



The Feed

Recent Developments in Ag Law & Policy

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

Volume 3, Issue 2

January 23, 2025

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The National Agricultural Law Center
"WESTERN WATER" WEBINAR SERIES

Western Water Law in Action:
A Primer on Basic Concepts of the Prior
Appropriation Doctrine and How Utah is
Modifying Water Law to Meet Modern Demands



Wed., February 12, 2025
Noon ET
No cost to register



Emily E. Lewis
Clyde Snow & Sessions

State Foreign Ownership Legislation. So far in 2025, 19 states have proposed at least one piece of legislation to prohibit or restrict foreign investments and landholdings in land, particularly private agricultural land located within the boundaries of their states to some degree. This reemerging trend in restricting foreign investments in U.S. land dates back to 2021, and it is likely more states will propose and consider foreign ownership legislation in 2025. At the federal level, Congress may consider similar foreign ownership restrictions during the current legislative session, just like in years past. To read recent NALC articles discussing foreign ownership proposals introduced in Alabama, Illinois, Indiana, Hawaii, Idaho, and Michigan, click **here** and **here**. For NALC resources on foreign investments and ownership of U.S. land, click **here**.

- Conference opportunity (June 6, livestream available): Asa Hutchinson, Governor of Arkansas (2015-2023); Founder, Asa Hutchinson Law Group; Under Secretary, Department of Homeland Security (2003-2005) will present "Legal Ethics for Ag Industry Professionals: CFIUS, Foreign Ownership, & National Security" at NALC's **Twelfth Annual Mid-South Agricultural and Environmental Law Conference**.

Agency Actions. Following his inauguration on Monday, President Trump signed an **executive order** freezing ongoing regulatory work across the federal government. Specifically, this order directs that no rule may be proposed or published in the Federal Register until a Trump administrator reviews and approves it. Additionally, any rules sent to the Federal Register not yet published are to be reviewed, and any rule recently published but not yet effective will have its effective date delayed by 60 days. Though some of the rules promulgated at the end of the Biden administration might move forward as written after review, the future of those agency actions remain uncertain at this time. Similar executive orders were issued by both Biden in 2021 and Trump in 2017 at the beginning of their terms. To learn more about the impact of the 2024 election on agriculture law and policy, click **here** to view NALC webinar "Looking Ahead: Impact of the 2024 Elections on Ag Law and Policy."

Klamath Basin. Before leaving office, President Biden signed **H.R. 7938**, a bill designed to provide protection and support for Klamath Basin irrigators by prohibiting federal agencies from passing on the costs associated with the maintenance of the Keno and Link River dams. Also known as the Klamath Basin Water Agreement Support Act of 2024, H.R. 7938 allows for the U.S. Bureau of Reclamation to cover the installation and cost of certain measures designed to protect aquatic life. The bill, which was unanimously approved on December 19th, was signed by President Biden on January 4th.

- Webinar opportunity (February 12): Emily E. Lewis, Director and Shareholder, Co-Chair of Natural Resources and Water Law Practice Group, Clyde Snow & Sessions will present "Western Water Law in Action: A Primer on Basic Concepts of the Prior Appropriation Doctrine and How Utah is Modifying Water Law to Meet Modern Demands." To register, click **here**.

ESA: Grizzly Bears. The United States Fish and Wildlife Service (FWS) has denied petitions from several states seeking a reclassification of the grizzly bear under the Endangered Species Act (ESA), but proposed a new management plan for the bear that aims at offering increased flexibility. Currently, the grizzly bear is listed as "threatened" in the lower 48 states. However, several states have petitioned FWS to have the species delisted. One petition, submitted by the state of Idaho in 2023, prompted litigation and ultimately resulted in a settlement agreement that requires FWS to review the grizzly bear's ESA status by no later than January 2026. Both the decision to deny the delisting petitions and the newly proposed management plan are part of that status review. The proposed plan would establish a distinct population segment (DPS) of bears across areas in Idaho, Montana, Washington, and Wyoming. Grizzly bears located within that DPS would retain threatened status under the ESA, while bears outside the DPS would no longer receive federal protection. A public comment period on the proposed plan is open through March 17, 2025. While the decision to deny the state-backed petitions is final, the proposal to designate a DPS for grizzly bears could be altered or rescinded by the Trump Administration. For more info on the proposed rule, click **here**.

- Webinar opportunity (February 19): Brigit Rollins, Staff Attorney, National Agricultural Law Center will present "Proposed for Listing: Overview of Proposed Decision to List the Monarch Butterfly Under the ESA." To register, click [here](#).

Front-of-pack Labelling. The Biden FDA **proposed** a new rule which would place food labels warning of specific nutrient contents on the front of food packages and containers. This proposed labeling would come in the form of a black and white box found on the front of packages, which highlights sodium, saturated fat, and added sugar. Further, the labeling would contain the serving amount, percent of daily value, and proportion sizes of the three nutrients to help consumers identify how foods can be part of a healthy diet. Under the rule, all of this information would be included on a label found on the "principal display panel." A comment period for the proposed rule will be open until May 16th; however, as the rule was proposed under the prior administration, it is unclear if the Trump administration will continue the rulemaking process. To learn more about another recent FDA rule and the new administration's options for handling midnight rulemaking, click [here](#) to read NALC article "FDA Releases Final 'Healthy' Rule."

Poultry. The United States Department of Agriculture has published a final rule meant to address concerns with the current "tournament ranking systems" found in the poultry industry. This rule alters the current tournament ranking system, which can heavily penalize contractors with underperforming flocks. The new rule limits the amount of grower compensation that can be based on the aforementioned tournament ranking system. Further, the rule requires producers to be given additional information about capital improvements that are required with contract renewals. The rule is set to take effect on July 1, 2026, but because of its timing, might be subject to change under the Trump administration. To read the final rule, click [here](#).

PFAS. During the first half of January, the Environmental Protection Agency (EPA) issued two different documents addressing environmental contamination associated with per- and polyfluoroalkyl substances (PFAS) also known as forever chemicals. Under the Clean Water Act (CWA), EPA is required to periodically review the regulations for sewer sludge to identify new pollutants and, if appropriate, propose new CWA standards for those pollutants. As part of that review, EPA issued a **draft risk assessment** which examines the potential human health and environmental risks associated with using PFAS-contaminated sewage sludge in agricultural operations. The risk assessment concludes that there are possible health risks for people living on or near properties that make land applications of PFAS-containing sewer sludge, with the level of risk based on the concentration of PFAS, land management practices, and local environmental conditions. For more information from EPA on PFAS in sewer sludge, click [here](#).

Along with the draft risk assessment, EPA has also issued proposed updates to testing methods under the CWA. Specifically, the proposal would update methods used to detect and measure PFAS present in water. Pollutant testing methods are incorporated into various CWA permits and are used in part to assist EPA in gathering data. A public comment period on the proposed changes is open through February 20, 2025. Similar to other regulatory proposals made by the outgoing administration, it is currently unclear whether the Trump Administration will continue the rulemaking process. To view the proposal, click [here](#). To learn more about PFAS in agriculture, 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."

Red Dye No. 3. The United States Food and Drug Administration has made the decision to ban the use of Red Dye No.3 in food products. This decision comes following a 2022 petition by the Center for Science in the Public Interest, to ban use of the food additive under the Delaney Clause of the Federal Food, Drug, & Cosmetics Act. Red Dye No.3 is used in a large variety of food products, such as candy corn and strawberry milk, meaning the effects of this decision will certainly be widespread. Under the rule, processors will have until January 15th, 2027 to remove the dye from their products; however, because of the timing of the ban, it is uncertain how the Trump administration will react. To learn more about food additive bans on the state level, click [here](#) to read NALC article "Update on Proposed Food Additive Bans."

Lab Grown Meat. Following his 2024 **Executive Order** prohibiting Nebraska state agencies from purchasing lab-grown meat, Nebraska's Governor Jim Pillen recently vocalized his support of proposed bill **LB246**. This bill would ban the manufacturing, production, importation, distribution, and sale of lab-grown meat in Nebraska by classifying "cultivated-protein food product" as an adulterant. It was introduced at the request of the Governor, and has been referred to the Agriculture Committee. To become law, it must pass the Nebraska Unicameral Legislature and be signed by Governor Pillen. Additionally, a bill defining and requiring lab-grown meat to be clearly labeled has advanced through committee in the South Dakota House of Representatives. **HB1022** defines "cell-cultured protein" and classifies cell-cultured proteins that are not labeled as such to be misbranded. The bill must pass both the South Dakota House and Senate, and be signed by the governor to be law. To learn about cultivated meat bans and labeling rules in other states, click [here](#) to read NALC article "Cell-Cultured Meat Updates: state bans, labeling requirements, and regulatory clarifications."

Right to Repair. The Federal Trade Commission, alongside the attorneys general from Minnesota and Illinois, have brought suit in the US District Court for the Northern District of Illinois against John Deere regarding its limitations on equipment owners' rights to repair. The plaintiffs assert that Deere's user policies requiring owners of equipment purchased from Deere to use Deere-licensed repair centers violate both the Sherman and FTC acts by creating a monopoly on repair services. Specifically, the plaintiffs are asking the court to force Deere to share the tools and information Deere-licensed repair centers have access to with equipment owners and independent repair providers. With the administration of the FTC changing, it is unknown whether the new leadership will choose to continue pursuing the litigation. To read the complaint, click [here](#). To learn more about Right to Repair, click [here](#) to watch NALC webinar "Right to Repair and Agriculture."

Sage Grouse Conservation. The Bureau of Land Management (BLM) recently published its final decision to amend current sage grouse protections in a variety of states. The sage grouse is a rangeland bird found across the Western U.S. The bird is protected under the ESA due to population decline over the last century. However, how to best conserve existing populations has been a topic of

much debate given that sage grouse habitat often overlaps with areas also used for livestock grazing and fossil fuel production. The newly finalized policies issued by BLM are focused on preventing population declines by increasing the area of BLM land that is subject to sage grouse conservation measures. The policies are applicable only to BLM land located in Oregon and Colorado. While BLM under the Biden Administration initially sought to update sage grouse conservation policies in other Western states, only Oregon and Colorado were completed before the Trump Administration took office. To view the finalized policies for Oregon and Colorado, click [here](#).

- Conference opportunity (June 19-20, livestream available): Katy DeVries Riker, Associate, Holland & Hart will present "Federal-Private Split Estate: Considerations for Living and Operating on Stock-Raising Homestead Act Lands" at NALC's **Third Annual Western Water, Ag and Environmental Law Conference**.

Alcohol Labeling. The Biden Administration, alongside the Alcohol and Tobacco Tax and Trade Bureau, recently announced two proposed rules that would require ingredient and nutrition labels on beer, wine, and spirits. The two proposed rules were posted in the Federal Register on January 17th. The first rule would require notification of any major allergens on the label. The second rule would require per-serving nutritional information on the labelling. Since this rule was proposed at the end of the Biden administration, it is uncertain how the Trump administration will handle the rulemaking. For the full text of the proposed rules, click [here](#) and [here](#). To learn more about the federal regulation of alcohol, click [here](#) to read NALC article "Who's My Regulator? An Overview of Which Agencies Regulate Alcohol Beverages."

NALC National Stakeholder Survey



Help shape the future of ag law research and information.

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!

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