



# 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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WEBINAR SERIES

Reviewing New OBBBA Tax  
Provisions Impacting  
Agricultural Producers



Wed., September 17, 2025

Noon ET

No cost to register

**Kristine Tidgren**  
Iowa State University's Center  
for Agricultural Law and  
Taxation (CALT)

**TX and Food Companies.** On August 13, Texas Attorney General Ken Paxton, signed an **Assurance of Voluntary Compliance** with Kellogg's to certify the removal of artificial food dyes from Kellogg's cereal by the end of 2027. Kellogg's is the first company to sign a legally enforceable instrument stipulating that it will remove food dyes from its products. This announcement follows a months-long investigation Paxton launched into Kellogg's earlier this year that focused on allegations that the company failed to remove artificial dyes from its U.S. products after stating that it would do so. Texas also launched an **investigation** into General Mills for "deceptively marketing its cereals that contain petroleum-based food colorings" by using the "healthy" label on those products. In June, Paxton **announced** that General Mills had agreed to remove artificial dyes from its products. However, the commitment from General Mills differs from Kellogg's, because it is not legally enforceable. For specific information on other food manufacturers who have made this switch, the Department of Health and Human Services has recently launched a website titled "**MAHA in Action**". To learn more about the "MAHA" movement on the state level, click **here** to read NALC article "State Level 'MAHA' Movement: New Texas and Louisiana Laws."

**Pesticides: Enlist Registration Challenged.** Several environmental groups filed an action, available **here**, to vacate the registration for Enlist One and Enlist Duo, which, if successful, would make the products unavailable for sale or distribution in the U.S. The groups claim that EPA violated the Federal Insecticide, Fungicide, and Rodenticide Act by registering the Enlist products. Specifically, the groups allege that EPA relied on outdated usage data which does not accurately reflect the amount of Enlist being applied to fields each year, that EPA overstated the benefits of Enlist as an effective tool for managing herbicide-resistant weeds, and that mitigation measures EPA included on the labels for Enlist One and Enlist Duo fail to address "adverse effects on the environment." An NALC article providing more context and legal considerations will soon be posted on the **NALC Ag and Food Law Update**.

**Meatpackers Litigation: 'Product of USA.'** An amicus brief was recently filed in the 8th Circuit

Court of Appeals by a coalition of eleven attorneys' general supporting a lawsuit against several meatpackers' over their use of alleged misleading 'Product of USA' labels. In 2023, two South Dakota ranchers filed the initial action against JBS Foods, Tyson Foods, Cargill, and National Beef alleging the companies' 'Product of USA' labels violate state laws designating the beef product as misbranded if the cattle were born, raised or slaughtered outside of the U.S. The ranchers argue the Federal Meat Inspection Act does not preempt the states from designating the products in question as "misbranded" under state law. The meatpacking companies appealed the South Dakota District Court's denial of the companies' motion to dismiss to the 8th Circuit. The attorneys general that joined the amicus brief include South Dakota, Nebraska, Idaho, North Dakota, Colorado, New Mexico, Texas, Montana, Kansas, Oklahoma, and Wyoming. To read the amicus brief, click [here](#). To learn about USDA's approach to 'Product of USA' labels, click [here](#) to read NALC article "USDA Finalizes Voluntary 'Product of USA' Rule."

**Pesticides: EPA Extends Public Comment on Dicamba.** EPA has extended the public comment period on its proposal to register three dicamba pesticide products for over-the-top use on post-emergent dicamba tolerant soybean and cotton crops. Comments will be accepted until September 6, 2025. Should EPA finalize the proposed registration, over-the-top dicamba could be available to farmers as early as the 2026 growing season. To submit a comment, click [here](#). To learn more about EPA's proposed registration decision, click [here](#) to view NALC article "The Deal with Dicamba: EPA Proposes Unconditional Registration for Over-the-Top Use."

**RMA Rollout of Enhanced Crop Insurance.** The USDA Risk Management Agency (RMA) [announced](#) that federal crop insurance programs will receive "significant enhancements" under the One Big Beautiful Bill Act. Qualifying farmers and ranchers will receive additional subsidy percentage points, beginning at 15 percentage points for the first two years, then decreasing periodically over the decade. Coverage will be expanded for area-based crop insurance programs like Whole Farm Revenue Protection, which will see a maximum coverage level increase from 85% to 90%. Premium support will increase for the Supplemental Coverage Option, Enhanced Coverage Option, and other programs. RMA states the updates will go into effect for "all crops with sales closing dates on or after July 1, 2025." To learn more about crop insurance, click [here](#) to view NALC's Disaster Assistance/Crop Insurance Reading Room.

**"Death Tax".** The recently enacted One Big Beautiful Bill Act (OBBA) contained a sweeping tax package that, among other things, permanently set the unified credit to \$15 million per individual starting in 2026 and this number will increase each year after that indexed for inflation. The unified credit for 2025 remains at \$13,990,000 per individual or \$27,980,000 for married couples so long as portability is elected. For more information from the IRS on this deduction and other tax provisions in the OBBA, click [here](#).

- Webinar opportunity (September 17): Kristine Tidgren, Director, Iowa State University's Center for Agricultural Law and Taxation will present "Reviewing New OBBA Tax Provisions Impacting Agricultural Producers." To register, click [here](#).

**ESA: Lesser Prairie Chicken.** On August 12, a Texas federal court removed Endangered Species Act (ESA) protections for the lesser prairie chicken, reversing the U.S. Fish and Wildlife Service's (FWS) 2022 classification of the bird. The 2022 classification designated a distinct population segment of lesser prairie chicken located in southern New Mexico and southwest Texas as endangered while a second distinct population segment located in Kansas, Oklahoma, and the northeast part of Texas was listed as threatened. **The state of Texas filed a lawsuit** to challenge the listing decision in 2023, and in May 2025, **FWS filed a motion for voluntary vacatur** to ask the court to overturn the listing decision and send the matter back to FWS for further review. In its August 12 decision, the court granted that request. Following the court's decision, the lesser prairie chicken is no longer listed under the ESA which means that there is no risk of liability for "take" of the species. For more information, click [here](#) to view NALC partner Texas A&M Extension's article "Federal Court Vacates and Remands Listing of Lesser Prairie Chicken Under Endangered Species Act."

**Post-Market Chemical Review.** FDA recently updated its [list](#) of chemicals in the food supply under review for **post-market assessments**. This list is now updated to include nine chemicals used as

food additives or color additives, food contact substances, and contaminants. These chemicals include butylated hydroxyanisole (BHA), butylated hydroxytoluene (BHT), azodicarbonamide (ADA), FD&C Blue No. 1, FD&C Blue No. 2, FD&C Green No. 3, FD&C Red No. 40, FD&C Yellow No. 5, and FD&C Yellow No. 6. Additionally, the FDA is investigating the presence of opiate alkaloids on poppy seeds, and has categorized lead as a food contact substance as well as a contaminant. To read about FDA's Chemical Review Program and other 2025 agency updates, click [here](#) to read NALC article "FDA Updates: June 2025." To learn about another FDA proposal to revoke 52 standards of identity, click [here](#) to read NALC article "Food Foundations: Standards of Identity."

**Florida Raw Milk Update.** On August 13, a Florida woman sued a Florida dairy farm and grocery store for selling her unpasteurized milk ("raw milk") that allegedly caused her and her toddler to be hospitalized and led to the miscarriage of her unborn child. Per the lawsuit, the mother inquired about the raw milk products label which stated "for consumption by animals" and was told it was a technical requirement to sell 'farm milk.' The lawsuit claims the dairy farm and grocery store were negligent in preparing, testing, labeling and selling the raw milk product, and breached the implied warranty of merchantability. Additionally, the lawsuit alleges the dairy farm and grocery store are liable because they failed to give adequate warnings of the dangers of the raw milk because it contained E. coli and Campylobacter. This lawsuit comes a little less than a week after the Florida Department of Health [provided an update](#) on raw milk after 21 cases of E. coli were traced the Florida dairy farm at issue in the lawsuit. The Department reported 21 cases from that farm, seven of which resulted in hospitalization. To learn more about the regulation of raw milk, click [here](#) to read NALC article "Amos Miller and the Regulation of Raw Milk." To view the complaint, click [here](#).

**DOJ Deregulation of Interstate Commerce.** On August 15, the Department of Justice (DOJ) [announced](#) it will be partnering with the National Economic Council to identify State laws that adversely impact the national economy or interstate economic activity. The DOJ recently opened a [30-day period for public comment](#), seeking input from the public to aid in its efforts. In July, the DOJ filed a lawsuit on similar grounds against the State of California. It challenged California laws, including Proposition 12, that imposed regulations on egg production standards. In that complaint, the DOJ alleged that the regulations raised prices for consumers and violate the Supremacy Clause of the U.S. Constitution. To read the Department's complaint, click [here](#). To learn more about the DOJ's suit against California, click [here](#) to read NALC article "Challenge to California's Hen Housing Laws."

**ESA: Blanket 4(d) Rule.** A federal judge in Montana [has agreed to pause a lawsuit](#) filed by the Rocky Mountain Elk Foundation earlier this year challenging a FWS regulation known as the "blanket 4(d) rule" after FWS told the court that it is proposing to rescind the regulation later this year. The blanket 4(d) rule is a regulation first introduced in the 1970s that automatically grants all species listed under the ESA as "threatened" the same protections that are provided to species listed as "endangered." FWS rescinded the blanket 4(d) rule in 2019 but later reinstated it in 2024. The Rocky Mountain Elk Foundation argued in its lawsuit that the rule violates the ESA by hindering beneficial conservation activities. FWS has told the court that it is in the process of drafting a proposed rule to rescind the 2024 blanket 4(d) ruling and that it expects to submit a copy of the proposal to the Federal Register no later than October 31, 2025. To learn more about the blanket 4(d) rule, click [here](#) to view NALC article "FWS, NMFS Issue Proposed Rules to Modify Remaining Trump Administration Regulations."

**Livestock Reporting Exemption Upheld.** On August 7, the federal court in the District of Columbia held that a 2018 EPA rule exempting livestock and poultry farms from certain routine air emissions reporting requirements, did not violate the Emergency Planning and Community Right-to-Know Act (EPCRA). EPCRA requires certain facilities to notify the public of releases of "extremely hazardous substances" beyond a certain threshold. Congress passed the Fair Agricultural Reporting Method in 2018 to exempt "air emissions from animal waste" from public notification requirements under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA). That same year, EPA passed the rule to exempt animal waste air emissions from EPCRA's public notification requirements, reasoning that because such emissions no longer fell under CERCLA notice requirements they no longer met EPCRA notification requirements. The court rejected environmental organizations' argument that EPA had misinterpreted CERCLA, finding that because Congress had

exempted animal air emissions from CERCLA notification requirements, such emissions were also exempt from notification under EPCRA. To read the court's opinion, click [here](#). For more information on the ruling, click [here](#) to view NALC article "Federal Court Upholds Reporting Exemption for Livestock Emissions." To learn more about CERCLA, click [here](#) to view a recent report from the Congressional Research Service titled "Federal Environmental Remediation Under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), a.k.a. 'the Superfund Law.'"

**Maryland: EPR.** Earlier this year, the state of Maryland became the sixth state to pass an extended producer responsibility (EPR) law for packaging and paper products. In passing **SB 901**, Maryland joins a growing legal trend that favors shifting the cost of waste management from municipalities to the producers of packaging and other materials. Under Maryland's new EPR law, packaging producers will be required to fund and manage a recycling system and register with a Producer Responsibility Organization in order to sell products within the state. SB 901 establishes a phased-in approach that will require packaging products to contribute 50% of system costs by July 1, 2028 increasing to 90% of costs by July 1, 2030.

- Webinar opportunity (November 20): Kyla Kaplan, Associate Attorney, Olsson Frank Weeda Terman Matz PC Law and John Dillard, Principal, Olsson Frank Weeda Terman Matz PC Law will present "Redefining Responsibility Over Packaging: An Overview of U.S. Extended Producer Responsibility Laws." To register, click [here](#).

**CA Climate-Related Disclosure.** A federal court in California recently denied a motion to halt the enforcement of two California laws requiring climate related disclosures. The **Climate Corporate Data Accountability Act** applies to entities that do business in the state of California with annual revenues over \$1 billion. The law requires disclosures, to the California Air Resources Board, of greenhouse gas emissions under the Greenhouse Gas Protocol. Similarly, the **Climate-Related Financial Risk Act** applies to entities that do business in California with annual revenues over \$500 million. This law requires disclosures on the company's website every other year relating to climate-related financial risk and what is being done to reduce the risk. Both laws require disclosures starting in 2026. The Chamber of Commerce, joined by various interest groups including the American Farm Bureau Federation, filed a lawsuit to challenge both state laws, arguing that they violated the First Amendment of the United States Constitution. However, **in its August 13 ruling**, the court denied a request for preliminary injunction after determining that the plaintiffs' were unlikely to succeed on their first amendment claims. For now, both laws remain in effect as the case proceeds to trial.

**Syngenta/Corteva Antitrust Case.** A coalition of farmers have **filed an amended complaint** in an antitrust lawsuit, alleging that pesticide manufacturers Syngenta and Corteva utilized "loyalty programs" to block generic pesticide producers from competing in the market, forcing farmers to pay higher prices. The plaintiffs claim that Syngenta and Corteva entered into exclusionary contracts with distributors and retailers who were required to purchase a majority of their products containing active ingredients produced by Syngenta and Corteva. Although **the court recently denied** defendants' motion to dismiss the case, it also eliminated the possibility of awarding treble (or triple) damages. Treble damages are used in antitrust cases as a punitive measure to discourage similar future behavior. A similar ongoing lawsuit was filed by the Federal Trade Commission and ten state attorneys general against Corteva and Syngenta in 2022. The complaint and other documents related to that case are available [here](#) through the FTC's website.

**Screwworm Strategy.** On August 19, the U.S. Department of Health and Human Services **announced** that the U.S. Food and Drug Administration (FDA) may now provide Emergency Use Authorizations for animal drugs to treat and prevent infestations of the New World Screwworm. The New World Screwworm (NWS) is a deadly flesh-burrowing parasite that was once eradicated from North America but has now been detected within **400 miles of the Texas/Mexico border**. To combat further northern migration, USDA announced plans on August 15 to install a sterile NWS fly production facility in Texas to stop the spread. To read the USDA announcement, click [here](#). On a related note, the US Department of Health and Human Services (HHS) **recently confirmed** that the first human case of travel-associated NWS was detected in the United States. The patient had recently returned from El Salvador, a country impacted by NWS.





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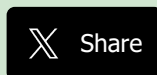
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