



# 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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### NALC WEBINAR SERIES:

**Redefining Responsibility Over Packaging:**  
An Overview of U.S. Extended Producer Responsibility Laws



Kyla Kaplan  
OFW Law



John Dillard  
OFW Law

#### Presenters:



Thurs., November 20, 2025  
Noon ET  
No cost to register

**Assistance Request.** At the National Agricultural Law Center, we receive frequent requests for the names of attorneys with experience in various areas of agricultural law. Year over year, those requests continue to increase. While we often refer people to bar associations or other similar organizations, we recognize those resources don't fully reflect the range of legal professionals working in agriculture. To better serve stakeholders, we are beginning to compile a contact list of private practice attorneys who have professional experience or a practice focus in areas of law affecting agriculture. Attorneys or firms who wish to be included can enter their information here: <https://rebrand.ly/aglawlist>. Inclusion on the list is not a referral or recommendation, merely a resource for the public.

**Sewage Sludge Fertilizers.** A federal district court recently **dismissed** a lawsuit that alleged the Environmental Protection Agency (EPA) violated its duty to regulate per- and polyfluoroalkyl substances (PFAS) found in sewage sludge. Sewage sludge, also referred to as biosolids, is the solid waste filtered from wastewater treatment plants. Wastewater treatment facilities are permitted to sell sewage sludge as fertilizer to agricultural operations provided that the sludge is first treated to remove toxic contaminants identified by the EPA pursuant to the Clean Water Act (CWA). Here, the plaintiffs are agricultural producers who claim that their properties became contaminated with PFAS after they applied sewage sludge as fertilizer. The plaintiffs sued EPA, claiming that the agency had violated the CWA by failing to identify and regulate PFAS pollutants present in sewage sludge. The plaintiffs argued that the plain text of the CWA requires EPA to identify toxic pollutants that may be present in sewage sludge every two years. However, the court disagreed, ruling that the CWA only requires EPA to review its sewage sludge pollutants every two years. Although the court dismissed the case, it noted that plaintiffs could petition EPA to identify and regulate PFAS pollutants in sewage sludge. For more information, click **here** to view NALC article "Court Dismisses PFAS Case Brought by Farmers Against EPA."

**Federal Update.** As the federal government shutdown continues towards its fourth full week, the

USDA **announced** that it is reopening approximately 2,100 Farm Service Agency offices nationwide to facilitate the distribution of \$3 billion in aid to farmers and ranchers. Additionally, November 1 looms large for numerous reasons, including the possibility that many states will no longer be able to implement the Supplemental Nutrition Assistance Program. Social media posts by President Trump have also impacted domestic cattle markets with talks of Argentinian beef imports, to learn more click [here](#).

**California Expands Endangered Species Protections.** California Governor Gavin Newsom recently signed **AB 1319** which requires the California Department of Fish and Wildlife to increase protections for species listed under the Endangered Species Act (ESA) should the protections offered by the federal law be decreased. Specifically, AB 1319 directs the California Fish and Game Commission to monitor federal actions related to the ESA and determine whether those actions would decrease federal ESA protections in a manner that would impact at least one federally listed species in California. If so, AB 1319 will require the Commission to adopt emergency measures to list the species under the California Endangered Species Act (CESA). Listing a species under the CESA will allow California to shield the species under state, rather than federal, law. Additionally, AB 1319 prohibits the sale, purchase, or possession of wildlife taken in violation of federal law in effect on January 19, 2025. It includes a sunset measure, which will render the amendments inoperative at the beginning of 2032. The full text of CESA is available [here](#).

**SNAP Waivers Update.** On September 29, the state of Missouri filed a Supplemental Nutrition Assistance Program (SNAP) **waiver** with the USDA's Food and Nutrition Service. The waiver requests that SNAP benefits in the state exclude products such as candy, prepared desserts, and carbonated soft drinks. It also requests that the purchase of "hot, ready-to-eat rotisserie chicken" be permitted. If approved, the requested waiver would be implemented starting on October 1, 2026. Missouri is the sixteenth state to file a SNAP waiver – **twelve** of them have already been approved. Meanwhile, several retailer associations submitted a **letter** to USDA Secretary Brooke Rollins, requesting that USDA delay the implementation of the approved waivers, regulate uniform definitions of specific foods and beverages, and maintain a list of banned products within them. To learn more about the process of submitting a SNAP waiver to USDA, click [here](#) to read NALC article "Excluding 'Junk' Food from SNAP Benefits."

**WIC Benefits Protection Act.** U.S. Representative Robert C. Scott (D-VA-3) recently introduced the "WIC Benefits Protection Act," **HR 5740**, to require mandatory funding for the special supplemental nutrition program for women, infants, and children. This bill seeks to address the funding uncertainty that WIC, a program funded through discretionary funding processes, faces in the midst of a government shutdown. It was referred to the House Committee on Education and Workforce after it was introduced on the House floor. To learn more about nutrition programs like WIC, click [here](#) to visit the NALC Nutrition Programs reading room. To learn more about the government shutdown's effect on Congress, click [here](#) to read Congressional Research Service Report "Government Shutdowns and Legislative Branch Operations: Frequently Asked Questions."

**South Platte River Lawsuit.** The state of Colorado has asked the United States Supreme Court to dismiss a lawsuit filed against it by the state of Nebraska over alleged violations of the South Platte River Compact. In its **complaint**, Nebraska alleges that Colorado has permitted unlawful water diversions which have deprived Nebraska of 1.3 million acre-feet of water. Additionally, Nebraska claims that Colorado has blocked its efforts to construct the Perkins County Canal, which it asserts was contemplated by the water-sharing agreement. In its **response**, Colorado has asked the Supreme Court to dismiss the case, arguing that the claims are not ripe for litigation. The South Platte River is a major source of irrigation and drinking water for both states, making the outcome of this case important for residents throughout the region.

**SNAP & Personal Data.** The U.S. District Court in the Northern District of California recently granted the State of California's motion for preliminary injunction in an action against the USDA to challenge a new requirement that states provide USDA with specified personal information about SNAP applicants and recipients. According to USDA, noncompliance could trigger consequences such as the loss of federal funding. In September, the court conducted a hearing and granted a Temporary Restraining

Order in favor of the states. This month, after another hearing, the court enjoined USDA from withholding funding based on a failure to disclose. A preliminary injunction is not a final judgment or a ruling on the merits of a case, so the litigation remains ongoing. However at this time USDA cannot fund from states who do not submit the SNAP data. To read the order, click [here](#). To learn more about SNAP generally, click [here](#) to view Congressional Research Service report, "Supplemental Nutrition Assistance Program (SNAP): A Primer on Eligibility and Benefits."

**Effluent Guidelines Litigation.** On September 16, a coalition of environmental groups led by Cape Fear River Watch [petitioned](#) the Ninth Circuit Court of Appeals to review EPA's recent decision to withdraw a proposed rule to revise CWA effluent limitation guidelines for meat and poultry processing facilities. While federal lawsuits are typically filed in a district court, because the plaintiffs are seeking review of a final CWA action, the case is required to be filed directly with the Ninth Circuit. EPA originally [proposed the rule](#) in January 2024. If finalized, it would have set stricter limits on the amount of nitrogen that processing facilities could discharge into protected waterbodies, and introduced limits on phosphorus discharges for the first time. On September 3, 2025, EPA [withdrew the proposal](#). Although the lawsuit challenging EPA's withdrawal decision is still in its early stages, a series of groups representing meat and poultry processors have asked the court to allow them to [intervene](#) to ensure that their interests are represented. To learn more about the rule initially proposed by EPA, click [here](#) to view NALC article "EPA Proposes Updates to Effluent Limitations for Meat and Poultry Processors."

**CA & Food Packaging.** The agricultural trade organization Western Growers, recently sent a [letter](#) to California's Department of Resources Recycling and Recovery (CalRecycle) commenting on the department's proposed plastic recycling [regulations](#). After the passage of the California bill Plastic Pollution Prevention and Packaging Producer Responsibility Act ([SB 54](#)), CalRecycle promulgated regulations concerning single-use plastic packaging and required producers to reduce the use of plastic materials and use recyclable or compostable material in packaging. Western Growers argue the proposed regulations do not take into consideration federal food safety standards, and impose difficult compliance requirements on produce growers that use single-use plastics as packaging.

- Webinar Opportunity (November 20): Kayla 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](#).

**Restaurant Allergen Disclosure.** California Governor Gavin Newsom recently signed into law a first-in-the-nation bill that requires California restaurants with at least 20 locations to disclose major food allergens on their menus. The "Allergen Disclosure for Dining Experiences (ADDE) Act" or [SB 68](#) requires food facilities to provide allergen information directly on the facilities menu or in a digital, easy-to-access format, such as a QR code. In addition, facilities using a digital format must provide an alternative method like an allergen booklet or a separate allergen-specific menu, for individuals who are unable to access the digital information. Disclosure must occur when a restaurant knows or "reasonably should know" any of the 9 major food allergens are present in their menu products. Restaurants are required to comply by July 1, 2026. To learn more about the federal regulation of food allergens, click [here](#) to read NALC article "Food Foundations: The Regulation of Food Allergen Labels." To read about another recent first-in-the-nation bill California signed into law, click [here](#) to read NALC article "'MAHA' Movement: Defining Ultra-processed Foods."

**Fertilizer Supply Chains.** A [recent study](#) from North Dakota State University's Agricultural Trade Monitor found that President Trump's April tariffs have caused a significant shift in international fertilizer supply chains. These tariffs, implemented by President Trump under the International Emergency Economic Powers Act (IEEPA), have caused ag importers to turn to tariff-exempt countries for fertilizer. According to the study, potash and nitrogen fertilizer imports from countries affected by the April tariffs have fallen by 31% and 12% respectively. Conversely, Russia has seen an increase in its exports of urea, potash, and nitrogen fertilizers. Nitrogen fertilizers have seen the sharpest increase, with imports from tariff-exempt countries rising 44% from 2024 figures. Ultimately, the study asserts that these shifts in supply chains are a by-product of agricultural importers attempting to mitigate increasing input costs. To learn about an ongoing challenge to the tariffs, click [here](#) to

read NALC article "IEEPA Tariffs Challenged in Supreme Court."

**Roundup Litigation.** The Missouri Supreme Court has declined to hear Bayer's appeal of a \$611 million verdict granted to three people who claim that exposure to the company's herbicide Roundup caused them to develop cancer. Bayer had **appealed the verdict** to the Court, arguing that it should be overturned because the 2023 trial for *Anderson v. Montano Co.* made several errors, including an assertion that the state claims should be dismissed because they were preempted by the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA). By refusing to hear Bayer's appeal, the Missouri Supreme Court declined to rule on the question of preemption or to alter the amount of damages awarded to the plaintiff. Bayer continues to be enmeshed in thousands of similar ongoing cases throughout the United States. The question of whether FIFRA preempts the state law claims often raised by plaintiffs in such cases has been appealed to the United States Supreme Court, who has yet to decide whether they will hear the matter. To learn more about the issue of preemption in similar litigation, click **here** to view NALC article "Plaintiffs & Pesticides: Failure to Warn Claims in Pesticide Injury Lawsuits."

**EU Plant-Based Products Labeling.** The European Parliament recently voted to ban the usage of meat-related terms on plant-based and lab-grown protein products. The ban was introduced as an **amendment** to a bill package aimed at reforming farming rules in the European Union. Specifically, the amendment bans the use of the terms "steak", "escalope", "sausage", "burger", "hamburger", "egg yolk", and "egg white" on products not derived from the edible parts of an animal. The ban is not yet law, as the amendment must be supported by the European Commission and the governments of the 27 member countries. Similarly, in 2017 the EU Court of Justice upheld the EU's ban on plant-based products using dairy designations like "milk", "butter", or "cheese" to describe their products. On the other hand, last year the Court of Justice published an **opinion** determining that Member States are prohibited from banning the use of "meat terms" for plant-based proteins when neither the Member State or the EU has a legal definition of such term. While the adoption by EU's Parliament of an amendment banning "meat terms" is notable, it remains unclear whether the ban will meet the Court of Justice standard of a legal definition. To learn more about the Court of Justice's 2024 decision, click **here** to read NALC article "Foreign Food Labeling Updates: EU Court of Justice Decisions."



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