During the 2024 legislative session, South Dakota passed **Senate Bill 201** which would have required the owners of carbon pipelines within the state of South Dakota to pay \$1 per linear-foot of pipeline placed that would then be used to subsidize landowner taxes. Senate Bill 201 also contained setback language that would control the distance in which a pipeline company could put the pipeline in relation to landowner property. Citizens in South Dakota challenged the bill, gathering enough signatures to put Referred Law 21 on the ballot. By rejecting Referred Law 21, voters in South Dakota have overturned Senate Bill 201. Summit Carbon, the company currently seeking to construct the largest carbon sequestration pipeline network in the U.S., has stated that despite the defeat of Referred Law 21, it will still seek a permit to begin construction in South Dakota.

H5N1 Virus. A backyard farming operation in Oregon has been confirmed to have the nation’s first case of bird flu in swine. The case was **confirmed** by the United States Department of Agriculture, which tested five pigs on the farm. Testing revealed that one pig was positive for H5N1, but indicated that the disease was likely non-transmissible to humans, alleviating some public health concerns. The farm where the animals were tested has been quarantined. This news is particularly concerning to health officials, given the recent outbreak of avian influenza in California dairy herds. To learn more about the outbreak and response to H5N1, click [here](#) to watch NALC webinar “H5N1 in Poultry and Cattle: How Can We Miss You If You Won’t Go Away?”

Human Foods Program. The FDA, which recently reorganized its food regulatory arm into the Human Foods Program (HFP), **announced** its 2025 priority deliverables. HFP has centralized its risk management activities into three main areas: Microbiological Food Safety, Food Chemical Safety, and Nutrition. In line with the three areas, the FDA intends to issue guidance on lead levels present in food geared towards infants and young children, promulgate a final rule on “healthy” food labels, and propose a new rule aimed at nutrition labels on the front of packages. Additionally, FDA intends to cooperate with other federal agencies in an effort to further nutritional research. The research will focus on the connection between processed foods and negative health effects. To learn more about the proposed “healthy” definition, click [here](#) to read NALC article “Focus on Food: the Proposed ‘Healthy’ Rule and the White House Conference.”

Agricultural Water. FDA and EPA **announced** the registration of the first antimicrobial treatment for pathogen reduction in pre-harvest agricultural water. **Sanidate 12.0**, developed in collaboration with the University of Arizona and industry partners, combats foodborne pathogens like *E.coli* and *Salmonella* in water used to grow crops. Prior to its registration, there was no product to reduce the presence of human pathogens directly. While farmers will not be required to treat agricultural water with the product, the use of treatment will work in alignment with FDA’s latest **rule** on agricultural water to reduce the presence of foodborne pathogens in agricultural water. To learn more about FDA rules for agricultural water, click [here](#) to read NALC article “FDA Publishes Final Agricultural Water Rule.”

Nitrate Contamination. A coalition of environmental groups are **petitioning the EPA** to take emergency action to combat high nitrate levels in drinking water. The groups link the higher contamination levels to agricultural operations, specifically the fertilizers used by industrial-scale agricultural operations. The groups highlight the challenges faced by small rural communities, which experience higher levels of exposure, given their proximity to agricultural operations. The groups have submitted several emergency petitions under Section 1431 of the Safe Drinking Water Act over the last decade.

EID Eartag Litigation. The South Dakota Stockgrowers Association, Farm and Ranch Freedom Alliance, and Ranchers-Cattlemen Action Legal Fund United Stockgrowers of America are challenging a rule from the USDA in the U.S. District Court for the District of South Dakota. The **rule**, titled the Use of Electronic Identification Eartags as Official Identification in Cattle and Bison, requires cattle and bison that may move across state lines to wear an electronic ear tag. In the challenge, the groups urge that the USDA has failed to adequately show a connection between the rule and the prevention of diseases in livestock. Further, the groups cite a lack of insight into the economic impacts of the rule during its drafting. To read the complaint, click [here](#). Additionally, the American Livestock Markets and Dealers Association has sent a **letter** to USDA requesting a 180 day delay in the rule’s implementation. To learn more about animal identification, click [here](#) to visit NALC’s Animal Identification & Tracing reading room.

Minimum Wage. The Ninth Circuit Court of Appeals has overturned the Biden Administration’s \$15 minimum wage requirement for federal contractors. According to the court, the 2021 executive order which raised the minimum wage for federal contractors from \$11 to \$15 exceeded the President’s authority under the Federal Property and Administrative Services Act. Specifically, the court ruled that the federal contracting statute did not “give the President unrestrained authority to issue any procurement policy that he desires.” Click [here](#) to read the court’s decision. For more resources on agricultural labor and independent contractors in the ag industry, click [here](#) to view NALC’s Labor

NALC National Stakeholder Survey



The NALC National Stakeholder Survey is open! The anonymous survey takes only a few minutes to complete, and results will be used to develop and prioritize future research, information, and outreach activities conducted by the NALC and its partners. We want to hear from you!

[Take the Survey](#)

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