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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Reconciliation. On July 4th, 2025, President Trump signed into law what is frequently referred to as the **One Big Beautiful Bill Act** (OBBBA). In addition to other spending changes, OBBBA incorporated legislative components that are usually included in the Farm Bill. For example, it extended the authority for Title 1 safety net provisions like PLC and ARC, and increased reference prices for covered commodities by 10-20%. It also included provisions regarding disaster relief, crop insurance, and other programs historically funded and reauthorized by the Farm Bill. The OBBBA also addressed the Supplemental Nutrition Assistance Program by expanding work requirements for participants and introducing a cost-share requirement for states. However, because reconciliation is limited to only federal spending and revenue laws, there are numerous Farm Bill components that were excluded from the OBBBA. Because of this, lawmakers are **considering** the passage of a "mini" or "skinny" farm bill later this year.

- Upcoming articles: Staff Attorneys Emily Stone and Brigit Rollins will be publishing articles highlighting specific food and agriculture-related provisions in the OBBBA on July 17 and July 22 respectively.

USDA's Foreign Ownership Plans. On July 9, 2025, USDA Secretary Brooke Rollins announced the **National Farm Security Action Plan**, outlining new efforts to block foreign adversaries—particularly China—from acquiring or retaining interests in U.S. farmland. A central piece of the plan includes reforms to the Agricultural Foreign Investment Disclosure Act ("AFIDA"), such as creating a system to efficiently provide the public with AFIDA data, increasing civil penalties for false or late disclosures, and launching a new online portal for reporting potential violations. The plan also seeks to formalize USDA's role in reviewing farmland-related transactions in coordination with the Committee on Foreign Investment in the United States ("CFIUS"). Further, the plan signals the Trump administration's intent to explore legal options to "claw back" previously acquired farmland by Chinese-owned firms, such as Smithfield Foods and Syngenta. For more resources and information, see NALC's Foreign Ownership of Agricultural Land: FAQs & Resource Library available **here**. Along with recently announced plans at the federal level, states continue to adopt new laws restricting the foreign ownership of agricultural land, including Texas where the Governor formally signed SB 17 into law in late June to restrict certain foreign purchases of real property located within the state. For more information, click **here** to view NALC article "A New Era in Texas Real Estate: Foreign Investment Restriction Under New State Law."

- Media opportunity (July 11): NALC Center Director Harrison Pittman will take part in a live C-SPAN interview on this topic on Friday, July 11th from 9-9:30 ET. The segment will air live nationwide on C-SPAN, will be streamed live on **C-SPAN.org**, and available via the mobile video app C-SPAN NOW. Viewer calls, texts and questions via social media will be taken after the initial interview.

USDA Revises NEPA Rules. USDA has unveiled **an interim final rule** to modify the agency's regulations implementing the National Environmental Policy Act (NEPA). NEPA requires all federal agencies to draft and submit to the public reports detailing how an agency's proposed action will impact the environment. The Council on Environmental Quality (CEQ), an agency created to help facilitate NEPA's compliance, was directed to repeal its NEPA implementing regulations earlier this year after a federal judge determined that it did not have authority to issue binding regulations. USDA's interim final rule consolidates existing NEPA regulations from various USDA agencies into one set of department-wide rules. The interim final rule incorporates changes made to NEPA through amendments passed by Congress in 2023 and exempts certain projects from NEPA review altogether. It became effective on July 3, but USDA will accept comments on the rule through July 30. To learn more about recent changes to NEPA, click **here** to view NALC article "CEQ Rescinds All NEPA Implementing Regulations."

As more agencies adopt or update their NEPA implementing provisions, it is possible that legal challenges over how agencies carry out those regulations may arise. While last year's Supreme Court

decision *Loper Bright v. Raimondo* altered how courts treat agency interpretations of statutes passed by Congress, how judges treat agency interpretations of their own regulations continues to be governed by the standard established in *Auer v. Robbins*. For more information, click here to view NALC article "Who Gets to Say? Agency Deference in a Post-Chevron World: *Auer v. Robbins*."

Food Dyes. U.S. Representative Luna (FL-13) recently introduced the "Do or Dye Act of 2025" that would classify any food that contained certain color additives as adulterated under the Federal Food, Drug, and Cosmetic Act. **H.R. 3722** initiates a complete ban on Citrus Red No. 2 and Orange B by the end of the year. Additionally, color additives including, Green No. 3, Red No. 40, Yellow No. 5, Yellow No. 6, Blue No. 1, and Blue No. 2 would be phased-out by the end of 2026. The bill was introduced on June 4, and referred to the House Committee on Energy and Commerce. This legislation is aligned with FDA priorities regarding synthetic dyes. To learn more about how the FDA is handling this topic, click **here** to read NALC article "FDA Announces Plan to 'Phase Out' Synthetic Dyes."

Eminent Domain. USDA has issued a formal warning to the officials of Cranbury Township, New Jersey urging the town to delay its planned seizure and redevelopment of a 21-acre farm property. Officials in Cranbury Township are currently planning to seize the property through eminent domain to allow a developer to build high-density affordable housing on the property in order to bring the town into compliance with a mandate that towns in New Jersey build more than 146,000 affordable housing units by 2035. The letter from USDA states that the property contains "prime farmland soils" and is federally protected under the Farmland Protection Policy Act. USDA warns that if the town's officials proceed without complying with federal farmland protection requirements, the project could be in violation of federal law. Additionally, USDA is investigating whether the project involves federal funds which would require Cranbury Township to submit forms to USDA before it could take action. The family that owns the property has also **filed a lawsuit** against the town seeking to prevent the planned seizure. A copy of the letter is available **here** on Secretary Rollins' X account.

Fourth Amendment. On June 11, a federal court in Kansas ruled that the Kansas Department of Agriculture's practice of compelled, warrantless, and unannounced searches of private property by government representatives violated the Fourth Amendment of the U.S. Constitution. In 2022, the owners of a Kansas bird dog training kennel sued the Kansas Animal Health Commissioner alleging that the Kansas Pet Animal Act (KPAA) authorized unreasonable, warrantless searches in violation of the Fourth Amendment. Bird dog training is considered a regulated industry in Kansas and under the KPAA, anyone who receives a dog training license must allow state officials to enter their dog training facility without prior notice. Refusal of entry or inspection would result in the suspension or revocation of a person's license. However, following the court's decision, the Kansas Animal Health Commissioner will be prevented from conducting warrantless searches of boarding and training kennel premises under the authority of the KPAA. To read the court's order, click **here**. The issue of warrantless searches and the Fourth Amendment has been discussed at past NALC conferences. Most recently, the Third Annual Western Water, Ag & Environmental Law Conference hosted a session titled "Fourth Amendment and Agriculture: Warrantless Access to Agricultural and Private Rural Lands." Materials from that session are available **here**.

Oklahoma v. Tyson. For the latest development in the decades-long dispute over chicken waste pollution in the Illinois River, a federal judge in Oklahoma has determined that conditions in the Illinois River watershed have not "materially changed" since the original trial. The lawsuit, *Oklahoma v. Tyson Foods, Inc.*, was initiated in 2005 by the Oklahoma Attorney General who alleged that poultry companies including Tyson and Cargill were polluting the Illinois River with waste and runoff from their poultry production facilities. Trial in the case was held in 2010 and **in 2023 the court ruled** that the poultry companies were violating Oklahoma law by causing the Illinois River to become polluted with phosphorus and other bacteria commonly found in agricultural runoff. Following that decision, the defendants sought to have the court's ruling dismissed, claiming that the 2023 decision had been based on evidence that is no longer valid and that both pollution management practices and overall water quality in the Illinois River had changed since 2010. However, the court disagreed, finding that new evidence presented in 2024 established that poultry waste continues to harm the Illinois River in violation of Oklahoma law. The court has directed the state to submit a proposed cleanup plan by July 9 and will give the defendants until July 30 to respond. To read the June 17 opinion and order, click **here**.

Cattle Ponzi Scheme Settled. On June 10, a federal court in Texas entered a final judgment and consent order against Agridime LLC ordering the company to pay $102,936,904 in restitution. The Commodity Futures Trading Commission sued Agridime LLC in May of 2024 alleging the company and co-founders perpetrated a ponzi-type scheme to defraud customers. Agridime operated an online cattle purchase program where customers purchased cattle that Agridime allegedly would care for through its farmer partnerships. However, Agridime neither purchased the number of cattle promised to customers nor did it use customer funds for the raising and feeding of cattle. Instead, Agridime rather used customer funds to pay the guaranteed profits of earlier customers. Along with ordering Agridime to pay restitution, the court has also barred Agridime from trading "commodity interests." To read the recent consent order, click **here**.

Emotional Damages for Animals. A New York judge **ruled** that a dog was "immediate family" and determined that its owners may sue for emotional distress after watching the dog get run over. In this case, the dog's owner was holding a leash attached to the dog when it was run over, thus the owner herself was considered in the "zone of danger" when the incident occurred. To recover for the emotional distress of watching an immediate family member die or suffer grave harm, the law requires the person claiming emotional distress to be in the "zone of danger." Based on these facts, the judge determined that the dog was immediate family, but the judge clarified that this carveout is only applicable to people walking leashed dogs. Currently, allowing non-economic damages such as emotional distress claims for the loss of animals is not a frequently successful legal theory.

Prop 12. The U.S. Supreme Court has **denied a petition for cert** filed by the Iowa Pork Producers Association challenging California's Proposition 12, a voter referendum passed in 2018 that prohibits the sale of pork that comes from sows housed in gestation crates. This marks the second time an agricultural interest group has raised Prop 12 up to the Supreme Court. In 2022, the Court issued *National Pork Producers Council v. Ross*, concluding that Prop 12 did not violate the Commerce Clause of the U.S. Constitution and allowing the law to remain in place. By deciding not to hear the new challenge, the Supreme Court allows its decision in *National Pork Producers Council v. Ross* to stand. Along with California, a handful of other states have considered or adopted legislation similar to Prop

12 in recent years. Massachusetts adopted Question 3 in 2016 which prohibits the sale of poultry, pork, and veal that was raised in conditions that did not give the animal enough room to turn around, lie down, or fully extend its limbs. To learn more about the Supreme Court's decision in *National Pork Producers Council v. Ross*, click **here** to view NALC article "What's Cooking with Prop 12?: SCOTUS Decision." For more information on state laws related to animal confinement, click **here** to view NALC's state law compilation.

Cottage Foods. On July 1, 2025, **HB 401** went into effect in Vermont. This legislation updated Vermont's cottage food laws by increasing the annual sales cap for cottage food operations to $30,000. Previously, Vermont producers were only considered cottage foods if their average gross retail sales did not exceed $125 per week. This expansion will allow more operations to qualify as cottage foods. To learn more about recent state cottage food law updates, click **here** to read NALC article "Cottage Food Laws: Recent Trends and Major State Changes." To learn more about each state's cottage food laws, click **here** to view NALC's Cottage Food state law compilation.

SCOTUS Seeks Input on Roundup. The Supreme Court has asked the Office of the Solicitor General to give input on whether the Court should hear a petition from the pesticide manufacturer Bayer on the scope of federal pesticide law. Bayer, the German pharmaceutical company that makes and sells the widely used pesticide Roundup, has asked the Supreme Court to consider whether the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) preempts state tort law and claims that pesticide manufacturers have "failed to warn" consumers about alleged health risks associated with using their products. Lawsuits filed by plaintiffs claiming that they were injured after being exposed to Roundup and that Bayer failed to warn them of the risk have been on the rise for nearly a decade, with the question of whether FIFRA preempts the tort claims raised by plaintiffs having come before three Circuit Courts of Appeal. Currently, there is a split amongst the circuits, with the Ninth and Eleventh Circuits finding that the claims are not preempted by federal law and the Third Circuit holding that FIFRA does preempt the claims. Now Bayer has asked the Supreme Court to settle the matter. While the Court indicated that it could make a decision on whether it would hear the case before the end of June, the Court is now asking the nation's top lawyer to provide "the views of the United States" on Bayer's petition. To learn more about the question of preemption in pesticide lawsuits, click **here** to view NALC article "Plaintiffs & Pesticides: Failure to Warn Claims in Pesticide Injury Lawsuits."

H-2A. The Department of Labor (DOL) has published a **proposed rule** that rescinds a 2024 final rule regarding H-2A visas. The 2024 final rule, which took effect in June of last year, created additional rights for migrant farmworkers. These rights included increased wage transparency and prohibited agricultural employers from discriminating against employees involved in "activities related to self-organization." The proposed recission has a public comment period open until September 2, 2025. To leave a comment, click **here**. To learn more about the now-paused 2024 rule, click **here** to view NALC article "Department of Labor Finalizes New H-2A Regulations." On August 20, the NALC will host a webinar covering ag labor issues, including changes to H-2A. Registration information will be available **here** and you can sign up for webinar announcements **here**.

Clean Water Act. The Environmental Protection Agency (EPA) has **notified the public** that it will begin conducting listening sessions on potential changes to how the agency implements section 401 of the Clean Water Act (CWA). Under section 401, the CWA provides authorized states and tribal governments to play a role in the CWA licensing and permitting process. Specifically, section 401 of the CWA provides that EPA may not issue a permit to discharge pollution into a protected water body unless the state or tribe where the discharge would occur either certifies that the permit is in compliance with the law or waives certification. If the state or tribe does not certify the permit or waive certification, then the permit may not be issued. During the first Trump administration, EPA adopted a new regulation that would have changed how section 401 was implemented by limiting the scope of the section so it only applied to certain CWA permits. However, a court overturned the rule so it never went into effect. Now, EPA is looking for public input and feedback on whether it should revisit section 401 implementation and what, if any changes should be made. Any written feedback must be submitted to EPA by August 6. To learn more about section 401 and previous attempts to revise how EPA implements it, click **here** to view NALC article "Court Vacates CWA Section 401 Certification Rule."

Grain Dealers. On July 1, 2025, a new **Indiana law** that offers expanded protections to grain producers in the state went into effect. In response to a 2020 grain elevator failure that cost Indiana producers millions of dollars, this new law tightens licensing qualifications to ensure that elevators who do not meet a certain standard will not be permitted to continue operating. The licensing qualifications include meeting a 1 to 1 ratio of current assets to current liabilities; maintaining 85% of unpaid balance of grain payables in unencumbered assets; and staying above minimum net worth based on business size. This follows a recent **Iowa state law** change that went into effect on May 27, 2025, and added additional protections for Iowa's grain producers. To learn more about Indiana and Iowa's laws, click **here** to read NALC article "Recent State Updates to Grain Indemnity." To learn more about state grain dealer statutes, click **here** to view recorded NALC webinar "An Overview of State Grain Dealer Statutes in the United States."

Nevada: Water Rights. Last month, the Governor of Nevada signed **AB 104** and its companion bill **SB 36** into law. Together, both bills establish the Nevada Voluntary Water Rights Retirement Program and authorize the Director of the Nevada State Department of Conservation and Natural Resources to purchase voluntarily retired water rights. The bills seek to address Nevada's shrinking water supply by creating a program through which groundwater rights holders, including agricultural producers, will receive monetary payment in exchange for voluntarily returning their water rights to the state. Afterwards, the water rights will be removed from future use.

- Webinar opportunity (July 16): Brett Bovee, Intermountain Regional Directory, WestWater Research and Brian E. Hamilton, Water Rights Attorney, Downey Brand will present "Western Water Markets: Overview of Legal & Policy Considerations." To register, click **here**.

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