



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 17

September 11, 2025

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Reviewing New OBBBA Tax
Provisions Impacting
Agricultural Producers



Wed., September 17, 2025

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

A Question of Tariffs. On August 29, a federal appeals court **ruled** that the International Emergency Economic Powers Act (IEEPA) does not provide the Trump Administration authority to impose retaliatory tariffs. This ruling affirms the May decision of the U.S. Court of International Trade (CIT) which held that President Trump exceeded his authority when he invoked the powers of the IEEPA to execute tariffs. However, the court rejected a portion of the CIT's decision which would have immediately halted the duties. Rejecting this portion of the decision gave the Trump Administration **the option** of appealing the decision to the Supreme Court. The Supreme Court has agreed to hear the case and will be taking oral arguments during the first week of November. In the meantime, the tariffs remain in place as a result of the appeals court decision. For background on the Trump Administration's tariff agenda, click **here** to read Congressional Research Service Report "Presidential 2025 Tariff Actions: Timeline and Status."

MAHA Strategy. On Tuesday, September 9, the Make America Healthy Again Commission published its strategy report, entitled "Make Our Children Healthy Again." The strategy report outlines "a strategic approach for executive actions to address the childhood chronic diseases crisis," and highlights four avenues for this action – advancing research, realigning incentives, fostering private sector collaboration, and increasing public awareness. The 19-page document did not propose formal rulemaking or executive orders, but stated policy objectives that

the administration intends to pursue. While some in the agricultural industry were concerned that the report would include proposals to restrict pesticide use, the final draft contained no such suggestions. To read the full report, click [here](#). To read about MAHA's movement on the state level, click [here](#) to read NALC article "State Level 'MAHA' Movement: New Texas and Louisiana Laws."

H2-A Wage Rate Reforms. On August 25, a federal district court in Louisiana issued an [order](#) in *Teche Vermillion Sugar Cane Growers Ass'n Inc. v. Su*, permanently vacating a H2-A wage rate rule established by the Department of Labor (DOL) in 2023. This follows the same court's [2023 order](#), which granted a temporary injunction on the same grounds. The challenged [rule](#) revised the methodology used by the DOL to determine the hourly Adverse Effect Wage Rate (AEWR) for non-range occupations using data from USDA and DOL surveys. The ruling will apply to all H-2A employers across the nation. Subsequent to the ruling, the DOL announced that it plans to [amend its](#) AEWR determination methodology, with the DOL rules issued in 2010 governing AEWR until that time. The 2010 rules require utilization of the USDA Farm Labor Survey, rather than the DOL Occupational Employment and Wage Statistics survey. To learn more, click [here](#) to read NALC publication "Challenges to the 2023 U.S. Department of Labor H-2A AEWR Methodology Rule."

Foreign Ownership: Texas Litigation. Recently, three Chinese citizens living in Texas filed a class action lawsuit (*Wang, et al, vs. Paxton*, No. 4:25-cv-03103 (S.D. Tex 2025)) challenging [Senate Bill 17](#) ("SB 17"), the state's new foreign ownership law restricting property acquisitions by individuals and entities from certain "designated countries." Plaintiffs argued SB 17 violates the U.S. Constitution's Equal Protection Clause, the Supremacy Clause, and the Fair Housing Act. However, on August 18, 2025, a federal judge dismissed the case, finding the plaintiffs lacked standing because SB 17 did not apply to them as legal domiciliaries of Texas. The plaintiffs have appealed to the U.S. Court of Appeals for the Fifth Circuit. For more information, see NALC article "Federal Court Dismisses Challenge to Texas' Newly Enacted Foreign Ownership Law Texas SB 17 Lawsuit" available [here](#).

Sun Valley Orchard Success. In July, a federal appeals court for the Third Circuit [reversed](#) an administrative proceeding from the DOL leveling civil penalties and back wages on a New Jersey farm. The DOL alleged the farm, Sun Valley Orchards, breached employment contracts with farm workers employed under the H2-A program. Sun Valley Orchard was directed to pay \$212,250 in civil penalties and \$369,703.22 in back wages. Sun Valley Orchard timely contested the enforcement action at a hearing before an Administrative Law Judge (ALJ) who upheld the order and modified the monetary amounts. Additionally, Sun Valley Orchard petitioned the Administrative Review Board, which upheld the ALJ holding. Sun Valley Orchard then sued the DOL in District Court seeking relief from the enforcement action under the Administrative Procedures Act, alleging the action violated Article III of the Constitution, which vests judicial power to the federal court system. The District Court granted the

DOL's motion to dismiss Sun Valley Orchard's constitutional claims. The Third Circuit held that the DOL's administrative proceedings violated Article III of the Constitution, reversed the District Court's holding, and remanded further proceedings to the lower court, resolved in the favor of Sun Valley Orchard.

EPA Withdrawal of MPP Rule. On September 3, the Environmental Protection Agency (EPA) **withdrew** the 2024 proposed rule setting effluent limitation guidelines (ELGs) and standards for the meat and poultry products (MPP) point source category under the Clean Water Act (CWA). Under the CWA, EPA is responsible for establishing ELGs on an industry-by-industry basis, helping to establish the amount of pollution that a CWA permittee may discharge into a protected waterbody. EPA's 2024 proposed rule would have revised ELGs for the MPP industry by increasing requirements for nitrogen discharges and introducing restrictions on phosphorus discharges for the first time. In rescinding the proposed rule, EPA stated that the revised ELGs would no longer be appropriate, citing the Trump administration's priorities and policy concerns such as mitigating inflationary prices for consumers and protecting the food supply, as the basis for the final action. To read the notice in the Federal Register, click [here](#). To learn more about the original 2024 proposed rule and how EPA sets ELGs, click [here](#) to view NALC article "EPA Proposes Updates to Effluent Limitations for Meat and Poultry Processors."

States Sign Rio Grande Settlement. Parties to a long-running legal dispute regarding the use and management of the Rio Grande river filed several documents as part of a package agreement to settle a lawsuit that is expected to have implications for both farmers and municipalities in New Mexico and west Texas. The Rio Grande Compact of 1938 apportions water from the river between Colorado, New Mexico, and Texas. However, the Compact only applies to surface water. This current dispute began when Texas alleged groundwater pumping in New Mexico had diverted river water that was meant to flow into Texas. **Part of the proposed settlement agreement** seeks to resolve this dispute by establishing a framework for water accounting and setting a new formula for yearly targets. **Another part of the settlement package** includes an agreement between the United States and New Mexico over use of groundwater in the region. While the parties in case have signed onto the agreement, the proposal must be reviewed by the United State Supreme Court's Special Master before a decision can be finalized. A previous settlement agreement in this case was rejected by the Supreme Court in 2024 because it failed to include the United States as a party to the agreement. To learn more about this lawsuit, click [here](#) to view NALC article "SCOTUS Rejects Consent Decree Over Rio Grande."

USDA Reorganization Plan Update. The U.S. Department of Agriculture (USDA) recently extended the public comment period for its agency reorganization plan. The USDA reorganization **memorandum** created five new USDA hub locations across the country and reduced or eliminated stand-alone regional offices. The memorandum states that this reorganization serves to consolidate the functions of the USDA to improve effectiveness and provide

enhanced support for farmers and cost savings for citizens. The public comment period has now been extended to September 30. Interested parties and stakeholders are encouraged to submit comments by emailing reorganization@usda.gov.

BLM Proposals. On September 3, the Bureau of Land Management (BLM) **published** a notice seeking comment on changes to the proposed management plan amendment for the greater sage-grouse. The proposal would alter the sage-grouse management plan that was proposed, but not finalized, in 2024. It would remove the designation for "Priority Habitat Management Areas (PHMA) with limited exceptions" as a distinct subset of PHMAs. "PHMAs with limited exceptions," as identified by BLM in its proposed 2024 management plan, were areas within PHMAs where additional protections were necessary to support conservation of sage-grouse habitat. Under the new proposal, such areas would be primarily designated as PHMA and no longer be subject to stricter conservation requirements. The comment period ends on October 3. To comment, click [here](#).

Additionally, on September 10, BLM released its proposal to rescind its 2024 Conservation and Landscape Health Rule which would have established conservation leases on public lands. According to BLM, after a review of the 2024 rule, the agency determined that it is "unnecessary and violates existing statutory requirements." A sixty day comment period on the proposal is open through November 10, 2025. To view the proposal and submit a comment, click [here](#). To learn more about the 2024 rule, click [here](#) to view NALC article "BLM Looks to Expand Conservation."

IL Carbon Capture Bill. On August 15, the Illinois Governor signed a bill into law that will compensate Illinois landowners if their land is disrupted by construction related to carbon capture and pipeline installations. **SB 1697** creates a legal process that provides for "compensation for damage to growing crops, trees, shrubs, fences, roads, structures, improvements, personal property, and livestock thereon." Further protections are also afforded to surface landowners if their land or commercial crop value is impacted by pipeline construction. The new law also provides a mechanism for compensating nonconsenting pore space owners around the injection well site. The law will go into effect on January 1, 2026.

Solar Farm Shutdown. On August 18, U.S. Secretary of Agriculture Brooke Rollins **announced** a ban on the USDA's use of taxpayer dollars to fund solar panel projects on farmland. This ban also includes the purchase of solar panels manufactured by foreign adversaries. The press release states that, "since 2012, solar panels on farmland nationwide have increased by nearly 50%" and this has made farmland access "more expensive and less available." This announcement would mean that wind and solar projects are not eligible for the USDA Rural Development Business and Industry Guaranteed Loan Program. Additionally, under the USDA Rural Development Rural Energy for America Program

Guaranteed Loan Program, eligibility may be revoked if existing wind and solar projects include units larger than a specified size or if the units are unable to document historical energy usage. This action by USDA follows the repeal and modification, by Congress via the "One Big Beautiful Bill Act," (OBBBA) of wind, solar, and "green" energy tax credits. To learn more about solar leasing, click [here](#) to read NALC article "Solar Smarts for Landowners: Property Owner Rights/Use."

Right to Repair. A federal judge ruled on August 8th that Deere & Company (Deere) has the right to access business records of industry competitors obtained by the United States Federal Trade Commission (FTC). Business records from Kubota, CNH Industrial, and AGCO were obtained by the FTC in a pre-filing investigation conducted in anticipation of the FTC's ongoing antitrust lawsuit against Deere. The suit filed against Deere alleges that Deere's repair practices violate federal antitrust and monopolization laws. To learn more about the suit and what it means for the "Right to Repair" movement, click [here](#) to read NALC publication, "FTC Files Suit Against John Deere."

Enlist Lawsuit. Environmental groups have asked a federal court to overturn EPA's 2022 decision to register the pesticides Enlist One and Enlist Duo for use under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). Enlist One and Enlist Duo are herbicides that are commonly used to treat weeds that have become resistant to glyphosate. Both herbicides contain the active ingredient 2,4-D while Enlist Duo also contains glyphosate. The environmental groups argue that EPA violated FIFRA by re-approving the Enlist products in 2022 without ensuring that the products would not cause "unreasonable adverse effects on the environment." Specifically, the plaintiffs argue that EPA ignored environmental impacts, overstated the benefits of using Enlist, and that required mitigation measures, intended to reduce impacts to wildlife, are not effective. To learn more about the lawsuit and what it means for Enlist users, click [here](#) to view NALC article "Lawsuit Challenges Registration of Enlist One and Enlist Duo."

CDC Scale Back. According to several news outlets, the U.S. Center for Disease Control and Prevention (CDC) has [reduced](#) the scope of the Foodborne Diseases Active Surveillance Network (FoodNet), which tracks and surveys foodborne illnesses. While not publicly announced by the agency, according to media reports FoodNet will now only be required to track salmonella and shiga toxin-producing E. coli infections. Previously, the program tracked illnesses including campylobacter, cyclospora, listeria, shigella, vibrio, and yersinia. FoodNet is a collaborative, surveillance program between the CDC, USDA, the Food and Drug Administration, and ten state health departments. Public health officials a part of the FoodNet share detailed information regarding new infections with clinical laboratories around the country helping to provide up to date surveillance. To learn more about US food safety systems, click [here](#) to visit NALC's Food Safety reading room. To learn more about FDA's food safety scheme, click [here](#) to read NALC article "Food Foundations: FDA Human Food Inspections."

TX Cultivated Protein Lawsuit. A **Texas law** banning the sale of cultivated meat has been challenged in a lawsuit filed recently by two California-based cultivated protein companies. The law took effect on September 1, 2025 and will stay in effect until September 1, 2027, and temporarily prohibits any person from offering for sale or selling cell-cultured protein for human consumption. UPSIDE Foods, which produces cultivated chicken, and Wild Type, Inc., which produces cultivated salmon, argues that the law violates both the Commerce Clause and the Supremacy Clause of the U.S. Constitution. The companies have requested a permanent injunction, and stated that they will be filing a motion for a temporary injunction in coming days. To read the full complaint, click [here](#).

EPA Launches Feed It Onward. The EPA announced the launch of "Feed It Onward," a nationwide initiative that aims to prevent food waste. Feed It Onward is a voluntary program that connects food donors such as farms, restaurants, and groceries stores, with communities in need to reduce the environmental impact of food waste in landfills. The program's **website** directs interested parties to reach out to the feeditonward@epa.gov to learn more information about partnership opportunities.

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

Grain Standards Act. The U.S. House of Representatives has reauthorized the **U.S. Grain Standards Act**. Enacted in 1916, this legislation sets the marketing and quality standards of certain grains by establishing grading and weighing procedures. The Act is carried out by the USDA, through the Federal Grain Inspection Service. The five-year reauthorization will require the USDA to improve its grain grading technology. To avoid the expiration of current grain standards, which are set to expire at the end of September, the reauthorization must also be passed by the U.S. Senate. To learn more about state specific grain standards click [here](#) to view NALC's "States' Grain Standards Statutes" compilation. For an overview of the related topic of state grain dealer laws, click [here](#) to view previously recorded NALC webinar "An Overview of State Grain Dealer Statutes in the United States."

Crop Insurance for Beginning Farmers. Last month, the USDA's Risk Management Agency (RMA) **announced** improvements to its crop insurance programs resulting from the enactment of OBBBA. Specifically, RMA is rolling out enhanced support for beginning farmers and ranchers by offering increased premium support during their first 10 years of farming. The enhanced support includes 15 percentage points additional subsidy for the first two crop years, 13 percentage points for the third crop year, 11 percentage points for the fourth crop year, and 10 percentage points for years five through ten.

- Webinar Opportunity (October 15): Peggy Kirk Hall, Associate Professor, The Ohio State University Extension's Agricultural & Resource Law Program and Robert Moore, Research Attorney, The Ohio State University Agricultural & Resource Law Program will present "So Now You Own A Farm: A Beginner's Guide to Farmland Ownership." To register,

click [here](#).

USDA Lowers Farm Earnings Forecast. USDA is lowering the **2025 farm earnings forecast** amidst substantial declines in the crop sector. Applying data from the **World Agricultural Supply and Demand Estimates** earlier this year, USDA has forecasted a 2.5% decrease in total cash receipts for crops. The agency estimates that cash receipts for corn will drop 3.7%, with soybeans dropping 7.1%, and wheat seeing a 9.8% decrease. Despite these difficulties in the crop sector, USDA is projecting increases in overall net cash farm income and net farm income, which it attributes to government payments and increased incomes for cattle producers. Cash receipts for cattle and calves are projected to increase by 15.7% and USDA is forecasting a 9.5% increase in the hog sector.

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



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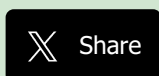
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