



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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Navigating ADA Compliance for Agritourism Guests



Wednesday, May 21, 2025
Noon ET
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Jackie Schweichler
Penn State Center for
Ag and Shale Law

Insecticide Strategy. On April 29, the Environmental Protection Agency (EPA) released a final version of its Insecticide Strategy as part of the agency's effort to better satisfy its Endangered Species Act (ESA) responsibilities when taking action under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). The final document is largely similar to the draft Insecticide Strategy that EPA released last summer. More information about the draft Insecticide Strategy is available **here**. While the final Insecticide Strategy is largely similar to both the draft document and the final Herbicide Strategy that EPA released last September, there are some key updates in the final version of the document. Along with adding additional mitigation measures to the menu of actions farmers can use to reduce pesticide spray drift and runoff, the final Insecticide Strategy also notes that EPA is in the process of identifying certain USDA conservation programs it will consider participation in as sufficient to meet the Strategy's requirements. Additionally, EPA notes that it is also developing a process to certify third party individuals who can advise farmers on how to come into compliance with both the Herbicide and Insecticide Strategies. The full Insecticide Strategy is available **here**, and more information on the final Herbicide Strategy can be found **here**. Neither Strategy is self-implementing and will only be used when new pesticide products come to EPA for approval or when existing products come up for registration review. This year, only a handful of pesticide labels are expected to be amended by the final Herbicide Strategy.

Tariffs. On May 8, President Trump announced a trade agreement between the United States and the United Kingdom. While some details are still being worked out, the agreement will open new market access in the United Kingdom for American machinery, chemicals, and other industrial products in exchange for the United States lowering its 25% tariff on cars and auto parts as well as concessions on steel and aluminium. Additionally, the Trump Administration has announced that it will begin trade talks with China. Currently, the United States has imposed a 145% import duty on products from China which has prompted China to place a 124% levy on goods from the United States. The agricultural industry is already feeling the impact of increased tariffs, with ports in the United States **reporting sharp declines** in traffic between China and the United States. Those declines are already impacting agriculture as China has cancelled a 12,000 metric ton shipment of pork from the United States while imports of pesticides and fertilizers are being **impacted by higher prices**. To learn more about how tariffs could impact the agricultural economy, click **here** to view NALC webinar "Looking Ahead: Impact of the 2024 Elections on Ag Law and Policy."

Salmonella. The USDA's Food Safety and Inspection Service (FSIS) recently **announced** that it is withdrawing its **proposed Salmonella framework**. Published in August 2024, this proposed rule would have declared raw poultry products adulterated when contaminated with certain levels or distinguishable strains of *Salmonella*. After receiving over 7,000 comments during its public comment period, FSIS has determined that "additional consideration is needed." This proposed rule followed a 2024 **final rule** that declared *Salmonella* an adulterant for the first time in Not Ready-To-Eat Breaded Stuffed Chicken Products. FSIS also recently **delayed** the effective date for the verification sampling program created through this final rule. To read more about the proposed *Salmonella* framework, click **here** to read NALC article "FSIS Proposed *Salmonella* Framework for Raw Poultry Products."

- Conference Opportunity (June 19 - 20): Caroline Lobdell, General Counsel & Chief Compliance Officer, Clean Water Services will present "Ag, Food, & Federal and State Agency Deference in a Post-Chevron World" at the Third Annual Wester Water, Ag and Environmental Law Conference. To register, click **here**.

State Foreign Ownership Laws. During the 2025 legislative session, several states have enacted or amended their foreign ownership law. Recently, Idaho enacted **House Bill 356** and **Senate Bill 1149**, which amends the state's FOL by authorizing the Idaho attorney general to investigate and enforce potential violations of the restriction and expands the restriction to prohibit individuals, businesses and governments of foreign adversarial nations from acquiring any real property—not just agricultural or forestland— located within the state. Further, House Bill 356 permits individuals to serve as whistleblowers for potential violations, and referrals that result in a divestiture action entitle the whistleblower to 30% of the proceeds from the sale of the land. Additionally, West Virginia Governor Patrick Morrisey signed **House Bill 2961**, making it the 27th state to enact a foreign

ownership law. For more information on state efforts to restrict foreign ownership of agricultural land, click [here](#) to view Part Seven of NALC's Soil for Sale series.

Beef Imports. In late April, USDA Secretary Brooke Rollins **sent a letter** to her counterpart in Mexico regarding the New World Screwworm (NWS). Specifically, Secretary Rollins stated that the United States would cease all live imports of cattle, bison and equine on April 30 if the Mexican government did not take steps to address the outbreak of NWS in southern Mexico. The letter outlined steps that Secretary Rollins believes would eliminate barriers to combating the spread of NWS, such as allowing aircraft operated by USDA to make precision aerial releases of pesticides seven days a week instead of six, and removing import duties for NWS-related aircraft parts, sterile flies, and other eradication equipment. On April 30, **USDA announced** that Mexico had agreed to eliminate restrictions on USDA aircraft and waive duties on equipment used for NWS eradication efforts. In return, the United States will continue to import livestock from Mexico so long as the agreement is upheld.

Florida Ag Bill. On May 6, the Governor of Florida signed into law **SB 700**, a detailed agricultural bill that addresses topics from food labeling to housing for farmworkers. Highlights from SB 700 include a clarification that no governmental entity within the state may adopt or enforce any legislation or regulation that would inhibit the construction of housing for legally verified agricultural workers on land classified as agricultural land; a prohibition on the use of drones or other unmanned aircraft on agricultural land without the owner's consent; and a prohibition on labeling plant-based food products as "milk," "meat," or "poultry." SB 700 also includes the Florida Farmer Financial Protection Act, which prohibits financial institutions from declining financial services to an agricultural producer based on the achievement of environmental, social, or political goals. Finally, in addition to the provisions of SB 700 that address agriculture, SB 700 also bans fluoride in public drinking water within the state of Florida.

Alternative Protein Legislation. Indiana has enacted a **proposal** that creates labeling standards for cultivated meat products, and bans the manufacture, offering for sale, and selling of cultivated meat products in the state for the time period of July 1, 2025 to June 30, 2027. After that date, the labeling standards will require cultivated meat products to bear the phrase "this is an imitation meat product." Additionally, Montana became the 5th state to ban the manufacturing for sale, selling, offering for sale, and distribution of cultivated meat when its governor signed **HB401** into law. Meanwhile, both chambers of Oklahoma's legislature have passed **HB1126**, a bill that expands Oklahoma's current alternative protein labeling laws. Specifically, HB1126 requires that cultivated protein food products, insect-protein food products, and plant-protein food products bearing an "identifying" meat term must also bear a "qualifying" term that makes clear to a reasonable purchaser that the food is not derived from harvested livestock. HB1126 also creates storage requirements for food establishments that offer alternative proteins. Further, **SB96** has passed both Oklahoma's House and Senate. This bill would create provisions extending Oklahoma's Meat Consumer Protection Act to cell-cultured and insect-protein products. For a more detailed update on state alternative meat proposals, click [here](#) to read an article from NALC partner Southern Ag Today "A Steak by Any Other Name: How States Are Shaping the Future of Cultivated Meat."

Grain Indemnity. Indiana's governor has signed into law a piece of legislation that updates the state's grain indemnity laws. SB461 updates licensing, recordkeeping, and financial reporting requirements for the agency that oversees the Indiana Grain Indemnity Program, the Indiana Grain Buyers and Warehouse Licensing Agency. Specifically, it updates the net worth required for a grain buyer to retain its license, creates a new process for "informal meetings" called by the director with a licensee, and introduces language requiring that a licensee with multiple facilities must obtain a license that covers all facilities operated by that person. To learn more about state laws for grain dealers and warehouses, click [here](#) to visit NALC's "Regulation of Grain Sales & Storage" state compilation.

- Webinar Opportunity (June 18): Ross Pifer, Penn State University, Center for Agricultural and Shale Law will present "An Overview of State Grain Dealer Statutes in the United States." To register, click [here](#).

Synthetic Dyes. Following the FDA **announcement** outlining its six-pronged plan to "phase out" synthetic dyes from the food supply, multiple food manufacturers, like PepsiCo Inc. and Tyson Foods, announced their intentions to remove synthetic dyes from their products. Specifically, the CEO of PepsiCo **stated** in an April 24 earnings call that brands like Lay's and Tostitos will stop using artificial colors by the end of 2025. Likewise, the Tyson Foods CEO **announced** that it is aiming to remove synthetic dyes from its products by the end of May 2025. To learn more about the FDA's plan, click [here](#) to read NALC article "FDA Announces Plan to 'Phase Out' Synthetic Dyes."

ADA Class Action: In a recently filed class action lawsuit, a group of Oregon businesses is alleging that two Tennessee law firms and a Portland-based lawyer led a racketeering scheme that extorted certain businesses through claiming violations of the Americans with Disabilities Act (ADA). Specifically, the suit claims that the law firms hired "disabled persons to unwittingly serve as fraudulent 'testers' of local businesses for ADA compliance purposes" by having those testers purchase items at specific businesses and record their purchases. According to the complaint, the law firms would then send demand letters to the businesses containing the threat of lawsuits and demand that the dispute could be settled with the payment of attorney fees. To read the full complaint, click [here](#).

- Webinar Opportunity (May 21): Jackie Schwichler, Penn State University, Center for Agricultural and Shale Law will present "Navigating ADA Compliance for Agritourism Guests." To register, click [here](#).

Endangered Species Act. Currently, over 125,000 comments have been submitted on the Fish and Wildlife Service's **recent proposal** to rescind the definition of "harm" under the Endangered Species Act (ESA). Under the ESA, no one may "take" a member of a protected species. The definition of "take" under the ESA is broad and provides, among other things, that no one may "harm" a protected

species. Since the 1970s, "harm" has been defined through regulations to include actions that significantly impair a species' habitat. A public comment period on the proposal to rescind the definition of "harm" is open through May 19. To learn more about the proposal, click [here](#) to view NALC article "Fish and Wildlife Service Proposes Rescinding Definition of 'Harm' Under ESA."

Milk Testing. In late April, the FDA moved to suspend its quality control program for testing fluid milk and other dairy products. Starting April 26, FDA has ceased carrying out its testing program for Grade "A" milk and other finished products. A Grade "A" is issued to dairy products that meet the highest sanitary standards and is included on product labels. According to [reports](#), the testing program has been halted because FDA's Moffett Center Proficient Testing Laboratory which helps with overseeing food safety can no longer provide support for testing and analysis following the departure of employees. Dairy testing conducted by individual states appears unaffected.

Oregon Date Label. Oregon lawmakers are considering a [piece of legislation](#) that would both require Oregon businesses to compost food waste and create date labeling standards for food sold in Oregon. Specifically, this bill would mandate that food establishments who voluntarily choose to include a date label must use either "best if used by," "best if used or frozen by," "use by," "use or freeze by," "BB," or "UB." To learn more about a similar law enacted by California, click [here](#) to read NALC article "Date Labels and the New California Law."

Louisiana "MAHA" bill. A Louisiana Senate Committee has advanced a bill aimed at achieving several "Make America Healthy Again" initiatives. [SB14](#) includes provisions that would prohibit certain food dyes and artificial sweeteners from school meals, require restaurants to disclose food cooked with seed oils, direct the governor to apply for a waiver to bar certain purchases with SNAP benefits, and mandate food packages include a warning if the product contains certain ingredients that are banned in other countries. To read about food law-related state laws enacted in 2025, click [here](#) to read NALC article "Food Law in the States - 2025 Update."

Alternative Meat Litigation. The US District Court for the Northern District of Florida has determined that UPSIDE Foods' challenge of Florida's cultivated meat ban can continue. However, the order dismissed four of UPSIDE's five claims - allowing litigation to continue on the claim that the ban violates the dormant commerce clause. Specifically, this claim alleges that Florida's ban discriminates against interstate commerce to protect Florida's livestock industry. To read the full order, click [here](#). Across the pond, Switzerland's highest court published a new [ruling](#) that prohibits plant-based products from using animal names like "chicken" or "beef" on their packaging. Notably, the Federal Supreme Court's ruling still allows the use of terms like "steak" and "fillet" on plant-based products. This ruling is contradictory to a 2024 ruling of the European Union's Court of Justice (ECJ) that determined no member state may prohibit the use of meat terms on plant-based products. Since Switzerland is not a member of the EU, the ECJ decision has no authority there. To learn more about the recent ECJ decision, click [here](#) to read NALC article "Foreign Food Labeling Updates: EU Court of Justice Decisions."

Cottage Foods. As part of the Agriculture budget proposal, Minnesota lawmakers are considering a number of provisions that would update the state's cottage food laws. [HF2446](#) includes the following updates - decreasing the fee for registering as a cottage food from \$50 to \$30; expanding eligibility to allow individuals, sole proprietors, and small two-person LLCs owned by two persons who cohabitate to be cottage food operators; allowing products to be delivered by mail or commercial services; changing the requirements for producers to complete food safety training courses every three years instead of annually; and requiring at the annual sales cap be adjusted every two years for inflation. HF2446 has passed both Minnesota's legislative chambers, but is currently undergoing the conference committee process. Additionally, Texas has a few cottage food related proposals. [HB5459](#) would prohibit state, county, or local health officials from requiring a "small-scale business" to have more than one permit or license. [SB1864](#) would allow the sale of ungraded eggs directly to consumers and up to 500 dozen per week to a wholesaler in the state. [SB541](#) would revise current Texas cottage food laws. Specifically, this bill would expand to allow nonprofit organizations to be eligible, increase the annual cap to \$100,000, require cottage food products to bear specific disclosures, and allow cottage foods to be sold through certain third party vendors. SB541 and SB1864 have passed through the Texas Senate and are being considered by the House. HB5459 is still being considered in committee. To learn about cottage food laws across the country, click [here](#) to view NALC's recently updated Cottage Food state compilation.

Longfin Smelt. On May 1, the United States House of Representatives voted 216-195 to overturn the federal listing of the San Francisco Bay-Delta distinct population segment longfin smelt as an endangered species under the ESA. The longfin smelt is a small species of fish found in various bodies of water along the West Coast. In 2024, the Fish and Wildlife Service listed the population of longfin smelt found in the San Francisco Bay estuary as an endangered species after finding that the population has decreased significantly in recent decades. However, some lawmakers have argued that protecting the fish threatens crucial water supplies for agriculture in California's Central Valley region. The Congressional Review Act (CRA) allows Congress to invalidate agency regulations. While the CRA has only successfully been used to overturn around twenty agency regulations, it has returned to prominence in recent years. Currently, the CRA effort to invalidate the longfin smelt listing has passed the House of Representatives, but will need to pass the Senate and be signed by the President before the longfin smelt is removed from the list of threatened and endangered species. To learn more about the CRA and how it works, click [here](#).

Farm Loans. Going forward, farm loan employees for the USDA's Farm Service Agency (FSA) will need to receive approval from the recently created Department of Government Efficiency (DOGE) to issue loans over \$500,000. The policy change was first [reported by Reuters](#) on April 30 and appears to stem from a memo sent by the deputy administrator for farm loans within FSA. It is currently unclear what criteria DOGE will use to approve FSA loans over \$500,000, but estimates show that roughly one third of FSA dollars sent to farmers could now require DOGE approval. Most of the direct loans that FSA issues to producers are operating loans which are capped at \$600,000, and during fiscal year 2023, FSA approved nearly 1,000 direct loans to producers that exceeded \$500,000. On May 6, sixteen Senators, including Senator Klobuchar, the Ranking Member of the Senate Committee on Agriculture, Nutrition, and Forestry, submitted [a letter](#) to USDA Secretary Rollins expressing concern that additional review of FSA loans could increase delays for applicants and asking for further clarification on this decision.

- Conference opportunity (June 5-6): Renee S. Williams. Chapter 12 trustee, U.S. Bankruptcy Court for the Eastern and Western Districts of Arkansas and Russell D. Morgan, CAC, Morgan Agricultural Consulting Svcs (MACS) will present "Dealing with Debt: Practical Considerations in Preparing for & Navigating Ag Bankruptcy" at the 12th Annual Mid-South Agricultural and Environmental Law Conference. To register, click [here](#).

Precision Ag. A bipartisan package of precision agriculture bills is being **introduced** by Senator Fischer in the U.S. Senate. The **Producing Responsible Energy and Conservation Incentives and Solutions for the Environment (PRECISE) Act** would create financial tools to incentivize farmers and ranches to adopt precision ag technologies through USDA conservation programs. The **Linking Access to Spur Technology for Agriculture Connectivity in Rural Environments (LAST ACRE) Act** would establish a new program through the USDA Office of Rural Development that aims to expand network connectivity across farmland. The **Precision Agriculture Loan (PAL) Act** would create a loan financing program at USDA to aid farmers and ranchers in purchasing precision agriculture equipment.

H-2A Farmworkers. A federal judge in North Carolina has ruled in favor of the Department of Labor (DOL) in a lawsuit filed by the North Carolina Farm Bureau to challenge a series of farm labor regulations adopted in 2024. Under those regulations, titled "Protections for Worker Voice and Empowerment," H-2A employers are prohibited from retaliation against H-2A farmworkers for engaging in certain forms of collective action or for filing complaints, testifying in proceedings, or consulting with an attorney. The regulations also prohibit employers from taking the passports of H-2A workers, and outlines what qualifies as "for cause" termination. The lawsuit filed by North Carolina Farm Bureau argued both that DOL had exceeded its statutory authority in passing the regulations and that the regulations violated the National Labor Relations Act by "usurping" the authority of the National Labor Relations Board to "prevent unfair labor practices." However, the judge disagreed, finding that DOL had acted within its statutory authority to regulate immigrant labor. To read the full decision, click [here](#). To learn more about the regulations at issue, click [here](#).



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