



Recent Developments in United States Animal Rights Law & Policy

2023 YEAR IN REVIEW

A curated compilation of the Brooks Animal Law Digest – US Edition

Materials and analysis by Kelley McGill, Bonnie Nadzam, Carney Anne Nasser, and Kristen Stilt



BROOKS MCCORMICK JR.
ANIMAL LAW &
POLICY PROGRAM
HARVARD LAW SCHOOL

About

This compendium is a curated compilation of the 2023 issues of the [United States Edition](#) of the Brooks Animal Law Digest, a collaboration between The Brooks Institute for Animal Rights Law & Policy, Inc. and The Brooks McCormick Jr. Animal Law & Policy Program at Harvard Law School. This premier online production is published weekly to provide timely, in-depth, and up-to-date coverage on current events pertaining to U.S. animal law. The Digest serves as a resource for anyone interested in learning about the field of animal law and policy, either as a high-level overview of current developments or to inspire further analysis and research regarding a particular issue. Visit the Brooks Institute website to view the [full issue archive](#) and [subscribe](#) to the Digest.

This compendium was compiled under the following conditions, which the reader should keep in mind:

- This compendium is only as comprehensive as the Digest itself. It is a compilation of summarized and significant developments meant to guide and initiate further inquiry and research. The many sources that the Digest relies upon may not be exhaustive.
- There were no enacted federal legislation entries included in the Digest in 2023, so this compendium does not include an Enacted Federal Legislation section.
- The section Enacted Municipal Actions in this compilation includes only a selection of potentially relevant updates of this type due to changes in coverage provided by one of the news sources for the Digest over the course of 2023.
- This compendium does not include developments from the Pending Federal Actions, Pending State Actions, Academic Updates, International Updates, or Other Updates sections of the Digest.
- The entries in this compilation are organized chronologically within each section based on the date of the weekly Digest issue that reported the event.

2023 U.S. Brooks Animal Law Compendium Editors

Kelley McGill is a Legislative Policy Fellow with the Brooks McCormick Jr. Animal Law & Policy Program at Harvard Law School. She has a background in agricultural law, food policy, and legislative drafting. She holds a JD *cum laude* from Harvard Law School.

Bonnie Nadzam is a Writer and Editor with the Brooks McCormick Jr. Animal Law & Policy Program at Harvard Law School. She is a widely published author of several essays and books. She holds an MFA from Arizona State University and an MA and PhD from the University of Southern California.

Kristen Stilt is a Professor of Law and the Faculty Director of the Brooks McCormick Jr. Animal Law & Policy Program at Harvard Law School. She is also the Director of Harvard Law School's Program on Law and Society in the Muslim World. She received a JD from the University of Texas School of Law and a PhD in History from Harvard University.

2023 U.S. Brooks Animal Law Digest Primary Author

Carney Anne Nasser is a Program Research Fellow with the Brooks McCormick Jr. Animal Law & Policy Program at Harvard Law School. She is a career animal protection attorney with expertise in combatting the exotic pet trade and wildlife trafficking, with a focus on tigers and other big cats. She holds a JD from Tulane University and a graduate degree in community advocacy from the George Washington University Graduate School of Political Management.

Table of Contents

HIGHLIGHTS	<u>7</u>
LEGISLATIVE UPDATES	<u>19</u>
Enacted State Legislation	<u>20</u>
• California	<u>20</u>
• Connecticut	<u>20</u>
• Delaware	<u>20</u>
• Florida	<u>21</u>
• Idaho	<u>21</u>
• Illinois	<u>21</u>
• Kentucky	<u>22</u>
• Maryland	<u>22</u>
• Michigan	<u>22</u>
• Minnesota	<u>23</u>
• New Jersey	<u>23</u>
• New York	<u>24</u>
• North Dakota	<u>24</u>
• Ohio	<u>25</u>
• Oregon	<u>25</u>
• Pennsylvania	<u>25</u>
• Texas	<u>26</u>
• Utah	<u>27</u>
Enacted Municipal Actions	<u>27</u>
CASE LAW UPDATES	<u>29</u>
Federal Court Updates	<u>30</u>

State Court Updates.....	<u>103</u>
• California.....	<u>103</u>
• Colorado.....	<u>104</u>
• Illinois.....	<u>104</u>
• Indiana.....	<u>105</u>
• Michigan.....	<u>105</u>
• Missouri	<u>106</u>
• Montana	<u>106</u>
• New York.....	<u>107</u>
• North Carolina.....	<u>107</u>
• Ohio	<u>108</u>
• Pennsylvania	<u>109</u>
• Texas.....	<u>109</u>
• Utah.....	<u>110</u>
• Virginia.....	<u>110</u>
• Washington.....	<u>111</u>
• Wisconsin.....	<u>111</u>

AGENCY UPDATES..... [112](#)

Federal Agency Updates.....	<u>113</u>
• Centers for Disease Control and Prevention (CDC)	<u>113</u>
• Department of Agriculture (USDA)	<u>114</u>
• Department of Commerce (DOC).....	<u>139</u>
• Department of the Interior (DOI).....	<u>140</u>
• DOI Bureau of Land Management (BLM)	<u>141</u>
• Department of Justice (DOJ).....	<u>142</u>
• Department of Labor (DOL).....	<u>142</u>
• Department of Transportation (DOT).....	<u>143</u>

• Environmental Protection Agency (EPA).....	<u>144</u>
• Federal Trade Commission (FTC).....	<u>148</u>
• Fish and Wildlife Service (FWS).....	<u>149</u>
• Food and Drug Administration (FDA)	<u>169</u>
• National Institutes of Health (NIH)	<u>173</u>
• National Marine Fisheries Service (NMFS)	<u>174</u>
• Securities and Exchange Commission (SEC)	<u>183</u>
State Agency Updates	<u>184</u>
• Arkansas.....	<u>184</u>
• California.....	<u>184</u>
• District of Columbia.....	<u>185</u>
• Hawaii.....	<u>185</u>
• Michigan.....	<u>186</u>
• Mississippi.....	<u>187</u>
• Pennsylvania	<u>187</u>
• Texas.....	<u>187</u>
• Vermont.....	<u>188</u>
• Virginia.....	<u>188</u>
• Washington	<u>189</u>
APPENDIX	<u>190</u>



2023 YEAR IN REVIEW

Highlights

In 2023, the U.S. Edition of the Brooks Animal Law Digest included 1,536 entries, reporting on issues that ranged from ag-gag litigation to zoonotic disease regulation. This compendium compiles those entries. It categorizes their texts below and, in some cases, summarizes their content in tables. Many of those entries can be grouped into one or more issue areas, which often span across the levels and branches of government that structure the organization of this document. The following lists highlight select headlines reported across some of these key issue areas in 2023.

AG-GAG

- Fifth Circuit Upholds Texas Law Criminalizing Use of Drones Over Factory Farms ([page 99](#))
- Fourth Circuit Enjoins North Carolina's Ag-Gag Law ([page 38](#))
- Iowa Seeks to Revive Ag-Gag Law, Arguing Advocacy Groups Lack Standing ([page 35](#))
- SCOTUS Will Not Consider North Carolina's Attempt to Reinstate Ag-Gag Law ([page 94](#))

ALTERNATIVE PROTEIN REGULATION AND LABELING

- UPSIDE Foods and GOOD Meat Receive Final Regulatory Approval to Sell Cultivated Meat to U.S. Consumers ([page 137](#))
- Fifth Circuit Vacates Injunction Against Louisiana "Truth in Labeling" Law ([page 52](#))
- FDA Opens Public Comment Period on Labeling of Plant-Based Milk Alternatives ([page 170](#))
- Federal Judge Dismisses Putative Class Action Against Oatly ([page 61](#))
- FSIS Proposes New Criteria for "Made in the USA" and "Product of USA" Meat Labeling ([page 135](#))
- Turtle Island Foods Challenges Texas Plant-Based and Cultivated Meat Product Labeling Restrictions ([page 87](#))

ANIMAL RESEARCH AND TESTING

- Maryland Becomes the First State to Require Animal Testing Facilities to Contribute Funding to Development of Non-Animal Research Methods ([page 22](#))
- FDA Announces Final Guidance on Animal Studies Used to Evaluate Medical Devices ([page 170](#))
- Federal Judge Rules USDA Acted Unlawfully in Denying Petition to Improve the Psychological Well-Being of Primates Used in Experiments ([page 43](#))
- Federal Court Denies NIH Motion to Dismiss Case Challenging Alleged Loophole in Animal Care Guidelines for Foreign Research Grant Recipients ([page 77](#))
- Advocacy Groups Seek Summary Judgment in Case Challenging USDA's Secret Policy Scaling Back AWA Inspections of Certain Animal Testing Facilities ([page 48](#))
- Charles River Faces Class Action After DOJ Probe into Illegal Import of Nonhuman Primates ([page 59](#))
- Paul Mitchell Faces Class Action Over Cruelty-Free Hair Care Claims ([page 36](#))
- Texas County Passes Resolution Opposing Proposed Charles River Laboratories Primate Facility ([page 28](#))

ANIMAL WELFARE ACT

- APHIS Announces New Animal Care Deputy Administrator Following Retirement of AC Administrator Who Oversaw Envigo Inspections ([page 128](#))
- APHIS Releases 2022 Impact Report ([page 127](#))
- APHIS's Five-Year Strategic Plan and Long-Term Projections Forecast Regulation of Animals ([page 126](#))
- ESA and AWA Enforcement Action Results in Surrender of Nearly 150 Exotic Animals by Michigan Roadside Zoo ([page 84](#))

- APHIS Publishes Standards for Birds Not Used in Research ([page 124](#))
- APHIS Publishes Minor Corrections to Final AWA Rule Pertaining to Birds ([page 124](#))
- USDA Terminates AWA License for Convicted Wildlife Trafficker ([page 114](#))
- USDA Terminates AWA License for Montana Animal Exhibitor with History of Legal Violations ([page 117](#))

AQUACULTURE

- Petitioners Urge Hawaii Agencies to Take Action Against Octopus Petting Zoo ([page 185](#))
- Octopus Petting Zoo Shuts Down ([page 186](#))

BIG CAT PUBLIC SAFETY ACT AND INTRASTATE SALES

- Investigation Results in First-Ever Big Cat Public Safety Act Prosecution ([page 91](#))
- FWS Publishes Big Cat Public Safety Act Registration Form ([page 151](#))
- FWS Opens Public Comment Period on Interim Big Cat Public Safety Act Regulations ([page 153](#))
- Mississippi Wildlife Agency Finalizes Regulation Prohibiting Intrastate Sales of Big Cats ([page 187](#))

CATTLE: BRIBES, FRAUD, GHOSTS, GRAZING, AND WATER USE

- SEC Obtains Emergency Relief to Shut Down \$191 Million Cattle Ponzi Scheme ([page 101](#))
- Tenth Circuit Overturns FWS Decision to Authorize Killing of Grizzly Bears to Accommodate Cattle Grazing on Public Land ([page 58](#))
- Former USDA Inspector Sentenced to Federal Prison for Accepting Bribes from Mexican Cattle Brokers to Allow Cattle into the U.S. Without Quarantine or Inspection ([page 68](#))

- Federal Court Dismisses Convicted “Ghost Cattle” Fraud Perpetrator’s Antitrust Claims with Prejudice ([page 85](#))
- Federal Court Rules Gila National Forest May Continue Removal of Feral Cattle from Gila Wilderness ([page 37](#))
- Cattle Growers Challenge Forest Service Plan to Shoot Feral Cattle ([page 38](#))
- Indian Tribe Alleges Utah Farm Has Been Diverting Tribal Water for Cattle for Over a Decade ([page 51](#))
- Conservation Groups Allege FWS and Forest Service are Protecting Cattle Grazing at the Expense of ESA-Listed Species ([page 75](#))
- Conservation Groups Sue BLM and FWS to Protect Endangered and Threatened Wildlife from Cattle Grazing in Arizona ([page 95](#))

CLEAN WATER ACT AND WATERS OF THE UNITED STATES

- SCOTUS Clean Water Act Ruling Leaves Tens of Millions of Acres of Fish and Wildlife Habitat Unprotected ([page 58](#))
- Eighth Circuit Holds WOTUS Case in Abeyance Pending Post-Sackett Regulatory Revisions ([page 73](#))
- EPA and Army Corps of Engineers Announce Final WOTUS Revisions to Comply with SCOTUS Decision ([page 146](#))
- Twenty-Four States Seek Vacatur of EPA’s New WOTUS Rule ([page 98](#))

ENDANGERED SPECIES ACT: LESSER PRAIRIE-CHICKENS, GRIZZLIES, AND GRAY WOLVES

- FWS ESA Listing, Habitat Designation, and Reintroduction Actions ([page 158](#))
- Texas Sues FWS Over ESA Protections for Lesser Prairie-Chickens ([page 42](#))

- DOJ Seeks to Consolidate Two Cases Challenging ESA Listing Status of Lesser Prairie-Chickens ([page 70](#))
- Federal Judge Halts Logging Project in Grizzly Bear Habitat Near the Montana-Canada Border ([page 51](#))
- Conservation Groups Sue to Protect Grizzly Bears from Montana Predator Removal Program ([page 31](#))
- Ninth Circuit Rules that Grizzly Bear Recovery Plan Does Not Constitute a “Rule” that May Be Challenged in Court ([page 31](#))
- Ninth Circuit Declines Request for En Banc Reconsideration of Grizzly Bear Ruling ([page 57](#))
- Federal Court Upholds Omission of Big Game Protections from Revised Forest Management Plan ([page 93](#))
- FWS Announces Proposal to Support Recovery and Reintroduction of Grizzly Bears in Washington State ([page 160](#))
- FWS Finalizes ESA Rule Establishing Nonessential Experimental Population of Gray Wolves in Colorado ([page 161](#))
- Federal Court Rejects Ranchers’ Request to Enjoin Wolf Reintroduction Plan in Colorado ([page 101](#))

ENVIRONMENTAL IMPACTS OF ANIMAL AGRICULTURE

- EPA Considers Reinstating Reporting of Animal Waste Air Emissions at Farms ([page 147](#))
- EPA Proposes Clean Water Act Rule to Reduce Wastewater Pollution by Meat and Poultry Production Facilities ([page 148](#))
- Factory Farms Agree to Remediate Contaminated Water Supply in Yakima Valley, Washington ([page 70](#))
- Federal Judge Vacates USDA Rule that Exempted Medium-Sized CAFOs from NEPA Review Since 2016 ([page 46](#))

- SEC Whistleblower Complaint Alleges JBS “Green Bonds” Misled Consumers ([page 183](#))
- USDA Requests Information on Proposed Federal Strategy to Monitor GHGs in the Agriculture and Forestry Sectors ([page 116](#))
- EPA Seeks Public Comment on Proposed Modifications to NPDES General Permit for Idaho Factory Farms ([page 145](#))

FARMED ANIMAL WELFARE

- Analysis of the Supreme Court’s *National Pork Producers Council v. Ross* Decision ([page 57](#))
- District Court Dismisses Nine of Ten Claims in Pork Producers’ Challenge to Massachusetts’ Question 3 and Grants Leave to File Amicus Brief to 13 States ([page 94](#))
- U.S. Supreme Court Declines Review of California’s Foie Gras Ban ([page 57](#))
- Pittsburgh City Council Passes Foie Gras Ban ([page 28](#))
- New Jersey Governor Phil Murphy Signs Legislation to Prohibit Intensive Confinement Practices for Calves and Breeding Pigs ([page 23](#))
- New York Enacts Ban on the Slaughter of Horses for Meat and Extends Ban on Selling Disabled Horses at Auction to Other Equines ([page 24](#))
- Advocacy Group Sues Large-Scale Chicken Processor Under North Carolina’s Novel Civil Cruelty to Animals Law ([page 107](#))
- FSIS Extends Increased Line Speed Trials at Swine Slaughterhouses ([page 139](#))

FISHING INDUSTRY

- NMFS Announces New Regulations to Reduce Shark and Ray Bycatch ([page 177](#))
- NMFS Seeks Public Input on EIS on Measures to Minimize Salmon Bycatch in the Bering Sea Pollack Fishery ([page 180](#))

- D.C. Circuit Court of Appeals Sides with Lobster Fishers in Legal Challenge to NMFS Rules to Protect Endangered Whales ([page 66](#))
- Fifth Circuit Upholds NMFS Turtle Excluder Device Rule ([page 66](#))
- Fourth Circuit Affirms that Shrimpers Who Toss Bycatch and Disturb Sediments are not “Discharging a Pollutant” in Violation of the CWA ([page 78](#))
- Sixth Circuit Rules Conservation Group May Not Intervene in Government Negotiation with Tribes Over Michigan Fishery Management ([page 58](#))
- Federal Court Denies Class Certification in False Advertising Suit Against American Tuna ([page 102](#))
- Federal Court Rules that Class Action Against Costco for Misleading Dolphin-Safe Claims May Proceed ([page 30](#))
- Bumble Bee Foods Faces Class Action Over “Certified Sustainable Seafood” Representations ([page 39](#))
- Conservation Groups Allege NMFS Violated ESA By Failing to Protect Leatherback Sea Turtles from Fishing Gear ([page 102](#))
- Lobster Fishers Sue Monterey Bay Aquarium for Damages Over Comments Relating to Lobster Fishing Impacts on Endangered Whales ([page 39](#))
- Maine Lobster Fishers File Defamation Suit Against Monterey Bay Aquarium ([page 41](#))

GAS CHAMBERS IN ANIMAL SHELTERS

- Ohio Law Revises Cruelty Code and Bans Gas Chambers ([page 25](#))
- Utah Bans Use of Gas Chambers in Animal Shelters ([page 27](#))

HUNTING

- New York Bans Wildlife Killing Contests ([page 24](#))
- Seventh Circuit Rules that Wisconsin “Hunter Harassment” Law is Unconstitutional ([page 97](#))
- Vermont Fish & Wildlife Board Adopts New Hunting and Trapping Rules Despite Legislative Committee Objections ([page 188](#))

LABOR VIOLATIONS

- Poultry Processor Agrees to Pay Millions in Back Wages and Damages for Violating Child Labor Laws and Retaliating Against Employees Who Cooperated in Investigation ([page 100](#))
- USDA Letter to Meat and Poultry Industry Advises Steps to Curb “Recent Trend” In Use of Child Labor ([page 115](#))
- Department of Labor Fines Sanitation Company \$1.5 Million for Using Child Labor in Slaughterhouses ([page 142](#))
- DOL Announces Civil Penalties for Minnesota Meat Processor that Violated Federal Child Labor Laws ([page 143](#))
- California Labor Commissioner Reaches \$1.47 Million Settlement to Resolve Wage Theft Claims Against Los Angeles Poultry Processing Companies and Their Owner ([page 184](#))
- Black Farmers Allege Mississippi Fish Farms Violated the Migrant and Seasonal Agricultural Worker Protection Act and the Civil Rights Act ([page 83](#))
- Department of Labor Seeks Emergency Injunctive Relief Against Mississippi Fish Farm That Allegedly Is Interfering in a Fair Labor Standards Investigation ([page 87](#))

MARINE MAMMAL PROTECTION

- Fifth Circuit Rules Environmental Groups Lack Standing to Challenge Preliminary Injunction Blocking Protections for Rice's Whales in Lease Sale ([page 97](#))
- Federal Court Rules that NMFS Violated the MMPA by Allowing Fishers to Take Humpback Whales Without a Take Reduction Plan in Place ([page 41](#))
- U.S. Court of International Trade Denies NMFS's Motion to Dismiss Legal Challenge to Seafood Imports from New Zealand that Jeopardize Critically Endangered Dolphins ([page 68](#))
- NMFS Opens Public Comment Period on Proposal to Protect Whales from Buoy Lines in the North Atlantic ([page 182](#))
- NMFS Seeks Public Comments on Petition to Protect Rice's Whales ([page 177](#))
- NMFS Announces Emergency Rule to Protect North Atlantic Right Whales ([page 174](#))
- Massachusetts Lobstermen Sue to Enjoin NMFS's Emergency Order Temporarily Closing Certain Fisheries ([page 34](#))
- Conservation Group Alleges that Maritime Administration Failed to Perform Required Consultation Related to Impact of New Marine Highway Designation on Endangered Whales ([page 90](#))
- Settlement in MDL Antitrust Class Action Will Require Seaboard Foods to Cooperate with Plaintiffs Who Allege Pork Industry Price Fixing Scheme ([page 69](#))
- Target and Other Buyers Seek Rehearing in Chicken Price-Fixing Case ([page 76](#))
- Crabbers File Price-Fixing Class Action Suit Against Dominant Crab Processor ([page 40](#))

PESTICIDES AND RODENTICIDES

- California Legislation Imposes Moratoriums on Certain Rodenticides ([page 20](#))
- Conservation Groups and EPA Reach Historic Settlement Concluding More than Ten Years of Litigation Over Pesticide Impacts on Endangered Species ([page 88](#))

- EPA Opens Public Comment Period on Draft Biological Evaluation Finding Rodenticides are Likely to Adversely Affect Endangered Species ([page 148](#))
- New York Bans Use of Certain Pesticides Harmful to Pollinators and Other Wildlife ([page 24](#))

PET SALES AND PUPPY MILLS

- Oregon Prohibits Retail Pet Sales ([page 25](#))
- Indianapolis Bans Retail Sales of Dogs, Cats, and Rabbits ([page 27](#))
- New York City Enacts Ban on the Sale of Guinea Pigs by Pet Stores ([page 27](#))
- Connecticut Requires Kennel Licensure for Certain Dog Breeders ([page 20](#))
- California Court Imposes More than \$200,000 in Damages in Connection with Craigslist Sales of Sick Puppies ([page 103](#))
- Pennsylvania Enacts “Dog Law” Update ([page 25](#))

PRICE-FIXING, WAGE-FIXING, AND ANTITRUST ACTIVITY

- Settlements in Broiler Chicken Price-Fixing Case Now Total More than \$284 Million ([page 93](#))
- Federal Judge Approves \$75 Million Settlement in Pork Price-Fixing Case ([page 47](#))
- Federal Judge Approves \$33 Million Settlement in Salmon Price-Fixing Case ([page 39](#))
- Jury Finds Egg Producers and Industry Groups Liable for \$17.77 Million in Damages for Conspiracy to Inflate Prices from 2004–2008 ([page 99](#))
- Poultry Processor Must Pay \$5.8 Million to Workers in Antitrust Settlement With the DOJ ([page 56](#))
- Federal Judge Gives Initial Approval of Latest \$8 Million Poultry Price-Fixing Settlement ([page 64](#))

- Federal Judge Grants Preliminary Approval of \$2.9 Million Settlement in Poultry Price-Fixing Case ([page 74](#))
- Proposed Class Reaches \$10 Million Settlement with Seaboard Foods and Triumph Foods in Sweeping Meat Processing Wage-Fixing Suit ([page 78](#))
- Meat Processor Agrees to Pay \$3 Million to Settle Illinois Wage Suit ([page 104](#))
- Seventh Circuit Vacates \$57 Million Attorney’s Fee Award in Broiler Chicken Antitrust Litigation ([page 86](#))
- Seventh Circuit Dismisses Interlocutory Appeal Seeking to Upend Judgment Sharing Agreement in Poultry Price-Fixing Case ([page 69](#))
- Jury Finds in Favor of Sanderson Farms in Broiler Chicken Antitrust Litigation ([page 95](#))
- Federal Court Denies Motion to Dismiss in Antitrust Litigation Alleging Price Fixing in Pork Industry ([page 90](#))
- Federal Court Denies Meat Companies’ Motion to Dismiss Antitrust Class Action Alleging Conspiracy to Suppress Wages ([page 91](#))

RIGHT TO A LIVABLE ENVIRONMENT

- Landmark Juliana Climate Case Revived by Federal Judge ([page 61](#))
- Montana Judge Rules in Favor of Plaintiffs in Nation’s First Youth-Led Climate Change Trial ([page 106](#))

RIGHT TO FARM

- Texas Further Restricts Local Regulation of Agricultural Operations ([page 26](#))
- Texas Voters Approve Constitutional Amendment Establishing a Right to Farm, Ranch, and Manage Wildlife ([page 26](#))
- Michigan Appellate Court Affirms Ruling that Right to Farm Act Defense is Precluded by Collateral Estoppel in Port Huron Farm Case ([page 105](#))



2023 YEAR IN REVIEW

Legislative Updates

Enacted State Legislation

CALIFORNIA

California Legislation Imposes Moratoriums on Certain Rodenticides

California Governor Gavin Newsom [signed Assembly Bill 1322](#), which imposes a moratorium on the use of first-generation anticoagulant rodenticides containing the ingredient diphacinone. It also imposes a temporary moratorium on the use of second-generation anticoagulant rodenticides containing any of four listed ingredients until the state takes certain certification action. The moratoriums are subject to certain exceptions. These rodenticide ingredients are used in rat poisons and can [harm](#) humans, companion animals, and wildlife such as bobcats.

CONNECTICUT

Connecticut Requires Kennel Licensure for Certain Dog Breeders

Connecticut Governor Ed Lamont [signed Senate Bill 1069](#), which revises state law provisions relating to dog kennels by requiring licensing for kennels that produce more than five litters per year. A previous version of the bill would have required licensing for all breeders who produce two or more litters per year, but the [American Kennel Club](#) successfully lobbied for changes that protect hobby breeders.

DELAWARE

Delaware Law Enacted to Protect Animals in Domestic Violence Cases

Governor John Carney [signed Senate Bill 70](#), which amends the definition of domestic abuse to include cruelty or threats towards a companion animal.

Delaware Law Enacted to Require and Protect Reporting of Suspected Animal Cruelty

Governor John Carney [signed Senate Bill 71](#), which provides civil and criminal immunity to people who, in good faith, report suspected animal cruelty. Senate Bill 71 imposes an additional affirmative obligation on law-enforcement agencies, the Department of Services for Children, Youth and Their Families, and the Department of Justice to report suspected animal cruelty to the Office of Animal Welfare if it is discovered in the course of investigating child welfare cases.

FLORIDA

Florida Legislation Restricts Foreign Acquisition of Agricultural Land

Governor Ron DeSantis [signed Senate Bill 264](#), which restricts certain foreign purchases and investments in specific types of real property located within the state. Specifically, the law prohibits a “foreign principal” from directly or indirectly owning, holding, or acquiring agricultural land in Florida. The law will go into effect on July 1, 2023.

IDAHO

Idaho Bill Exempts Roadside Zoos from State Oversight of Captive Wildlife

Idaho Governor Brad Little [signed Senate Bill 1084](#), which exempts all U.S. Department of Agriculture-licensed facilities from state laws and oversight concerning captive wildlife, including reporting requirements relating to the import, export, birth, and death of animals. Yellowstone Bear World, an Idaho roadside zoo, [lobbied](#) for the legislation.

ILLINOIS

Illinois Legislation Prohibits Breed Discrimination by Insurance Companies

Illinois Governor J.B. Pritzker [signed House Bill 1049](#), which will prohibit insurers from refusing coverage or charging more for policies based on certain dog breeds. The bill takes effect on January 1, 2024.

KENTUCKY

Kentucky Law Broadens Felony Crimes Against Service Animals

Kentucky Governor Andy Beshear [signed House Bill 115](#), which broadens the definition of “service animal” to include electronics detection dogs and police dogs for purposes of an existing law that makes assault on a service animal a felony.

MARYLAND

Maryland Becomes the First State to Require Animal Testing Facilities to Contribute Funding to Development of Non-Animal Research Methods

Maryland Governor Wes Moore [signed House Bill 626](#), making Maryland the first state to require that animal experimentation facilities contribute to a research fund that will be used to provide grants for the development of non-animal research alternatives. The Humane Society of the United States [worked closely](#) with legislators on drafting the bill, which takes effect on July 1, 2023.

MICHIGAN

Michigan Requires Research Facilities to Make Certain Cats and Dogs Available for Adoption

Michigan Governor Gretchen Whitmer [signed Senate Bill 149](#), which requires animal research facilities to make certain dogs and cats available for adoption when they will no longer be used for experiments and imposes other requirements on research facilities using cats and dogs. The legislation is effective February 13, 2024.

MINNESOTA

Minnesota Legislation Bans Commercial Collection of Wild Turtles

Minnesota Governor Tim Walz [signed House File 2310](#), which prohibits the commercial collection of wild turtles in the state. According to the [Center for Biological Diversity](#), commercial trappers historically have collected thousands of turtles from the state's waterways annually, mostly to sell for food, traditional Asian medicine, or pets.

NEW JERSEY

New Jersey Governor Phil Murphy Signs Legislation to Prohibit Intensive Confinement Practices for Calves and Breeding Pigs

New Jersey Governor Phil Murphy [signed Assembly Bill, No. 1970](#), which requires the State Board of Agriculture and the Department of Agriculture to promulgate regulations that prohibit the confinement of breeding pigs or calves raised for veal in a manner that prevents them from “lying down, standing up, fully extending [their] limbs, or turning around freely” and requires that calves raised for veal are “confined in a manner that each calf can groom itself naturally and have visual contact with other calves.” The legislation, which takes immediate effect, also requires the establishment of penalties for violations of the new requirements.

New Jersey Legislation Establishes Procedures for Confiscation and Forfeiture of Companion Animals in Cruelty Cases

New Jersey Governor Phil Murphy [signed Senate Bill, No. 981](#), which strengthens animal protection laws by establishing procedures for confiscation and forfeiture of companion animals in cruelty cases. The legislation is effective immediately.

NEW YORK

New York Enacts Ban on the Slaughter of Horses for Meat and Extends Ban on Selling Disabled Horses at Auction to Other Equines

New York Governor Kathy Hochul [signed S.2163B/A.5109A](#), legislation that prohibits the slaughter of horses for human or animal consumption and the import, export, and transfer of horses for such slaughter. Governor Hochul also signed [S.1677A/A.3552A](#), legislation that extends the prohibition on selling disabled horses at auction to other equines and increases penalties for such sales.

New York Bans Use of Certain Pesticides Harmful to Pollinators and Other Wildlife

New York Governor Kathy Hochul [signed S.1856-A/A.7640](#), the “Birds and Bees Protection Act,” which prohibits the use of certain neonicotinoid pesticides that are harmful to pollinators and other wildlife.

New York Bans Wildlife Killing Contests

New York Governor Kathy Hochul [signed S.4099/A.2917](#), legislation that makes it “unlawful for any person to organize, sponsor, conduct, promote, or participate in any contest, competition, tournament, or derby with the objective of taking or hunting wildlife for prizes or other inducement, or for entertainment.” Violators will be subject to forfeiture of illegally taken wildlife and fines of between \$500 and \$2,000 per violation.

NORTH DAKOTA

North Dakota Legislation Aims to Expand Animal Agriculture Operations

North Dakota Governor Doug Burgum [signed House Bill 1371](#), which allows an authorized livestock farm corporation or limited liability company to own or lease farmland or ranchland in North Dakota if the entity has no more than 10 shareholders or members. According to Governor Burgum, the purpose of the bill is to expand animal agriculture operations in the state, including dairy and pork production, feedlots, and [“opportunities . . . to get into the poultry business.”](#)

OHIO

Ohio Law Revises Cruelty Code and Bans Gas Chambers

Ohio Governor Mike DeWine [signed Senate Bill 164](#), which revises laws and penalties associated with companion animal cruelty and prohibits shelters from using gas chambers to kill animals. The bill becomes effective on April 3, 2023.

OREGON

Oregon Prohibits Retail Pet Sales

Oregon Governor Tina Kotek [signed House Bill 2915](#), which prohibits the retail sale of dogs and cats. Retail pet stores that violate the new law are subject to civil penalties of \$500 for each violation.

Oregon Funds State Meat Inspection Program and Aid for Meat Processors and Sellers

Oregon Governor Tina Kotek [signed House Bill 3410](#), which appropriates \$9 million to the Oregon Department of Agriculture to support the [State's Meat Inspection Program](#) and aid establishments that process and sell meat products in Oregon over the next two years.

PENNSYLVANIA

Pennsylvania Enacts “Dog Law” Update

Pennsylvania Governor Josh Shapiro [signed Senate Bill 746](#), which updates Pennsylvania's Dog Law and imposes a range of new requirements relating to the licensing, sheltering, and import of dogs, among other updates. The changes include licensing requirements for all dogs and an increase in penalties for violations of licensing requirements.

TEXAS

Texas Legislation Criminalizes Possession or Control of Animals by Convicted Abusers

Texas Governor Greg Abbott [signed House Bill 598](#), which criminalizes the possession of, or exercise of control over, an animal for five years following conviction of a federal or state law relating to animal care or cruelty. The newly enacted legislation will take effect on September 1, 2023.

Texas Further Restricts Local Regulation of Agricultural Operations

Texas Governor Greg Abbott [signed Texas House Bill 1750](#), which prohibits localities from imposing “a governmental requirement that applies to agricultural operations located in the corporate boundaries of the city” unless there is “clear and convincing evidence” that such requirement is necessary “to protect persons . . . in the immediate vicinity” from an enumerated list of circumstances constituting “imminent danger” and that the requirement is the least restrictive means of doing so. The legislation amends Texas’ existing right to farm law. The legislation was [opposed](#) by the Texas Municipal League, which voiced its concerns that the bill would “undermine a city’s ability to honor its obligation to protect its residents.”

Texas Voters Approve Constitutional Amendment Establishing a Right to Farm, Ranch, and Manage Wildlife

Texas voters overwhelmingly [approved](#) a [constitutional amendment](#) that creates an explicit right to “engage in generally accepted farm, ranch, timber production, horticulture, or wildlife management practices” on owned or leased property. The constitutional amendment builds upon Texas’ existing [right to farm](#) statute, which insulates agricultural operations from certain types of government oversight and nuisance and other actions.

UTAH

Utah Bans Use of Gas Chambers in Animal Shelters

Utah Governor Spencer Cox [signed Senate Bill 108](#), which ends the use of gas chambers in Utah animal shelters, leaving Missouri and Wyoming as the only states in the country that have yet to legislatively end the practice.

Enacted Municipal Actions

Indianapolis Bans Retail Sales of Dogs, Cats, and Rabbits

The City of Indianapolis, Indiana [enacted](#) an [ordinance](#) banning the retail sales of dogs, cats, and rabbits. The ordinance may be short-lived if the state enacts [pending legislation](#) that would prohibit incorporated localities from restricting retail pet sales.

West Hollywood Becomes First U.S. City to Ban the Use and Sale of Glue Traps

The City of West Hollywood, California unanimously [enacted](#) an [ordinance](#) banning the use and sale of all animal glue traps, including fly strips. The ordinance's definition of "animal" explicitly includes insects. Previously, West Hollywood similarly was the first city in the nation to ban cat declawing in 2003 and the first to ban the sale of fur products in 2011.

New York City Enacts Ban on the Sale of Guinea Pigs by Pet Stores

New York City enacted [Int. No. 4](#), a local law approved by New York City Council to prohibit pet stores from selling guinea pigs. New York City Council passed the law on April 11, 2023, and Mayor Eric Adams returned it unsigned on May 16, 2023. In New York City, if the mayor does not sign or veto a bill within 30 days, it becomes law. The NYC animal shelter system reportedly experienced nearly 1,000 guinea pigs surrenders during the past year.

Texas County Passes Resolution Opposing Proposed Charles River Laboratories Primate Facility

Brazoria County, Texas, passed a [resolution](#) opposing Charles River Laboratories' proposed facility to house nonhuman primates for use in research experiments. The resolution expresses concern “about the public’s health and safety, the animal welfare and pathogen introduction with the development of this facility” and “respectfully requests the Federal and State Government DO NOT issue Permits for this Facility located within Brazoria County.” The resolution passed with unanimous support from the Brazoria County Commissioners Court.

Pittsburgh City Council Passes Foie Gras Ban

City Councilmembers in Pittsburgh, Pennsylvania [voted](#) to ban the sale of foie gras from force-fed poultry. Restaurants can still serve foie gras that they can prove was not produced from force-fed poultry. The ordinance awaits mayoral action. New York-based Hudson Valley Foie Gras has [articulated](#) plans to challenge the ordinance in court.



2023 YEAR IN REVIEW

Case Law Updates

Federal Court Updates

Federal Court Directs Pennsylvania Farmer to Restore Wetlands After Illegal Dumping

The U.S. Court of Appeals for the Third Circuit has [directed](#) a Pennsylvania farmer to restore approximately 18 acres of wetlands after finding that the farm has violated the terms of a 1996 consent decree ordering the farm to cease violations of the Clean Water Act. According to the court, Robert Brace and Robert Brace Farms have violated the consent decree since at least 2016 by dumping dredged materials into the wetlands.

Advocacy Group Plans to Sue to Protect the Oregon Spotted Frog

The Center for Biological Diversity submitted a [notice](#) of intent to sue the U.S. Fish & Wildlife Service and the Bureau of Reclamation under the citizen suit provision of the Endangered Species Act. The advocacy group alleges that the agencies' approval of a habitat conservation plan in the upper Deschutes River will put the threatened Oregon spotted frog in danger of extinction.

Federal Court Rules that Class Action Against Costco for Misleading Dolphin-Safe Claims May Proceed

The U.S. District Court for the Northern District of California [denied](#) Costco's motion to dismiss a lawsuit alleging that it misleads customers with "dolphin-safe" labels on its Kirkland brand tuna when, in fact, it sources tuna from suppliers who use unsustainable fishing practices "that are known to kill and harm dolphins and other marine life." The court rejected Costco's argument that the plaintiff's claims are preempted by the Dolphin Protection Consumer Information Act because Costco made its own, heightened promise that the products are dolphin safe.

National Cattlemen's Beef Association Challenges EPA's New Clean Water Act Rule

The National Cattlemen's Beef Association, the National Petroleum Institute, the National Pork Producers Council, the U.S. Poultry and Egg Association, the National Association of Realtors, and a dozen other industry groups filed a [lawsuit](#) in the U.S. District Court for the Southern District of Texas, Galveston Division against the U.S. Environmental Protection Agency (EPA) challenging the agency's [final rule](#) defining the scope of waters protected under the Clean Water Act (CWA). Plaintiffs claim the rule is unconstitutional because it

allegedly “expands [the EPA’s] CWA jurisdiction far beyond the bounds of the Commerce Clause and the federalism limits embodied in the Constitution, the authority delegated to the Agencies by the CWA, and governing Supreme Court precedent.” Plaintiffs seek declaratory and injunctive relief and vacatur of the rule.

Conservation Groups Sue to Protect Grizzly Bears from Montana Predator Removal Program

WildEarth Guardians, Western Watersheds Project, and Trap Free Montana [sued](#) the U.S. Fish & Wildlife Service and the U.S. Department of Agriculture, alleging that defendants violated the Endangered Species Act and the National Environmental Policy Act by approving a predator removal program that uses traps, snares, aerial shooting, chemicals, and poisons “to capture and kill native predators, including threatened grizzly bears.” Plaintiffs are seeking declaratory and injunctive relief.

Monsanto Faces Civil Rights Lawsuit for Refusal to Settle Roundup Case with Non-Citizen

Public Citizen [filed](#) a lawsuit in the U.S. District Court for the Western District of Virginia, Abington Division against Monsanto for allegedly violating Section 1981 of the U.S. Code Title 42, one of the country’s oldest civil rights laws. The advocacy group represents Elvira Reyes-Hernandez, a non-U.S.-citizen plaintiff who previously entered a settlement agreement with Monsanto after being diagnosed with non-Hodgkin lymphoma in connection with exposure to Roundup while working on tree farms in Virginia. Monsanto refused to finalize the agreement because the plaintiff is not a U.S. citizen.

Ninth Circuit Rules that Grizzly Bear Recovery Plan Does Not Constitute a “Rule” that May Be Challenged in Court

The U.S. Court of Appeals for the Ninth Circuit [ruled](#) that the U.S. Fish & Wildlife Service (FWS) correctly denied the Center for Biological Diversity’s petition for rulemaking (PFR) seeking to expand the FWS grizzly bear recovery plan. The court decided that a recovery plan is not an agency “rule” that may be amended through the PFR process, and that even if it was, FWS’s refusal to grant the PFR does not constitute a “final agency action” that may be challenged in court.

New York Boot Salesman Sentenced to Probation and \$10,000 Fine in Connection with Lacey Act Conviction

U.S. District Judge John L. Sinatra, Jr. [sentenced](#) shoe salesman Jose Der to two years' probation and a \$10,000 fine following his conviction for wildlife trafficking in connection with the illegal import and distribution of boots trimmed in exotic skins. According to the U.S. Attorney's Office for the Western District of New York, Der unlawfully received and distributed dozens of boots trimmed in exotic leathers with a total value of nearly \$150,000.

Texas Biologist Sentenced to Prison and a \$5,000 Fine for Illegally Trafficking Hundreds of Protected Wildlife Specimens into the United States

A federal judge [sentenced](#) Texas biologist Dr. Richard Kazmaier to six months in prison, three years of post-release supervision, and a \$5,000 fine following Kazmaier's guilty plea to a Lacey Act felony. Kazmaier admitted to importing hundreds of Endangered Species Act-protected wildlife parts from Canada and multiple countries in Asia, Africa, and Europe into the United States without declaring them or obtaining the required permits between March 2013 and February 2020.

Federal Court Rules that BLM Failed to Analyze Phosphate Mine's Impacts on Imperiled Sage Grouse

The U.S. District Court for the District of Idaho [ruled](#) that the Bureau of Land Management (BLM) failed to adequately assess harms to vital habitat for the imperiled sage grouse when it approved the Caldwell Canyon phosphate mine in southeast Idaho. The court granted summary judgment on Plaintiff Center for Biological Diversity's claims that BLM violated the National Environmental Policy Act and Federal Land Policy Management Act when it approved the phosphate mine without first analyzing and restricting, mitigating, or eliminating impacts to greater sage grouse such as harms to habitat and population connectivity.

Advocacy Group Sues FWS to Protect Southern Hognose Snakes

The Center for Biological Diversity (CBD) [sued](#) the U.S. Fish & Wildlife Service (FWS), seeking to establish Endangered Species Act protection for southern hognose snakes in Florida, Georgia, and the Carolinas. CBD argues in its petition that FWS applied the wrong standard in declining to list the imperiled snake during the Trump Administration.

Reptile Trafficker Sentenced to Federal Prison

Canadian Ka Yeung Marvin Chan was [sentenced](#) to 14 months in federal prison in connection with his role in a conspiracy to traffic CITES-protected reptiles, including ball pythons, blood pythons, common tegus, Argentine tegus, and iguanas, from the United States to Asia. Chan and his co-conspirators periodically traveled to the United States to purchase the reptiles and export them with fraudulent paperwork. Over a seven-year period, the conspirators smuggled tens of thousands of animals, including \$5.13 million in protected species.

Conservationists Sue FWS to Protect Montana Population of Imperiled Fish

Center for Biological Diversity, Western Watersheds Project, and Montana Tech University Professor Pat Munday [sued](#) the U.S. Fish & Wildlife Service (FWS) seeking protections for Montana's Arctic grayling population under the Endangered Species Act. Plaintiffs are seeking declaratory judgment and injunctive relief and are represented by Earthjustice. The case was filed in the U.S. District Court for the District of Montana, Butte Division.

Conservation Groups Sue FWS to Achieve Stronger ESA Protections for the Streak Horned Lark

The Center for Biological Diversity and the Audubon Society of Portland [sued](#) the U.S. Fish & Wildlife Service (FWS) to protect streaked horned larks as endangered. The lawsuit challenges FWS's April 2022 decision to list streaked horned larks as threatened instead of endangered. The complaint argues that the lesser protections would exempt agricultural activities, a leading threat to the species, from Endangered Species Act safeguards. Plaintiffs are seeking declaratory judgment and remand of the April 2022 listing decision for a new final listing determination. The case was filed in the U.S. District Court for the District of Oregon, Portland Division.

Fifth Circuit Will Hear Oral Arguments in Challenge to Louisiana's Meat Labeling Law

An appeal regarding Louisiana's "Truth in Labeling of Food Products Act," a law that prohibits producers from representing plant-based and cultivated foods as meat products on their labels, was scheduled for [oral argument](#) in the U.S. Court of Appeals for the Fifth Circuit on [February 7, 2023](#). The appeal follows the U.S. District Court's [ruling](#) in March 2022 that the law unconstitutionally limits commercial speech because the food descriptions at issue are not misleading. Turtle Island Foods, SPC, the producer of Tofurky products, initiated the challenge.

to the law, represented by the Animal Legal Defense Fund and the Good Food Institute. Louisiana is arguing on appeal that the law does not violate the First Amendment because it only prohibits misleading commercial speech, which governments are allowed to do.

Federal Court Approves \$4 Million Dollar Judgment in Ice Cream-Linked *Listeria* Wrongful Death Suit

The U.S. District Court for the Middle District of Florida [approved](#) \$4 million in damages in a default judgment against Big Olaf Creamery in a wrongful death suit brought against the company by the estate of a woman who died of a *Listeria monocytogenes* (*Listeria*) infection from eating the company's ice cream. According to the complaint, she was one of a total of 28 people in 11 states whom the U.S. Centers for Disease Control and Prevention reported infected with an outbreak of *Listeria* traced to Big Olaf Creamery.

Massachusetts Lobstermen Sue to Enjoin NMFS's Emergency Order Temporarily Closing Certain Fisheries

The Massachusetts Lobstermen's Association [sued](#) the National Marine Fisheries Service in the U.S. District Court for the District of Columbia, alleging that the agency's [emergency closure](#) for trap/pot fisheries near Massachusetts between February 1 and April 30, 2023, violates the Consolidated Appropriations Act of 2023. Plaintiff is seeking declaratory judgment and an order enjoining enforcement of the closure.

Advocacy Groups Sue to Force EPA to Promulgate Rules That Protect Aquatic Animals from Harmful Vessel Discharges

The Center for Biological Diversity and Friends of the Earth [sued](#) the U.S. Environmental Protection Agency (EPA) in the U.S. District Court for the Northern District of California for failing to finalize nationwide standards that would protect U.S. waterways from harmful vessel discharges that introduce species, pathogens, and pollutants that threaten native organisms. Plaintiffs are seeking declaratory judgment that the EPA has violated the Clean Water Act and an order requiring the EPA to promulgate final federal performance standards for vessel incidental discharges within 60 days of the court's order.

Two More Lawsuits Challenge EPA's New WOTUS Rule

The [State of Texas](#) and industry groups including the [American Farm Bureau Federation](#) have filed separate lawsuits asking the U.S. District Court for the Southern District of Texas to enjoin the U.S. Environmental Protection Agency and Army Corps of Engineers' recently finalized "waters of the United States" (WOTUS) rule, arguing it expands the government's jurisdiction beyond what the Clean Water Act allows.

Conservation Groups Sue to Protect Endangered Species from Water Park Development

The Center for Biological Diversity, Bat Conservation International, Miami Blue Chapter of the North American Butterfly Association, and the Tropical Audubon Society [sued](#) the National Park Service in the U.S. District Court for the Southern District of Florida for failing to protect the endangered Florida bonneted bat, Miami tiger beetle, and Bartram's scrub-hairstreak from the destructive effects of the Miami Wilds water park and retail development in South Florida. Plaintiffs are seeking declaratory judgment and injunctive relief.

Iowa Seeks to Revive Ag-Gag Law, Arguing Advocacy Groups Lack Standing

The State of Iowa [asked](#) the U.S. Court of Appeals for the Eighth Circuit to revive the state's ag-gag law, arguing that the law fits within the parameters of the First Amendment and that the groups challenging the law lack standing because they have not suffered an injury in fact.

FWS Agrees to Deadline to Determine Whether Greater Legal Protections for Leopards Are Warranted

The U.S. Fish & Wildlife Service (FWS) entered a stipulated [settlement](#) in an Endangered Species Act (ESA) lawsuit brought by Humane Society International, the Humane Society of the United States, and the Center for Biological Diversity challenging FWS's failure to respond to the groups' July 2016 [petition for rulemaking](#) seeking greater legal protections for leopards. The split-listing of leopards as endangered in certain areas and threatened in others has allowed trophy hunting to decimate the remaining population. As part of the settlement, FWS agreed to a June 2027 deadline to determine if leopards warrant increased ESA protection.

Paul Mitchell Faces Class Action Over Cruelty-Free Hair Care Claims

John Paul Mitchell Systems (“Paul Mitchell”) is facing a [class action lawsuit](#) in the U.S. District Court for the Northern District of California over the hair care company’s “Never have. Never will.” promise never to test on animals. Putative class members, all purchasers who relied on the company’s cruelty-free representations, claim that Paul Mitchell’s extensive marketing as a “cruelty-free” company constitutes a breach of express warranty and a violation of California consumer protection laws, false advertising laws, and unfair competition laws since Paul Mitchell has been selling products for years in China, a country that mandates animal testing for imported cosmetics. Plaintiffs are seeking injunctive relief, restitution, and punitive damages.

FWS Facing ESA Citizen Suit Over Failure to Protect the Common Hippopotamus

Humane Society International, the Humane Society of the United States, Humane Society Legislative Fund, and the Center for Biological Diversity sent a 60-day [notice of intent](#) to sue the U.S. Fish & Wildlife Service for failing to respond to a March 2022 [petition for rulemaking](#) to protect the common hippopotamus under the Endangered Species Act.

Miyoko’s Creamery Files Suit Against Its Founder and Former CEO for Alleged Theft of Trade Secrets

Miyoko’s, PBC (“the Company”) filed a [lawsuit](#) in the U.S. District Court for the Northern District of California against its founder and former CEO, Miyoko Schinner, for Schinner’s alleged “theft” of “trade secrets and confidential information” following her termination as CEO by the Company’s Board of Directors in 2022. The complaint alleges that Schinner electronically took R&D and proprietary recipes and other trade secrets. It further alleges she physically removed cheese cultures and unreleased product prototypes from the Company’s warehouse. The Company has demanded a jury trial and is seeking injunctive relief in addition to actual, punitive, and exemplary damages.

Federal Court Ruling Bans Use of Most Strangulation Snares in Canada Lynx Habitat

The U.S. District Court for the District of Minnesota [ordered](#) the Minnesota Department of Natural Resources (MDNR) to ban most uses of strangulation snares in northeastern

Minnesota. The order resolves an Endangered Species Act [lawsuit](#) brought by the Center for Biological Diversity against MDNR to protect listed Canada lynx who are inadvertently harmed by the traps. The current lynx population in Minnesota may be as low as fifty.

U.S. Supreme Court Declines to Hear Tyson Foods' Argument that Coronavirus-Related Wrongful Death Suits Belong in Federal Court

The Supreme Court of the United States [denied](#) Tyson Foods' petition for writ of certiorari, which asked the Court to reverse an Eighth Circuit ruling that upheld a trial court's decision to remand two coronavirus-related wrongful death lawsuits to state court. Tyson Foods has argued that the cases should be litigated in federal district court.

Advocacy Group Files FOIA Lawsuit Against White House OMB for Failure to Release Records Relating to Decisions to Delay ESA Protections

The Center for Biological Diversity (CBD) [sued](#) the White House's Office of Management and Budget and its Office of Information and Regulatory Affairs today for violating the Freedom of Information Act by refusing to release records related to their roles in delaying protections for species listed under the Endangered Species Act many months beyond the 90-day deadline imposed by a Clinton-era executive order. CBD is seeking declaratory judgment and injunctive relief.

Federal Court Rules Gila National Forest May Continue Removal of Feral Cattle from Gila Wilderness

The U.S. District Court for the District of New Mexico [denied](#) a request for a temporary restraining order to stop the removal of unbranded and unauthorized cattle from the Gila Wilderness. Unbranded cattle have been destroying fish and wildlife habitat, overgrazing native vegetation, trampling stream banks, and polluting water sources within the Gila Wilderness for decades. The Gila National Forest estimates that there are 50-150 feral cattle remaining in the Gila Wilderness.

Advocacy Group Plans ESA Lawsuit Against U.S. Forest Service for Failure to Protect Wolves from Hunters Along Colorado-Wyoming Border

The Center for Biological Diversity (CBD) sent a 60-day [notice of intent](#) to sue the U.S. Forest Service under the Endangered Species Act's citizen suit provision for the agency's alleged failure to protect wolves from hunters in Medicine Bow-Routt National Forest. CBD intends to seek a ban on wolf hunting and trapping in the entire forest, which straddles the Colorado-Wyoming border.

Fourth Circuit Enjoins North Carolina's Ag-Gag Law

The U.S. Court of Appeals for the Fourth Circuit [enjoined](#) application of North Carolina's ag-gag law "insofar as it applies to bar protected newsgathering activities [advocacy groups] wish[] to conduct." The Fourth Circuit found that North Carolina's argument that "undercover investigations in nonpublic areas . . . constitute unprotected speech" is a "dangerous proposition that would wipe the Constitution's most treasured protections from large tranches of our daily lives. Fortunately, it has no basis in law." The court declined to enjoin the "Property Protection Act" on its face but did enjoin aspects of the law that interfere with undercover investigations by animal protection groups. The suit was brought by People for the Ethical Treatment of Animals, Inc., Animal Legal Defense Fund, the Center for Food Safety, Food & Water Watch, Farm Sanctuary, the Government Accountability Project, the American Society for the Prevention of Cruelty to Animals, and Farm Forward.

Cattle Growers Challenge Forest Service Plan to Shoot Feral Cattle

The New Mexico Cattle Growers' Association, Spur Lake Cattle Co., Nelson Shirley, individually, Allen Campbell, individually, and the Humane Farming Association [filed a lawsuit](#) against the U.S. Department of Agriculture's Forest Service and Animal and Plant Health Inspection Service (APHIS), challenging the agency's approval of the "mass slaughter of as many as 150 'unauthorized' cattle in Gila National Forest." Plaintiffs allege that the Forest Service has approved a project that would authorize APHIS to shoot cattle with high-powered rifles from a helicopter and leave their carcasses throughout New Mexico's Gila Wilderness. Plaintiffs allege that the Forest Service has no legal authority to carry out the slaughter and are seeking declaratory judgment and injunctive relief.

Federal Judge Approves \$33 Million Settlement in Salmon Price-Fixing Case

The U.S. District Court for the Southern District of Florida [approved](#) a \$33 million price-fixing settlement between a proposed class of indirect salmon purchasers and Norwegian salmon-farming companies, ending an ongoing dispute between the parties over alleged coordinated price hikes by the commercial salmon farms. The settlement covers roughly 400,000 businesses that bought salmon for resale from April 10, 2013, to the date of approval.

Bumble Bee Foods Faces Class Action Over “Certified Sustainable Seafood” Representations

A group of consumers has [filed](#) a class-action consumer protection complaint in the U.S. District Court for the Central District of California asserting that a certification logo from the Marine Stewardship Council (MSC) that Bumble Bee Foods, LLC features on its product labels misleads consumers into believing that the company's fish-harvesting practices are sustainable. Plaintiffs allege that MSC-certified fisheries are allowed to harm dolphins, sea turtles, and whales caught in nets and exploit the labor of migrant workers on fishing boats. The complaint further claims that Bumble Bee's practices are not sustainable because the company uses purse seiners, gillnets, and longlines to catch fish, and “no reasonable consumer would deem these fishing practices sustainable.”

Lobster Fishers Sue Monterey Bay Aquarium for Damages Over Comments Relating to Lobster Fishing Impacts on Endangered Whales

A group of Massachusetts-based lobster fishers [filed](#) a class action lawsuit against the Monterey Bay Aquarium and the Marine Stewardship Council (MSC) in the U.S. District Court for the Eastern District of Louisiana. The suit alleges there is “minimal evidence” to support Monterey Bay Aquarium's statements that lobster fishing in the Gulf of Maine is unsustainable due to its harm to endangered North Atlantic right whales. Those statements prompted MSC to drop the American Lobster from its list of sustainable foods, citing the danger to right whales, which in turn triggered Whole Foods, Hello Fresh, and Blue Apron to eliminate Gulf of Maine lobsters from their retail offerings. Plaintiffs are seeking class certification and monetary damages.

Advocacy Group Sues FWS to Protect Imperiled Fish

The Center for Biological Diversity (CBD) filed a [lawsuit](#) against the U.S. Fish & Wildlife Service in the U.S. District Court for the District of Arizona, alleging the agency violated the Endangered Species Act by delaying a listing decision to protect Utah's least chub and Nevada's Fish Lake Valley tui chub. The lawsuit also challenges the agency's failure to issue final rules to protect three species of imperiled turtles and two species of rare crayfish. CBD is seeking declaratory judgment and injunctive relief.

Federal Court Rules that ESA Challenge to “Wind Energy Areas” Designation Is Not Ripe

The U.S. District Court for the District of Columbia has [dismissed](#) a lawsuit brought by Save Long Beach Island and its president, Robert Stern, who sought to challenge the Biden Administration's plans for wind energy development off the coast of New York and New Jersey on the basis that the designation of 807,383 off-coast acres as “wind energy areas” violates the Endangered Species Act and the National Environmental Policy Act. U.S. District Judge Dabney L. Friedrich dismissed the case, finding that it was unripe because the government has not yet taken final agency action to authorize activity that could harm wildlife. The court granted leave for plaintiffs to amend their complaint within 30 days.

Insurance Company Disclaims Duty to Defend Polluting Poultry Farmer in Nuisance Suit

The Everett Cash Mutual Insurance Company [filed](#) a complaint in the U.S. District Court for the Northern District of Georgia, seeking declaratory judgment that its coverage does not extend to nuisance claims brought against an insured poultry farm for “noxious airborne particulate and foul odors” that allegedly caused neighboring property values to drop.

Crabbers File Price-Fixing Class Action Suit Against Dominant Crab Processor

A group of approximately 1,400 independent commercial crabbers have [filed](#) a class action antitrust lawsuit against Pacific Seafood in the U.S. District Court for the Northern District of California, alleging that the company has fixed the price paid to crabbers for Dungeness crab in the Pacific Northwest over the past four years. Plaintiffs are seeking treble damages and injunctive relief.

Federal Court Rules that NMFS Violated the MMPA by Allowing Fishers to Take Humpback Whales Without a Take Reduction Plan in Place

The U.S. District Court for the Northern District of California [ruled](#) that the National Marine Fisheries Service (NMFS) violated the Marine Mammal Protection Act by issuing a 2021 incidental take permit for the sablefish pot fishery off California, Oregon, and Washington without developing a take reduction plan for Endangered Species Act-protected humpback whales. U.S. District Court Judge James Donato granted summary judgment in favor of the Center for Biological Diversity, finding that “NMFS cannot indefinitely delay developing a take reduction plan while continuing to authorize . . . permits for the incidental take of endangered and threatened humpback whales.”

Environmental Groups Challenge Approval of the Willow Project in Federal Court

The Center for Biological Diversity, Defenders of Wildlife, Friends of the Earth, Greenpeace, Inc., and the Natural Resources Defense Council [sued](#) the Bureau of Land Management, U.S. Fish & Wildlife Service, National Marine Fisheries Service, U.S. Department of the Interior, and the U.S. Department of Commerce, challenging approval of ConocoPhillips Alaska Incorporated’s Willow Master Development Plan (“Willow Project”) in the National Petroleum Reserve. Plaintiffs filed the suit in the U.S. District Court for the District of Alaska alleging that the Willow Project violates the National Environmental Policy Act, the National Petroleum Reserves Production Act, and fails to consider the impact of carbon emissions on Endangered Species Act-protected species. Plaintiffs are seeking declaratory judgment and injunctive relief.

Maine Lobster Fishers File Defamation Suit Against Monterey Bay Aquarium

A group of Maine-based lobster fishers [filed](#) a defamation suit against the Monterey Bay Aquarium in the U.S. District Court for the District of Maine. The suit alleges that the Monterey Bay Aquarium knowingly made false statements that lobster fishing in Maine coastal waters is unsustainable due to its harm to endangered North Atlantic right whales, resulting in “several large businesses that had purchased lobsters from Plaintiffs in the past announc[ing] that they will no longer carry Maine-caught lobsters.” Plaintiffs are seeking injunctive relief, monetary damages, punitive damages, and costs. On March 2, 2023, a similar suit was filed by Massachusetts-based lobster fishers against the Monterey Bay Aquarium and the Marine Stewardship Council in the U.S. District Court for the Eastern District of Louisiana.

Advocacy Groups Seek Injunction to Protect Grizzly Bears from Logging and Road Construction

The Center for Biological Diversity, Alliance for the Wild Rockies, Yaak Valley Forest Council, WildEarth Guardians, and Native Ecosystems Council [filed](#) a motion for preliminary injunction against the U.S. Forest Service (“Forest Service”) and the U.S. Fish & Wildlife Service in the U.S. District Court for the District of Montana, seeking to block logging and road construction for the large Knotty Pine timber sale project in the Kootenai National Forest that the Forest Service authorized to begin on May 15, 2023. Plaintiffs argue that the project threatens a small and imperiled population of grizzly bears near the Montana-Canada border.

Texas Sues FWS Over ESA Protections for Lesser Prairie-Chickens

The State of Texas [sued](#) the U.S. Fish & Wildlife Service (FWS), challenging FWS’s Endangered Species Act (ESA) rule listing two lesser prairie-chicken populations as threatened and endangered. Texas alleges that the rulemaking is an arbitrary and capricious attempt to interfere with energy development and is seeking vacatur of the final rule and declaratory judgment that the rule violates the ESA, the Administrative Procedure Act, and the National Environmental Policy Act.

Advocacy Groups Plan to Sue FWS for Declining ESA Protections for Gopher Tortoises

The Center for Biological Diversity and Nokuse Education, Inc. [sent](#) a 60-day notice of intent to sue the U.S. Fish & Wildlife Service (FWS) for denying Endangered Species Act protections to the eastern population of gopher tortoises. FWS denied protections in 2022 despite originally finding in 2011 that the tortoise warranted protections.

Advocacy Group and Veterinarian Plan to Sue Roadside Zoo for ESA Violations

Outreach for Animals and the former attending veterinarian of Noah’s Ark, a roadside zoo in Locust Grove, Georgia, have [delivered](#) a 60-day notice of intent to sue the facility and its management under the citizen suit provision of the Endangered Species Act (ESA). The facility houses tigers, lions, a grizzly bear, and other ESA-protected animals, including multiple species of protected primates and birds. The letter alleges the facility has violated the ESA in multiple ways, including by denying veterinary care to protected species, forcing protected species to

live in unsanitary conditions, feeding insect-infested food to protected animals, and failing to take adequate measures to protect animals from exposure to potentially deadly avian flu despite an outbreak at Noah's Ark that killed hundreds of birds.

Federal Judge Rules USDA Acted Unlawfully in Denying Petition to Improve the Psychological Well-Being of Primates Used in Experiments

The U.S. District Court for the District of Maryland [ruled](#) that the U.S. Department of Agriculture (USDA) acted unlawfully by denying a petition for rulemaking (PFR) submitted by Rise for Animals and the Animal Legal Defense Fund (ALDF) to improve the standards for the psychological well-being of primates used in research. Judge Julie Rubin found that the USDA had relied upon "facts known by it to be false" and further that the agency failed to respond to any of the more than 10,000 public comments it received, most of which urged the agency to grant the PFR. The judge's ruling further declared that the USDA's "secret policy" of not fully inspecting every facility each year is unlawful. Rise for Animals and ALDF are represented by Harvard Law School's Animal Law & Policy Clinic, which also is suing the USDA over the inspection policy.

Advocacy Groups Challenge BLM Project in Eastern Nevada that Could Harm Multiple Wildlife Species

Western Watersheds Project and the Center for Biological Diversity [sued](#) the U.S. Bureau of Land Management (BLM) in the U.S. District Court for the District of Nevada, challenging a vegetation removal project near Great Basin National Park that would remove pinyon-juniper forests across more than 380,000 acres of federal land in eastern Nevada. Plaintiffs allege that BLM's project harms sagebrush habitats for imperiled greater sage grouse, pygmy rabbits, and pinyon jays, animals whose populations are plummeting. Plaintiffs are seeking declaratory judgment and injunctive relief.

Oregon Department of Forestry Settles ESA Lawsuit and Agrees to Better Protect Salmon from Logging Activities

The Center for Biological Diversity, Cascadia Wildlands, and Native Fish Society [settled](#) Endangered Species Act litigation they brought against the Oregon Department of Forestry ("Department") to protect coho salmon from the harms of logging. The suit alleged that the Department had

harmed threatened coho salmon with logging activities that smothered coho spawning and rearing habitats. Under the terms of the settlement, the Department agreed to expand stream buffers across more than half a million acres of the Tillamook and Clatsop state forests.

Federal Judge Enjoins New WOTUS Rules in Texas and Idaho

The U.S. District Court for the Southern District of Texas [enjoined](#) the Biden Administration's newly-established rule regarding "waters of the United States" (WOTUS) in Texas and Idaho, temporarily preventing the Environmental Protection Agency and the U.S. Army Corps of Engineers from implementing or enforcing the rule in the two states. Plaintiffs argue that the rule, which includes a categorical extension to all interstate waters, regardless of whether they are navigable, violates the plain language of the Clean Water Act. The judge declined to grant a nationwide injunction.

Advocacy Group Plans to Sue FWS for Failing to Protect Endangered Species from Pesticides

The Center for Biological Diversity (CBD) sent a [notice of intent](#) to sue the U.S. Fish & Wildlife Service (FWS) for failing to respond to a January 2019 petition to prohibit nearly all uses of pesticides in areas designated as critical habitat for endangered species. CBD alleges that FWS has failed to implement any meaningful conservation measures since the U.S. Environmental Protection Agency released assessments finding that various pesticides are causing grave harm to many of the nation's most endangered plants and animals.

Advocacy Group Sues NMFS for Failing to Finalize Protections for ESA-Listed Corals

The Center for Biological Diversity [sued](#) the National Marine Fisheries Service in the U.S. District Court for the District of Columbia for failing to finalize protections for a dozen coral species around Florida and islands in the Pacific Ocean. Pillar coral, mountainous star coral and the others all were listed under the Endangered Species Act in 2014 but have not received the critical habitat designation the statute requires. Plaintiff is seeking declaratory judgment and injunctive relief.

Center for Food Safety Alleges New York Dairy Farm Has Been Illegally Dumping Solid and Liquid Animal Manure into Waters of the U.S. for More than Five Years

The Center for Food Safety [sued](#) Wood Farms, LLC, a New York dairy producer, in the U.S. District Court for the Northern District of New York, alleging that for more than five years the facility has violated the Clean Water Act by discharging animal waste and other pollutants into the “waters of the United States” in violation of its general discharge permit. Plaintiff is seeking declaratory judgment, injunctive relief, and civil penalties.

Federal Judge Certifies Class in Multidistrict Antitrust Litigation Against America’s Largest Pork Producers

The U.S. District Court for the District of Minnesota [granted](#) class certification brought by direct purchasers, consumer indirect purchasers, and commercial indirect purchasers in multidistrict antitrust litigation over a purported scheme to inflate pork prices. The court found that the three proposed classes met their burden under Federal Rule of Civil Procedure 23 for class certification. Class plaintiffs allege that the largest pork producers in the U.S. conspired to restrict supply, stabilize prices, and participate in anti-competitive information exchange.

Federal Judge Rules that Kentucky Challenge to WOTUS Rule Lacks Standing and Ripeness

The U.S. District Court for the Eastern District of Kentucky [denied](#) the state’s request to block the Biden Administration’s new regulation redefining federally regulated “waters of the United States” from taking effect within Kentucky. Kentucky Attorney General Daniel Cameron argued that the Environmental Protection Agency’s final rule will unnecessarily burden farmers and landowners, but U.S. District Court Judge Gregory F. Van Tatenhove ruled that Kentucky and a group of construction and other business organizations lacked legal standing to bring the case, finding that the claims are not ripe and that “the claimed financial and sovereignty injuries are too speculative to constitute injuries in fact.”

Federal Court Refuses Preliminary Injunction in Legal Challenge to the Willow Project

The U.S. District Court for the District of Alaska [denied](#) preliminary injunctive relief sought by Earthjustice on behalf of the Center for Biological Diversity, Defenders of Wildlife, Friends of the Earth, and Greenpeace USA and by the Natural Resources Defense Council in a [legal challenge](#) to the Willow project. The plaintiffs claimed the Interior Department’s approval of

the Willow project was unlawful because it failed to consider reasonable alternatives, such as limiting the project's harm to the climate and the most environmentally sensitive areas in the Western Arctic. The ruling will allow ConocoPhillips to construct roads and a gravel mine as a first step toward developing the planned oil-extraction operation.

Federal Judge Vacates USDA Rule that Exempted Medium-Sized CAFOs from NEPA Review Since 2016

U.S. District Judge for the District of Columbia Colleen Kollar-Kotelly [vacated](#) a U.S. Department of Agriculture Farm Service Agency (FSA) rule promulgated in 2016 that categorically exempted medium-sized concentrated animal feeding operations (CAFOs) from environmental reviews before receiving public funding. The 2018 case, brought by Dakota Rural Action and other plaintiffs, argued that FSA failed to provide adequate public notice or evidence-based justification for the exemption when it finalized the rule in 2016. Judge Kollar-Kotelly found that “not only did FSA fail to provide notice-and-comment rulemaking, but it also evidently failed to undertake the reasoned analysis required by [the National Environmental Policy Act]” (NEPA) and that “the severity of these errors require vacatur.” Medium-sized CAFOs now again will be required to undergo environmental review under NEPA before receiving federal funds.

Alaskan Tribes Challenge Impacts of Gold Mine Construction on Wildlife

Three indigenous tribes in Alaska, the Orutsararmiut Native Council, the Tuluksak Native Community, and the Organized Village of Kwethluk [sued](#) the U.S. Army Corps of Engineers and the Bureau of Land Management in the U.S. District Court for the District of Alaska to block construction of a gold mine in the Yukon-Kuskokwim region of southwest Alaska that would become one of the largest such mines in the world. Plaintiffs argue that federal regulators overlooked the possibility of a catastrophic waste spill, downplayed the potential health risks of the mine, and ignored its effects on wildlife. Plaintiffs are represented by Earthjustice and are seeking declaratory judgment and injunctive relief.

Environmental Groups Allege Hundreds of Coal Mining Facilities Are Operating in Violation of ESA

The Center for Biological Diversity (CBD) and Appalachian Voices sent a formal [notice](#) of their intent to sue the U.S. Office of Surface Mining Reclamation and Enforcement and the

U.S. Fish & Wildlife Service under the citizen suit provision of the Endangered Species Act for failure to protect the endangered Guyandotte River crayfish and the threatened Big Sandy crayfish from coal mining pollution. CBD and Appalachian Voices allege that 388 coal mining facilities in West Virginia, Kentucky, and Virginia pollute critical habitat for the imperiled crayfish yet lack required plans to protect the crayfish or their habitat.

Federal Judge Approves \$75 Million Settlement in Pork Price-Fixing Case

The U.S. District Court for the District of Minnesota [granted](#) final approval to a \$75 million settlement between Smithfield Foods, Inc. and consumer indirect purchasers in multidistrict litigation over a purported scheme concocted by the meat industry to inflate pork prices. The court also [granted](#) \$25 million in attorney's fees.

Halal Meat Company Faces DOJ Civil Action for Violating Federal Meat and Poultry Inspection Laws

The U.S. Attorney for the Eastern District of New York, on behalf of the U.S. Department of Agriculture (USDA), [filed](#) a civil action under the Federal Meat Inspection Act and the Poultry Products Inspection Act against a New York-based halal food distribution company the USDA alleges has repeatedly offered meats that were not properly inspected despite several warnings from the USDA's Food Safety and Inspection Service. The U.S. government is seeking permanent injunctive relief.

Advocacy Group Plans ESA Lawsuit to Protect Endangered Snakes

The Center for Biological Diversity sent a 60-day [notice](#) of intent to sue the U.S. Fish & Wildlife Service under the Endangered Species Act for reducing critical habitat for endangered narrow headed garter snakes and northern Mexican garter snakes by more than 90% from its original proposal.

Advocacy Groups Challenge EPA's Approval of Dicamba Herbicide

The Center for Biological Diversity, National Family Farm Coalition, Pesticide Action Network, and Center for Food Safety filed a [motion for summary judgment](#) in their case seeking to have a federal court again strike down the Environmental Protection Agency's controversial approval

of the drift-prone, volatile herbicide dicamba. Plaintiffs filed the motion following the EPA's decision to ignore a prior court [ruling](#) that the agency's approval of dicamba was unlawful. Plaintiffs are represented by the Center for Food Safety and the Center for Biological Diversity.

Environmental Groups Sue Federal and State Authorities over Treatment of Cumberland Island Feral Horses

The Georgia Equine Rescue League, Georgia Horse Council, Southeast Director for the Center for Biological Diversity, a resident of Cumberland Island, and the Cumberland Island horses themselves [sued](#) the Department of Interior, National Park Service (NPS), and two Georgia state agencies in the U.S. District Court for the Northern District of Georgia. The parties allege that federal and state authorities have allowed the horses to live in less-than-humane conditions and to destroy vegetation, shorebird nests, and the eggs of endangered loggerhead sea turtles. The organizations seek declaratory judgment and an injunction requiring the NPS and state authorities to provide sufficient care to the horses and then permanently remove them from Cumberland Island.

Advocacy Groups Seek Summary Judgment in Case Challenging USDA's Secret Policy Scaling Back AWA Inspections of Certain Animal Testing Facilities

Rise for Animals and the Animal Legal Defense Fund filed a motion for summary [judgment](#) and [brief](#) in their case challenging a secret U.S. Department of Agriculture policy, discovered in records obtained through a Freedom of Information Act request, scaling back inspections of certain animal testing facilities in violation of the federal Animal Welfare Act. The plaintiffs are represented by the Harvard Animal Law & Policy Clinic, which unearthed the secret USDA policy during discovery.

Harvard Law Clinic Files Appeal in Tule Elk Lawsuit Against National Park Service

Harvard Law School's Animal Law & Policy Clinic ("Clinic") filed a [notice of appeal](#) to the U.S. Court of Appeals for the Ninth Circuit of a lower court decision in its [lawsuit](#) against the National Park Service challenging the agency's confinement of the Tule elk behind a fence that has led to mass deaths by starvation and dehydration. Representing three California residents and the Animal Legal Defense Fund, the Clinic alleges the agency's failure to revise the General Management Plan of the Point Reyes National Seashore for over 40 years is a violation of the

Administrative Procedure Act. On February 27, 2023, the U.S. District Court for the Northern District of California held that the Park Service had no statutory duty to amend the Plan—a decision the Clinic contends is at odds with a prior ruling by another judge of the same Court.

Idaho Custom Slaughter Operation Sues Multiple Defendants for Fraud

Sustainable Meats, LLC, an Idaho-based “organic and custom processing slaughter operation committed to humane animal handling and sustainable practices,” [sued](#) Griffon Holdings, LLC and multiple related entities and individuals for breach of contract, fraudulent inducement, fraud, unjust enrichment, and piercing the corporate veil in connection with modular slaughter units for which Plaintiff paid a \$337,430 deposit but never received. Plaintiff alleges that defendants defrauded plaintiff when they contracted with it to provide consultation services and modular food processing units for \$899,860.48 with \$337,430 due upfront, but they never actually delivered the units and refused to return the \$337,430 deposit. Plaintiff also alleges that defendants’ alleged fraud cost it over \$1 million in damages for tarnished reputation. The case is pending in the U.S. District Court for the Northern District of Ohio.

NMFS Agrees to Complete New Assessment of Threat to Endangered Humpback Whales by Drift Gillnets

In response to Endangered Species Act [litigation](#) brought by the Center for Biological Diversity in the U.S. District Court for the Northern District of California, the National Marine Fisheries Service [agreed](#) to complete a new assessment of the threat of drift gillnets in California to endangered humpback whales. The mile-long hanging nets are left in the ocean overnight to catch large fish such as Pacific bluefin tuna, swordfish, and thresher sharks.

Sixth Circuit Temporarily Stays WOTUS Rule

The U.S. Court of Appeals for the Sixth Circuit [stayed](#) implementation of the latest “waters of the United States” (WOTUS) Clean Water Act rule until May 10, 2023, finding that the U.S. Environmental Protection Agency and Army Corps of Engineers have not identified “any particular interest in immediate enforcement of the final rule.” The stay came at the request of the State of Kentucky, the Kentucky Chamber of Commerce, and multiple business groups that are appealing a lower court dismissal of their lawsuits challenging the Biden Administration’s WOTUS rule. “Given these circumstances, an administrative stay ‘is necessary to preserve

the status quo and provide us with the opportunity to give “reasoned consideration” to the plaintiffs’ motions for an injunction pending appeal,” the three-judge panel said.

Former Butterball Poultry Catcher Seeks to Revive Unfair Compensation Lawsuit

A former Butterball poultry catcher [filed](#) a motion for reconsideration and for leave to file a third amended complaint after a North Carolina federal judge dismissed his North Carolina Wage and Hour Act claim, which alleges that new evidence from former Butterball employees shows that the company failed to pay workers based on their promised rate. Plaintiff alleges that testimony from third-party witnesses supports his assertion that Butterball, LLC did not properly compensate workers for all hours they worked, including overtime.

USDA Settles Civil Suit with Halal Producer Over FMIA and PPIA Violations

The U.S. Department of Justice, on behalf of the U.S. Department of Agriculture, has [settled](#) a civil suit filed in the U.S. District Court for the Eastern District of New York against a New York-based Halal meat and poultry producer and its owner over allegations that the Defendants repeatedly offered meats that had not been properly inspected despite several warnings from the U.S. Department of Agriculture’s Food Safety and Inspection Service. The Consent Judgment and Decree permanently enjoins the Defendants from violating the Federal Meat Inspection Act and Poultry Products Inspection Act. If Defendants violate the Consent Decree, they will be liable for up to \$1,000 per pound of misbranded or uninspected items.

Federal Court Grants Partial Summary Judgment in Favor of Tuna Companies in Price-Fixing Case

The U.S. District Court for the Southern District of California [granted](#) partial summary judgment to Defendants StarKist Company, Del Monte Corporation, and Dongwon Industries Co., Ltd. in multidistrict litigation over alleged tuna price-fixing. Judge Dana Sabraw agreed with Defendants that Plaintiff tuna buyers, Associated Wholesale Grocers Inc. and Affiliated Foods Midwest Cooperative Inc., have not come forward with enough evidence supporting their allegation that Defendants were party to an agreement, conspiracy, or combination to restrain trade in the canned tuna market before May 30, 2011.

Federal Judge Halts Logging Project in Grizzly Bear Habitat Near the Montana-Canada Border

A federal judge [entered](#) a preliminary injunction in an Endangered Species Act case brought by the Center for Biological Diversity, Alliance for the Wild Rockies, Yaak Valley Forest Council, WildEarth Guardians, and Native Ecosystems Council against the U.S. Forest Service, halting logging and road construction for the large Knotty Pine timber sale project in the Kootenai National Forest. Plaintiffs argue that the project threatens a small, imperiled population of grizzly bears near the Montana-Canada border. The order prohibits the U.S. Forest Service from any ground-disturbing activities until the court issues a final ruling on the merits of the case.

Federal Court Rules that Insurance Company Must Reimburse Foster Farms for Costs Related to Defense of Turkey Antitrust Cases

The U.S. District Court for the Northern District of California ruled that an insurance company must reimburse Foster Farms, LLC for costs relating to antitrust suits that accused the poultry company of price-fixing in the turkey market. U.S. District Judge William H. Orrick [granted](#) summary judgment in favor of Foster Farms in a coverage dispute with its insurer, Everest National Insurance Company, after finding that the policy's "Specific Matter Exclusion," which precludes coverage for liability related to underlying chicken antitrust suits, does not preclude coverage of turkey-related antitrust suits. The judge also held that Everest has an ongoing obligation to defend the company up to the policy limit.

Conservation Group Threatens Forest Service with ESA Suit Over West Virginia Coal Hauling Project

The Center for Biological Diversity [served](#) the U.S. Forest Service with a 60-day notice of intent to sue the agency for alleged failure to protect endangered species such as candy darters, Virginia big-eared bats, northern long-eared bats, Indiana bats, and several freshwater mussels from the harmful effects of coal hauling in the Monongahela National Forest in West Virginia.

Indian Tribe Alleges Utah Farm Has Been Diverting Tribal Water for Cattle for Over a Decade

The Ute Indian Tribe [filed](#) a lawsuit in the U.S. District Court for the District of Utah against a Utah cattle farm, claiming it diverted water protected under multiple treaties the tribe

has with the government and that it used tribal land to grow crops. The tribe alleges that McKee Farms, and its owner Gregory McKee, operate a farm and fertilizer business within the boundaries of the Uintah and Ouray Reservation and have been diverting tribal water for cattle since at least 2012. Plaintiff is seeking declaratory judgment, injunctive relief, and damages.

Conservation Group Awarded Over \$300,000 in Attorney's Fees in CWA Lawsuit Against New Hampshire Fishery

The U.S. District Court for the District of New Hampshire [awarded](#) the Conservation Law Foundation \$333,176.79 in attorney's fees and \$23,195.93 in costs in connection with a Clean Water Act lawsuit against the State of New Hampshire alleging that the Powder Mill State Fish Hatchery was discharging pollutants in violation of the facility's National Pollutant Discharge Elimination System permit. The U.S. Environmental Protection Agency intervened in the underlying lawsuit, filed in 2018, which resulted in a consent decree.

U.S. Affiliates of Canada's Leading Pork Producer File for Chapter 11 Bankruptcy Protection

Three U.S. affiliates of Canada's leading pork producer, HyLife Group Holdings, Ltd., a live hog and pork processing company with facilities in Canada, the U.S., Mexico, China, and Japan, [filed](#) for Chapter 11 protection in Delaware on Thursday with more than \$100 million in secured debt and seeking \$16 million in bankruptcy financing to carry out the sale of a Minnesota pig processing facility. Tritek International Inc., a Delaware corporation, attributed the financial problems to the lingering effects of the COVID-19 pandemic. Tritek affiliates HyLife Foods Windom LLC, a 226,737-square-foot pork processing facility in Windom, Minnesota, and Canwin Farms LLC, a contract grower operation that works with farms in South Dakota to grow pigs, also filed for bankruptcy, with Tritek asking to be the lead debtor.

Fifth Circuit Vacates Injunction Against Louisiana "Truth in Labeling" Law

The U.S. Court of Appeals for the Fifth Circuit [reversed](#) a lower court ruling that Louisiana's "Truth in Labeling of Food Products Act" infringes on food companies' free speech rights and vacated an injunction of the law. The appellate panel concluded that the law, when construed narrowly, does not violate the First Amendment's protection of commercial free speech. Turtle Island Foods, SPC, the producer of Tofurky products, challenged the 2019 law, which prohibits "[r]epresenting a food product as meat or a meat product when the food product is not derived" from animals.

Advocates Plan to Sue FWS for Failing to Adequately Protect Manatees

The Center for Biological Diversity, Harvard Animal Law & Policy Clinic, Miami Waterkeeper, and Frank S. González García [served](#) the U.S. Fish & Wildlife Service (FWS) with a notice of intent to sue under the citizen suit provision of the Endangered Species Act for failing to protect the West Indian manatee. The notice letter follows a November petition for rulemaking urging FWS to relist the species as endangered. FWS downlisted the West Indian manatee to threatened in 2017, but since then the population has significantly declined. FWS failed to make a determination whether the petition presented substantial information indicating that uplisting the manatee may be warranted within 90 days as required by federal law.

Federal Court Ruling to Protect Orcas Effectively Shuts Down Alaska Salmon Fisheries

The U.S. District Court for the Western District of Washington issued an [order](#) that likely will prevent summer and winter commercial Chinook salmon troll fishing in southeast Alaska. U.S. District Judge Richard Jones' order vacated part of the National Marine Fisheries Service's (NMFS) 2019 biological opinion, which allows Alaska to open fisheries without violating the Endangered Species Act. Previously, in [August of 2022](#), Judge Jones adopted a [report](#) finding that NMFS violated federal law when it approved commercial fishing that put endangered Southern Resident killer whales in peril. The latest decision effectively shuts down the fisheries, pending approval of a new biological opinion.

Largest Grocer in the U.S. Faces Class Action Over Allegedly Misleading Egg Labels

The Kroger Co. is facing a putative class [action](#) in the U.S. District Court for the Central District of Illinois in connection with the grocery company's eggs labeled as "Positive Farm Fresh," "Farm Fresh," and "Grade A," which, lead plaintiff Larry Long alleges, mislead customers into believing that the eggs come from cage-free hens. The lawsuit comes only weeks after Michigan Attorney General Dana Nessel directed correspondence to Kroger urging the grocer "to add clear signage to your stores to help consumers understand which eggs, exactly, came from caged chickens." Plaintiff is seeking class certification, class-wide injunctive relief, damages, and costs for Kroger's alleged violations of consumer protection laws in multiple states.

Advocacy Group’s Lawsuit Challenges FWS’s Failure to Protect Endangered Species from Harmful Pesticides

The Center for Biological Diversity (CBD) [sued](#) the U.S. Fish & Wildlife Service (FWS) in the U.S. District Court for the District of Arizona, challenging the agency’s alleged failure to protect endangered species from harm caused by pesticides used in habitats that are critical to their survival. The lawsuit alleges “unreasonable delay” in FWS’s failure to respond to CBD’s petition for rulemaking on this issue, which was submitted more than four years ago.

Federal Judge Sentences Wildlife Trafficker for Smuggling Protected Corals from the Philippines

U.S. District Court Judge Joshua Kindred [sentenced](#) Veleriy Gorbounov of Colorado to two years of probation, a \$4,000 fine payable to a coral reef restoration organization in the Philippines, and a prohibition on participating in the sale of marine corals for the term of his probation after Gorbounov pleaded guilty to Lacey Act charges for his role illegally importing endangered corals for retail sales. Gorbounov is one of eight defendants who are being prosecuted for felony or misdemeanor Lacey Act crimes for their roles in the smuggling operation.

Conservation Group Threatens to Sue FWS and Others for Failing to Protect Imperiled Animals from Offshore Drilling

The Center for Biological Diversity (CBD) sent a [notice](#) of intent to sue to the U.S. Department of the Interior, U.S. Fish & Wildlife Service, Bureau of Ocean Energy Management, and Bureau of Safety and Environmental Enforcement for failing to adequately protect endangered whooping cranes, Kemp’s ridley sea turtles, manatees, and other imperiled species from the dangers of offshore oil and gas extraction in the Gulf of Mexico. CBD alleges that the agencies approved oil and gas activity in the Gulf of Mexico in reliance upon faulty Endangered Species Act analysis that does not mitigate the risk of oil spills, bird collisions with offshore platforms, manatee vessel strikes, and climate change.

Beyond Meat Hit with Securities Exchange Act Class Action Lawsuit

The Retail Wholesale Department Store Union Local 338 Retirement Fund, an institutional investor, [filed](#) a class action lawsuit against Beyond Meat, Inc., CEO Ethan Brown, and two of its former chief financial officers for alleged violations of the Securities Exchange Act. The

putative class alleges that the company and its executives misrepresented Beyond Meat's ability to scale to meet production demands for partnerships with McDonalds, Starbucks, KFC, Pizza Hut, and Taco Bell, causing the company's stock to trade at artificially high prices, during which time the individual defendants sold personally held stock for over \$58 million in personal enrichment. According to the complaint, stock prices declined when the company failed to meet those demands. Beyond Meat's stock price hit an [all-time low](#).

Milk Moovement Antitrust Suit Against Milk Software Company Moves Forward

Milk Moovement, a startup providing data services to the dairy industry, filed a [countersuit](#) in January 2023 against rival Dairy LLC, now operating as Ever.Ag. The suit began in December 2021 with Ever.Ag alleging that Milk Moovement had misappropriated trade secrets, but the suit has now expanded to include Milk Moovement's antitrust allegations against Ever.Ag. The startup alleges a variety of antitrust counterclaims against Ever.Ag including "improperly lock[ing] up customers," "market-power consolidating acquisitions," and claims questioning its relationship with Dairy Farmers of America. The counterclaims, which are pending in the Eastern District of California, survived a recent motion to dismiss.

Advocacy Group Alleges FWS Violated ESA in its Approval of Gulf of Mexico Oil Exploration

The Center for Biological Diversity (CBD) delivered a [notice](#) of intent to sue the U.S. Fish & Wildlife Service for failing to adequately protect endangered whooping cranes, sea turtles, manatees, and other imperiled species from the dangers of offshore oil and gas extraction in the Gulf of Mexico. CBD argues that the agency's Endangered Species Act analysis fails to consider or mitigate the risk of oil spills, vessel strikes, and climate change.

Alaska Tribe Renews Suit for Fishing Rights

The Metlaktla Indian Community is reviving a suit requesting expanded fishing rights in the waterways surrounding their island reservation. The latest [complaint](#) claims there is "no doubt that Congress . . . impliedly reserved for the Community the 'adjacent fishing grounds' as part of [the Community's island reserve]." As a result, the Community claims they should be exempt from the State of Alaska's limited entry permitting program that regulates fishing activities in those areas. In February, the Ninth Circuit issued an [amended opinion](#), remanding this case back to the trial court for the determination of whether Metlakatla

citizens had definitive fishing rights in the relevant areas and limiting the impact of a 2022 Ninth Circuit panel [ruling](#) that appeared to grant expansive fishing rights to the Community.

Poultry Processor Must Pay \$5.8 Million to Workers in Antitrust Settlement With the DOJ

The U.S. Department of Justice (DOJ) [announced](#) that it has filed a proposed consent decree with George's Inc. and George's Foods LLC, (collectively "George's"). George's is a large poultry processing company accused of efforts to suppress poultry plant workers' wages by sharing wage information with competing chicken processors. As part of the settlement, George's will pay \$5.8 million in restitution to the poultry processing workers whose wages were suppressed and will submit regular reports to a court-appointed monitor overseeing the settlement for the next seven years. The DOJ [settled](#) its related antitrust claims in the same enforcement action against Cargill, Sanderson Farms, and Wayne Farms in 2022.

Ninth Circuit Rejects FWS Jaguar Critical Habitat Designation

The Ninth Circuit [vacated](#) the U.S. Fish & Wildlife Service's (FWS) designation of certain areas in Southern Arizona as critical habitat for endangered jaguars. The litigation was initially brought by the Center for Biodiversity (CBD) after FWS found that a proposed mining project from Rosemont Copper Company would not adversely impact the jaguar's critical habitat. Rosemont intervened and filed crossclaims against the FWS, arguing that certain of its jaguar critical-habitat designations were arbitrary and capricious. The Ninth Circuit agreed with Rosemont and vacated habitats designated as both occupied and unoccupied by FWS. The court did not reach the question of whether FWS erred in concluding that the mine would not adversely impact the critical habitat designations. The habitat designations are thus remanded to FWS for reconsideration.

Washington Federal Court Rules Against Dog Owner in Heavy Metals Dog Food Case

A Washington federal judge [ruled](#) in favor of Champion Petfoods in a lawsuit claiming that the company misled consumers regarding the presence of heavy metals in dog food. The judge granted summary judgment in favor of Champion on several claims, including the claim that the phrase "Biologically Appropriate" was misleading and that Champion improperly omitted information concerning the level of heavy metals in its dog food. The judge also rejected the plaintiff's attempt to certify a class for a class action suit, finding

that the different dog food labels and formulas prevented a finding of commonality. A few claims, including those related to the misleading nature of labels for “fresh” and “regional” ingredients, survived the decision and can proceed to trial.

Ninth Circuit Declines Request for En Banc Reconsideration of Grizzly Bear Ruling

The U.S. Court of Appeals for the Ninth Circuit has [denied](#) the Center for Biological Diversity's (CBD) request for *en banc* reconsideration of a panel ruling that rejected its push for the federal government to expand territory and help recover grizzly bears. Four years ago, CBD [challenged](#) the U.S. Fish & Wildlife Service's (FWS) decision to reject its petition for rulemaking to expand the bears' habitat in the lower 48 states and revise the agency's scientific approach to species recovery. In 2020, a Montana federal judge [ruled](#) in favor of the FWS, finding that a recovery plan is not final agency rule that can be petitioned under the Administrative Procedure Act. On appeal, the Ninth Circuit [disagreed](#) with the lower court but ultimately affirmed the ruling, finding that while the recovery plan was a final rule subject to petition, the agency's denial of the petition was not a final agency action that the appeals court was able to review.

U.S. Supreme Court Declines Review of California's Foie Gras Ban

The United States Supreme Court [denied](#) certiorari in a case challenging the foie gras ban California enacted in 2012, thus leaving it in place. Foie gras producers were [seeking review](#) of a 2022 [decision](#) by the U.S. Court of Appeals for the Ninth Circuit, which upheld the ban. The Ninth Circuit rejected foie gras producers' arguments that the ban conflicted with the Poultry Products Inspection Act and that it was unconstitutional under the dormant Commerce Clause. The court ruled that “[s]ellers can still force-feed birds to make their products. They just cannot sell those products in California.”

Analysis of the Supreme Court's *National Pork Producers Council v. Ross* Decision

The U.S. Supreme Court's recent decision regarding the constitutionality of California's Proposition 12 is undoubtedly one of the most significant cases in all of modern animal protection law. Yet the decision's full meaning and impact are difficult to ascertain given how badly fractured the justices' opinions were. In this [Brooks Animal Law Digest \(US\) Perspectives contribution](#), Doug Kysar explains what can and cannot be said about *National Pork Producers Council v. Ross*.

Sixth Circuit Rules Conservation Group May Not Intervene in Government Negotiation with Tribes Over Michigan Fishery Management

The U.S. Court of Appeals for the Sixth Circuit [affirmed](#) that fishing and conservation groups may not intervene in government negotiations with tribes over management of Great Lakes fisheries. The Sixth Circuit ruled that the district court properly denied the Coalition to Protect Michigan Resources' (Coalition) motion to intervene in negotiations over the management of Great Lakes fisheries, finding that the Coalition's motion was untimely given that its concerns have not materialized. The Court ruled that the Coalition's "proper remedy" is to appeal any resultant decree reached between the state and the tribes if the as-yet unreached decree is "ultimately unlawful." One of the Coalition's primary stated concerns is that government negotiators may allow Tribes' use of "non-selective gill nets" that it claims could "deplete the fish resources of the Great Lakes to the extent that they would become non-existent."

Tenth Circuit Overturns FWS Decision to Authorize Killing of Grizzly Bears to Accommodate Cattle Grazing on Public Land

The U.S. Court of Appeals for the Tenth Circuit [ruled](#) that the U.S. Fish & Wildlife Service (FWS) violated federal law when it authorized the killing of up to 72 grizzly bears on public land on the outskirts of Yellowstone National Park. The Court found that FWS's failure to specify a limit on the percentage of female grizzly bears subject to the authorization, meant to accommodate private cattle grazing, was arbitrary and capricious. The Tenth Circuit remanded the decision to the agency without vacatur.

SCOTUS Clean Water Act Ruling Leaves Tens of Millions of Acres of Fish and Wildlife Habitat Unprotected

The U.S. Supreme Court [dramatically limited](#) the scope of the Clean Water Act, reversing protections that have safeguarded wetlands and other "Waters of the United States" for over half a century. By overturning federal protections for tens of millions of acres of wetlands, the Court's ruling makes them vulnerable to pollution and harmful development that impacts flood protection, water quality, groundwater supplies, and habitat for fish and wildlife. The Supreme Court's ruling means that wetlands will only be protected under the Clean Water Act if a continuous surface connection exists between the wetland and an adjacent protected body of water, such as a stream, ocean, river, or lake.

North Carolina and North Carolina Farm Bureau Ask Supreme Court to Reinstate Ag-Gag Law

[North Carolina](#) and the [North Carolina Farm Bureau Federation, Inc.](#) have submitted petitions for writ of certiorari to the U.S. Supreme Court, asking the Court to reinstate a North Carolina ag-gag law. In February, the Fourth Circuit partially enjoined North Carolina from applying the law, holding that undercover investigations “as part of newsgathering constitute[] protected speech.” Both petitioners urge the Supreme Court to reinstate the law in its entirety.

Charles River Faces Class Action After DOJ Probe into Illegal Import of Nonhuman Primates

Charles River Laboratories International, Inc. (“Charles River”) investor Sharan Coleman [filed](#) a class action lawsuit against Charles River, its CEO James Foster, CFO Flavia Pease, and former CFO David Smith. The lawsuit, filed in the U.S. District Court for the District of Massachusetts, accuses the company and its executives of concealing their involvement in the illegal importation of nonhuman primates for research, which [led to](#) a U.S. Department of Justice (DOJ) investigation and subsequent stock price decline. The complaint alleges violations of the Securities Exchange Act and is on behalf of a proposed class of individuals and entities that purchased or acquired Charles River securities between May 5, 2020, and February 21, 2023.

Seattle Settles Tribal Challenge to Hydroelectric Dam Project in Salmon Habitat

The City of Seattle and the Sauk-Suiattle Indian Tribe [moved](#) to dismiss the City’s request for injunctive relief after the parties settled a tribal court challenge to the city’s operation of a hydroelectric dam project on the Skagit River. The settlement includes the City’s proposal for a “Fish Passage Program” to “meaningfully contribute to recovering self-sustaining, harvestable salmon runs in the Skagit River watershed without negatively impacting native Skagit Basin fish populations and the Skagit River watershed ecosystem.” The case, filed by the City of Seattle to [challenge](#) the tribal court’s jurisdiction, has been pending in the U.S. District Court for the Western District of Washington.

Connecticut Couple Files Lawsuit Over Camera-Toting Bear

A Connecticut couple have [sued](#) the Connecticut Department of Energy and Environmental Protection over a wild bear collared with a camera. The complaint alleges that the agency

released the camera-carrying bear in the vicinity of the couple's property and that the bear subsequently came within 200 yards of their house. The couple claims this violates their Fourth Amendment rights and filed suit in the U.S. District Court for the District of Connecticut requesting injunctive relief and destruction of all photographic evidence. According to [media reports](#), the couple's allegations "come against the background of state court litigation in which the Town of Hartland has accused the couple and Mark Brault's wildlife and nature tour business, Nature Havens LLC, of unlawfully feeding bears on their property."

EPA Sued Over Alleged Bee-Killing Pesticides

The Center for Food Safety and Pesticide Action Network North America have [sued](#) the U.S. Environmental Protection Agency (EPA) over pesticide-coated crop seeds. The complaint alleges that the coated seeds are highly toxic to birds, bees, butterflies, and other insects and wildlife. The case challenges the EPA's denial of the plaintiffs' 2017 petition for rulemaking, which urged the agency to close the regulatory loophole that allows coated seeds to evade the registration and labeling requirements of the Federal Insecticide, Fungicide, and Rodenticide Act. The case has been filed in the U.S. District Court for the Northern District of California, and plaintiffs are seeking both declaratory and equitable relief.

Federal Judge Denies Lead Plaintiff Appointment in Putative Shareholder Class Action Over Tyson COVID-19 Response

The U.S. District Court for the Eastern District of New York [denied](#) an application to overturn a magistrate decision denying appointment of lead plaintiffs in a putative class action against Tyson Foods, Inc. The putative plaintiff-investors allege shareholder damages stemming from Tyson's COVID-19 response. District Court Judge Ann Donnelly upheld the magistrate judge's finding that the claimed damages are insufficient to suggest the two investors would "pursue the class claims vigorously."

Wild Fish Conservancy Settles with Washington State Over Future Release of Farmed Fish into Puget Sound

The Washington Department of Fish and Wildlife, the Washington Fish and Wildlife Commission, and the nonprofit Wild Fish Conservancy have reached an [agreement](#) in an Endangered Species Act citizen suit that sought to prevent the release of millions of hatchery-raised fish

into the Puget Sound. Under the terms of the settlement, the state agencies have agreed to submit a Hatchery and Genetic Management Plan by August 31, 2023, and to engage in additional surveys and disclosures to help preserve the habitat of protected anadromous fish.

Federal Judge Dismisses Putative Class Action Against Oatly

The U.S. District Court for the Southern District of New York [granted](#) Oatly's motion to dismiss a putative securities class action accusing the Swedish alternative milk manufacturer of pitching its business as more environmentally friendly than it is. U.S. District Judge Alvin Hellerstein ruled that investors did not sufficiently or plausibly plead their allegations in a manner that conforms to the Private Securities Litigation Reform Act, but may file an amended complaint by August 11, 2023, as long as it is free of "superfluous verbiage, unnecessary allegations, puzzle pleading . . . , inactionable statements of opinion . . . , and mere puffery."

Landmark Juliana Climate Case Revived by Federal Judge

A federal judge in Oregon saved the landmark Juliana climate suit in a recent [ruling](#), finding that proposed amendments to the complaint will surmount the deficiencies previously identified by the Ninth Circuit. The suit, brought by a group of young people between the ages of 8 and 19, "allege[s] injury from the devastation of climate change and contend[s] that the Constitution guarantees the right to a stable climate system capable of sustaining human life." The recent ruling finds that the plaintiffs' efforts to seek declaratory relief that the United States' national energy system has violated plaintiffs' constitutional rights "is squarely within the constitutional and statutory power of Article III courts to grant."

Canadian Health Company Pleads Guilty to Lacey Act Violations for Illegal Transport and Sales of Harp Seal Oil

Canada-based FeelGood Natural Health Stores Ltd. (FeelGood) [pleaded guilty](#) to one count of violating the Lacey Act by knowingly transporting and selling harp seal oil capsules in the United States in violation of the Marine Mammal Protection Act, which prohibits the transport or sales of any marine mammal or marine mammal product for commercial purposes. Pursuant to the plea agreement, FeelGood and the U.S. Department of Justice agreed to a recommended fine of \$20,000, three years' probation, and a compliance plan that includes employee training and government cooperation. Sentencing is scheduled for September 28, 2023.

Federal Judge Declines to Certify Class in Pet Food Factory Nuisance Suit

A federal judge in New Jersey ruled [against](#) plaintiffs seeking to certify a class for a class action suit against Darling Ingredients, a Newark animal rendering facility. The judge found conflicts between interests of the plaintiffs, thus creating a roadblock in plaintiffs' attempts to sue Darling for releasing "noxious odors into the environment" near plaintiffs' properties.

Second Circuit Affirms Dismissal of Heavy Metals Pet Food Case

The Second Circuit [affirmed](#) a lower court's dismissal of a proposed class action suit against Champion Pet Foods. The suit alleged that the company failed to properly warn shoppers that its pet foods contain heavy metals. The order states that the Second Circuit acknowledges "the importance of consumer labeling, especially as it relates to food for both humans and pets alike. However, it is not within the province of the courts to decide what information must be disclosed on consumer packaging. That issue should be for Congress or a federal agency such as the FDA to determine."

Court of International Trade Rejects Department of Commerce Anti-Dumping Tariff on Argentinian Honey

The U.S. Court of International Trade [remanded](#) anti-dumping tariffs on Argentinian honey, rejecting both of the U.S. Department of Commerce's (DOC) explanations for why it substituted beekeepers' production costs with a figure up to three times that amount in its dumping calculations, as well as its reliance on third-country sales for comparison. [Anti-dumping tariffs](#) are protectionist duties imposed on imports that a country believes are priced below fair market value. Judge Claire Kelly acknowledged there were difficulties sourcing production data from hundreds of small beekeepers but said missing data alone did not justify DOC's decision to use the amount that Argentinian exporter Nexco SA paid to purchase the honey as a proxy. The court ordered DOC to file its remanded redetermination within 90 days of the order.

Michigan Tribes and Conservationists Allege Fruit Processing Facility is Harming Aquatic Life with Wastewater

The Grand Traverse Band of Ottawa and Chippewa Indians and two local nonprofits, the Grand Traverse Bay Watershed Initiative and the Elk-Skegemog Lakes Association, [filed](#) a Clean Water Act (CWA) citizen suit in the U.S. District Court for the Western District of Michigan, alleging

that Michigan-based Burnette Foods Inc. violated the CWA by illegally releasing wastewater from its fruit-processing operation into nearby wetlands and by dumping wastewater that contained excessive levels of pollutants. Plaintiffs argue that unacceptable levels of *E. coli* bacteria and arsenic have been found downstream and that the pollutants have affected aquatic life in nearby Elk Lake and Spencer Creek. Plaintiffs are seeking declaratory judgment, injunctive relief, civil penalties, and attorney's fees.

Georgia Roadside Zoo Faces ESA Citizen Suit for Alleged Abuse and Neglect of Protected Species

A veterinarian and an animal protection organization have [filed](#) an Endangered Species Act (ESA) citizen suit in the U.S. District Court for the Northern District of Georgia against Noah's Ark Animal Rehabilitation Center & Sanctuary ("Noah's Ark"), a roadside zoo in central Georgia, for allegedly failing to care for tigers, parrots, primates, and other protected species. Plaintiffs Dr. Karen Thomas, who formerly worked for Noah's Ark, and Ohio-based Outreach for Animals, allege that Noah's Ark and its leadership have violated the ESA by denying protected species adequate veterinary care, forcing protected species to live in unsafe and unsanitary conditions, failing to protect ESA-listed animals during an outbreak of transmissible avian influenza that killed hundreds of birds on the property, denying animals adequate nutrition, failing to adequately staff the facility to provide proper care for animals, and physically abusing at least one primate and denying him follow-up veterinary care. Plaintiffs are represented by Richard Schrade. Plaintiffs are seeking declaratory judgment and injunctive relief and have secured placement for the ESA-protected animals at reputable sanctuaries.

Conservation Group Drops Harbor-Dredging Suit

The U.S. District Court for the Southern District of Georgia [granted](#) a conservation group's notice of voluntary [dismissal](#) in a case challenging the U.S. Army Corps of Engineers' decision to remove seasonal restrictions on hopper dredging in Brunswick Harbor, Georgia. The plaintiff group, One Hundred Miles, had [alleged](#) that the Corps' decision would kill and injure federally protected sea turtles and other sensitive species. However, the Corps now has committed to conducting a full analysis of the environmental impacts of year-round dredging by preparing an environmental impact statement and to banning dredging other than between December and March, pending the results of the analysis. The court dismissed the case without prejudice.

Federal Court Holds FWS Correctly Denied Parrot Import Requests by Aviculture Groups

The U.S. District Court for the Southern District of Florida [dismissed](#) a lawsuit brought by exotic bird enthusiasts challenging the U.S. Fish & Wildlife Service's denial of their petitions to allow imports of two parrot species, ruling that the Wild Exotic Bird Conservation Act barred their requested actions. U.S. District Judge Kathleen M. Williams ruled that the Organization of Professional Aviculturists, Inc. and the Lineolated Parakeet Society successfully established standing for the challenge, but the judge ultimately concluded that the groups misinterpreted the language of the Wild Exotic Bird Conservation Act.

Florida Ban on Foreign Acquisition of Agricultural Land Faces Legal Challenge

A group of Chinese citizens living in Florida and a real estate brokerage firm whose clients are primarily Chinese and Chinese Americans have filed a [lawsuit](#) challenging the Florida's [new law](#) prohibiting foreign acquisition of agricultural land. Plaintiffs allege the law violates their equal protection rights under the U.S. Constitution because it is a racially based restriction on their ability to purchase real property. They also allege the law violates the Fair Housing Act as well as the Due Process Clause and the Supremacy Clause of the Constitution. Plaintiffs are seeking an injunction against the implementation of the law before it goes into effect on July 1, 2023.

Federal Judge Gives Initial Approval of Latest \$8 Million Poultry Price-Fixing Settlement

Arkansas-based poultry producer Simmons Foods, Inc. received [preliminary approval](#) from the U.S. District Court for the Northern District of Illinois on a poultry price-fixing class action settlement. U.S. District Judge Thomas Durkin concluded that the settlement, which provides that Simmons Foods Inc. will pay \$8,018,991, was fair and the result of "extensive good-faith and hard-fought negotiations with knowledgeable and skilled counsel." Simmons has also agreed to assist the plaintiffs with their claims against the remaining defendants in the case by "authenticating and providing foundation for documents."

Federal Agencies Drop Appeal of Court Order Requiring Better Protection of Endangered Whales and Sea Turtles in Shipping-Lane Designations

The Biden Administration has [dropped](#) its appeal of a December 2022 [ruling](#) by the U.S. District Court for the Northern District of California that the National Marine Fisheries Service (NMFS) and U.S. Coast Guard failed to meet Endangered Species Act requirements when

designating shipping lanes into the ports of Los Angeles, Long Beach, and the San Francisco Bay. The ruling requires the Coast Guard and NMFS to conduct a new consultation that accounts for the risks shipping-lane designations pose to whales and sea turtles and considers measures proven to reduce those harms.

Ninth Circuit Finds that Environmental Groups Failed to Establish Redressability in Lawsuit Challenging U.S. Forest Service Grazing Plan in Wolf Habitat

The U.S. Court of Appeals for the Ninth Circuit has [declined](#) to revive a lawsuit brought by WildEarth Guardians, Western Watersheds Project, and Kettle Range Conservation Group which claimed the U.S. Forest Service's (the Service) 2019 livestock grazing plan revisions for the Colville National Forest in Eastern Washington would make wolf attacks on livestock more frequent and in turn drive the Washington Department of Fish and Wildlife to kill more wolves to protect domesticated herds. Writing for the majority, U.S. Judge Eric D. Miller affirmed a lower court decision finding that plaintiffs lacked standing on the basis that the U.S. Forest Service cannot be liable for an injury that "arises from the actions of a third party that is two steps removed from the Service."

Advocacy Groups Sue Forest Service to Protect Wildlife from Logging in Colorado's San Juan National Forest

The San Juan Citizens Alliance and Center for Biological Diversity [sued](#) the U.S. Forest Service in the U.S. District Court for the District of Colorado for allegedly violating environmental laws when it approved a nearly 23,000-acre timber sale that plaintiffs argue would cut large, old ponderosa pine trees and threaten elk, mule deer, forest raptors, and other wildlife in southwestern Colorado's San Juan National Forest. Plaintiffs are seeking declaratory judgment and vacatur or permanent injunctive relief.

Environmental Group Plans ESA Lawsuit Against State and Federal Agencies in Connection with Road-Maintenance Projects in Oregon and California Salmon Habitat

The Center for Biological Diversity (CBD) [sent](#) a 60-day notice of intent to sue Oregon and California state transportation agencies, the National Marine Fisheries Service, and the U.S. Department of Commerce for allegedly violating the Endangered Species Act by failing to consider fatal impacts to salmon from toxic tire pollution. CBD alleges that neither the

California Department of Transportation nor the Oregon Division of the Federal Highway Administration considered deadly chemical effects when authorizing hundreds of road-maintenance projects in salmon habitats throughout Oregon and California.

Fifth Circuit Upholds NMFS Turtle Excluder Device Rule

The U.S. Court of Appeals for the Fifth Circuit [upheld](#) a National Marine Fisheries Service (NMFS) rule requiring shrimping vessels to install special turtle excluder devices that allows turtles to escape traps. The State of Louisiana had argued its sovereign interests were violated because NMFS's rule preempts state laws that regulate shrimp harvesting. The Fifth Circuit, however, found that because Louisiana never raised those concerns in the lower court, they consequently were not eligible for consideration on appeal.

D.C. Circuit Court of Appeals Sides with Lobster Fishers in Legal Challenge to NMFS Rules to Protect Endangered Whales

The U.S. Court of Appeals for the D.C. Circuit [overturned](#) a lower court decision upholding the National Marine Fisheries Service's (NMFS) lobster fishery regulations and the biological opinion detailing how the fishery would impact endangered North Atlantic right whales. The challenge was brought by the Maine Lobstermen's Association with support from intervenors that included the Maine Department of Marine Resources, the International Association of Machinists and Aerospace Workers, and the Massachusetts Lobstermen's Association. The appellate court ruled that NMFS improperly had relied on worst-case scenarios that favored the whales and should have focused on "likely" outcomes, accordingly ordering the district court to grant summary judgment for the lobster industry on two of its claims.

Rhode Island Fishing Company Petitions SCOTUS to Abandon Chevron Deference and Rule that NMFS Overstepped its Authority by Requiring Industry-Paid At-Sea Monitors

Seafreeze Fleet LLC, a Rhode Island herring fishing company, and two of its fishing ships have [petitioned](#) the U.S. Supreme Court to overrule or revise Chevron deference and clarify whether the Magnuson-Stevens Act requires fishing companies to pay for federally mandated at-sea monitors. Petitioners are asking the Supreme Court to reverse a First Circuit decision and rule that the National Marine Fisheries Service overstepped its authority by requiring industry-paid monitors on fishing vessels.

Federal Court Rules that New York Eel Harvest Rules Do Not Infringe on Tribal Rights

The U.S. District Court for the Eastern District of New York [ruled](#) that the New York State Department of Environmental Conservation regulations on eel harvests do not unlawfully infringe on the Unkechaug Indian Nation's fishing rights on reservation lands or customary fishing waters, as the tribe and its chief alleged. The court ruled that New York lawfully imposed restrictions on the harvest of young American eels known as "glass eels" as part of an Atlantic States Marine Fisheries Commission framework intended to protect against continued population declines for the species.

Ninth Circuit Rejects Appeal by Recreational Anglers Who Alleged NMFS Violated the ESA

The Ninth Circuit [affirmed](#) a ruling by the U.S. District Court for the Western District of Washington, which declined to "second-guess [National Marine Fisheries Service's (NMFS)] scientific judgment" on fishery management plans in Washington National Marine Fisheries. Plaintiff Fish Northwest, a recreational angler group, had alleged that NMFS violated the Endangered Species Act when it analyzed a yearly management plan for fisheries co-managed by the state and Puget Sound Treaty Indian Tribes without ensuring such fisheries wouldn't further endanger the region's salmon.

U.S. Patent and Trial Appeal Board Rules in Favor of Impossible Foods in Patent Challenge Brought by Rival Motif Food Works

The U.S. Patent Trial and Appeal Board (PTAB) has largely rejected food technology company [Motif Food Works](#)' calls for the board to look into multiple meat-substitute patents held by rival Impossible Foods, Inc., finding that Motif failed to show a "likelihood of prevailing" on contentions that U.S. Patent Nos. 11,224,241 B2; 11,013,250 B2 and 10,039,306 B2 are invalid as obvious based on prior art. The three-judge panel issued four separate [decisions](#), refusing to institute reviews of three out of four patents owned by Impossible Foods. The PTAB decisions come after the European Patent Office [revoked](#) one of Impossible Foods' European Union patents in December 2022 on the basis that heme protein, sugars, and sulfur compounds that have been used to evoke the taste and smell of meat in meat alternatives for decades are not patentable.

U.S. Court of International Trade Denies NMFS's Motion to Dismiss Legal Challenge to Seafood Imports from New Zealand that Jeopardize Critically Endangered Dolphins

The U.S. Court of International Trade [sided](#) with Sea Shepherd New Zealand and Sea Shepherd Conservation Society again, denying a request by the National Marine Fisheries Service (NMFS) to dismiss the conservationists' claims that NMFS's approval of certain controversial seafood imports was arbitrary and capricious. U.S. Court of International Trade Judge Gary S. Katzmman previously [enjoined](#) certain seafood imports from New Zealand on the basis that New Zealand's protections for the critically endangered Māui dolphin are not comparable to U.S. regulations, as required by U.S. law. The judge rejected NMFS's mootness claims, finding that the agency's rationale in future decisions met the "capable of repetition yet evading review" exception to mootness. The court ordered the parties to submit a proposed scheduling order for briefing on the merits no later than July 7, 2023.

Costco and New Jersey-Based Meat Retailer Hit with Consumer Fraud Suit

A Massachusetts man [sued](#) New Jersey-based meat retailer Fratelli Beretta USA, Inc. (Fratelli Beretta) and Costco after he was hospitalized for salmonella enterocolitis after eating a Fratelli Beretta antipasto tray that his wife had purchased at Costco and was later [recalled](#) for links to a salmonella outbreak. Plaintiff is alleging violations of the New Jersey Consumer Fraud Act and is seeking compensatory and punitive damages as well as attorney's fees and costs.

Center for Biological Diversity Sues FWS for Failing to Finalize ESA Protections for Multiple Species

The Center for Biological Diversity (CBD) [filed](#) suit in the U.S. District Court for the District of Arizona against the U.S. Fish & Wildlife Service for failing to finalize Endangered Species Act protections for the cactus ferruginous pygmy owl, Mt. Rainier white-tailed ptarmigan, foothill yellow-legged frogs, and multiple other imperiled species. CBD alleges that the Biden Administration has "[consistently missed](#)" ESA listing deadlines.

Former USDA Inspector Sentenced to Federal Prison for Accepting Bribes from Mexican Cattle Brokers to Allow Cattle into the U.S. Without Quarantine or Inspection

U.S. District Judge Marina Garcia Marmolejo [sentenced](#) former U.S. Department of Agriculture (USDA) animal inspector Roberto Adams to 57 months in federal prison for

accepting bribes from Mexican cattle brokers. Adams, a former USDA lead animal health technician, admitted he accepted over \$40,000 in bribe payments in exchange for which he allowed cattle to enter the United States from Mexico without legally required quarantine or inspection on multiple occasions. Adams was one of only two technicians the USDA employed in Laredo, Texas, and had been responsible for inspecting and quarantining or excluding tick-infested or diseased cattle for at least a decade. The case was prosecuted by the U.S. Attorney's Office for the Southern District of Texas.

Seventh Circuit Dismisses Interlocutory Appeal Seeking to Upend Judgment Sharing Agreement in Poultry Price-Fixing Case

The U.S. Court of Appeals for the Seventh Circuit [dismissed](#) the interlocutory appeal of a lower court order preserving poultry producers' Judgment Sharing Agreement under which they pre-determined potential responsibility in case of loss in the pending price-fixing case. The appellate court concluded it lacked jurisdiction to hear the challenge under the collateral order doctrine that allows appeals of certain mid-case decisions. The ruling may disadvantage chicken buyers in settlement talks with the producers accused of price-fixing.

Settlement in MDL Antitrust Class Action Will Require Seaboard Foods to Cooperate with Plaintiffs Who Allege Pork Industry Price Fixing Scheme

A class of direct purchasers [urged](#) the U.S. District Court for the District of Minnesota to approve a \$9.75 million settlement with Seaboard Foods, LLC, the [third-largest](#) pork producer in the U.S., in multidistrict antitrust litigation over claims that producers colluded to inflate pork prices. Under the proposed settlement, Seaboard, which denies all allegations of wrongdoing, will pay \$9.75 million to the thousands of pork buying members who make up the newly certified class and will be released from "any and all claims" that the direct purchasers ever had. The deal also requires Seaboard to cooperate with direct purchasers in their legal fight with the pork industry over alleged price fixing.

Ninth Circuit Order Allows Commercial Chinook Salmon Troll Fishing to Move Forward in Southeast Alaska Pending ESA Case Appeal

The U.S. Court of Appeals for the Ninth Circuit [granted](#) in part a motion to stay a lower court [ruling](#) vacating portions of a National Marine Fisheries Service Biological Opinion that

authorized the “take” of Southern Resident Killer Whales and Chinook salmon in connection with the commercial harvesting of Chinook salmon. The Ninth Circuit order comes less than two weeks before summer fishing season is scheduled to commence and will allow commercial Chinook salmon troll fishing in southeast Alaska this summer while the Endangered Species Act (ESA) case is under appeal.

Factory Farms Agree to Remediate Contaminated Water Supply in Yakima Valley, Washington

Two factory farm dairies, DBD Washington, LLC and SMD, LLC, in Yakima Valley, Washington [settled](#) a lawsuit brought by Community Association for Restoration of the Environment, Friends of Toppenish Creek, and the Center for Food Safety to stop contamination of local drinking water with animal waste from the dairy operations. Under the settlement terms, the dairies will help restore the aquifer by remediating nitrate and ammonia contamination beneath the facilities’ lagoons; fund research to compare two remediation methods that target shallow aquifers beneath porous soils; double line or close waste lagoons to prevent further contamination; install groundwater monitoring wells; improve land application of waste to avoid further contamination; make other improvements to the infrastructure for waste storage and transport; and fund alternative sources of clean drinking water for residents near the operations.

DOJ Seeks to Consolidate Two Cases Challenging ESA Listing Status of Lesser Prairie-Chickens

The U.S. Department of Justice, on behalf of the Department of the Interior, [filed](#) an unopposed motion to consolidate two cases pending in the U.S. District Court for the Western District of Texas in which multiple states and livestock groups seek to vacate a U.S. Fish & Wildlife Service rule protecting two distinct populations of lesser prairie-chickens under the Endangered Species Act.

Conservation Groups Allege that FEMA’s Flood Insurance Program Has Triggered Development in High-Risk Areas and Destroyed Critical Habitat for Protected Species

The Center for Biological Diversity, Northwest Environmental Defense Center, Willamette Riverkeeper, and the Conservation Angler [submitted](#) a 60-day notice of intent to sue the Federal Emergency Management Agency (FEMA) over its failure to protect floodplain-dependent imperiled salmonids and orcas in Oregon that are protected under the

Endangered Species Act. Conservation groups argue that FEMA's National Flood Insurance program, which provides taxpayer-subsidized flood insurance for structures in high-hazard, flood-prone areas that private insurers will not cover, has led to increased development in floodplains and destroyed valuable habitat for endangered species.

Plant-Based Meal Maker Files for Bankruptcy

Plant-based meal maker Tattooed Chef [filed for bankruptcy](#) in the U.S. Bankruptcy Court for the Central District of California with the intention of finding a buyer for its remaining assets. Per the filing, the company finds itself “short on cash” following an acquisition strategy that led to the company investing over \$100 million on marketing and in-store promotions. The company describes itself as supplying “innovative plant-based frozen foods.”

Federal Chicken Price-Fixing Suit Narrowed but Allowed to Proceed

The U.S. District Court for the Northern District of Illinois [removed](#) seven defendants and two theories of liability from the consolidated antitrust case brought by purchasers of chicken meat against broiler chicken producers. The court still found that the plaintiffs' economic evidence was sufficient for the case to proceed to a jury trial and that the plaintiffs could proceed on their claims of anticompetitive acts to increase price through supply reductions. According to the published opinion, the case presents “numerous examples of supposed competitors regularly exchanging sensitive production data with each other. A jury could find that such conduct is not the behavior of active competitors.”

Federal Circuit Revives Bovine Sperm Sorting Case

The U.S. Court of Appeals for the Federal Circuit recently [ruled](#) that a suit can proceed over induced patent infringement against bovine artificial insemination company ABS Global. The company has been sued by rival STgenetics. The patent in question covers “sorting bull sperm cells according to a specific DNA characteristic in order to preselect the gender of a domestic animal's offspring.” Artificial insemination is used by “dairy farmers and beef producers to increase fertility rates of female calves, which is profitable for milk production.” The Federal Circuit found that a judgment in prior litigation over the patent does not prevent this separate suit.

Conservation Group Sues Department of Interior Over Lithium Mine

The Center for Biological Diversity and the Amargosa Conservancy have [sued](#) the Department of the Interior and the Bureau of Land Management (BLM) for authorizing a lithium mineral exploration project in Nevada. Plaintiffs claim that BLM's approval of the mining project threatens more than a dozen species protected under the Endangered Species Act and "threaten[s] one of the most unique and biologically diverse areas of the United States, and possibly the world." Plaintiffs seek declaratory and injunctive relief.

Lawsuit Alleges that FBI Improperly Withheld Records Relating to its Involvement in Animal Agriculture Conferences

Animal Partisan [sued](#) the Federal Bureau of Investigation (FBI) in the U.S. District Court for the District of Columbia, alleging that the FBI improperly withheld records of its involvement with the animal agriculture industry, including its participation in multiple conferences held by the North American Meat Institute. Animal Partisan [contends](#) that the FBI has "used the conference as a vehicle to target animal rights activists and presumably to discuss and share new strategies to undermine those who spotlight the abuse and misconduct prevalent in industrial animal agriculture." Animal Partisan is seeking production of the public records as well as attorney's fees and costs. The organization is represented by the Farmed Animal Advocacy Clinic at Vermont Law and Graduate School and the Sorenson Law Office.

Chicken Producers Oppose Sysco's Attempt to Substitute Litigation Funder as Plaintiff in Price-Fixing Litigation

Chicken producers including Pilgrim's Pride Corp., Tyson Foods, Inc., and Perdue Farms, Inc. are [opposing](#) Sysco Corporation's attempt to remove itself as a plaintiff in a series of poultry price-fixing lawsuits by substituting a newly created subsidiary of multi-billion-dollar litigation funding firm Burford Capital to take its place. The chicken producers argue in an opposition brief pending in the U.S. District Court for the Northern District of Illinois that the substitution of plaintiff would constitute "invalid champerty," an ancient legal doctrine barring the purchase of civil claims by "strangers" and allege that Carina Ventures LLC, which did not exist until "a few weeks ago," has not met the threshold requirement that "a substantive right at issue survived the transfer," resulting in an improper transfer of a "champertous nature."

Biden Administration Settles Border Construction Lawsuits with Agreement to Perform Widespread Environmental Cleanup and Take Steps to Protect Wildlife

The Biden Administration [settled](#) litigation brought by eighteen states, the Sierra Club, and the Southern Border Coalition challenging construction of border walls between the U.S. and Mexico with funds provided by the Department of Defense and Department of Treasury in fiscal years 2019 and 2020. The Biden Administration agreed to conduct widespread cleanup to repair environmental damage from construction of the Trump-era southern border wall, end wall construction, restore disputed military funding, and protect sensitive ecosystems and wildlife in the border region to resolve multiple lawsuits brought by plaintiffs.

Eighth Circuit Holds WOTUS Case in Abeyance Pending Post-Sackett Regulatory Revisions

The U.S. Court of Appeals for the Eighth Circuit issued an [order](#) holding in abeyance the U.S. government's appeal of the U.S. District Court for the District of North Dakota's [order](#) granting a preliminary injunction against the Environmental Protection Agency's final rule defining "waters of the United States" (WOTUS). The order comes after the EPA's [announcement](#) that it would be revising the WOTUS regulations to comply with a recent U.S. Supreme Court [ruling](#) limiting the EPA's ability to regulate wetlands under the Clean Water Act.

Conservation Groups Sue U.S. Navy and FWS to Protect ESA-Listed Species from Marine Corps Construction and Operations on Guam

The Center for Biological Diversity (CBD) and Prutehi Litekyan: Save Ritidian filed a [lawsuit](#) in the District Court of Guam against the U.S. Navy and the U.S. Fish & Wildlife Service to protect endangered species from the construction and operation of Camp Blaz, a Marine Corps base in Guam. Plaintiffs seek declaratory judgment and injunctive relief, including a court order requiring the Navy to provide a final response to CBD's Freedom of Information Act request relating to the Navy's activities on Guam.

NMFS Agrees to Establish Team to Reduce Harm to Pacific Humpback Whales from Sablefish Pot Gear

The National Marine Fisheries Service (NMFS) entered a stipulated settlement [agreement](#) with the Center for Biological Diversity whereby the agency agreed to implement a team to reduce whale entanglements in sablefish pot gear off the coasts of California, Oregon, and

Washington. The agreement comes following a U.S. District Court for the Northern District of California [ruling](#) in CBD's lawsuit alleging that NMFS has failed to protect endangered Pacific humpback whales from deadly entanglements in fishing gear. NMFS agreed to put the team in place by October 31, 2025.

Federal Judge Grants Preliminary Approval of \$2.9 Million Settlement in Poultry Price-Fixing Case

The U.S. District Court for the Northern District of Illinois has granted preliminary [approval](#) of a \$2.9 million [settlement](#) between consumer plaintiffs and Harrison Poultry, Inc. in a consolidated antitrust case over claims that broiler chicken producers engaged in unlawful price-fixing.

Federal Judge Allows Antibiotics False Advertising Lawsuit Against Whole Foods to Proceed

U.S. District Judge John W. Holcomb [denied](#) Whole Foods' motion to dismiss plaintiff Peymon Khaghani's claims of fraud, breach of warranty, and unjust enrichment in connection with the market's use of the slogan "No Antibiotics, Ever." Judge Holcomb dismissed with leave to amend the claims for relief made by consumer Sara Safari and animal protection organization Farm Forward for lack of standing with an August 11, 2023, deadline to file amended pleadings. The plaintiffs have alleged that samples of beef sold by Whole Foods as "raised without the use of antibiotics" contained antibiotic residues. The case is pending in the U.S. District Court for the Central District of California.

DOJ Alleges that Texas Governor Greg Abbott's Floating Barrier in the Rio Grande River Violates Environmental Laws

The U.S. Department of Justice [sued](#) the State of Texas and Texas Governor Greg Abbott in U.S. District Court for the Western District of Texas, alleging that the floating barrier in the Rio Grande River that Governor Abbott installed to [deter](#) immigrants constitutes an unauthorized "obstruction to the navigable capacity of waters of the United States" and poses risks to public safety and the environment without federal agency authorization. The DOJ is seeking injunctive relief and costs.

Conservation Group Plans to Sue FWS for Failing to List the Bridled Darter Fish

The Center for Biological Diversity (CBD) sent a [notice](#) to the Secretary of the Interior and the U.S. Fish & Wildlife Service asserting that the denial of listing protections for the bridled darter fish violates the Endangered Species Act, and declaring an intent to sue if the violations are not remedied. In the notice, CBD states that bridled darters, which exist exclusively in small areas of five rivers and creeks in north Georgia and south Tennessee, are “a species with naturally small and isolated populations” and, consequently, that “the bridled darter is inherently vulnerable to stochastic events,” including severe weather events driven by climate change.

Center for Biological Diversity Sues NMFS for Failing to Promulgate Protective Regulations for 20 ESA-Listed Corals

The Center for Biological Diversity (CBD) [sued](#) the National Marine Fisheries Service (NMFS) in the U.S. District Court for the District of Hawaii for failing to promulgate protective regulations for 20 coral species in the Caribbean and Indo-Pacific that NMFS listed as threatened species under the Endangered Species Act in 2014. CBD is seeking declaratory judgment, an order remanding the denial of CBD's 2020 [petition](#) to NMFS back to the agency for a new determination, and litigation costs and fees.

Conservation Groups Allege FWS and Forest Service are Protecting Cattle Grazing at the Expense of ESA-Listed Species

The Center for Biological Diversity and the Maricopa Audubon Society [sued](#) the U.S. Forest Service (“Forest Service”) and the U.S. Fish & Wildlife Service (FWS) in the U.S. District Court for the District of Arizona, alleging that the Forest Service and FWS have violated the Endangered Species Act by failing to conserve, adequately protect critical habitat, and further the recovery of the threatened Yellow-billed cuckoo and the threatened Sonora chub in the Coronado National Forest in Arizona. The lawsuit further challenges a Biological Opinion (“BiOp”) from FWS and the Forest Service’s authorization of cattle grazing in reliance on that BiOp as violations of Section 7(a)(2) of the ESA. Plaintiffs are seeking declaratory judgment and injunctive relief, including an order enjoining the Forest Service from “authorizing livestock grazing in occupied habitat for the cuckoo and the chub.”

Plaintiffs File Opening Brief in Appeal of Case Challenging NPS’s Failure to Protect Tule Elk at Point Reyes National Seashore

The Animal Legal Defense Fund and local residents Jack Gescheidt and Laura Chariton filed their opening [brief](#) with the U.S. Court of Appeals for the Ninth Circuit in an [appeal](#) of an unfavorable ruling in their [case](#) challenging the National Park Service’s (NPS) failure to protect Tule elk at Point Reyes National Seashore in Northern California. Plaintiffs, who argue that NPS violated the Administrative Procedure Act by unreasonably delaying revising the General Management Plan of the Point Reyes National Seashore, are represented by Harvard Law School’s Animal Law & Policy Clinic.

Target and Other Buyers Seek Rehearing in Chicken Price-Fixing Case

Chicken buyers including Campbell Soup Co. and Target Corp. [filed](#) a petition seeking a panel rehearing or a rehearing *en banc* after the U.S. Court of Appeals for the Seventh Circuit court affirmed dismissal of their antitrust claims against Rabobank for its role allegedly assisting chicken producers to orchestrate an industry-wide price-fixing conspiracy. Petitioners argue that the appellate panel applied the wrong standard and overlooked or misapprehended allegations in the complaint.

Conservation Groups Challenge FWS Decision to Cancel Phase-Out of Lead Ammunition Use in West Virginia Wildlife Refuge

The National Wildlife Refuge Association, Friends of Blackwater, and the Sierra Club [sued](#) the U.S. Fish & Wildlife Service (FWS) in the U.S. District Court for the District of Columbia, alleging that the agency’s September 2022 decision to withdraw its plan to phase out lead ammunition in the Canaan Valley National Wildlife Refuge in West Virginia by 2026 violates the National Wildlife Refuge System Improvement Act (Improvement Act) and has “irreparably injured” wildlife preservation interests. Plaintiffs are seeking declaratory judgment and an order remanding FWS’s decision for a new decision consistent with the Improvement Act.

EPA and FWS Agree to ESA Review of Pesticide Application to Waters Inhabited by Protected Species

The Center for Biological Diversity (CBD) reached a [settlement](#) with the Environmental Protection Agency (EPA) and U.S. Fish & Wildlife Service (FWS) under which the agencies will be required to complete consultations under the Endangered Species Act (ESA) and assess harms to threatened and endangered wildlife from the direct application of pesticides to waters. The settlement resolves a [petition for review](#) that CBD filed in the U.S. Court of Appeals for the Ninth Circuit challenging EPA's issuance of a Clean Water Act permit without fully assessing the risks posed to freshwater endangered species by pesticides applied directly to water and EPA and FWS's alleged failures to comply with the ESA.

Federal Court Denies NIH Motion to Dismiss Case Challenging Alleged Loophole in Animal Care Guidelines for Foreign Research Grant Recipients

The U.S. District Court for the District of Columbia [denied](#) a motion to dismiss filed by the U.S. Department of Health and Human Services in litigation brought by the White Coat Waste Project (WCW) alleging that the National Institutes of Health has violated the Public Health Services Act by exempting foreign grant recipients from certain guidelines relating to the care of animals used in research. The Court found that WCW has "adequately established that it has organizational standing and that its interests arguably fall within the zone of interests protected by the statute." Advancing Law for Animals is representing WCW in the lawsuit.

Conservation Group Settles ESA Case Relating to Release of Hatchery-Raised Fish into Puget Sound

Wild Fish Conservancy and the Washington Department of Fish and Wildlife [settled](#) Endangered Species Act (ESA) litigation that sought to prevent the release of millions of hatchery-raised fish into the Puget Sound. The settlement agreement resolves Wild Fish Conservancy's ESA claims by establishing parameters for the state's management of hatchery programs for salmon and steelhead and requiring snorkel surveys and compliance reviews.

Fourth Circuit Affirms that Shrimpers Who Toss Bycatch and Disturb Sediments are not “Discharging a Pollutant” in Violation of the CWA

The U.S. Court of Appeals for the Fourth Circuit [ruled](#) that shrimpers do not violate the Clean Water Act (CWA) when they throw bycatch overboard and disturb sediment with their trawl nets as alleged by North Carolina Coastal Fisheries Reform Group and a group of individual plaintiffs. The Fourth Circuit affirmed a lower court’s dismissal of the case, finding that because “[r]eturning bycatch to the ocean is not discharging a pollutant” and “trawl nets merely kick up sediment already present,” the activities do not violate the CWA.

Proposed Class Reaches \$10 Million Settlement with Seaboard Foods and Triumph Foods in Sweeping Meat Processing Wage-Fixing Suit

A proposed class of workers at a red meat processing plant have reached a \$10 million [settlement](#) with Seaboard Foods, LLC and a cooperation agreement with Triumph Foods in their suit alleging that Seaboard, Triumph, JBS USA, Cargill, Tyson Foods, Perdue Farms, and others conspired to keep industry wages low. The settlement class will encompass all persons employed by Seaboard or its subsidiaries between January 1, 2014, and the preliminary approval date of the settlement and both Seaboard and Triumph agreed to provide documents and information to be used as evidence in proceedings against the other defendants who remain in the litigation. Plaintiffs already settled their claims against Perdue Farms for \$1,250,000.

Federal Court Rules that Biden Administration May Impose Moratorium on Drilling in ANWR

The U.S. District Court for the District of Alaska [ruled](#) that the Biden Administration may lawfully impose a temporary moratorium on implementation of the oil and gas leasing program on the Arctic National Wildlife Refuge’s Coastal Plain authorized by Congress in 2017, rejecting contentions from the State of Alaska, the Alaska Industrial Development and Export Authority, and other plaintiffs that President Biden and the Department of Interior exceeded their authority in issuing [Executive Order 13990](#). U.S. District Judge Sharon Gleason dismissed all claims against the Biden Administration and federal agencies with prejudice.

Tuna Buyers Seek Class Certification in Case Alleging American Tuna Falsely Represents Tuna Products are Caught in U.S. Waters

Buyers are [seeking](#) class certification in a case alleging American Tuna, Inc. and its parent company, World Wise Foods, Ltd., misrepresent that their tuna products are sourced from fish caught in U.S. waters when a significant portion are not. The case is pending in the U.S. District Court for the Southern District of California.

Advocacy Group Claims FWS Failed to Consider Impact on Canada Lynx from Montana's Expanded Wolf Hunting Regulations When Approving Wolf Pelt Export Program

The Center for Biological Diversity (CBD) and Trap Free Montana (TFM) sent a 60-day [notice](#) of intent to sue the U.S. Fish & Wildlife Service (FWS) under the Endangered Species Act (ESA) over the permitting of a Montana gray wolf pelt export program that the groups contend may harm endangered Canada lynx. CBD and TFM allege FWS violated the ESA by failing to consider new threats to the lynx from the 2021 wolf regulations in Montana, which extended the state's wolf trapping season and allowed snaring on private and public land, and by not reinitiating consultation over impacts of the pelt export program approval.

Federal Court Denies Federal Agencies' Motion to Dismiss ESA Case Relating to EPA Approval Process for Limits on Aquatic Cyanide Pollution in Washington State

The U.S. District Court for the District of Columbia [denied](#) a motion to dismiss filed by several federal agencies in a lawsuit brought by the Center for Biological Diversity challenging the U.S. Environmental Protection Agency's (EPA) failure to "perform statutorily required consultations with the U.S. Fish & Wildlife Service and the National Marine Fisheries Service" pursuant to the Endangered Species Act (ESA) prior to the EPA's approval of Washington state limits on aquatic cyanide pollution. U.S. District Judge Beryl Howell concluded that the EPA has an "ongoing obligation" to ensure those standards do not imperil endangered species and that the plaintiff had pleaded "sufficient facts to assert that defendants violated [consultation regulations under the ESA]."

Conservation Groups Sue FWS for Failing to Protect Gopher Tortoises under the ESA

The Center for Biological Diversity and Nokuse Education, Inc. [sued](#) the U.S. Fish & Wildlife Service and the Department of the Interior in the U.S. District Court for the Middle District of Florida for denying Endangered Species Act protections to gopher tortoises despite FWS's projection that "68-70% of gopher tortoise populations are likely to be lost by 2100." Plaintiffs are seeking declaratory judgment and an order vacating and remanding FWS's "not-warranted" finding with a timeline to conduct a new finding.

Animal Protection Groups Urge SCOTUS to Deny Cert in North Carolina's Attempt to Revive Overturned Ag-Gag Law

Animal protection groups [urged](#) the U.S. Supreme Court to deny the petitions for writ of certiorari filed by the North Carolina Attorney General and the North Carolina Farm Bureau seeking reinstatement of North Carolina's ag-gag law. In February, the U.S. Court of Appeals for the Fourth Circuit partially [enjoined](#) North Carolina from applying the law, holding that undercover investigations "as part of newsgathering constitute [] protected speech."

Federal Court Grants Second Stay in Litigation Challenging Massachusetts' Question 3

The U.S. District Court for the District of Massachusetts entered an [order](#) granting a joint stipulation and motion to extend stay for six months in a case brought by the National Pork Producers Council and multiple restaurant and hospitality associations challenging Massachusetts Question 3, which prohibits the in-state sale of pork not compliant with the state's animal confinement standards. According to the joint stipulation, the Massachusetts Department of Agricultural Resources will propose regulations to address "transshipped whole pork meat," which is out-of-state pork "that enters and exits Massachusetts without additional processing or repackaging, exclusively for the purposes of transshipment or export outside of Massachusetts." The parties to the joint stipulation requested a stay of those regulations for at least 60 days after their publication but for no longer than a year. The parties agreed that all other pork sales rules should go into effect on August 24, 2023, but that whole pork meat in the supply chain (post-slaughter) as of August 23, 2023, should not be subject to the pork sales rules.

Proposed Class Action Alleges Dairy Company Failed to Inform Consumers of Listeria Risk

Following Real Kosher Ice Cream Inc.'s ("Real Kosher") [recall](#) of certain soft-serve desserts because of their "potential to be contaminated with *Listeria monocytogenes*," a proposed class action filed in the U.S. District Court for the Eastern District of New York alleges Real Kosher "improperly, deceptively, and misleadingly labeled and marketed its Products to reasonable consumers . . . by omitting and not disclosing to consumers on its packaging that consumption of the Products may increase the risk of contracting invasive infections." As of August 9, 2023, there had been two reports of such illnesses, one in Pennsylvania and one in New York.

Federal Court Throws Out Hog Waste Nuisance Claims Against Smithfield

The U.S. District Court for the Eastern District of North Carolina, Southern Division, granted a motion for summary [judgment](#) in favor of Smithfield Foods, Inc. ("Smithfield") and Murphy-Brown LLC, a Smithfield subsidiary, against nuisance claims related to hog waste brought by 18 North Carolina residents. The residents claimed in their lawsuit that Vestal Farms, a hog farm supplying Smithfield, trespassed upon their properties and acted negligently by emitting hog waste as a "juice," "spray," and "mist." In granting summary judgment to Smithfield and the other defendant, the court found that the "plaintiffs have failed to present any non-speculative or non-conclusory evidence establishing what substances are allegedly injuring them and who or what caused them to be on plaintiffs' property."

New York Horse Center Penalized \$200,000 for Clean Water Act Violations

The U.S. Attorney's Office for the Southern District of New York and the U.S. Environmental Protection Agency reached a settlement with Mark Ford and related defendants regarding alleged Clean Water Act violations at their equine center in New York, which trains harness racing horses. The violations alleged include filling wetlands, discharging pollutants from a medium Concentrated Animal Feeding Operation (CAFO), and violating permit conditions. Under the terms of the consent [decree](#), the defendants must pay a \$200,000 civil penalty and take certain actions, including halting unauthorized discharges from the CAFO and developing a wetlands mitigation plan. The consent decree is subject to public comment and court approval.

Federal Court Finds FWS Improperly Failed to Designate Critical Habitat for Endangered Rusty Patched Bumblebees

The U.S. District Court for the District of Columbia [granted](#) summary judgment in favor of the Natural Resources Defense Council, Center for Biological Diversity, and Friends of Minnesota Scientific and Natural Areas in their challenge to the U.S. Fish & Wildlife's (FWS) 2020 decision to not designate critical habitat for the rusty patched bumblebee after listing the species as endangered under the Endangered Species Act. The court found that FWS had applied the incorrect legal standard in its refusal to designate critical habitat. The court vacated and remanded the decision to FWS.

Federal Court Rules that EPA Violated the ESA with Freshwater Cadmium Criterion

The U.S. District Court for the District of Arizona [ruled](#) that the Environmental Protection Agency (EPA) violated the Endangered Species Act in 2016 when it failed to assess harms to endangered species before increasing the levels of the heavy metal cadmium allowed in U.S. waters under the Clean Water Act. The court vacated the EPA's chronic freshwater cadmium criterion and remanded the criteria back to the agency. The court did not vacate the EPA's 2016 acute freshwater, chronic marine, and acute marine cadmium criteria. The ruling is the result of a 2022 [lawsuit](#) filed by the Center for Biological Diversity.

Advocacy Group Sues FWS for Reducing Designated Critical Habitat for Endangered Snakes

The Center for Biological Diversity (CBD) [sued](#) the U.S. Fish & Wildlife Service (FWS) in the U.S. District Court for the District of Arizona for significantly reducing designated critical habitat for two endangered snakes in Arizona and New Mexico as compared with its original proposal. CBD is seeking declaratory judgment that FWS violated the Endangered Species Act and the Administrative Procedure Act as well as an order requiring FWS to revise its critical habitat designations for the northern Mexican gartersnake and the narrow-headed gartersnake.

Aldi Settles False Advertising Lawsuit Over the Supermarket Chain's "Dolphin Safe" Claims

Aldi Inc. [settled](#) a lawsuit pending in the U.S. District Court for the Central District of California [alleging](#) that the supermarket chain falsely advertises its tuna as "dolphin safe" even though the product is sourced from fisheries that use methods known to harm or

kill dolphins. According to the joint notice of settlement, the parties will file a stipulation of dismissal within 30 days. The notice does not disclose the settlement terms.

Lawsuit Results in Agency Agreement to Better Protect Rice's Whales and Other Imperiled Marine Animals from Oil and Gas Drilling in the Gulf of Mexico

The U.S. District Court for the District of Maryland [approved](#) an agreement between parties to a [lawsuit](#) challenging the National Marine Fisheries Service's (NMFS) alleged failure to adequately protect endangered Rice's whales and other imperiled marine animals from oil and gas drilling in the Gulf of Mexico. Under the [agreement](#), litigation filed by the Sierra Club, Center for Biological Diversity, Friends of the Earth, and Turtle Island Restoration Network will be stayed for up to a year from September 1, 2023, the Bureau of Ocean Energy Management (BOEM) will exclude certain Rice's whale habitat from lease sales, and BOEM will require future oil and gas leaseholders to reduce risks of vessel strikes and other disturbances to Rice's whales. On August 17, 2023, BOEM [notified](#) existing leaseholders of their obligation to avoid the "take" of protected Rice's whales and recommended protective measures.

Vet Tech Convicted of Federal Dog Fighting Crimes Sentenced to 20 Months in Prison

Carlos Warren, a Virginia veterinary technician, was [sentenced](#) in the U.S. District Court for the Western District of Virginia to 20 months in prison and three years of supervised release in connection with his conviction for animal fighting crimes. In addition to hosting dogfights on his property, Warren allegedly took advantage of his job as a vet tech to steal medication and supplies used to treat dogs during fights until they lost or refused to fight, after which he killed them by electrocution and other cruel means. He also distributed a publication called "The Connector" throughout the United States, which advertised dog fighting results, breeding information, and the availability of steroids and other illegal substances.

Black Farmers Allege Mississippi Fish Farms Violated the Migrant and Seasonal Agricultural Worker Protection Act and the Civil Rights Act

Fourteen Black farmers have [sued](#) Mississippi-based Nobile Fish Farms in the U.S. District Court for the Northern District of Mississippi, alleging the aquaculture business has illegally favored Mexican seasonal workers at the expense of Black U.S. citizens on staff in violation of the H-2A visa program, which allows U.S. businesses to temporarily fill agricultural positions

with migrant workers if the positions cannot be filled with U.S. citizens or permanent residents. Plaintiffs also have claimed breach of contract and discrimination on the basis of race and/or alienage in violation of the Civil Rights Act, 42 U.S.C. § 1981. Plaintiffs are seeking declaratory judgment, damages, injunctive relief, and fees and costs.

Singapore-Based Ocean Vessel Operator Pleads Guilty to Marine Environmental Crimes in Connection with Illegal Dumping off the Coast of Southern California

Singapore-based Zeaborn Ship Management (Zeaborn) [pleaded](#) guilty in the U.S. District Court for the Southern District of California to crimes relating to the illegal dumping of oily bilge water and disposal of garbage off the coast of San Diego. Under the plea agreement, Zeaborn will pay \$2 million in penalties, \$500,000 of which will go to the protection of marine resources in or around the Tijuana River National Estuarine Research Reserve. The company's captain and chief engineer both admitted to roles in the crimes and pleaded guilty to felony failure to maintain accurate record books as required under the Act to Prevent Pollution from Ships. The three defendants will be sentenced at a hearing on December 1, 2023.

ESA and AWA Enforcement Action Results in Surrender of Nearly 150 Exotic Animals by Michigan Roadside Zoo

The U.S. Department of Justice (DOJ), on behalf of the U.S. Fish & Wildlife Service and U.S. Department of Agriculture, [announced](#) that it entered a consent [decree](#) with Zachery Keeler, dba Even Keel Exotics, LLC, a Michigan roadside zoo, in an enforcement action alleging that Keeler violated the Endangered Species Act (ESA) and the Animal Welfare Act (AWA). The government's [complaint](#) against Keeler alleges that he prematurely separating an endangered lemur from their mother to facilitate public interactions, after which he attempted to sell the ESA-protected baby primate for \$3,500. It also alleges that Keeler failed to meet minimum standards of care prescribed by the AWA and did not allow inspectors access to the facility as required. As part of the settlement, Keeler agreed to surrender nearly 150 animals and never apply for another AWA license or undertake AWA-regulated activities.

Federal Court Dismisses Convicted “Ghost Cattle” Fraud Perpetrator’s Antitrust Claims with Prejudice

The U.S. District Court for the Eastern District of Washington [dismissed](#) an antitrust [suit](#) brought by cattle rancher Cody Allen Easterday against a subsidiary of Tyson Foods, Inc. (Tyson) after Easterday was [convicted](#) of a “ghost cattle” fraud scheme, sentenced to eleven years in federal prison, and ordered to pay \$244 million in restitution for defrauding Tyson and one other company by charging them for costs related to over 265,000 cattle that never existed. In dismissing Easterday’s federal claims, Chief U.S. District Judge Stanley A. Bastian found that Easterday lacked standing to sue for alleged monopsonistic practices because it was Easterday Ranches, not Easterday himself, that entered the contract with the Tyson subsidiary. Easterday is [serving](#) his eleven-year sentence at a federal penitentiary in Lompoc, California.

Bird Enthusiasts Appeal Lower Court Parakeet Ruling to the Eleventh Circuit

The Organization of Professional Aviculturists (OPA) and the Lineolated Parakeet Society (LPS) [appealed](#) a lower court [ruling](#) that the U.S. Fish & Wildlife Service had properly denied OPA and LPS’s petitions for rulemaking to allow the import of captive-bred individuals from two parakeet species from certain European countries. Plaintiff-appellants are seeking a ruling that FWS “must list species by country of origin from which they can be imported and . . . consider petitions filed under [the Wild Exotic Bird Conservation Act] that request species be added to the approved import list from specific countries of origin” rather than refusing petitions on the basis that the considerations may only be performed globally.

Louisiana, Chevron, and American Petroleum Institute Challenge Federal Oil Lease Stipulation Intended to Protect Critically Endangered Rice’s Whales

Chevron U.S.A. Inc., the American Petroleum Institute, and the State of Louisiana [filed](#) a motion for preliminary injunction in the U.S. District Court for the Western District of Louisiana. The plaintiffs allege that the Bureau of Ocean Energy Management (BOEM) violated federal law when it added a [new lease stipulation](#) (Stipulation No. 4) to protect species, including critically endangered [Rice’s whales](#), to a final notice of sale for a Gulf of Mexico oil and gas lease sale. Plaintiffs argue that BOEM’s announced lease changes, which include reductions in the size of the offered lease area and allowable oil vessel speeds, would irreparably harm the State of Louisiana and the economic interests of the plaintiffs.

DOJ Seeks Permanent Restraining Order Against Animal Drug Company that Has Been Selling Drugs Without FDA Approval

The U.S. Department of Justice (DOJ) filed a civil [complaint](#) in the U.S. District Court for the District of Arizona alleging that [AniCell Biotech LLC](#) and its CEO, Brandon Ames, have violated the Federal Food, Drug, and Cosmetic Act by manufacturing and distributing new animal drugs that lack federal Food and Drug Administration approval and are thus unsafe and adulterated. The products at issue include injectable and intravenous liquids derived from the amniotic tissue of horses and have been marketed by defendants to treat diseases such as osteoarthritis and renal failure. The DOJ is requesting that the court permanently restrain and enjoin the defendants.

Seventh Circuit Vacates \$57 Million Attorney's Fee Award in Broiler Chicken Antitrust Litigation

The U.S. Court of Appeals for the Seventh Circuit [vacated](#) and remanded a \$57.4 million attorney's fee award in a \$181 million settlement for broiler chicken purchasers in a complex antitrust case. The three-judge panel found that the district court did not properly consider declining fee scale bids made by class counsel in auctions in other cases and attorney's fees awarded to class counsel in the Ninth Circuit.

Conservation Groups Allege that FWS and Forest Service Violated the ESA with Approval of Timber Harvest and Burning Near Yellowstone

The Center for Biological Diversity, Alliance for the Wild Rockies, and Council on Wildlife and Fish delivered a 60-day [notice](#) of intent to sue the U.S. Forest Service and U.S. Fish & Wildlife Service under the citizen suit provision of the Endangered Species Act (ESA) in connection with timber harvest and burning on 16,462 acres in the Custer-Gallatin National Forest near Yellowstone National Park. The conservation groups allege that the agencies violated the ESA in the Biological Opinion and Biological Assessment issued on the effects of the project on grizzly bears and Canada lynx, as well as in a related 2022 Biological Opinion and Incidental Take Statement issued. According to the groups, "[t]he Agencies' actions . . . represent an unlawful departure from its [sic] legally binding mandate to protect and recover threatened species and their habitats."

Department of Labor Seeks Emergency Injunctive Relief Against Mississippi Fish Farm That Allegedly Is Interfering in a Fair Labor Standards Investigation

The U.S. Department of Labor (DOL) is [seeking](#) an emergency temporary restraining order and preliminary injunction to prevent a Mississippi fish farm from interfering with its investigation, discriminating against current and former workers, threatening migrant workers with retaliation for their participation in a DOL investigation, or terminating or causing any workers to be deported. The DOL alleges that Battle Fish North and Magnolia Processing, Inc. “have repeatedly and directly interfered” with an agency investigation into potential violations of the Fair Labor Standards Act and have “employed systemic threats of retaliation to chill workers from cooperating with the . . . investigation.”

Six Indicted for Illegally Capturing and Selling Protected Songbirds in Violation of the Migratory Bird Treaty Act and Lacey Act

Six Houston residents have been [indicted](#) for federal crimes under the Migratory Bird Treaty Act and Lacey Act in connection with an alleged scheme involving the trapping and selling of federally protected songbirds. The types of songbirds captured often are used in singing competitions involving gambling but usually die quickly in captivity. A joint investigation by the U.S. Fish & Wildlife Service and the Texas Parks and Wildlife Department resulted in the seizure of more than 300 illegally captured birds. Each defendant faces up to seven years in federal prison and fines of up to \$250,000.

Turtle Island Foods Challenges Texas Plant-Based and Cultivated Meat Product Labeling Restrictions

Turtle Island Foods SPC, the maker of Tofurky plant-based meat products, filed a [lawsuit](#) in the U.S. District Court for the Western District of Texas challenging a new state [law](#) that imposes restrictions on terminology used on plant-based and cultivated meat product labels. Turtle Island Foods brings its challenge under the U.S. Constitution’s First Amendment, dormant Commerce Clause, Due Process Clause, and Supremacy Clause. The company claims that the Texas law imposes “an unreasonably burdensome and protectionist trade barrier that contravenes and is preempted by federal law and imposes vague standards” on plant-based producers, as well as “vague and unnecessary restrictions” on cultivated meat labeling. Turtle Island Foods is seeking declaratory judgment and permanent injunctive relief.

Environmental Groups Petition Ninth Circuit for Review of EPA’s Refusal to Revise Clean Water Act Regulations for CAFOs

A coalition of 13 environmental groups, including Food & Water Watch, Center for Biological Diversity, and North Carolina Environmental Justice Network, is [challenging](#) the Environmental Protection Agency’s (EPA) denial of a 2017 petition for rulemaking urging EPA to revise Clean Water Act regulations for concentrated animal feeding operations. Plaintiffs are represented by Food & Water Watch and the Earthrise Law Center at Lewis & Clark Law School. The petition for review is pending in the U.S. Court of Appeals for the Ninth Circuit.

Maryland Waterfowl Outfitters Sentenced for 36 Hunting and Licensing Violations

The owners of a Maryland waterfowl hunting guide company, Josh and Kellie Neuwiller, were [sentenced](#) in the U.S. District Court for the District of Maryland for outfitting and guiding hunts without a license in 36 separate violations. Kellie Neuwiller was fined \$250 and sentenced to one year probation, during which time she is prohibited from hunting, guiding, or outfitting. Josh Neuwiller was sentenced to 90 days in prison for operating without a license and for violating the terms of his federal probation imposed following a prior Migratory Bird Treaty Act conviction.

Conservation Groups and EPA Reach Historic Settlement Concluding More than Ten Years of Litigation Over Pesticide Impacts on Endangered Species

The U.S. District Court for the Northern District of California [approved](#) a settlement agreement between two plaintiff organizations—the Center for Biological Diversity and Pesticide Action Network North America—and the Environmental Protection Agency (EPA). The agreement resolves sweeping Endangered Species Act [litigation](#) and covers 35 active ingredients in pesticides. It requires EPA to complete Biological Evaluations of the effects on threatened and endangered species and designated critical habitat. It also requires EPA to issue mitigation strategies for herbicide ingredients by 2024 and organophosphate insecticide ingredients by 2025. In the agreement, EPA states that it expects to issue mitigation strategies for rodenticide ingredients by 2024 and intends to develop mitigation strategies for fungicide ingredients. Further, under the agreement, EPA will expand its Vulnerable Species Pilot program and develop compensatory mitigation options.

Advocacy Groups Allege BLM is Harming Endangered Species by Failing to Prioritize and Schedule Required Environmental Analyses of Livestock Grazing on Public Lands

Western Watersheds Project and Public Employees for Environmental Responsibility [sued](#) the U.S. Bureau of Land Management (BLM) in the U.S. District Court for the District of Columbia. The organizations allege BLM has not met its obligation under the Federal Land Policy and Management Act to determine the prioritization and timing of National Environmental Policy Act analyses of the environmental impact of livestock grazing on public lands and threatened and endangered species. They claim BLM has unlawfully used a congressionally created loophole to evade environmental reviews for certain grazing allotments in violation of the Administrative Procedure Act. The organizations seek declaratory judgment and injunctive relief.

Federal Judge Admits Alleged Co-Conspirator Statements in Antitrust Case Alleging Major Egg Producers Conspired to Restrict Supply to Inflate Prices

The U.S. District Court for the Northern District of Illinois [held](#) that Kraft Foods Global, Inc., The Kellogg Company, General Mills, Inc., and Nestlé USA, Inc. met their burden of showing, for purposes of admitting statements made by alleged co-conspirators at an upcoming antitrust trial, that it was more likely than not that United Egg Producers, Inc., United States Egg Marketers, Inc., Cal-Maine Foods, Inc., and Rose Acre Farms, Inc., had conspired to inflate egg prices. Plaintiffs allege that egg producers artificially restricted their supply to inflate prices between at least 1999 and 2008. U.S. District Judge Steven Seeger conditionally admitted almost all statements sought in plaintiffs' proffer.

Conservation Groups Allege Forest Service Improperly Approved a Major Logging Project that Jeopardizes Wildlife in the Greater Yellowstone Ecosystem

The Center for Biological Diversity, Alliance for the Wild Rockies, and Council on Wildlife and Fish [sued](#) the U.S. Forest Service ("Service") in the U.S. District Court for the District of Montana. The lawsuit challenges the Service's approval of a major clear cutting and commercial logging project near Yellowstone National Park. Plaintiffs argue that the project would destroy habitat for threatened grizzly bears, lynx, and other species and that agency actions related to the project violate the Endangered Species Act. Plaintiffs are seeking declaratory judgment and vacatur or injunctive relief.

Conservation Group Alleges that Maritime Administration Failed to Perform Required Consultation Related to Impact of New Marine Highway Designation on Endangered Whales

The Center for Biological Diversity (CBD) sent a [notice](#) of intent to sue the U.S. Maritime Administration within the U.S. Department of Transportation pursuant to the citizen suit provision of the Endangered Species Act (ESA). CBD alleges that the agency violated Section 7 of the ESA by failing to perform the requisite programmatic consultation related to the designation of a new Marine Highway Route because increased vessel traffic on the new Marine Highway could impact endangered whales, such as the North Pacific right whale and the fin whale, and other wildlife along Alaskan coast. As CBD quotes in its notice, Section 7 of the ESA requires federal agencies to ensure that any agency action “is not likely to jeopardize the continued existence of any endangered species or threatened species.”

Conservation Groups Appeal Federal Court Ruling on Oil and Gas Lease Sale that Impacts Endangered Rice’s Whales

The Sierra Club, Center for Biological Diversity, Friends of the Earth, and Turtle Island Restoration Network [appealed](#) a court [order](#) from the U.S. District Court for the Western District of Louisiana. The court order granted a preliminary injunction request from the oil industry and the State of Louisiana to remove protections for the critically endangered Rice’s whale that were included in [Lease Sale 261](#). The protections include speed limits to reduce the risk of vessel strikes and the exclusion of approximately 6 million acres of proposed critical Rice’s whale habitat from the 67.3-million-acre lease sale in the Gulf of Mexico. Appellants are seeking an emergency stay pending the appeal.

Federal Court Denies Motion to Dismiss in Antitrust Litigation Alleging Price Fixing in Pork Industry

The U.S. District Court for the District of Minnesota [denied](#) a motion to [dismiss](#) filed by Hormel Foods Corp., Hormel Foods, LLC, JBS USA Food Co., Tyson Foods, Inc., Tyson Prepared Foods, Inc., Tyson Fresh Meats, Inc., Smithfield Foods, Inc., Seaboard Foods LLC, Triumph Foods, LLC, Clemens Food Group, LLC, The Clemens Family Corp., and Agri Stats, Inc., in a consolidated antitrust action brought by nine plaintiff groups that accuse the defendants of colluding to diminish pork supply and inflate prices. U.S. District Judge John R. Tunheim rejected defendants’ argument that plaintiffs’ claims are barred by the statute of limitations. Judge Tunheim also

found that plaintiffs had adequately alleged defendants' conspiracy to fix prices and plausibly alleged injury from defendants' violation of the Packers and Stockyards Act.

Investigation Results in First-Ever Big Cat Public Safety Act Prosecution

An investigation conducted by the U.S. Fish & Wildlife Service in conjunction with the Department of Homeland Security and Texas Parks and Wildlife has resulted the [first criminal prosecution](#) pursuant to the Big Cat Public Safety Act. The U.S. Attorney's Office for the Southern District of Texas announced the federal criminal charges against a husband and wife for selling protected wildlife. The couple sold a margay for \$7,500 in a Texas parking lot and attempted to sell an endangered jaguar cub to the same buyer. The Houston Zoo and San Antonio Zoo are caring for the cats.

Federal Court Denies Meat Companies' Motion to Dismiss Antitrust Class Action Alleging Conspiracy to Suppress Wages

The U.S. District Court for the District of Colorado has [denied](#) a joint motion to dismiss by major meat producers, including JBS USA Food Co., Cargill Inc., and Tyson Foods, Inc., in a putative class action accusing them of illegally conspiring to suppress wages in the meat processing industry. Plaintiff meat plant workers allege that the defendants (other than Agri Stats, Inc.), which collectively produce approximately 80% of all red meat sold in the U.S., "entered into an agreement to fix, depress, maintain, and stabilize the compensation paid to workers, both hourly and salaried, at their red meat processing facilities in violation of the Sherman Act." Plaintiffs further allege that all defendants "engaged in a continuing agreement to regularly exchange detailed, timely, competitively sensitive, and non-public information about the compensation being paid or to be paid to their employees at red meat processing plants." In denying the joint motion to dismiss, Chief U.S. District Judge Philip A. Brimmer found the defendants failed to show that plaintiffs had not sufficiently alleged their claims or had "not plausibly allege[d] that fraudulent concealment tolls the statute of limitations for plaintiffs' claims."

DOJ Alleges Data Consulting Firm Is Engaging in Anticompetitive Meat Processor Scheme

The U.S. Department of Justice (DOJ) filed an antitrust [lawsuit](#) against Agri Stats, Inc. in the U.S. District Court for the District of Minnesota. In the lawsuit, DOJ alleges that the data and consulting company is engaging in an unlawful anticompetitive scheme "by providing

processors with unique insights about their competitors' production, costs, and pricing—and refusing to sell the same information to processors' customers, farmers, workers, or consumers.” DOJ further alleges that “Agri Stats enables and encourages processors to use its asymmetrical information exchanges to weaken competition, curb production, and increase prices for purchasers,” ultimately at consumers' expense and in violation of the Sherman Act. DOJ is seeking declaratory judgment, permanent injunctive relief, and costs.

Center for Biological Diversity Plans to Sue NMFS for Failing to Fulfill ESA Obligations for Ringed Seals and Bearded Seals

The Center for Biological Diversity sent a 60-day [notice](#) of intent to sue the National Marine Fisheries Service (NMFS) for failing to develop and implement recovery plans for ringed seals and bearded seals and to perform five-year reviews of the status of each species as required under the Endangered Species Act (ESA).

Advocacy Group Sues FWS to Protect Last Wild Population of Red Wolves

The Center for Biological Diversity (CBD) filed a [lawsuit](#) in the U.S. District Court for the Eastern District of North Carolina challenging the U.S. Fish & Wildlife Service's denial of CBD's petition to reclassify the world's last wild population of red wolves as “essential.” CBD challenges the petition denial as arbitrary and capricious under the Administrative Procedure Act. CBD contends that the existence of “only 13 known and collared red wolves in the population” requires the population to be reclassified as “essential” pursuant to the Endangered Species Act.

Conservation Group Seeks ESA Protection for Imperiled Pollinators

The Center for Biological Diversity (CBD) sent a 60-day [notice](#) of intent to sue the U.S. Fish & Wildlife Service (FWS) for failing to protect the American bumble bee, Southern Plains bumble bee, variable cuckoo bumble bee, and blue calamintha bee under the Endangered Species Act (ESA). CBD argues that “the four bee species . . . are highly vulnerable pollinators with outstanding listing petitions for which [FWS] has not made a legally required determination under the ESA.”

Settlements in Broiler Chicken Price-Fixing Case Now Total More than \$284 Million

Direct purchasers in a consolidated broiler chicken price-fixing case [asked](#) the U.S. District Court for the Northern District of Illinois to approve \$75 million in settlements they reached with House of Raeford Farms, Inc. and Koch. The latest settlements bring the [total](#) to more than \$284 million.

Federal Court Upholds Omission of Big Game Protections from Revised Forest Management Plan

The U.S. District Court for the District of Montana [upheld](#) the U.S. Forest Service's (Forest Service) decision to remove a set of long-standing big game protection standards from the Helena-Lewis and Clark National Forest Plan. In granting summary judgment to the federal government, the court ruled that the Forest Service and U.S. Fish & Wildlife Service (FWS) adequately considered the standards in revising the Plan. The challenge was brought by the Helena Hunters and Anglers Association, Western Watersheds Project, Sierra Club, and WildEarth Guardians. The plaintiffs argued that the Forest Service and FWS failed to sufficiently consider how the standards removal would impact grizzly bears in violation of the Endangered Species Act and National Environmental Policy Act.

Federal Judge Rejects Massachusetts Fishers' Challenge to Federal Approval of Offshore Wind Farm Project

The U.S. District Court for the District of Massachusetts [granted](#) a motion for summary judgment filed by the U.S. Department of the Interior and other federal defendants in a lawsuit brought by Massachusetts fishers. The fishers claimed that the agencies improperly approved a proposed wind farm project off the coast of Martha's Vineyard. They brought claims under the Administrative Procedure Act (APA) for violations of the Endangered Species Act (ESA), Clean Water Act (CWA), Marine Mammal Protection Act (MMPA), National Environmental Protection Act (NEPA), and Outer Continental Shelf Lands Act (OCSLA). U.S. District Judge Indira Talwani ruled the fishers failed to establish standing on their ESA, NEPA, and MMPA claims (where the claims were not found to be moot). Judge Talwani further ruled that the fishers failed to provide sufficient evidence of statutory violations and to establish in their CWA and OCSLA claims that the challenged federal actions related to the wind farm project were arbitrary, capricious, or otherwise unlawful.

SCOTUS Will Not Consider North Carolina’s Attempt to Reinstate Ag-Gag Law

The U.S. Supreme Court [denied](#) petitions for writ of certiorari [filed by](#) the North Carolina Attorney General and the North Carolina Farm Bureau Federation. The parties sought review of a Fourth Circuit Court of Appeals [ruling](#) enjoining the state’s ag-gag law as applied to newsgathering operations by animal protection groups.

District Court Dismisses Nine of Ten Claims in Pork Producers’ Challenge to Massachusetts’ Question 3 and Grants Leave to File Amicus Brief to 13 States

The U.S. District Court for the District of Massachusetts [granted](#) Massachusetts’ motion to dismiss as to nine out of ten [claims](#) in a case brought by Triumph Foods, LLC and five other pork producer groups challenging Massachusetts’ Question 3, a [law](#) that prohibits the in-state sale of pork and certain other animal products not compliant with the state’s animal confinement standards. The court denied Massachusetts’ motion to dismiss as to plaintiffs’ commerce clause claim, and a bench trial is scheduled to last seven days, beginning on December 4, 2023. The court also granted leave to file an amicus curiae brief to Iowa, Louisiana, Mississippi, Missouri, Montana, Nebraska, New Hampshire, North Dakota, Oklahoma, South Carolina, South Dakota, Utah, and Wyoming. The [proposed amicus brief](#) filed by the 13 states supports the plaintiff pork producers’ position and argues that the law “invites States to upend national markets based on ‘flavor of the day’ policy preferences.”

Advocacy Group Alleges NMFS Is Violating the ESA, MMPA, and NEPA by Failing to Protect Marine Mammals from Trawl Fisheries

The Center for Biological Diversity (CBD) [submitted](#) a 60-day notice of intent to sue the National Marine Fisheries Service (NMFS) under the Endangered Species Act’s (ESA) citizen suit provision. CBD alleges NMFS is violating the ESA, Marine Mammal Protection Act (MMPA), and National Environmental Policy Act by failing to protect federally listed marine mammals from being killed by the Bering Sea and Aleutian Islands groundfish trawl fisheries. CBD alleges that the trawl fisheries regularly kill and injure killer whales and other marine species protected under the MMPA, including species also protected under the ESA such as humpback whales, fin whales, bearded seals, ringed seals, and Steller sea lions.

Jury Finds in Favor of Sanderson Farms in Broiler Chicken Antitrust Litigation

After a six-week trial in the U.S. District Court for the Northern District of Illinois in an antitrust case brought by thousands of chicken buyers, a jury [unanimously found](#) that Sanderson Farms did not conspire to raise broiler chicken prices. Plaintiffs had [alleged](#) that poultry producers such as Sanderson Farms, the third-largest poultry processor in the United States, had engaged in a conspiracy to drive up prices since 2008 by sharing data and limiting supply. Other defendants, including Tyson Foods and Pilgrim's Pride, have [settled](#) the claims, bringing plaintiffs' total recovery to over \$284 million.

Fifth Circuit Stays Injunction Blocking Protections for Endangered Rice's Whales in Gulf of Mexico Oil and Gas Lease

The U.S. Court of Appeals for the Fifth Circuit [stayed](#) a [preliminary injunction](#) blocking protections for endangered Rice's whales that had been added to a Gulf of Mexico oil and gas lease offered for sale. Enforcement of the preliminary injunction is now stayed pending an [appeal](#) brought by the federal government and conservation group intervenors. Oral arguments have been [scheduled](#) for November 13, 2023.

Federal Court Grants Advocacy Group's Request to File Amicus Brief in Sentencing of Rhode Island Slaughterhouse that Falsely Claimed USDA Inspection

The U.S. District Court for the District of Rhode Island [granted](#) a motion for leave to file an [amicus brief](#) submitted by Legal Impact for Chickens in the sentencing of Rhode Island Beef and Veal. The slaughterhouse and one of its owners [pleaded guilty](#) to fraud in connection with false claims that their product had been prepared and inspected pursuant to the Federal Meat Inspection Act when it had not been.

Conservation Groups Sue BLM and FWS to Protect Endangered and Threatened Wildlife from Cattle Grazing in Arizona

The Center for Biological Diversity and Maricopa Audubon Society [sued](#) the U.S. Bureau of Land Management (BLM) and the U.S. Fish & Wildlife Service (FWS) in the U.S. District Court for the District of Arizona under the Endangered Species Act (ESA) for failing to protect critical habitat for ESA-listed species including the Southwestern willow flycatcher and Western yellow-billed cuckoo. Plaintiffs claim the agencies failed to reinitiate and complete

consultation under Section 7 of the ESA as required after receipt of evidence of critical habitat damage from livestock grazing on federal public lands along Arizona's Gila River. Plaintiffs are seeking declaratory judgment and injunctive relief.

Doc Antle Pleads Guilty to Federal Wildlife Trafficking and Money Laundering Crimes

South Carolina roadside zoo owner Bhagavan "Doc" Antle [pleaded](#) guilty in the U.S. District Court for the District of South Carolina to a conspiracy to violate the Lacey Act in connection with his illegal trafficking of endangered cheetahs, lions, tigers, and a chimpanzee between September 2018 and May 2020. He also pleaded guilty to a conspiracy to launder money related to transporting and harboring undocumented immigrants between February and April 2022. Antle, who was featured in the Netflix reality show "Tiger King," faces up to five years in prison, up to a \$250,000 fine, and three years of supervised release for each criminal count.

Conservation Groups File ESA Lawsuit to Protect Aquatic Species from Coal Mining

The Center for Biological Diversity and Appalachian Voices [sued](#) the U.S. Department of the Interior's Office of Surface Mining Reclamation and Enforcement and the U.S. Fish & Wildlife Service in the U.S. District Court for the District of Columbia for allegedly violating the Endangered Species Act by failing to protect imperiled aquatic species from the harms of coal mining in Kentucky, West Virginia, and Virginia. Plaintiffs also allege violation of the Administrative Procedure Act and are seeking declaratory judgment and injunctive relief.

Conservation Groups Plan Appeal of Federal Court Ruling that Allows Willow Oil Project to Proceed

The U.S. District Court for the District of Alaska [ruled](#) against the Sovereign Iñupiat for a Living Arctic and a group of conservation organizations and in favor of ConocoPhillips and the Bureau of Land Management, enabling the Willow oil production project in the National Petroleum Reserve in Alaska to move forward. The conservation organizations [argued](#) that federal approval of the oil project violates the National Environmental Policy Act and the National Petroleum Reserves Production Act and that related Endangered Species Act consultations are unlawful. The conservation groups [plan to appeal](#) the ruling to the U.S. Court of Appeals for the Ninth Circuit.

Fifth Circuit Rules Environmental Groups Lack Standing to Challenge Preliminary Injunction Blocking Protections for Rice's Whales in Lease Sale

The U.S. Court of Appeals for the Fifth Circuit [ruled](#) that intervening environmental groups lack standing to appeal the lower court's removal of protections for endangered Rice's whales in an impending Gulf of Mexico lease sale. A unanimous panel held that "the causal chain of events necessary to support [Sierra Club, Center for Biological Diversity, Friends of the Earth, and Turtle Island Restoration Network's] theory of standing is so attenuated that the alleged harm is not 'certainly impending.'" The court dismissed the appeal and amended the preliminary injunction to require the lease sale to be conducted within 37 days following the mandate.

Seventh Circuit Rules that Wisconsin "Hunter Harassment" Law is Unconstitutional

The U.S. Court of Appeals for the Seventh Circuit [ruled](#) that a Wisconsin [law](#) criminalizing the harassment of hunters violates the U.S. Constitution's First Amendment. The court found that the challenged law, which criminalizes actions such as photographing or recording hunting, fishing, and trapping activities with the intent to interfere, is unconstitutionally vague and does not survive strict scrutiny. The decision reverses the district court's decision and remands the case.

DOJ Settles Unfair and Anticompetitive Trade Practices Case with Major Poultry Producer

The U.S. Department of Justice (DOJ) [filed](#) a civil [complaint](#) and proposed [final judgment](#) in the U.S. District Court for the Northern District of Illinois related to contract termination penalties imposed on poultry growers by Koch Foods, Inc. ("Koch"). The complaint alleged that Koch, the fifth largest poultry processor in the U.S., has been violating the Packers and Stockyards Act and the Sherman Act by anticompetitively and unfairly requiring poultry growers to pay a termination penalty if they switch to another chicken processor. In the simultaneously filed proposed final judgment settling the case, Koch agreed to stop imposing the contract termination penalties for seven years. Per the court's [stipulation and order](#) on November 15, 2023, the parties' proposed final judgment is open to written public comment for 60 days following its publication under the Antitrust Procedures and Penalties Act.

Twenty-Four States Seek Vacatur of EPA’s New WOTUS Rule

Twenty-four states [filed](#) an amended complaint in the U.S. District Court for the District of North Dakota seeking vacatur of the final [rule](#) reinterpreting “waters of the United States” (WOTUS) under the Clean Water Act. The plaintiff states allege that the WOTUS rule is unlawfully broad, arbitrary, and capricious under the Administrative Procedure Act, and in violation of the U.S. Constitution’s Commerce Clause, Due Process Clause, and Tenth Amendment. Plaintiffs are seeking declaratory judgment and vacatur of the WOTUS rule and enforcement injunction.

Twelve Years of Antitrust Litigation Results in Unanimous Jury Verdict Against Egg Producers and Trade Groups

An Illinois federal jury unanimously [found](#) egg industry participants Cal-Maine Foods, Rose Acre Farms, United Egg Producers, and United States Egg Marketers liable for unlawfully conspiring to increase prices by coordinating restrictions on the supply of eggs between 2004 to 2008. Damages will be determined in a separate trial. The [case](#) was originally filed in 2011.

Putative Class Action Alleges Target Falsely Advertises Sunscreen as Using a “Reef-Conscious Formula”

Sunscreen purchaser Annet Tivin [filed](#) a proposed class action lawsuit in the U.S. District Court for the Southern District of Florida, alleging that Target Corporation’s “up&up” brand sunscreen is misleadingly labeled as using a “reef-conscious formula” despite having ingredients that have been proven to be harmful to corals and coral reef ecosystems. The suit alleges violations of Florida’s Deceptive and Unfair Trade Practices Act, false and misleading advertising, and fraud, and it seeks class certification, monetary damages and interest, and costs.

Conservation Groups Allege FWS and BLM Are Violating ESA by Failing to Protect Critical Habitat from Cattle Grazing Damage

The Center for Biological Diversity and Maricopa Audubon Society sent a 60-day [notice of intent](#) to sue the U.S. Fish & Wildlife Service (FWS) and the U.S. Bureau of Land Management (BLM) under the citizen suit provision of the Endangered Species Act (ESA). The groups allege that the federal agencies are failing to prevent cattle grazing from damaging critical habitat and harming the endangered Gila chub and Western yellow-billed cuckoo on the Agua Fria National Monument in Arizona.

Jury Finds Egg Producers and Industry Groups Liable for \$17.77 Million in Damages for Conspiracy to Inflate Prices from 2004–2008

Following the conclusion of a damages trial, a federal jury in Illinois [found](#) that egg producers and two industry trade groups should pay \$17.77 million in damages to Kraft, Kellogg, Nestle, and General Mills for [conspiring](#) to inflate prices between 2004 and 2008. Pursuant to antitrust law, the damages award may be tripled to over \$53 million.

Fifth Circuit Upholds Texas Law Criminalizing Use of Drones Over Factory Farms

The U.S. Court of Appeals for the Fifth Circuit [upheld](#) the constitutionality of Texas' drone privacy law, which prohibits the use of drones to "capture an image" of a person or private property with the intent to "conduct surveillance" and makes it unlawful to fly a drone above certain facilities deemed as critical infrastructure, [including](#) factory farms. The court, overturning a lower court ruling in favor of the journalist and two media organizations that brought the facial challenge to the statute, ruled that the no-fly provision does not require First Amendment analysis because flying a drone is neither speech nor "inherently expressive." The court further ruled that the photography prohibition survives intermediate scrutiny because the government has a "substantial interest" in protecting privacy rights and the prohibition is "narrowly tailored" to that end. In rejecting the facial challenge, the court left open as-applied constitutional defenses to prosecution under the law.

Court Declines Motions for Injunction Pending Appeal, Enables Controversial Willow Oil and Gas Project to Proceed

The U.S. District Court for the District of Alaska [ruled](#) against conservation groups' motions for injunction pending appeal, allowing ConocoPhillips to pursue a controversial oil and gas development project known as the Willow Project while plaintiffs pursue their appeal. The Center for Biological Diversity, Defenders of Wildlife, Sovereign Iñupiat for a Living Arctic, and other groups argued the project on Alaska's North Slope violates multiple federal statutes, including the Endangered Species Act and the National Environmental Policy Act. In denying their motions, the court found that "the balance of the equities and the public interest tip sharply against injunctive relief pending appeal."

Poultry Processor Agrees to Pay Millions in Back Wages and Damages for Violating Child Labor Laws and Retaliating Against Employees Who Cooperated in Investigation

The U.S. Department of Labor (DOL) [announced](#) the entry of a [consent judgment](#) in an enforcement action pending in the U.S. District Court for the Central District of California against The Exclusive Poultry, Inc., a California poultry processor that supplies major supermarkets and food distributors such as Ralphs, ALDI, and SYSCO Corp., and against owner Tony Bran. The DOL found the defendants had violated child labor regulations by employing children as young as 14 years old in dangerous jobs and for excessive hours and had retaliated against employees for cooperating in the investigation. Under the consent judgment, the defendants must pay \$3.5 million in back wages and damages and \$201,104 in civil penalties.

Federal Court in Florida Rules that National Park Service Violated NEPA and the ESA When It Removed Deed Restrictions on a Miami Development Site

The U.S. District Court for the Southern District of Florida [granted](#) summary judgment in favor of claims brought by the Center for Biological Diversity, Bat Conservation International, Miami Blue Chapter of the North American Butterfly Association, and the Tropical Audubon Society. The groups asserted that the National Park Service (NPS) violated the Endangered Species Act (ESA) and National Environmental Policy Act (NEPA) when it failed to consider potential endangered species impacts before removing deeded land use restrictions on a Miami-Dade County property proposed to house a water park, hotel, and retail development. The court vacated NPS's actions and set aside the release of deed restrictions.

Federal Court Rejects Advocates' Challenge to New Swine Inspection System

The U.S. District Court for the Western District of New York [granted](#) summary judgment to the U.S. Department of Agriculture (USDA) in a case challenging the agency's New Swine Inspection System (NSIS) brought by Farm Sanctuary, Animal Equity, Animal Legal Defense Fund, Center for Biological Diversity, Mercy for Animals, Inc., North Carolina Farmed Animal Save, and Animal Outlook. Promulgated in a final rule by USDA's Food Safety and Inspection Service in 2019, the NSIS is a voluntary, alternate inspection system that requires participating slaughterhouses to sort pigs prior to and after slaughter before they are federally inspected, among other provisions. The advocacy groups challenged this NSIS sorting requirement, arguing that the final rule violates the Federal Meat Inspection Act,

Humane Methods of Slaughter Act, and Administrative Procedure Act (APA) by unlawfully delegating inspection and is arbitrary and capricious under the APA. Ruling in favor of USDA, the court held that there was not unlawful delegation and that the agency “considered pertinent evidence, examined the relevant factors, and articulated a satisfactory explanation” in adopting the NSIS final rule.

Federal Court Rejects Ranchers’ Request to Enjoin Wolf Reintroduction Plan in Colorado

The U.S. District Court for the District of Colorado [denied](#) a [motion](#) to enjoin the reintroduction of gray wolves into Colorado brought by the Gunnison County Stockgrowers’ Association, Inc. and Colorado Cattlemen’s Association. The groups argued that irreparable harm will result if wolves are reintroduced before the U.S. Fish & Wildlife Service performs a more thorough analysis of the reintroduction plan under the National Environmental Policy Act. The reintroduction is set to begin by December 31, 2023, pursuant to a successful 2020 Colorado ballot initiative requiring the Colorado Parks and Wildlife Commission to restore gray wolves to the state.

SEC Obtains Emergency Relief to Shut Down \$191 Million Cattle Ponzi Scheme

The U.S. Securities Exchange Commission (SEC) filed a [complaint](#) in the U.S. District Court for the Northern District of Texas alleging that Fort Worth-based Agridime LLC and its two owner-founders have been operating an illegal cattle Ponzi scheme. The complaint alleges the scheme has impacted more than 2,100 investors in at least 15 states since January 2021 by diverting tens of millions of investor dollars to make Ponzi payments and to pay undisclosed sales commissions. The SEC [announced](#) that the court granted it a “temporary restraining order, asset freeze, the appointment of a receiver, and other emergency relief to halt [the] ongoing \$191 million cattle Ponzi scheme.” The SEC is seeking injunctive relief, disgorgement, civil penalties, prejudgment interest, and an order prohibiting the individual defendants from acting as a director or officer of a public company.

Federal Court Declines to Delay State Civil Forfeiture Hearing for Virginia Roadside Zoo

Deborah and Karl Mogensen, owners of an animal menagerie known as Natural Bridge Zoo, were [denied](#) their [request](#) for emergency injunctive relief to delay a civil forfeiture hearing concerning 95 animals seized from their property as part of an ongoing [animal cruelty investigation](#). The Mogensens also sought relief from animal care guidance from

the Commonwealth for the remaining animals in their care. The U.S. District Court for the Western District of Virginia declined to interfere in the state's enforcement action against the Mogenssens, finding that "[p]laintiffs have not demonstrated that an emergency injunction is necessary to prevent the irreparable harm of losing their [animals]" and that they similarly "failed to demonstrate that issuance of the [requested action] would be in the public interest."

Doc Antle Co-Defendant Pleads Guilty to Endangered Species Act Crime

Jason Clay, owner of the Franklin Drive Thru Safari, [pleaded](#) guilty to a criminal violation of the Endangered Species Act (ESA) in connection with the illegal sale of a chimpanzee. Clay agreed to cooperate with and assist the Department of Justice (DOJ) with its investigation of wildlife crimes, as well as to forfeit his interest in a lar gibbon and any other animals related to his indictment. Clay was [indicted](#) with co-defendants Bhagavan "Doc" Antle, who is awaiting federal sentencing in connection with [pleading](#) guilty to conspiracy to violate the Lacey Act by trafficking wildlife and to launder money, Antle's associate Meredith Bybee, who [pleaded](#) guilty to one criminal ESA violation, Antle's associate Andrew Sawyer, and roadside zoo owner Charles Sammut. DOJ [dismissed](#) all charges against Sammut in 2023.

Federal Court Denies Class Certification in False Advertising Suit Against American Tuna

The U.S. District Court for the Southern District of California [denied](#) class certification in a lawsuit alleging that American Tuna, Inc. falsely advertised its products as being from fish caught in U.S. waters and acted deceptively. The court found that the sole named plaintiff, Ray Glass, failed to demonstrate Article III standing because he failed to prove that he saw the allegedly false advertisements described in the complaint or purchased products with the challenged labels. The court also entered a show cause order requiring plaintiff to submit a brief within 30 days establishing why the court should not dismiss the case for lack of Article III standing.

Conservation Groups Allege NMFS Violated ESA By Failing to Protect Leatherback Sea Turtles from Fishing Gear

The Center for Biological Diversity and Turtle Island Restoration Network [sued](#) the National Marine Fisheries Service (NMFS) in the U.S. District Court for the Northern District of California. The groups allege that NMFS is violating the Endangered Species Act (ESA)

by failing to protect endangered leatherback sea turtles from sablefish pot gear off the West Coast of the U.S and also violated the Magnuson-Stevens Fishery Conservation and Management Act and the Administrative Procedure Act.

State Court Updates

CALIFORNIA

Los Angeles County Superior Court Upholds Interim Protections for Southern California Steelhead

The Los Angeles County Superior Court entered a [ruling](#) rejecting a petition from the United Water Conservation District (UWCD) that challenged an approval to list Southern California steelhead as a candidate species under the California Endangered Species Act. UWCD also challenged the scope of a temporary exception authorizing takings of the steelhead species during its candidacy period. The court's order allows interim legal protections for the imperiled fish to stay in place pending a decision by the California Fish and Game Commission to move the species from candidate to listed status.

Animal Activist Convicted of Conspiracy and Trespass to Poultry Farms in California

A Sonoma County jury [convicted](#) animal activist Wayne Hsiung of one felony of conspiracy to commit a crime and two misdemeanor charges of trespass at Sunrise Farms and Reichardt Duck Farm, two poultry farms in Petaluma, California. During the events that led to the convictions, Direct Action Everywhere, a group co-founded by Hsiung, removed chickens and ducks from the farms, asserting a “right to rescue.” Sentencing is set for November 30, 2023.

California Court Imposes More than \$200,000 in Damages in Connection with Craigslist Sales of Sick Puppies

The Los Angeles County Superior Court [held](#) that a Phelan, California family violated numerous state statutes, including California's Pet Protection Act, consumer protection laws,

and animal cruelty laws. The defendants advertised puppies for sale online, including on Craigslist. Shortly after purchasing puppies from the defendants, the plaintiffs each discovered their puppies to be sick and at least three of the puppies died. The court found that the defendants committed fraud, failed to acquire the required permits, sold underage and sick puppies who had not seen a veterinarian, and neglected and harmed dogs, among other violations. The court, referencing the sentience of animals and the special relationship between people and companion animals, awarded each plaintiff-purchaser \$10,000 in emotional distress damages in addition to actual damages, attorney's fees, and costs. The court imposed punitive damages in the amount of \$100,000. Damages were awarded jointly and severally against all defendants. The court also permanently enjoined defendants from advertising and selling dogs.

COLORADO

NhRP Files Habeas Petition Seeking to Free Five African Elephants from a Colorado Zoo

The Nonhuman Rights Project (NhRP) [filed](#) a habeas corpus petition in Colorado's 4th Judicial District Court seeking release of African elephants [Jambo, Kimba, Lou Lou, Lucky, and Missy](#), who were captured from the wild in Africa and imported to the United States in the 1970s and 1980s. NhRP seeks to rehome the elephants from the Cheyenne Mountain Zoo in Colorado Springs, Colorado to sanctuaries accredited by the Global Federation of Animal Sanctuaries.

ILLINOIS

Meat Processor Agrees to Pay \$3 Million to Settle Illinois Wage Suit

The Illinois Attorney General [settled](#) a suit against meat processing company Greenridge Farm, Inc., alleging that the company violated the Illinois Minimum Wage Law by failing to pay overtime wages to over 282 employees. According to the [consent decree](#), Greenridge Farm will pay nearly \$3 million, which will largely be used to make court-approved settlement payments of back wages and damages to claimant-employees.

INDIANA

Roadside Zoo Owner Is Personally Liable for Funds He Misappropriated from Now-Dissolved Non-Profit

The Court of Appeals of Indiana [affirmed](#) a lower court ruling that [Tim Stark](#) is personally liable for funds and assets he misappropriated from his former roadside zoo, Wildlife in Need, which was organized as a not-for-profit organization. The entity was shut down after federal and state courts and agencies found multiple legal violations in connection with Stark's widespread animal abuse and misappropriation of non-profit donations for personal use. Stark, who made an appearance in the Netflix reality show "Tiger King" was [banned](#) from ever owning or exhibiting animals in 2021 and his non-profit was dissolved.

MICHIGAN

Michigan Agriculture Trade Groups and CAFOs Challenge State Manure Spray Regulations

The Michigan Farm Bureau, Michigan Milk Producers Association, Michigan Pork Producers Association, Michigan Allied Poultry Industries, Dairy Farmers of America, Select Milk Producers, Inc., and 163 livestock farms [sued](#) the Michigan Department of Environment, Great Lakes, and Energy to challenge new permit conditions for concentrated animal feeding operations. The permit conditions include a prohibition on spraying manure for three months of the year or transferring manure to other entities that spray manure and a restriction on the amount of phosphorous permitted in soil to which manure may be applied. Plaintiffs are seeking declaratory judgment and injunctive relief.

Michigan Appellate Court Affirms Ruling that Right to Farm Act Defense is Precluded by Collateral Estoppel in Port Huron Farm Case

The Michigan Court of Appeals affirmed in an unpublished [decision](#) a lower court ruling that collateral estoppel precludes two Port Huron livestock farmers from asserting a defense under Michigan's Right to Farm Act in response to their township's claim against them for abatement of nuisance. Port Huron brought the claim after finding multiple violations of its zoning ordinance by the farmers in their operation of a livestock farm within the township.

In previous related litigation involving the same parties, the appellate court affirmed the lower court's factual finding that a defense under Michigan's Right to Farm Act does not apply to the farmers and thus does not preempt the township's ordinance as applied to the two farmers.

MISSOURI

Iowa Farm Sanctuary Seeks Custody of Sheep Who Were Injured During Transport

The Iowa Farm Sanctuary [filed](#) a lawsuit against the University of Missouri Veterinary Health Clinic (University) and Iowa sheep farmer Matthew Hulsebus in the Circuit Court of Boone County, Missouri, seeking to protect its interests in sheep who were seriously injured during transport through Missouri. Following a June 25, 2023, transport truck accident in St. Louis County, Missouri, Iowa Farm Sanctuary took custody and financial responsibility for injured sheep who have been treated at the University. The sanctuary has been denied access to the animals or information about their status after Hulsebus came forward to claim them as his property. The sanctuary is seeking recognition of a lien on four surviving sheep equal to the amount it has paid for their veterinary care at the university and enforcement of the lien on the sheep by transfer of legal title to the four surviving sheep to it. The sanctuary is represented by Greenfire Law and the Crinnian Law Firm.

MONTANA

Montana Judge Rules in Favor of Plaintiffs in Nation's First Youth-Led Climate Change Trial

Montana District Court Judge Kathy Seely entered a 103-page [order](#) finding that a group of 16 young people in the state have a "fundamental constitutional right to a clean and healthful environment, which includes climate as part of the environmental life-support system" and that laws barring the consideration of greenhouse gas emissions in the state's permitting processes are unconstitutional. The ruling marks the conclusion of the first bench trial in a youth-led climate change lawsuit in the United States.

NEW YORK

New York Supreme Court Denies Tyson's Motion to Quash AG's Subpoena in Connection with COVID-19 Meat Product Price Gouging Investigation

New York Supreme Court Judge Erika M. Edwards [denied](#) Tyson Foods, Inc.'s (Tyson) motion to quash a New York Attorney General subpoena connected to an investigation into alleged meat product price gouging during the COVID-19 pandemic. Judge Edwards stated that the Attorney General has "broad power to investigate price gouging" under New York laws and found that Tyson failed to show that the documents sought by the Attorney General were irrelevant to the inquiry or that their production would be futile.

New York Supreme Court Upholds NYC Ban on Sales of Foie Gras

The New York State Supreme Court [upheld](#) New York City's "Local Law 202," which prohibits restaurants and food retailers from selling or serving foie gras and other force-fed products in the city. The decision came in a special proceeding challenging the Commissioner of the New York State Department of Agriculture and Markets ("Commissioner"), who determined that Local Law 202 violates state law by unreasonably restricting or regulating farming operations in the two agricultural districts where foie gras is produced in the state. Acting Justice of the Supreme Court Richard Platkin "annulled as arbitrary and capricious" the Commissioner's determination and remitted applications for review of the law back to the state.

NORTH CAROLINA

Advocacy Group Sues Large-Scale Chicken Processor Under North Carolina's Novel Civil Cruelty to Animals Law

Legal Impact for Chickens [sued](#) one of the country's largest poultry producers in North Carolina State Court for alleged violations of Chapter 19A, the state's one-of-a-kind civil cruelty to animals law. The complaint alleges that Case Farms and its employees "have engaged in intentional, affirmative, and reckless acts of neglect and extreme violence causing unjustifiable and unnecessary physical pain, suffering, and death towards

the animals under its care and control.” The case follows an [undercover investigation](#) documenting widespread killing of chicks and injured birds at a North Carolina chicken hatchery owned by Case Farms that processes over 200,000 birds per day and, [according to Legal Impact for Chickens](#), supplies buyers such as KFC, Taco Bell, and Boar’s Head. Plaintiff is seeking permanent injunctive relief.

OHIO

Ohio Supreme Court Upholds Wind Farm Project that Petitioners Argued Will Kill Birds and Disrupt Area Water Supply

The Ohio Supreme Court [upheld](#) the Ohio Power Siting Board’s approval of a proposed wind farm project despite objections from 19 residents and the Black Swamp Bird Observatory, who argued the project “could disrupt the area’s water supply, create excessive noise . . . , and kill bald eagles and migrating birds.” The court concluded that there was “sufficient probative evidence” of the 71-turbine project’s environmental and economic impact and that petitioners had “not established that the board’s order was unlawful or unreasonable.”

Former Columbus Zoo Executives Indicted on 90 Criminal Counts of Money Laundering and Other Financial Crimes

The Ohio Attorney General’s Office [announced](#) the [indictment](#) of three former Columbus Zoo executives on 90 criminal counts of alleged aggravated theft, tampering with records, bribery, telecommunications fraud, falsification, money laundering, extortion, conspiracy, and engaging in a pattern of corrupt activity. Two of the former zoo executives [resigned](#) amid a flurry of media attention over their alleged scheme to defraud the zoo of more than \$2 million. In October 2021, the Columbus Zoo—led at the time by one of the indicted executives—[lost](#) its accreditation from the Association of Zoos and Aquariums (AZA) as a result of its purported financial mismanagement and involvement with supplying big cats for use in [entertainment](#). The zoo [regained](#) AZA accreditation in March 2023.

PENNSYLVANIA

Complaint Seeks Criminal Liability for Pennsylvania Turkey Producer Whose Workers Routinely Abused Animals

Animal Equality and Animal Partisan [filed](#) a criminal complaint against major turkey producer Plainville Farms following the release of [undercover video](#) footage of Plainville Farms' workers routinely beating and choking turkeys while loading them onto trucks headed for slaughterhouses. Eleven workers already are [facing](#) dozens of felony and misdemeanor cruelty charges, but the instant complaint filed in Adams County, Pennsylvania alleges that Plainville Farms also should be held criminally liable.

TEXAS

Texas Supreme Court Agrees to Hear Appeal of Permanent Injunction Against Poultry Farm in Nuisance Case Brought by Nearby Homeowners

The Texas Supreme Court agreed to hear oral arguments in an [appeal](#) brought by Sanderson Farms Inc. and its Dallas-area chicken farm operator who were ordered to stop their chicken farm activities because of an odor spreading to nearby homeowners' properties. Petitioners argue that a permanent injunction should not be the remedy for a Henderson County jury's nuisance finding, which was [upheld](#) by the appellate court.

Texas Judge Imposes Life Sentence on Defendant for Killing Police Dog

A judge in Texas' 175th Criminal District Court [sentenced](#) Matthew Reyes Mireles to life in prison for fatally shooting a Bexar County Sheriff's K-9 officer. Mireles shot Chucky, a 5-year-old Belgian Malinois, while attempting to evade arrest. Mireles was convicted of multiple crimes in connection with the incident, including eight counts of aggravated assault of a public servant, interference with a police service animal, and evading arrest and detention. Mireles had nine prior felony convictions and received the maximum penalty of three life sentences to be served concurrently.

UTAH

Conservation Groups Invoke Public Trust Doctrine to Challenge Utah's Failure to Protect the Great Salt Lake

Utah Physicians for a Healthy Environment, American Bird Conservancy, Center for Biological Diversity, Sierra Club, and Utah Rivers Council [sued](#) the State of Utah in state court. The organizations allege Utah is failing to review and modify excessive water diversions that deplete and threaten the viability of the Great Salt Lake and violating the public trust by not ensuring sufficient water flows into the lake, jeopardizing many species that depend upon it. The plaintiffs are seeking declaratory judgment and injunctive relief.

Conservation Groups Challenge Utah Law Allowing Year-Round Mountain Lion Hunting and Trapping

The Mountain Lion Foundation and the Western Wildlife Conservancy [sued](#) the State of Utah, challenging a [new state law](#) that allows unlimited, year-round hunting and trapping of mountain lions. Plaintiffs argue that the new law violates the Utah Constitution's Right to Hunt and Fish, "which requires that the State 'forever preserve' the right of the people to hunt and fish 'for the public good,'" by deregulating the killing of mountain lions and creating the risk that their population in the state may be eliminated. Plaintiffs seek declaratory and injunctive relief, as well as costs and fees. Plaintiffs are represented by Greenfire Law and the Ban Law Office.

VIRGINIA

Tiger King Personality Sentenced in Connection with Wildlife Trafficking Convictions

The Virginia Attorney General's Office [announced](#) Bhagavan "Doc" Antle's sentence in connection with his four felony convictions related to the illegal purchase of lion cubs for exhibition at his South Carolina roadside zoo. The judge imposed a \$10,000 fine, a suspended prison sentence, and a five-year prohibition on working with, owning, possessing, brokering, buying, selling, trading, bartering, donating, or transferring any exotic animals in Virginia. Antle is still awaiting trial in federal court on separate [indictments](#) relating to wildlife trafficking and money laundering. Antle is known for his appearance in the Netflix series "Tiger King."

WASHINGTON

StarKist Avoids Joint and Several Liability in Washington Tuna Price-Fixing Suit

The Washington Supreme Court [declined](#) to review an appellate court finding that potentially freed StarKist Co. from liability for the actions of its co-conspirators in a decades-long packaged tuna price-fixing scheme. The court's decision allows a Washington appeals court panel's January [ruling](#) to stand. The appellate court reversed a Seattle state court order that previously found StarKist was jointly and severally liable for harm caused by its co-conspirators, Bumble Bee and Chicken of the Sea.

WISCONSIN

Advocacy Groups Seek Cruelty Charges Against Wisconsin Meat Processor

Animal Partisan and Animal Equality [asked](#) the Walworth County, Wisconsin District Attorney to file criminal charges against the general manager of Wilson Farm Meats for abusing a steer while forcing him into restraints for slaughter. The abuse was documented by a U.S. Department of Agriculture (USDA) inspector who observed the event on March 9, 2022. USDA temporarily suspended operations at Wilson Farm following the incident.



2023 YEAR IN REVIEW

Agency Updates

Federal Agency Updates

CENTERS FOR DISEASE CONTROL AND PREVENTION (CDC)

CDC Announces Extension on Suspension of the Import of Dogs from 108 Countries

CDC [announced](#) an extension of the current temporary suspension of the importation of dogs into the United States from 108 countries the agency designates as having a high risk of rabies. The suspension will remain in effect through July 31, 2023.

CDC Aims to Curtail Risk of Rabies Introduction from Imported Dogs and Cats

CDC [announced](#) the extension of the temporary suspension of dog imports from countries classified as high risk for rabies through July 31, 2024. CDC also [announced](#) a proposal to amend its foreign quarantine regulation to provide additional clarity and safeguards to address the public health risk of the dog-maintained rabies virus variant associated with the importation of dogs and cats into the United States. CDC will accept public comments on the latter proposed regulatory changes through September 8, 2023.

CDC Announces Reorganization of the National Center for Emerging and Zoonotic Infectious Diseases

CDC [announced](#) it has modified its structure and reorganized the National Center for Emerging and Zoonotic Infectious Diseases (NCEZID) “to improve collaboration between science and public health programs within NCEZID as well as with [CDC’s] partners across and outside the agency.” The reorganization was approved by the CDC Director on June 28, 2023.

CDC Opens Public Comment Period on Draft Framework to Address Zoonotic Diseases in the United States

CDC is [soliciting](#) public comments on the draft “National One Health Framework to Address Zoonotic Diseases and Advance Public Health Preparedness in the United States: A Framework for One Health Coordination and Collaboration Across Federal Agencies.” CDC developed the

draft framework in coordination with the U.S. Department of the Interior, U.S. Department of Agriculture, and other federal agencies. CDC will accept public comments on the draft framework through November 6, 2023.

DEPARTMENT OF AGRICULTURE (USDA)

USDA Terminates AWA License for Convicted Wildlife Trafficker

USDA [terminated](#) the Animal Welfare Act (AWA) license for Jimmy Wayne Hammonds, aka “The Monkey Whisperer.” In 2022, Hammonds [pleaded guilty](#) to wildlife trafficking in violation of the Lacey Act and the Endangered Species Act (ESA) in connection with his illegal sale of a capuchin monkey to hip hop artist [Chris Brown](#) and with the illegal sales of ESA-protected primate species to multiple buyers in Alabama, South Carolina, and Wisconsin.

USDA Announces School Lunch Program Milk Guidelines

USDA [announced](#) a proposed rulemaking to update long-term school nutrition standards, including long-term milk standards. USDA will accept public comments through April 10, 2023.

USDA Announces \$43 Million Investment in Meat and Poultry Processing Research

USDA [announced](#) an investment of more than \$43 million in meat and poultry processing research, innovation, and expansion. This investment is funded through the American Rescue Plan and the [Agriculture and Food Research Initiative](#).

USDA Announces Funding Programs to Expand Meat and Poultry Processing Options for Indigenous and Underserved Communities

USDA [announced](#) the availability of up to \$125 million through two new grant programs, the Indigenous Animals Harvesting and Meat Processing Grant Program and the Local Meat Capacity Grant Program, which will invest in tribal and underserved regional food processors and help meat and poultry farmers expand their businesses.

USDA Letter to Meat and Poultry Industry Advises Steps to Curb “Recent Trend” In Use of Child Labor

USDA Secretary Tom Vilsack sent a [letter](#) to members of the meat and poultry industry regarding use of child labor in meat processing facilities. The Secretary requested that the industries take precautionary steps to determine whether child labor is being used anywhere in the supply chain, that they include strong contractual language authorizing unannounced inspections and sanctions, and that they adopt standards for suppliers, subcontractors, and vendors that will “better guard against the use of illegal child labor.” The letter also advises recipients that USDA will implement “increased oversight to curb this recent trend as quickly as possible.”

USDA’s Farm Service Agency Announces Assistance Program for Organic Dairy Producers

USDA’s Farm Service Agency (FSA) [announced](#) the availability of marketing assistance funding to organic dairy operations in the United States. FSA will accept applications through July 26, 2023.

USDA Publishes New Report on Market Concentration in Meatpacking and Other Agribusiness Sectors

USDA’s Economic Research Service published a new [report](#) detailing market concentration in agribusiness, including in the meatpacking and food retail sectors. The report comes amid a flurry of antitrust [settlements](#) relating to price-fixing in the beef, poultry, and pork markets. According to USDA’s report, the four largest meatpackers accounted for 85% of steer and heifer slaughter and 67% of hog slaughter in 2019.

USDA Expands Working Lands for Wildlife Program

USDA [announced](#) that it will expand its wildlife conservation efforts by investing at least \$500 million over the next five years through its Working Lands for Wildlife (WLFW) program. This commitment “will ramp up the conservation assistance for farmers, ranchers, private forest owners and tribes with a focus on working lands in key geographies across the country as well as hiring for key conservation positions.” USDA says that the announcement will immediately benefit two of WLFW’s newest priorities: “ongoing efforts to help conserve migratory big game habitat” and “conservation of bobwhite quail and associated species in the grasslands and savannas of the central and eastern U.S.”

USDA Will Allocate \$115 Million in Grants to Smaller Meat and Poultry Processors in 17 States

USDA Secretary Tom Vilsack [announced](#) that USDA will allocate \$115 million in grants to smaller meat and poultry processors in 17 states to increase processing and provide more job opportunities in rural areas. The announcement came at an event in Des Moines, Iowa for farmers and meat processors.

USDA Requests Information on Proposed Federal Strategy to Monitor GHGs in the Agriculture and Forestry Sectors

USDA published a draft interagency [report](#) aimed at enhancing greenhouse gas measurement, monitoring, reporting, and verification within the agriculture and forestry sectors. The draft report, titled “Federal Strategy to Advance Greenhouse Gas Measurement and Monitoring for the Agriculture and Forestry Sectors,” outlines an integrated plan to improve greenhouse gas and soil carbon monitoring, coordinate related research, activate advanced models and tools to improve estimations, and collect conservation data more promptly and accurately. USDA [published](#) a request for information related to the draft report and will accept public comments on it through August 11, 2023.

Secretary of Agriculture Urges Brazil to Improve BSE Reporting

USDA Secretary Tom Vilsack sent [correspondence](#) to Brazilian Minister of Agriculture Carlos Fávaro urging Brazil “to continue its progress in streamlining timely animal disease reporting” given the country’s “recent bovine spongiform encephalopathy (BSE) detections.” Secretary Vilsack noted that Brazil “continues to lag significantly behind the timelines of other major beef exporters” in the “time between BSE initial detection, sampling, and completed test results.”

USDA Farm Service Agency Increases the Livestock Indemnity Program Payment Rate

USDA’s Farm Service Agency [announced](#) an increase to its Livestock Indemnity Program (LIP) payment rate to support Midwest livestock producers who have lost cattle as a result of this summer’s extreme heat and humidity. The new rate will provide \$1,618—an increase of \$374—for the loss of a beef calf over 800 pounds. The revised LIP payment rate will be applied retroactively starting January 1, 2023, and it will apply to all qualifying adverse weather causes of loss.

USDA Announces \$123 Million in Additional Grants Available for Expansion of Meat and Poultry Processing Operations

USDA [announced](#) a partnership with the New Hampshire Community Loan Fund to make an additional \$123 million in grants available for meat and poultry processors to expand operations, build and modernize processing facilities and equipment, adopt new technologies, and train workers. Eligible recipients may receive grants from \$250,000 to \$10 million but must be able to cover at least 70% of total project costs themselves.

USDA's Wildlife Services Establishes New Standards to Determine the Cause of Livestock Deaths in New Mexico and Arizona

USDA's Wildlife Services [published](#) a new set of evidentiary standards it will use to determine whether Mexican wolf depredation is the cause of livestock deaths in Arizona and New Mexico. The changes follow a 2022 [exposé](#) alleging that “endangered Mexican gray wolf recovery is being ‘sabotaged’ by ranchers who claim the canines are killing cattle—and the federal employees who sign off on reports.” The new standards will require certain indicators of wolf involvement in livestock deaths, such as subcutaneous hemorrhage and tissue-based evidence in large livestock showing that wolves attacked and bit the animals before they died.

USDA Terminates AWA License for Montana Animal Exhibitor with History of Legal Violations

USDA [terminated](#) the Animal Welfare Act (AWA) license for Troy Hyde, DBA [Animals of Montana](#) (AOM), after the State of Montana revoked the wild animal exhibitor's menagerie permit. USDA found that the Montana Department of Fish, Wildlife, and Parks had determined that AOM committed 22 violations of Montana's rules and regulations related to animal welfare, care, and transportation. In 2005, Troy Hyde was [convicted](#) of violating the Endangered Species Act and the Lacey Act and, in 2009, a previous AWA license issued to AOM was terminated, with a two-year license disqualification period imposed.

Advocacy Groups Petition USDA to Amend Wildlife Services Regulations

The Animal Legal Defense Fund, Center for Biological Diversity, Project Coyote, Animal Welfare Institute, and WildEarth Guardians [petitioned](#) USDA to promulgate new rules and amend existing rules to reduce and refine the use of lethal wildlife control measures by USDA's

Wildlife Services. The petitioners seek the prioritization of non-lethal methods and the banning of certain lethal methods, including neck snares, steel jaw leghold traps, M-44 sodium cyanide devices, and aerial gunning. Petitioners report that between 2010 and 2022, Wildlife Services killed more than 37.4 million animals, including coyotes, foxes, mountain lions, beavers, a variety of birds, and many others, including wildlife protected under state or federal law.

Conservation Groups Petition Forest Service to Ban Aerial Shooting of Wildlife

The Center for Biological Diversity, Western Watersheds Project, and International Wildlife Coexistence Network [petitioned](#) USDA's U.S. Forest Service to "use its legal authority to ban aerial gunning and other predator control by private contractors to protect wildlife, public safety, recreational interests, and wilderness values on Idaho's national forests." The petition follows a recent decision by the Idaho Wolf Depredation Control Board to allocate more than \$140,000 to private contractors to kill wolves in central and southeastern Idaho by shooting them from aircraft and by trapping them.

USDA Announces Sheep Production Study

USDA [announced](#) that its National Animal Health Monitoring System and National Agricultural Statistics Service will partner to study the health and management of sheep and lambs. The national study will engage a sample of 4,940 sheep producers.

USDA Announces 2023 Census of Aquaculture

USDA's National Agricultural Statistics Service [announced](#) the mailing of the 2023 Census of Aquaculture to all producers on record in the 2022 Census of Agriculture as producing and selling aquaculture products. Census participants will have until January 15, 2024, to provide responses.

USDA Will Not Delay Implementation of Packers and Stockyards Act Poultry Tournament Regulations

After receiving opposing requests from [House](#) and [Senate](#) lawmakers, [small farmers and advocacy groups](#), and others, USDA Secretary Tom Vilsack [announced](#) that he will not delay the implementation of new poultry tournament [regulations](#) under the Packers and Stockyards Act. The new rule is scheduled to go into effect on February 12, 2024.

USDA AGRICULTURAL MARKETING SERVICE (AMS)

USDA Announces Amendment to Organic Regulations

USDA AMS [announced](#) a new rule amending USDA's organic regulations to strengthen oversight and enforcement of the production, handling, and sale of organic agricultural products. The new rule becomes effective March 20, 2023.

USDA Seeks Public Input for National Organic Standards Board Meeting

USDA AMS [announced](#) a meeting of the National Organic Standards Board (NOSB). The NOSB assists USDA in the development of standards for substances to be used in organic production and advises the Secretary of Agriculture on any other aspects of the implementation of the Organic Foods Production Act. USDA is accepting written comments and oral comment sign-ups through April 5, 2023, and will hold virtual and in-person meetings for public input on April 18, 20, 25, 26, and 27.

USDA Seeks Public Input on Information Collection Relating to Small Organic Dairy Producers

USDA AMS [announced](#) its intention to request approval from the Office of Management and Budget for a new information collection related to livestock production practices under USDA's organic regulations. Under USDA's Origin of Livestock (OOL) regulations, organic dairy operations may transition nonorganic animals to organic production once. After that, any animals added to an operation must have been organically managed from the last third of gestation. The OOL regulations allow small, certified organic dairy operations to request a variance from the one-time transition limitation. AMS will accept public comments on the proposed information collection through June 26, 2023.

PCRM Complaint Alleges USDA AMS Violated Federal Law with Dairy Ad that Maligns Plant-Based Alternatives

The Physicians Committee for Responsible Medicine (PCRM) filed a [complaint](#) with USDA alleging USDA AMS unlawfully approved the "Wood Milk" viral ad, which featuring the actress Aubrey Plaza and mocks plant-based milks. PCRM alleges the advertising campaign violates laws forbidding federal agricultural promotions that promote one commodity by maligning

others and violates a statutory prohibition against using fluid milk checkoff funds to influence legislation, government action, or policy. The group is calling for the immediate retraction of the video and demanding an investigation into the agency's approval process.

USDA Announces Public Meetings of the National Organic Standards Board and Related Public Comment Period

USDA AMS [announced](#) a meeting of the National Organic Standards Board (NOSB), which assists the USDA in the development of organic standards and implementation of the Organic Foods Production Act. USDA will hold an in-person meeting from October 24–26, 2023, and will broadcast virtually. NOSB will accept public comments via webinars on October 17 and 19, 2023, and will accept written comments through September 28, 2023.

USDA Announces Changes to Packers and Stockyards Act Regulations

USDA AMS [announced](#) a final rule that revises the Packers and Stockyards Act (the Act) regulations to provide instructions for livestock sellers who desire to preserve their interest in the statutory livestock dealer trust under the Act. The new rule adds procedures and timeframes for a livestock seller to notify the livestock dealer and the Secretary of Agriculture that the seller has not received full payment for livestock purchased by the dealer and that the seller intends to preserve its trust interests.

USDA Announces Final Rule Establishing the Dairy Donation Program

USDA AMS [announced](#) a final rule establishing the Dairy Donation Program as required by the Consolidated Appropriations Act of 2021. The program facilitates dairy product donations from eligible organizations and seeks to minimize food waste. The final rule is effective August 25, 2023.

USDA Will Accept Comments on Potential Environmental Impacts of Local Meat Capacity Grant Program

USDA AMS [announced](#) that the Draft Programmatic Environmental Assessment for the Local Meat Capacity Grant Program, a program designed to support independently owned meat and poultry processors, is available for public review. AMS will accept public comments through November 30, 2023.

USDA Announces Amended Organic Livestock and Poultry Production Standards

USDA AMS [announced](#) a final rule amending the organic livestock and poultry production requirements “to maintain consumer confidence in USDA organic products, to align with consumer expectations regarding outdoor access, and to further facilitate interstate commerce in organic products.” The rule becomes effective January 2, 2024, with compliance required by January 2, 2025, except for certain poultry operations, which will be required to comply with the new requirements by January 2029.

USDA Announces New Reporting Category for Hogs Raised in Compliance with Proposition 12 and Other Animal Confinement Legislation

USDA AMS [announced](#) that it will begin reporting how many hogs are being raised in compliance with animal confinement legislation (ACL), such as California's Proposition 12, in its National Weekly Direct Swine Non-Carcass Merit Premium [report](#), effective November 20, 2023. Previously, USDA reported ACL hogs under “Other,” a category that includes hogs raised under protocols for animal welfare, antibiotic free, diet/feed, genetics, meat quality, the Process Verified Program, and sow housing. According to AMS, the volume of ACL-compliant hogs under federal livestock reporting laws has become large enough to be listed in its own category.

USDA Requires New Disclosures from Poultry Dealers to Poultry Growers

USDA AMS [announced](#) a final rule amending the Packers and Stockyards Act regulations to require certain disclosures from live poultry dealers to poultry growers who raise chickens for meat. The rule requires additional disclosures from dealers who use poultry tournaments to determine grower payments. The rule will be effective February 12, 2024.

USDA Announces 10-Day Delay in Effective Date for New Organic Livestock and Poultry Standards

USDA AMS [announced](#) it is delaying the effective date of the Organic Livestock and Poultry Standards [final rule](#) on livestock care and production standards. The agency is delaying the rule by 10 days to comply with the Small Business Regulatory Enforcement Fairness Act, which requires that major rules not go into effect for at least 60 days to allow time for Congress to review them. The revised effective date is January 12, 2024.

USDA ANIMAL AND PLANT HEALTH INSPECTION SERVICE (APHIS)

The U.S. Edition of the Brooks Animal Law Digest reported on four countries USDA APHIS added to the list of regions it considers to be affected by African swine fever (ASF)

Country	Publication Date	Effective Date
Thailand	February 15, 2023	January 20, 2022
North Macedonia	February 15, 2023	February 3, 2022
Nepal	October 24, 2023	May 23, 2022
Singapore	November 29, 2023	February 16, 2023

The U.S. Edition of the Brooks Animal Law Digest reported on six countries USDA APHIS added to the list of regions it considers to be affected with highly pathogenic avian influenza (HPAI)

Country	Publication Date	Effective Date
Gabon	June 1, 2023	May 23, 2022
Guinea	June 1, 2023	June 8, 2022
Moldova	June 1, 2023	January 31, 2022
Ecuador	August 23, 2023	December 3, 2022
Peru	August 23, 2023	December 12, 2022
Bolivia	November 29, 2023	February 2, 2023

APHIS Opens Public Comment Period on Avian Flu Environmental Impact Statement

USDA APHIS [announced](#) that it intends to prepare an environmental impact statement (EIS) to examine the potential environmental effects of the Agency's response activities to highly pathogenic avian influenza outbreaks in commercial and backyard poultry operations in the United States. APHIS will accept public comments on the EIS through February 17, 2023.

APHIS Proposes Regulatory Changes to Improve Animal Disease Traceability in Cattle and Bison

USDA APHIS is [proposing](#) to clarify certain animal disease traceability regulations and record retention and record access requirements. These regulatory clarifications seek to enhance the ability of Tribal, State, and Federal officials, private veterinarians, and livestock producers to quickly respond to high-impact diseases currently existing in the United States, as well as foreign animal diseases that threaten the viability of the U.S. cattle and bison industries. APHIS will accept public comments on the proposed changes through March 20, 2023.

APHIS Seeks Public Comments on Proposed Swine Import-Related Information Collection

USDA APHIS [announced](#) a proposed extension of and revision to an information collection associated with the regulations for the importation of live swine, pork, and pork products from certain regions to prevent the introduction of classical swine fever into the United States. APHIS will accept comments on the proposed information collection through March 31, 2023.

APHIS Announces Regulatory Changes for Canned Meat to Better Align with FSIS Guidelines

USDA APHIS [announced](#) that it is revising the regulations for cured or cooked meat from regions where foot-and-mouth disease exists to reflect changes to the USDA's Food Safety and Inspection Service (FSIS) regulations regarding thermally processed, commercially sterile meat. The new regulations, which remove a reference to a regulation that FSIS removed, are effective February 21, 2023.

APHIS Publishes Standards for Birds Not Used in Research

USDA APHIS [announced](#) final Animal Welfare Act regulations to establish standards governing the humane handling, care, treatment, and transportation of birds not bred for use in research after half a century of abdicating its statutory responsibility to inspect such birds. The new rules are effective March 23, 2023.

APHIS Announces Bovine Tuberculosis Classifications for Eight Mexican Regions

USDA APHIS [announced](#) bovine tuberculosis classifications for eight Mexican regions. The changes in recognized disease status are effective March 3, 2023.

USDA Announces Comment Period Extension for ANPR on Handling Wild and Exotic Animals for Exhibition

USDA APHIS is [extending](#) the comment period for its advance notice of proposed rulemaking on its plan to strengthen regulations regarding the handling of wild and exotic animals for exhibition, as well as the training of personnel involved in the handling of wild and exotic animals, and to establish standards addressing environmental enrichment for all regulated animals. APHIS will accept public comments through April 10, 2023.

APHIS Publishes Minor Corrections to Final AWA Rule Pertaining to Birds

USDA APHIS [announced](#) minor corrections to the final rule it published establishing standards governing the humane handling, care, treatment, and transportation of birds covered under the Animal Welfare Act, excluding birds bred for use in research. These changes pertain to regulatory exemption thresholds and oversight of intermediate handlers.

APHIS Proposes Additional Information Collection Relating to Recordkeeping at Slaughtering, Rendering, and Livestock Marketing Facilities

USDA APHIS [announced](#) its intention to request a revision to and extension of approval of an information collection associated with regulations governing approval and maintenance of livestock marketing establishments and facilities, withdrawal or denial of livestock marketing facilities and slaughtering and rendering facilities, and blood and tissue collection and recordkeeping at these facilities. APHIS will accept public comments through May 26, 2023.

USDA Proposes Regulatory Changes to Allow the Import of Beef from Paraguay Despite Concern for Foot-and-Mouth Disease in the Country

USDA APHIS is [proposing](#) to amend the regulations governing the importation of certain animals, meat, and other animal products by allowing the importation of beef from Paraguay under certain circumstances. Historically, APHIS has prohibited trade in fresh (chilled or frozen) beef because APHIS has considered Paraguay to be a country affected with foot-and-mouth disease. APHIS will accept public comments on the proposed regulatory change through May 26, 2023.

APHIS Seeks Public Comments on Proposed Information Extension Relating to Avian Influenza and Other Diseases

USDA APHIS [announced](#) its intention to request an extension of approval of an information collection associated with regulations to prevent the introduction of highly pathogenic avian influenza, all subtypes, and Newcastle disease into the United States through the importation of pet, performing, and research birds and poultry and through unprocessed bird and poultry products, mainly bird carcasses. APHIS will accept public comments through May 30, 2023.

APHIS Seeks Extension of Information Collection About Import of Bison and Cattle

USDA APHIS [announced](#) its intention to request an extension of approval of an information collection associated with the regulations governing importation of cattle and bison, specifically with regard to classification of regions at designated status levels for bovine tuberculosis and brucellosis. APHIS is accepting public comments through May 30, 2023.

USDA Seeks Extension of Information Collection Relating to Infectious Disease Affecting Cattle

USDA APHIS [announced](#) its intent to request an extension of approval of an information collection associated with efforts to control Johne's disease in the United States. Johne's disease is a contagious, chronic, and usually fatal infection that affects primarily the small intestine of cows and other ruminants. APHIS will accept public comments through June 9, 2023.

APHIS's Five-Year Strategic Plan and Long-Term Projections Forecast Regulation of Animals

USDA APHIS released its [Strategic Plan for Fiscal Years 2023-2027](#) (Strategic Plan). The plan includes a number of goals, including reduction of the impacts of zoonotic diseases, expansion of the trade in agricultural products nationally and internationally, and promotion of animal welfare by updating and enhancing Animal Welfare Act (AWA) regulations. The proposed updates to the AWA regulations include moving “more quickly to confiscate animals at extreme risk,” improving AWA inspections by 5% over fiscal year 2022, and eliminating horse soring. APHIS released the Strategic Plan alongside a [report](#) on projected trends that will impact the agency over the next 20-30 years. The report notes shifting attitudes and values concerning health and animal welfare, including a growing number who believe that “livestock and wildlife should be provided the same rights as domesticated pets,” which will likely pressure APHIS to “prioritize the use of humane animal agricultural practices.” The report also notes that, “as the list of animals considered pets expands, farms may be subject to AWA regulation.”

USDA Seeks Public Comments on Information Collection Relating to BSE Surveillance

USDA APHIS [announced](#) its intention to request a revision to, and extension of approval of, an information collection associated with National Veterinary Services Laboratories diagnostic support for the bovine spongiform encephalopathy surveillance program. APHIS will accept public comments on the information collection through June 30, 2023.

APHIS Opens Comment Period on Information Collection Relating to Movement of Sheep and Goats

USDA APHIS [announced](#) its intention to request an extension of approval of an information collection associated with regulations for the interstate movement of sheep and goats and an indemnity program for controlling the spread of scrapie. APHIS will accept public comments through July 24, 2023.

U.S. Beef Trade Groups Oppose USDA Rule that Would Allow the Import of Beef from Paraguay

[The National Cattlemen's Beef Association](#) and the [U.S. Cattlemen's Association](#) submitted comments to USDA APHIS in opposition to a [proposed rule](#) that would allow the import of

fresh beef from Paraguay. The two trade groups oppose competition for U.S. producers and suggest that such imports would pose too great a risk of foot-and-mouth disease for U.S. cattle.

APHIS Will Hold National Poultry Improvement Plan Public Meeting

USDA APHIS published [notice](#) that the General Conference Committee of the National Poultry Improvement Plan will be holding a meeting that will be open for public attendance, but not public participation. The meeting will take place on June 29, 2023, in Columbus, Ohio.

Advocacy Group Petitions USDA to Require Poultry Producers to Minimize Suffering During Outbreak-Related Depopulation

The Animal Welfare Institute (AWI) [filed](#) a petition for rulemaking with USDA APHIS. The petition asks the agency to change its animal disease regulations to require producers to implement audited emergency response plans, including strategies to humanely “depopulate” animals, before they are eligible for USDA compensation for animals killed during an avian flu or other outbreak.

APHIS Opens Public Comment Period on Information Collection Related to the Import of Live Swine, Swine Products, and Pork

USDA APHIS [announced](#) a revision and extension to approval of an information collection associated with the import of live swine, pork and pork products, and swine semen from the European Union. APHIS will accept public comments through August 28, 2023.

APHIS Announces Virtual Listening Sessions on Chronic Wasting Disease

USDA APHIS [announced](#) that it will hold five virtual listening sessions to receive public input on topics related to updates and improvements to the Chronic Wasting Disease Herd Certification Program Standards. The virtual listening sessions will take place on July 27, August 10, August 17, August 24, and September 14, 2023.

APHIS Releases 2022 Impact Report

USDA APHIS published its [2022 Impact Report](#), including its annual data relating to Animal Welfare Act (AWA) enforcement. According to the report, APHIS opened 262 AWA cases, issued 204 official warnings, obtained 17 administrative orders, and permanently revoked

seven AWA licenses in 2022. By contrast, APHIS [reported](#) opening 118 cases, issuing 58 official warnings, obtaining eight administrative orders, suspending one facility's license for five years, and permanently revoking two AWA licenses in 2021.

APHIS Announces New Animal Care Deputy Administrator Following Retirement of AC Administrator Who Oversaw Envigo Inspections

USDA APHIS [announced](#) Dr. Roxanne Mullaney as APHIS Animal Care's (AC) new Deputy Administrator. AC's previous Deputy Administrator, Dr. Betty Goldentyer, retired in May 2023 after widespread public [scrutiny](#) of her [alleged](#) interference in meaningful AC inspections and lack of response to dozens of Animal Welfare Act citations issued against Envigo, the shuttered facility that bred and housed thousands of beagles for use in experiments.

APHIS Seeks to Again Withdraw Comprehensive Horse Soring Regulations

USDA APHIS is [proposing](#) to withdraw a [final Horse Protection Act \(HPA\) rule](#) filed for public inspection by the Office of the Federal Register on January 19, 2017. The rule would have required all inspectors who assess regulated horses for evidence of soring to be trained and licensed by APHIS to minimize conflicts of interest from allowing horse industry groups to train and oversee their own inspectors. It also would have required at least two APHIS-trained inspectors at all horse shows, and added to the list of devices, equipment, substances, and practices that are prohibited to prevent the soring of horses. On January 23, 2017, APHIS withdrew the HPA rule from publication without notice and comment in response to a memorandum issued by President Trump. The U.S. Court of Appeals for the D.C. Circuit found that withdrawal to be deficient. As result, APHIS again is pursuing the withdrawal requested by the Trump Administration—this time undertaking the required notice and comment procedures—and will be accepting public comments through August 21, 2023.

APHIS Opens Public Comment Period on Revised Information Collection Relating to Exports of Livestock and Livestock Products from the United States

USDA APHIS [announced](#) its intention to request a revision to and extension of approval of an information collection associated with the export of animals and animal products from the United States. APHIS will accept public comments on the information collection through October 3, 2023.

APHIS Opens Public Comment Period on Supplemental EA and FONSI Relating to Avian Flu in Commercial and Backyard Poultry Operations

USDA APHIS published [notice](#) of a draft supplemental environmental assessment (EA) and draft finding of no significant impact (FONSI) related to APHIS's emergency responses to highly pathogenic avian influenza outbreaks in commercial and backyard poultry operations located in migratory bird flyways. The draft EA supplements the initial EA and FONSI that APHIS published in September 2022. APHIS will accept public comments on the supplemental EA and FONSI through September 25, 2023.

APHIS Seeks Comments on Proposed Modifications to Reporting Requirements Relating to the National List of Reportable Animal Diseases

USDA APHIS is [reopening](#) the public comment period for a proposed rule that would amend regulations to provide a National List of Reportable Animal Diseases. APHIS is reopening the comment period to allow for additional public input on a proposed modification to address confidentiality concerns related to reporting requirements. APHIS now will accept comments through September 27, 2023.

USDA Announces Upcoming National Wildlife Services Advisory Committee Meeting

USDA APHIS [announced](#) that the National Wildlife Services Advisory Committee will hold a meeting on October 4 and 5, 2023, from 8 a.m. to 5 p.m. in Washington, D.C. The meeting is open to the public, but there will be no opportunity for public participation. Written public comments will be accepted online through October 13, 2023.

APHIS Finalizes Changes to Equine Import Regulations

USDA APHIS [finalized](#) regulations related to the import of equines under the Animal Health Protection Act. The final rule amends requirements related to the transit of horses through certain regions and adds requirements for horse health certifications and shipping containers used for horse transport, along with other changes. The final rule is effective October 16, 2023.

APHIS Proposes Regulatory Changes Relating to Importation of Dogs from Regions with African Swine Fever

USDA APHIS is [proposing](#) to amend regulations relating to the importation of dogs from regions where African swine fever is believed to be present. APHIS will accept public comments through November 27, 2023, on the proposed regulatory changes to mitigate the risk of introducing African swine fever into the U.S.

APHIS Opens Public Comment Period on Information Collection Relating to Transport of Horses for Slaughter

USDA APHIS [announced](#) its intention to request that the Office of Management and Budget approve a revision to, and three-year extension of, APHIS's information collection activities related to regulating the commercial transport of equine animals to slaughter facilities. APHIS will accept public comments on the information collection request through November 28, 2023.

APHIS Announces Restrictions on Poultry Imports from Certain European Countries to Mitigate Bird Flu Risks

USDA APHIS [announced](#) that it is imposing restrictions on the import of poultry from France based on APHIS's determination that France's vaccination of commercial meat ducks against Highly Pathogenic Avian Influenza (HPAI) creates a risk of introducing HPAI into the U.S. The U.S. prohibits the import of poultry from countries that are either affected by HPAI or that are vaccinating poultry flocks against HPAI. APHIS is also restricting the import of live ducks, duck eggs, and untreated duck products from the European Poultry Trade Region (excluding Great Britain), Iceland, Switzerland, Liechtenstein, and Norway.

USDA Confirms New Cases of Bird Flu in Commercial Poultry Flocks

USDA APHIS [updated](#) its online database of highly pathogenic avian influenza (HPAI) to reflect the most recent HPAI detections in commercial poultry. New confirmed cases include commercial turkey flocks in Jerauld County, South Dakota (47,300 birds), Sanpete County, Utah (141,800 birds), and Meeker County, Minnesota (186,000 birds), among others. The number of confirmed cases in October is significantly higher than in the preceding months of 2023. The uptick in cases may be [related](#) to fall bird migration patterns.

APHIS Announces Withdrawal of Final Horse Protection Act Rule in Conjunction with New Proposed Rule

USDA APHIS [announced](#) its withdrawal of a final Horse Protection Act (HPA) rule that would disallow third-party training to inspect for horse soring. APHIS filed the final rule for public inspection with the Office of the Federal Register on January 19, 2017, but withdrew it from publication on January 23, 2017, to comply with a [memorandum](#) from then-President Trump's Chief of Staff. In place of the final rule, the withdrawal of which will be effective November 30, 2023, APHIS [proposed](#) a new HPA rule on August 21, 2023. The proposed rule would require APHIS screening, training, and authorization of qualified inspectors at horse shows, exhibitions, sales, and auctions and is intended to protect horses from soring and to end unfair competition practices.

USDA Announces Regulatory Change to Allow Import of Fresh Beef from Paraguay

USDA APHIS announced a [final rule](#) that will allow the importation of fresh beef from Paraguay. The new rule will be effective December 14, 2023.

USDA FOOD SAFETY AND INSPECTION SERVICE (FSIS)

USDA FSIS announced [65 product recalls](#) in 2023. The U.S. Edition of the Brooks Animal Law Digest reported on 24 of these product recalls, which totaled to approximately 716,261 pounds of recalled meat and poultry products

Products	Source Animals	Company	Pounds Recalled	Reason	Affected Region	Shipping Point
Ready-to-eat sausage products	Pigs	Daniele International, LLC	69,255	Possible contamination, <i>Listeria monocytogenes</i>	Nationwide	Retail locations
Meat and poultry sfih as products	Cattle, chickens, pigs	WOW Frozen Food LLC	488	Inspection, no federal inspection	Nationwide	Florida retail locations, Instagram

Products	Source Animals	Company	Pounds Recalled	Reason	Affected Region	Shipping Point
Boneless beef chuck	Cattle	Elkhorn Valley Packing	3,436	Possible contamination, Shiga toxin-producing E. coli (STEC)	Connecticut, Illinois, Indiana, Maryland, Massachusetts, Michigan, New Jersey, New York, Pennsylvania	Distributors, federal buildings, hotels, institutions, restaurants, retail locations
Raw ground beef burger products	Cattle	Weinstein Wholesale Meats, Inc.	2,122	Possible contamination, pieces of white neoprene	Nationwide	Online distributor
Ready-to-eat halal meat and poultry sausage products	Cattle, chickens, lambs	Alef Sausage Inc.	61,574	Misbranding and possible temperature abuse, lack of refrigeration instructions on labels	New Jersey, New York, Pennsylvania,	Retail locations
Ready-to-eat pork rind products	Pigs	Mitten Gourmet, LLC	1,137	Inspection, no federal inspection	Nationwide	Retail locations
Raw, boneless pork products	Pigs	Eastern Meat Solutions, Inc.	40,763	Inspection, not presented for import reinspection	Nationwide	Retail locations
Frozen, raw lamb products	Lambs	E.N.A. Meat Packing Inc.	39,947	Inspection, not presented for import reinspection	Texas	Processing facility
Ready-to-eat pork rind product	Pigs	Distribuidora El Paisano Import, LLC	1,715	Country of origin, ineligible for exportation to U.S.	Connecticut, Massachusetts, New York, Rhode Island	Retail locations
Pork and beef bean stew products	Cattle, pigs	Panamerican Foods, LLC	4,978	Foreign establishment, ineligible for exportation to U.S.	Nationwide	Retail locations
Chicken corn dog products	Chickens	House of Raeford	76,961	Possible spoilage	Nationwide	Retail locations

Products	Source Animals	Company	Pounds Recalled	Reason	Affected Region	Shipping Point
Frozen, raw halal beef tripe, beef feet, and lamb tripe products	Cattle, lambs	E.N.A. Meat Packing Inc.	58,721	Inspection, no federal inspection	New Jersey, New York	Distributors, retail locations
Frozen, raw pork products	Pigs	Bellboy Import Corporation	551	Inspection, not presented for import reinspection	Minnesota	Restaurants, retail locations
Frozen chicken strips	Chickens	Conagra Brands, Inc.	245,366	Possible contamination, pieces of plastic	Nationwide	Retail locations, online sales
Meat and poultry smoked sausage products	Cattle, pigs, turkeys	Hillshire Brands Company	15,876	Possible contamination, bone fragments	California, Maryland, New Mexico, New York, North Carolina, Pennsylvania, Virginia	Retail locations
Frozen, raw pork products	Pigs	AJC International	17,428	Inspection, not presented for import reinspection	Hawaii, American Samoa, exported to Palau	Distributors
Pork chicharrón and pork carnitas products	Pigs	Empacadora Frape, USA LLC	20,455	Inspection, not presented for import reinspection	California	Retail locations
Pork chicharrones	Pigs	Del Valle Import and Export, LLC	1,271	Country of origin, ineligible for exportation to U.S.	Georgia, Louisiana, Mississippi, Texas	Distributors, retail locations
Frozen, ready-to-eat carne asada burrito products	Cattle	Don Miguel Foods	10,642	Possible contamination, <i>Listeria monocytogenes</i>	Nationwide	Retail convenience stores
Ready-to-eat beef and chicken meatball products	Cattle, poultry	Phu Huong Food Company	602	Possible contamination, <i>Listeria monocytogenes</i>	California	Retail locations

Products	Source Animals	Company	Pounds Recalled	Reason	Affected Region	Shipping Point
Pork chicharrones products	Pigs	East Coast Food Distributors, Inc.	7,767	Country of origin, ineligible for exportation to U.S.	Massachusetts, New Hampshire, Rhode Island	Restaurants, retail locations
Pork chicharrones products	Pigs	Capitology, LLC	4,679	Country of origin, ineligible for exportation to U.S.	Arkansas, Louisiana, North Carolina, South Carolina, Texas	Retail locations
Cooked, breaded, shaped chicken patty product	Chickens	Tyson Foods, Inc.	29,819	Possible contamination, pieces of metal	Alabama, California, Illinois, Kentucky, Michigan, Ohio, Tennessee, Virginia, Wisconsin	Distributors
Ready-to-eat beef and poultry products	Cattle, poultry	Pelleh Poultry Corp.	708	Possible contamination, <i>Listeria monocytogenes</i>	New Jersey, New York, Pennsylvania	Institutional and retail locations

USDA FSIS issued 24 public health alerts in 2023. The U.S. Edition of the Brooks Animal Law Digest reported on five of these public health alerts for meat, poultry, and catfish products, which were not recalled because the products were believed to no longer be available for purchase

Products	Source Animals	Company	Reason	Affected Region	Shipping Point
Cooked, frozen swai fried fish cutlet products	Catfish	A & S Produce Inc., d.b.a. Greenland Food Company	Inspection, no federal inspection	Nationwide	California retail locations, online sales
Ready-to-eat meat soup products	Clams, chickens, pigs	Ivar's Soup Company	Adulteration, possible spoilage, possible insanitary handling	Nationwide	Retail locations, exported to Mexico

Products	Source Animals	Company	Reason	Affected Region	Shipping Point
Raw beef product	Cattle	Cargill, Inc., Aldi, Inc.	Possible contamination, pieces of soft, clear plastic	Nationwide	Aldi retail locations
SPAM canned meat product	Pigs	Hormel Foods Corp. Services, LLC	Adulteration, under processing	Texas	H.E.B. retail locations
Ready-to-eat ham products	Pigs	JBS, Sunnyvalley Smoked Meats	Possible contamination, <i>Listeria monocytogenes</i>	California, Nevada	Retail locations

FSIS Proposes New Criteria for “Made in the USA” and “Product of USA” Meat Labeling

USDA FSIS [announced](#) a proposal to amend regulations defining the conditions under which the labeling of meat, poultry, and egg products, as well as voluntarily inspected products, may bear voluntary label claims indicating that the product is of United States origin. Under the proposed rule, two specific voluntary U.S.-origin label claims, “Made in the USA” and “Product of USA,” would be generically approved for use on FSIS-regulated products derived from animals “born, raised, slaughtered, and processed in the United States.” Under current regulations, meat, poultry, and egg products from animals born, raised, and slaughtered in countries such as Brazil still can carry U.S. country of origin labels if they merely are processed and packaged in the United States. It is unclear whether this new rule also would prevent U.S.-produced cultivated meat and poultry products from using “Made in the USA” and “Product of USA” labels in the future given that those meat products may not involve the birth or slaughter of an animal. FSIS is accepting public comments through May 12, 2023.

Perdue Farms Petitions USDA to Define “Free Range” and “Pasture Raised”

Perdue Farms, LLC has submitted a [petition for rulemaking](#) to USDA FSIS requesting that FSIS define separate “free range” and “pasture raised” claims for meat and poultry products. The petition also requests that FSIS update its guidance on claims related to living and raising conditions to ensure that the claims align with consumer expectations.

FSIS Seeks Public Comments on Proposed Revisions to Information Collection About State Meat Inspection Programs

USDA FSIS [announced](#) its intention to request revision of an approved information collection regarding State Meat and Poultry Inspection Programs. FSIS is proposing to add 164 burden hours to the collection due to the addition of new states. FSIS will accept public comments through June 13, 2023.

FSIS Announces Public Meeting on Federal Meat and Poultry Inspection Programs

USDA FSIS [announced](#) a virtual meeting of the National Advisory Committee on Meat and Poultry Inspection to advise the Secretary of Agriculture on State and Federal meat and poultry inspection programs, food safety, and other matters that fall within the scope of the Federal Meat Inspection Act and the Poultry Products Inspection Act. The committee will convene virtually on June 21–22, 2023, and will be open to public participation from 10:00 a.m. to 4:00 p.m. Eastern Time on both days.

FSIS Proposes Verification Procedures to Reduce Foodborne Illnesses Associated with Salmonella in Breaded Stuffed Chicken Products

USDA FSIS is [proposing](#) to declare that not-ready-to-eat breaded stuffed chicken products that contain *Salmonella* at levels of 1 colony forming unit per gram or higher are adulterated within the meaning of the Poultry Products Inspection Act. FSIS is also proposing to carry out verification procedures to ensure producing establishments more effectively control *Salmonella* in these products. FSIS will accept public comments on the proposed determination and verification procedures through June 27, 2023.

FSIS Seeks Public Comments on Proposed Guidance for Certain Small Meat and Poultry Establishments

USDA FSIS [announced](#) the availability of a guidance document for small and very small meat and poultry establishments manufacturing ready-to-eat, shelf-stable, fermented, salt-cured, and dried meat and poultry products that do not use cooking as the primary lethality step to kill bacteria. FSIS will accept public comments through July 5, 2023.

AWI Submits Petition for Rulemaking on Carbon Dioxide Stunning of Pigs at Slaughter

Animal Welfare Institute, Compassion in World Farming USA, World Animal Protection, the Humane Society of the United States, Humane Society Legislative Fund, and the Humane Society Veterinary Medical Association have submitted a [petition](#) to USDA FSIS, requesting that FSIS conduct rulemaking to require swine slaughter facilities that use carbon dioxide stunning to install video cameras inside their stunning areas (referred to as gondolas). According to the petition, “[s]uch a requirement is necessary to ensure that the interiors of the gondolas, and all of the pigs inside of the gondolas, can be examined and inspected during stunning or killing, so that FSIS inspectors are able to evaluate whether the animals are being slaughtered humanely, as required by law.”

FSIS Announces Availability of New Guidelines for the Control of Salmonella in Pork

USDA FSIS [announced](#) that it has updated its guidelines for pork producers on controlling *Salmonella* in swine from pre-harvest through slaughter. The guideline covers pre-harvest controls, slaughter control recommendations, and pork fabrication controls.

GOOD Meat and UPSIDE Foods Announce USDA Approval of Their Labels for “Cell-Cultivated Chicken”

Eat Just’s [GOOD Meat](#) and [UPSIDE Foods](#) each announced they received regulatory approval from USDA FSIS for their labels for “cell-cultivated chicken,” making them the first cultivated meat companies in the U.S. to secure such approvals. UPSIDE Foods was the [first company](#) to receive a [no-questions letter](#) from the U.S. Food and Drug Administration for its cultivated chicken, with GOOD Meat [following](#) four months behind, but GOOD Meat received the [first](#) USDA label approval. The companies still need to receive Grants of Inspection from USDA for their production facilities before they can produce and sell cultivated chicken to U.S. consumers.

UPSIDE Foods and GOOD Meat Receive Final Regulatory Approval to Sell Cultivated Meat to U.S. Consumers

USDA FSIS [announced](#) that it approved Grants of Inspection for the production facilities of UPSIDE Foods and Eat Just’s GOOD Meat on June 21, 2023. With this approval, UPSIDE Foods now may start commercial production and sales of its cultivated chicken, which it plans to launch at Michelin-star chef Dominique Crenn’s San Francisco restaurant, Bar Crenn.

GOOD Meat's cultivated chicken is scheduled to debut at one of Chef José Andrés' Washington, D.C. restaurants. This is a significant milestone in the development of an industry that has the potential to substantially reduce the use of animals in food production.

FSIS Publishes Policy Directive to Personnel About Cultivated Meat Facilities Inspections

USDA FSIS [published](#) a policy directive to FSIS inspection program personnel about their roles and responsibilities in facilities that harvest or process cultivated meat or poultry. The directive also provides guidance about requesting related records and information from the U.S. Food and Drug Administration.

FSIS Seeks Revision to Information Collection Relating to Meat and Poultry Establishments

USDA FSIS [announced](#) its intention to request a revision of the approved information collection for the accreditation of laboratories, transactions with official meat and poultry establishments, egg products processing plants, and other firms, and exemptions from requirements of the Federal Meat Inspection Act and the Poultry Products Inspection Act. FSIS will accept public comments on the proposed revisions through August 29, 2023.

FSIS Opens Public Comment Period on Salmonella Control Pilot Programs

USDA FSIS [announced](#) its plan to request a new information collection related to *Salmonella* control pilot programs. The pilot programs test strategies for controlling *Salmonella* contamination in poultry products. FSIS will accept public comments on the proposed information collection through December 18, 2023.

FSIS Denies National Chicken Council Petition to Use Surplus Broiler Eggs in Liquid Egg Products

USDA FSIS [denied](#) a petition for rulemaking submitted by the National Chicken Council (NCC) seeking the ability to use surplus eggs from broiler hens in liquid egg products. FSIS denied NCC's [petition](#) on the basis that the agency "must defer to FDA in requests regarding the use of shell eggs" and "in light of FDA's June 12, 2023, letter denying [NCC's] request because [it] would not maintain the same level of public health protection as FDA's egg safety rule."

FSIS Extends Increased Line Speed Trials at Swine Slaughterhouses

USDA FSIS [announced](#) a 90-day extension of time-limited trials allowing increased line speeds at six swine slaughter facilities. FSIS is extending the trials to enable continued data gathering for an FSIS-commissioned study about the impact of increased line speeds on worker safety.

FSIS Revises Directive Governing Adulterated or Misbranded Meat, Poultry, and Egg Products

USDA FSIS published [revisions](#) to its directive regarding adulterated or misbranded meat, poultry, and egg products “to include egg products as an FSIS-regulated commodity subject to voluntary recall.” The revision also “provide[s] instruction regarding large volume recalls and recalls of ingredients regulated by the Food and Drug Administration” and makes other definitional and clarifying revisions.

DEPARTMENT OF COMMERCE (DOC)

Cargill’s Pea Protein Manufacturer Petitions U.S. Trade Agencies to Impose Antidumping Duties on Chinese Pea Protein Imports

[PURIS Proteins, LLC](#) (Puris), a [Cargill-backed](#) plant protein manufacturer, [petitioned](#) DOC and the U.S. International Trade Commission to investigate Chinese pea protein imports and impose antidumping duties, alleging that foreign businesses are using unfair trade practices to corner the U.S. market. Puris argues that Chinese businesses, buoyed by government assistance, are selling their pea protein in the U.S. at unreasonably low prices to capture more of the domestic market and that Puris has had to begin layoffs as a “direct result of dumped and subsidized imports from China.” Puris argues that the U.S. plant protein industry “requires trade relief and the chance to compete on a more level playing field.”

President Biden Signs New Executive Order to Further Restrict Fish and Seafood Imports in Sanctions Against Russia

President Biden, expanding on sanctions against Russia and previous executive orders intended to curtail the import of seafood from Russia, signed a new [executive order](#) prohibiting imports of fish and seafood “that were mined, extracted, produced, or

manufactured wholly or in part in the Russian Federation, or harvested in waters under the jurisdiction of the Russian Federation or by Russia-flagged vessels, notwithstanding whether such products have been incorporated or substantially transformed into other products outside of the Russian Federation.” The order directs the Secretary of the Treasury, in consultation with the Secretary of State, the Secretary of Commerce, and the Secretary of Homeland Security, to determine the products it applies to. The new executive order amends [Executive Order 14068](#), the relevant portion of which was more limited and applied to fish and seafood “of Russian Federation origin.”

DEPARTMENT OF THE INTERIOR (DOI)

Secretary of the Interior Signs Public Land Order to Protect Wilderness from Mining

Secretary of the Interior Deb Haaland [signed Public Land Order 7917](#), which withdraws approximately 225,504 acres in the Superior National Forest in northeastern Minnesota from disposition under the United States mineral and geothermal leasing laws for a 20-year period. The order aims to curtail the potential impacts of mining on the area’s watershed, fish and wildlife, Tribal and treaty rights, and recreation economy.

DOI and USDA Seek Nominations for the Hunting and Wildlife Conservation Council

DOI and the U.S. Department of Agriculture (USDA) are [seeking](#) member nominations to the Hunting and Wildlife Conservation Council to fill one vacancy for a representative from a state fish and wildlife management agency. DOI and USDA are accepting nominations through April 24, 2023.

DOI Announces Cancellation of Oil and Gas Leases in Arctic National Wildlife Refuge

DOI [announced](#) that it has canceled oil and gas leases covering at least 365,000 acres in the Arctic National Wildlife Refuge (ANWR). The same announcement also detailed a proposed rule that would provide new protections, including limitations on development and oil and gas leasing, on more than 13 million acres in the National Petroleum Reserve in Alaska (NPR-A). According to DOI, that area of NPR-A is “globally significant intact habitat for wildlife, including grizzly and polar bears, caribou and hundreds of thousands of migratory birds.”

The lease cancellations and new protections are part of a broader plan to protect these areas and fulfill the Biden-Harris Administration's conservation and climate agenda. The Administration is accepting public comment on each action.

President Biden Sets December 31st Deadline for China to Combat Pangolin Trafficking or Face Trade Sanctions

President Biden [announced](#) his intent “to direct certain prohibitions on the importation of, and impose trade measures on, certain products from the [People’s Republic of China]” if the country does not make significant commitments by December 31, 2023, to implement measures to combat pangolin trafficking. The decision comes in response to the Secretary of the Interior’s recent [certification](#) under the Pelly Amendment to the Fishermen’s Protective Act of 1967 that China’s domestic market for pangolin products is diminishing the effectiveness of the Convention on the International Trade in Endangered Species of Wild Fauna and Flora.

DOI BUREAU OF LAND MANAGEMENT (BLM)

NMFS Authorizes BLM to Take Marine Mammals During Lighthouse Construction Project

The National Marine Fisheries Service [announced](#) it has issued an incidental harassment authorization (IHA) to DOI’s BLM for authorization to incidentally harass marine mammals during construction activities associated with a lighthouse stabilization project in Humboldt County, California. The IHA is effective from June 1, 2023, through October 1, 2023.

Conservation Groups Petition BLM to Ban the Use of “Cyanide Bombs” to Kill Coyotes and Wolves

The Center for Biological Diversity and Predator Defense led a coalition of groups that [petitioned](#) BLM to ban the use of M-44 devices, commonly known as “cyanide bombs,” on BLM-administered lands. BLM, the only agency within DOI that uses M-44 devices, uses them to target animals such as coyotes and wolves. The controversial devices have injured people and killed thousands of animals, including nontarget species, every year.

DEPARTMENT OF JUSTICE (DOJ)

Sanctuary Working with DOJ to Evaluate Animals at Shuttered Puerto Rico Zoo

The U.S. Attorney's Office for the District of Puerto Rico [announced](#) a coordinated effort with the U.S. Department of Agriculture and the U.S. Fish & Wildlife Service to inspect and evaluate animals at the shuttered Dr. Juan A. Rivero Zoo, which has a history of substandard care, neglect, and killing of animals that prompted the zoo's closure in 2017. The evaluations will be conducted by a team of veterinarians and specialists from The Wild Animal Sanctuary, a Global Federation of Animal Sanctuaries-accredited sanctuary with thousands of acres in Colorado and Texas, to help bring about a safe and humane resolution for the remaining animals at what was Puerto Rico's only zoo.

DOJ Announces Task Force to Investigate and Prosecute Crimes Against Environment and Wildlife in Puerto Rico and U.S. Virgin Islands

DOJ [announced](#) the launch of the Puerto Rico and U.S. Virgin Islands Environmental Crimes Task Force to investigate and prosecute violations of federal law harming the environment, wildlife, and human health, as well as associated fraud, waste, and abuse in the region. The creation of the Task Force comes a year after DOJ created an Office of Environmental Justice in its Environment and Natural Resources Division and is part of a larger strategy to engage federal agencies in the enforcement of civil and criminal environmental laws.

DEPARTMENT OF LABOR (DOL)

Department of Labor Fines Sanitation Company \$1.5 Million for Using Child Labor in Slaughterhouses

DOL [announced](#) that Packers Sanitation Services, Inc. (PSSI), one of the largest food safety sanitation service companies, has paid \$1.5 million in civil penalties for violations of the Fair Labor Standards Act in connection with its unlawful use of more than 100 children, some as young as 13 years of age, for graveyard shifts cleaning the "killing floors" and "meat and bone cutting saws" at slaughterhouses owned by JBS USA, Tyson Foods, Cargill, and others. The DOL, which obtained a [permanent injunction](#) against PSSI in December 2022, reports that multiple children were injured due to the hazardous conditions.

Labor Department Seeks to Strengthen Protections for Temporary Agricultural Workers

DOL published a [notice](#) of proposed rulemaking to strengthen protections for temporary agricultural workers and improve DOL's monitoring and enforcement capabilities. DOL will accept public comments on the proposed rule through November 14, 2023.

DOL Announces Civil Penalties for Minnesota Meat Processor that Violated Federal Child Labor Laws

Monogram Meat Snacks LLC has [paid](#) \$140,164 in civil penalties for violating federal child labor laws. DOL found that the company illegally employed at least 11 children at its Chandler, Minnesota meatpacking and food processing facility. Nine of the children operated hazardous machinery there. The company must also take steps to ensure labor law compliance in the future, including hiring a third-party auditor, and it may not ship in interstate commerce foods that were produced at the facility within 30 days of a child labor law violation. [Data](#) from DOL show that there has been an upward trend in illegal child employment in the United States since 2015.

DEPARTMENT OF TRANSPORTATION (DOT)

DOT Seeks Continued Collection of Forms that Help Reduce Safety Concerns Related to Service Animals Traveling on Commercial Aircraft

DOT [announced](#) it is seeking emergency clearance to extend an information collection request so "airlines may continue to collect service animal forms from passengers with disabilities." The forms, the "U.S. Department of Transportation Service Animal Air Transportation Form" and the "U.S. Department of Transportation Service Animal Relief Attestation Form," help ensure that service animals onboard aircraft will not present safety concerns for passengers or crew. DOT will accept public comments through December 27, 2023.

ENVIRONMENTAL PROTECTION AGENCY (EPA)

EPA Announces New Scope of WOTUS Definition Under the Clean Water Act

EPA and the Department of the Army [announced](#) they have finalized a rule defining the scope of “waters of the United States” protected under the Clean Water Act. The final rule aims to establish critical protections for the country’s vital water resources to support public health, environmental protection, agricultural activity, and economic growth. The rule, which becomes effective March 20, 2023, already is being [challenged](#) in court by the National Cattlemen’s Beef Association, the National Petroleum Institute, the National Pork Producers Council, the U.S. Poultry and Egg Association, the National Association of Realtors, and a dozen other industry groups claiming the rule is unconstitutional.

EPA Blocks Plan for Construction of a Mine in Alaskan Wilderness

EPA effectively [blocked](#) Pebble LP’s proposed copper-gold-molybdenum mine construction in Alaska, finding the project would cause unacceptable harm to salmon and other wildlife in the area. EPA used its power under the Clean Water Act to prohibit waste discharges into waters at the proposed Bristol Bay mine site and restrict discharges in a much larger area around the site, effectively rendering the project impossible.

EPA Seeks Public Input on Proposed Consent Decree in Clean Water Act Case

EPA [announced](#) a proposed consent decree that would settle litigation alleging the agency failed to perform duties mandated by the Clean Water Act to revise the effluent limitations guidelines and promulgate pretreatment standards for the Meat and Poultry Products industrial category. EPA is accepting public comments on the proposed consent decree through March 31, 2023.

EPA Biological Evaluation Shows that Sulfoxaflor Insecticide Is Putting Plants and Animals at Risk of Extinction

EPA [released](#) a final biological evaluation showing that a single chemical, the bee-killing insecticide sulfoxaflor, is likely putting 4% of all endangered or threatened plants and animals in jeopardy of extinction. In addition to the extinction risk it poses to more than five dozen

species, EPA found that sulfoxaflor is likely to harm another 462 endangered species, including 314 plants. Sulfoxaflor has previously drawn controversy because of its significant harm to bees.

EPA Will Issue Final Revised WOTUS Rule by September 1, 2023

EPA and the U.S. Department of the Army [announced](#) that they are developing a rule to amend the final “Revised Definition of ‘Waters of the United States’” to comply with the U.S. Supreme Court’s May 25, 2023, [ruling](#) in *Sackett v. Environmental Protection Agency* which significantly limited the agencies’ ability to regulate “waters of the United States” (WOTUS) under the Clean Water Act. The agencies anticipate issuance of a revised final rule by September 1, 2023.

EPA Orders Warning Labels for Seresto Flea and Tick Collars

EPA [ordered](#) warning labels be placed on Seresto flea and tick collars, which have been linked to tens of thousands of pet injuries, after the Center for Biological Diversity [petitioned](#) EPA in 2021 to revoke its approval of Seresto flea and tick collars under the Federal Insecticide, Fungicide, and Rodenticide Act. Following more than 100,000 [reports](#) of harm to pets—including nearly 2,700 deaths—EPA announced it will limit its current approval of Seresto collars to five years and require more robust reporting of harm incidents from the flea collar’s maker, Elanco.

EPA Seeks Public Comment on Proposed Modifications to NPDES General Permit for Idaho Factory Farms

EPA [announced](#) its proposal to modify the National Pollutant Discharge Elimination System general permit for concentrated animal feeding operations in Idaho. EPA proposes to modify the permit to establish monitoring conditions for the discharges of pollutants from production areas and land application areas to “waters of the United States.” EPA will accept public comments on the proposed permit modifications through September 1, 2023.

EPA Acknowledges “Inadequate Protections” for ESA-Listed Species and Seeks Public Comments on Draft Strategy to Protect ESA-Listed Wildlife from Pesticides

EPA [released](#) its draft [strategy](#) to protect more than 900 threatened and endangered species and their designated critical habitats from agricultural herbicides. EPA acknowledges in the draft strategy that its “Pesticide Program has been unable to keep pace with its [Endangered

Species Act] workload, resulting not only in inadequate protections for listed species but also successful litigation against the Agency that has increased in frequency in recent years.” While EPA’s [Memorandum to Open Docket for Comment](#) states that the Agency will be accepting public comments on the draft strategy through September 20, 2023, the docket (EPA-HQ-OPP-2023-03650) currently lists a comment submission deadline of September 22, 2023.

EPA Denies Petition for Rulemaking for CAFO Regulations, Announces Establishment of “Animal Agriculture Water Quality Subcommittee”

EPA [rejected](#) a [petition](#) for rulemaking from Earthjustice and over 50 other organizations. The petition requested that the EPA revise Clean Water Act (CWA) regulations to include a rebuttable presumption that Large Concentrated Animal Feeding Operations (CAFOs) with wet manure management systems discharge pollutants. Under such a presumption, CAFOs would need to obtain permits under the CWA unless they could show that they do not discharge pollutants. EPA responded that while the agency “shares [the petitioners’] deep concern for addressing sources of pollution to the nation’s waters, and . . . sources of harm to human health and the environment,” the requested action was “not meaningfully distinguishable” from previously vacated regulations. In its denial, EPA articulated its intent to comprehensively review its existing CAFO program to “determine how best to strengthen the CWA permitting program for CAFOs, including as it applies to Large CAFOs using wet manure management systems.” EPA also announced the establishment of an “Animal Agriculture and Water Quality” subcommittee within the existing Farm, Ranch, and Rural Communities Federal Advisory Committee.

EPA and Army Corps of Engineers Announce Final WOTUS Revisions to Comply with SCOTUS Decision

EPA and the Army Corps of Engineers announced [revisions](#) to the final rule interpreting “waters of the United States” (WOTUS) under the Clean Water Act (CWA) to comply with the U.S. Supreme Court’s May 25, 2023, [ruling](#) in *Sackett v. EPA*, which significantly limited the agencies’ ability to regulate WOTUS. Under the new rule, wetlands are only considered to be WOTUS, or jurisdictional, if they are adjacent to specific types of bodies of water. For wetlands adjacent to certain “relatively permanent, standing or continuously flowing bodies of water,” the wetlands must have “a continuous surface connection” to those water bodies to qualify. Under *Sackett* and the new rule, many wetlands now are exempt from CWA protections.

EPA Seeks Public Comments on Framework to Improve Assessments of Pesticide Threats to Human and Animal Health

EPA is [soliciting](#) public comments on the development of a framework to improve assessments of potential risks to human and animal health from pesticides that could contribute to antimicrobial resistance (AMR). As noted in the solicitation, AMR jeopardizes the efficacy of medically important antibacterial and antifungal drugs. EPA will accept public comments on the proposed framework through November 13, 2023.

EPA Issues Supplemental Notice of Proposed Rulemaking to Reduce the Introduction of Invasive Species through Marine Vessel Discharges

EPA [announced](#) that it has issued a [supplemental notice](#) of proposed rulemaking aimed at reducing the spread of invasive aquatic species in marine ecosystems through discharges from large marine vessels. As described in the announcement, the supplemental notice provides “new ballast water information from the U.S. Coast Guard and additional regulatory options EPA is considering for the final rule for ballast tanks, hulls and associated niche areas, and graywater systems.” Public comments on the information provided in the supplemental notice will be accepted through December 18, 2023.

EPA Grants PFR Seeking Regulation of Tire Chemical Linked to Lethal Effects on Salmon and Trout in the Pacific Northwest

EPA [granted](#) a [petition for rulemaking](#) (PFR) submitted by Earthjustice on behalf of the Yurok Tribe, the Port Gamble S’Klallam Tribe, and the Puyallup Tribe of Indians. Petitioners assert that 6PPD, a chemical used in tires, is responsible for decimating salmon and steelhead trout populations in the Pacific Northwest. EPA will begin gathering more information on 6PPD and will issue an advance notice of proposed rulemaking under Section 6 of the Toxic Substances Control Act.

EPA Considers Reinstating Reporting of Animal Waste Air Emissions at Farms

EPA [announced](#) a solicitation for information and comments in connection with “the potential development of regulations to reinstate the reporting of animal waste air emissions at farms under the Emergency Planning and Community Right-to-Know Act.” The agency is requesting comments related to health impacts, implementation challenges, costs and benefits, the

definition of “small farm” and potential reporting exemptions, and national animal waste air emissions reporting. EPA will accept public input through February 15, 2024.

EPA Opens Public Comment Period on Draft Biological Evaluation Finding Rodenticides are Likely to Adversely Affect Endangered Species

EPA [published](#) a draft biological [evaluation](#) of the effects of 11 rodenticides on species federally listed under the Endangered Species Act, finding that the rodenticides are “likely to adversely affect” up to 136 listed species and 38 critical habitats. The draft biological evaluation outlines mitigation strategies, which differ in part from the mitigations EPA previously proposed in its [rodenticide safety review](#). EPA will [accept](#) public comments through January 29, 2024.

EPA Proposes CWA Rule to Reduce Wastewater Pollution by Meat and Poultry Production Facilities

EPA [announced](#) a proposed [rule](#) to revise wastewater discharge standards for meat and poultry product processing facilities. The Clean Water Act (CWA) requires EPA to revise wastewater treatment limits for industry as available technologies evolve. The updated technology-based pollution limits proposed in the regulation could reduce the amount of nitrogen, phosphorus, and other pollutants that meat and poultry processors discharge to the nation's waters by approximately 100 million pounds of pollutants per year. EPA will hold [two public hearings](#) on the proposed rule in January 2024 and will accept public comments when the proposal is published in the Federal Register.

FEDERAL TRADE COMMISSION (FTC)

Advocacy Group Urges FTC to Investigate Egg Industry for Alleged Price Gouging and Antitrust Violations

Farm Action sent a [letter](#) to the FTC, urging the agency to open an investigation into alleged price gouging and collusion in the egg industry.

FTC is Accepting Public Comments on Horseracing Integrity and Safety Rule

The FTC [announced](#) that the Horseracing Integrity and Safety Authority filed a proposed Anti-Doping and Medication Control rule with the FTC. The FTC will accept public comments on the proposed rule through February 9, 2023. The rule must be approved or disapproved by March 27, 2023.

FTC Seeks to Add Iron Dextran to Equine Anti-Doping List of Banned Substances

The FTC [announced](#) a proposed rule modification related to the equine Anti-Doping and Medication Control Program of the Horseracing Integrity and Safety Authority to prohibit the use of iron dextran. Iron dextran has been [associated](#) with [sudden death](#) in horses. The FTC will accept public comments on the proposed rule modification through October 10, 2023.

FISH AND WILDLIFE SERVICE (FWS)

FWS Adjusts ESA, Lacey Act, and Other Civil Penalties for Inflation

FWS [announced](#) the issuance of a final rule to adjust for inflation the statutory civil monetary penalties that may be assessed for violations of the Endangered Species Act (ESA), the Lacey Act, and other FWS-administered statutes and their implementing regulations. The new rule and adjusted civil penalties become effective January 30, 2023.

FWS Opens Public Comment Period on Migratory Game Bird Hunting Regulations

FWS is [proposing](#) to establish 2023-24 hunting regulations for certain migratory game birds, including provisions for season lengths, shooting hours, bag and possession limits, and areas where migratory game bird hunting may occur. FWS will accept public comments on potential regulations through March 1, 2023.

FWS Seeks Public Comments on Walrus and Sea Otter Reports

FWS [announced](#) that it developed draft revised marine mammal stock assessment reports for the Pacific walrus and for each of the three northern sea otter stocks in Alaska. FWS will accept public comments on the reports through May 8, 2023.

FWS Announces Controversial Changes to ESA Permitting Processes

FWS is [proposing](#) to revise permitting processes under Section 10 of the Endangered Species Act to help landowners, oil and gas companies, and developers who want to manage their lands and undertake development activities while also implementing conservation efforts. Conservation groups [criticize](#) the proposed changes for failing to implement sufficient monitoring or accountability. FWS will accept public comments through April 10, 2023.

FWS is Soliciting Public Input on CITES Master’s Course Information Collection

FWS is [soliciting](#) public input on a proposed information collection relating to its sponsored scholars at the International University of Andalucía’s master’s degree program entitled “The Management and Conservation of Species in Trade: The International Framework” (also known as the “CITES Master’s Course”). The program aims to help conservation professionals gain the technical expertise to combat wildlife trafficking. FWS is accepting public comments on its information collection through April 17, 2023.

FWS Considering Request from BP for MMPA Authorization to Harass Polar Bears

FWS is [considering](#) a request from British Petroleum America Production Company for the authorized incidental take by harassment of multiple Southern Beaufort Sea polar bears between issuance and December 14, 2023, during the closure, remediation, and rehabilitation of Foggy Island Bay State No. 1 gravel pad in Prudhoe Bay, Alaska. The abandoned pad contains contaminated materials and foam insulation surrounding an exploratory well. FWS will accept comments on the proposed authorization through March 17, 2023.

Forest Service and FWS Seek Public Input on Subsistence Hunting and Trapping Seasons in Alaska

The U.S. Forest Service and FWS [announced](#) a proposed rule under the Alaska National Interest Lands Conservation Act that would establish regulations for hunting and trapping seasons, harvest limits, and methods related to the taking of wildlife for subsistence uses during the 2024–25 and 2025–26 regulatory years. The agencies will accept public comments through April 4, 2023, and will hold a series of public hearings between September 19 and November 1, 2023.

FWS Announces Withdrawal of Rule that Would Have Allowed Hunting of Brown Bears at Bait Stations on Kenai National Wildlife Refuge

FWS [announced](#) withdrawal of a proposed rule to amend refuge-specific regulations for Kenai National Wildlife Refuge that would have allowed the killing of brown bears at bait stations and trapping without a federal permit.

FWS Proposes Rule Changes Relating to Migratory Bird Hunting Seasons on Tribal Land

FWS is [proposing](#) a revised process for establishing special regulations for certain Tribes on Federal Indian reservations, off-reservation trust lands, and ceded lands for migratory bird hunting seasons. The proposal includes elimination of the current requirement that Tribes submit annual proposals to FWS for review and approval. FWS will accept public comments on the proposed rule change through May 8, 2023.

FWS Announces Revised Marine Mammal Stock Assessment Reports for West Indian Manatees

FWS [announced](#) the availability of revised marine mammal stock assessment reports for two West Indian manatee stocks: the Florida manatee stock and the Puerto Rico stock of the Antillean manatee.

FWS Publishes Big Cat Public Safety Act Registration Form that Private Owners Must Submit by June 18th

FWS [reminded](#) big cat owners of their upcoming June 18, 2023, deadline under the Big Cat Public Safety Act (BCPSA) to register big cats or face confiscation of privately-owned animals. The FWS press release includes the newly developed BCPSA [registration form](#).

FWS Authorizes Incidental Take of Sea Otters in the Gulf of Alaska

FWS announced final incidental take regulations to facilitate authorization of the nonlethal, incidental, and unintentional take by harassment of small numbers of northern sea otters during marine construction and pile driving in the Gulf of Alaska coastal waters. The rule is effective from May 19, 2023, through May 19, 2028.

FWS Findings Mean Potential Trade Sanctions Against Mexico

FWS [announced](#) that Mexico has failed to uphold its obligations under international law by taking no meaningful action to halt the illegal wildlife trade threatening the critically endangered vaquita porpoise, thereby diminishing the effectiveness of the Convention on the International Trade in Endangered Species of Wild Fauna and Flora. Under U.S. law, President Biden must now decide by mid-July whether to take action, such as a trade embargo, against Mexico.

FWS Seeks Comments on ANPR for Exhibition of Migratory Birds and Eagles

FWS [published](#) an advance notice of proposed rulemaking (ANPR) to develop rules for the exhibition of migratory birds and eagles. FWS will accept public comments on the ANPR through July 3, 2023.

FWS Proposes New Regulations for Possession of Migratory Birds and Eagles

FWS [published](#) its intent to revise current regulatory authorizations and add new regulatory authorizations for the possession of migratory birds and eagles. FWS will accept public comments through July 31, 2023.

FWS Announces \$24 Million in Conservation Grants for 390 Species of Migratory Birds

FWS [announced](#) the approval of more than \$24 million in [Neotropical Migratory Bird Conservation Act](#) (Act) funding for conservation projects to benefit migratory birds throughout the Americas. The Act is the only source of federal funding dedicated exclusively to the conservation of the 390 species of migratory birds throughout the Americas, with priority given to the most imperiled species on FWS's 2021 [Birds of Conservation Concern report](#).

FWS Opens Public Comment Period on Application to Take Northern Sea Otters During Marine Construction Project in Alaska

FWS [announced](#) its proposal to authorize nonlethal, incidental take by harassment of small numbers of the Southcentral Alaska stock of northern sea otters by Turnagain Marine Construction during pile driving and marine construction activities on the western shore of Passage Canal in Whittier, Alaska. FWS will accept public comments on the proposed authorization through July 10, 2023.

FWS Announces Upcoming Open Houses on Potential Sea Otter Recovery in California and Oregon

FWS [announced](#) 16 upcoming open houses with communities in Northern California and Oregon to gather input on the potential reintroduction of sea otters into their historical range. The open houses will occur throughout the month of June to provide communities and stakeholders with opportunities to speak with FWS about sea otter recovery efforts, ask questions, and provide input.

FWS Opens Public Comment Period on Interim Big Cat Public Safety Act Regulations

FWS [announced](#) interim Big Cat Public Safety Act regulations, which are effective as of June 12, 2023. Private owners who wish to continue their possession of species of big cats covered by the legacy exemption must register their animals no later than June 18, 2023, or the cats will be subject to agency confiscation and rehoming. FWS will accept public comments on the interim rules through August 11, 2023.

FWS Proposes to Keep Some Trump-Era ESA Rollbacks While Restoring Other ESA Protections

FWS [announced](#) its proposal to revise Trump-era Endangered Species Act (ESA) regulations that severely weakened protections for imperiled animals and plants but kept in place some of the most significant ESA rollbacks in the law's 50-year history. The proposed revisions would restore protections for threatened species by reinstating the general application of the "blanket rule" option for protecting newly listed threatened species pursuant to section 4(d) of the ESA and include a provision that would prohibit consideration of economic impacts when deciding to protect species. It also would remove barriers to designate critical habitat for climate-impacted species and to designate unoccupied areas as critical habitat. Among the harmful, Trump-era provisions that the proposal would maintain is a requirement that federal actions affect species' critical habitat "as a whole" before real habitat protections are established. FWS will accept public comments through August 21, 2023.

FWS and NMFS Propose to Revise ESA Regulations to Improve Interagency Cooperation

FWS and the National Marine Fisheries Service (NMFS) [announced](#) their intention to amend portions of the Endangered Species Act regulations to further clarify and improve the

interagency consultation processes while continuing to provide for the conservation of listed species. FWS and NMFS will accept comments through August 21, 2023.

FWS and NMFS Propose ESA Regulatory Updates Relating to Listing Criteria and Implementation

FWS and the National Marine Fisheries Service (NMFS) [announced](#) their intent to revise portions of the Endangered Species Act regulations to clarify, interpret, and implement portions of the Act concerning the procedures and criteria used for listing, reclassifying, and delisting species on the Lists of Endangered and Threatened Wildlife and Plants and designating critical habitat. FWS and NMFS will accept public comments on the proposed regulatory changes through August 21, 2023.

FWS Proposes to Expand Hunting Opportunities on Three National Wildlife Refuges

FWS [announced](#) its proposal to expand hunting opportunities on three National Wildlife Refuges and to make changes to existing station-specific regulations to reduce the regulatory burden on the public and to increase access for hunters and anglers on FWS lands and waters. FWS will accept public comments on the proposals through August 22, 2023.

FWS Opens Public Comment Period on Proposed Migratory Bird Treaty Act Information Collection

FWS published [notice](#) of an information collection relating to the taking of migratory birds for subsistence uses in Alaska. FWS will accept public comments on the proposed information collection through August 25, 2023.

FWS Announces ESA Regulatory Change that Will Allow Introduction of Experimental Populations Outside Species' Historical Range

FWS [announced](#) revisions to the regulations concerning experimental populations of endangered and threatened species under the Endangered Species Act (ESA). The revised regulations remove previous language restricting the introduction of experimental populations to only the species' "historical range" to allow for the introduction of populations into habitat outside of their historical range for conservation purposes. The new rule is effective August 2, 2023.

FWS Offering Cash Reward in Connection with Illegal Take of Piping Plover Eggs in New York

FWS [announced](#) that it is offering up to \$5,000 as a reward for information leading to the conviction of the person or persons responsible for the vandalism of two piping plover nests and the theft of eggs from those nests in Far Rockaway, New York. According to FWS, two nest enclosures were intentionally damaged and two eggs were stolen from each of the nests between June 9 and June 10, 2023. As the FWS notes, the piping plover is listed as a threatened species under the Endangered Species Act (ESA). Under the ESA, maximum penalties for the illegal take of each egg or bird are \$25,000 and imprisonment of up to six months.

FWS Announces \$5.1 Million Investment in ESA Recovery Efforts for Pollinators, Freshwater Mussels, and Southwest Desert Fish

FWS [announced](#) a \$5.1 million funding allocation for recovery efforts related to imperiled members of four species groups: Hawaiian and Pacific Island plants, butterflies and moths, freshwater mussels, and southwest desert fish. The allocation is the first announced from the \$62.5 million implementation fund, which is part of a \$125 million endangered species recovery fund provided through the Inflation Reduction Act. The implementation fund will support recovery for 36 projects that benefit more than 580 species listed under the Endangered Species Act.

FWS Opens Public Comment Period on Updates to Bison and Elk Management Plan in the National Elk Refuge

FWS published [notice](#) of its intent to prepare an updated Bison and Elk Management Plan and environmental impact statement for the National Elk Refuge. FWS will accept public comments on the proposed actions through August 31, 2023.

FWS Offers Reward for Help Investigating the Killing of an ESA-Protected Red Wolf in North Carolina

FWS is [offering](#) a \$5,000 reward for information leading to the successful prosecution of the individual(s) responsible for killing a federally protected red wolf in Washington County, North Carolina. The wolf was discovered dead—fatally shot in the torso—on May 18, 2023.

FWS Announces Revised Stock Reports for Pacific Walrus and Certain Northern Sea Otters

FWS [announced](#) the public availability of revised marine mammal stock assessment reports for the Pacific walrus and for each of the three northern sea otter stocks in Alaska.

FWS Will No Longer Require Tribes to Seek Annual Approval for MBTA Hunting and Management Proposals

FWS [announced](#) that it will no longer require that Tribes submit annual hunting and management proposals to FWS for review and approval under the Migratory Bird Treaty Act. The final rule, effective September 1, 2023, includes elements of the agency's current guidelines for establishing migratory game bird hunting regulations on Federal Indian reservations and certain other lands.

FWS Seeks Public Comments on Information Collection Relating to CITES Master's Course Scholarship Program

FWS [opened](#) a public comment period on a proposed information collection relating to the scholarships it awards for a master's degree program entitled "The Management and Conservation of Species in Trade: The International Framework" (the "CITES Master's Course") at the International University of Andalucía. The program aims to prepare wildlife professionals to assist their countries in combatting wildlife trafficking. FWS will accept public comments on the proposed information collection through October 25, 2023.

FWS Opens Public Comment Period on Wild Bird Conservation Act Permit Application

FWS [announced](#) its receipt of a Wild Bird Conservation Act permit application for the re-issuance of a cooperative breeding program permit covering cardinal lory, blue-crowned lorikeet, and collared lory. FWS will accept public comments on the application through October 26, 2023.

FWS Urged to Enforce Migratory Bird Treaty Act to Protect Migrating Birds from Chicago Building

The Center for Biological Diversity (CBD) is [urging](#) FWS to enforce the Migratory Bird Treaty Act (MBTA) after around 1,000 migrating songbirds died at McCormick Place, a Chicago convention center. According to CBD, McCormick Place was holding an event on the evening

of October 4, 2023, and was not adhering to a migration season lights-out policy that it signed onto. CBD states that the songbirds were killed as a result of the lights being on, which it says caused the migrating birds to collide with the windows of McCormick Place. The organization also notes that FWS has not yet proposed the MBTA rules that the agency [published](#) advance notice of on October 4, 2021. CBD asserts that FWS's delay is hindering enforcement and contributed to the mass bird death event at McCormick Place.

FWS and AZA Announce Wildlife Confiscations Network Pilot Program to Streamline Placement of Animals Confiscated from Wildlife Trafficking

FWS [announced](#) a pilot program with the Association of Zoos and Aquariums to streamline care and rehoming for animals that are confiscated from the illegal animal trade in southern California, with the goal of scaling the program throughout the United States. Under the pilot program, dubbed the Wildlife Confiscations Network, law enforcement officers will be able to call a coordinator who will make placement referrals from a list of “fully vetted and permitted professional animal care facilities in the region.”

FWS Seeks Public Input on Wild Bird Conservation Act Permit Applications

FWS [opened](#) a public comment period on two Wild Bird Conservation Act permit applications to establish or reissue Cooperative Breeding Programs. FWS will accept comments through December 18, 2023.

FWS Announces Upcoming Aquatic Nuisance Species Task Force Meeting

FWS [announced](#) a public meeting of the Aquatic Nuisance Species Task Force from January 24–25, 2024. Members of the public may participate virtually or in person at the U.S. Geological Survey National Center in Reston, Virginia. The deadline to register to attend is January 18, 2024.

FWS Offering Reward for Information About the Illegal Killing of an Endangered Species Act-Protected Wolf in Oregon

FWS is [offering](#) a \$5,000 reward for information leading to the arrest of whoever is responsible for the killing of a federally protected male gray wolf known as OR 125 in southwest Oregon. FWS is being assisted by the Oregon State Police in its investigation.

FWS ENDANGERED SPECIES ACT (ESA) LISTING, HABITAT DESIGNATION, AND REINTRODUCTION ACTIONS

The U.S. Edition of the Brooks Animal Law Digest reported on the following actions taken by FWS regarding species listed, or under consideration for listing, under the Endangered Species Act (ESA). A full table of FWS's ESA listing actions tracked by the Digest in 2023 is included in the [Appendix](#).

Summary of FWS Final ESA Listing Rules Tracked in 2023

- FWS listed as endangered the [Sacramento Mountains checkerspot butterfly](#), the [bog buck moth](#), the [black-capped petrel](#), and the South Sierra and South Coast distinct population segments (DPSs) of the [foothill yellow-legged frog](#).
- FWS's rule listing the [lesser prairie-chicken \(Southern DPS\)](#) as endangered went into effect after a delay on March 27, 2023.
- FWS uplisted one species—the [northern long-eared bat](#)—from threatened to endangered status.
- FWS downlisted two species—the [relict darter](#) (a freshwater fish) and [Fender's blue butterfly](#)—from endangered to threatened status and published ESA 4(d) rules for both species.
- FWS listed as threatened 12 species and DPSs, including two amphibian DPSs, one bird species, one bird DPS, two crustacean species, one fish DPS, one mammal DPS, and four mollusk species.
- FWS affirmed the threatened listing status of the [scarlet macaw, southern subspecies \(Northern DPS\)](#).
- FWS designated critical habitat for the [pearl darter](#) (a freshwater fish) and the [Miami tiger beetle](#).
- Following a [court order](#), FWS [restored](#) ESA protections for gray wolves in all areas where the species was listed prior to a November 3, 2020, [rule](#) removing the gray wolf from the List of Endangered and Threatened Wildlife.

- FWS delisted 23 species, 21 of which were delisted as believed extinct and two of which were delisted due to species recovery.

Summary of FWS ESA Listing Actions Proposed and Tracked in 2023

- FWS proposed listing 16 species and DPSs as endangered, including two amphibian species, two bird species, one bird DPS, three insect species, one mammal species, six mollusk species, and one reptile species.
- FWS proposed listing 11 species and DPSs as threatened, including one amphibian species, two amphibian DPSs, one bird DPS, one crustacean species, three fish species, and three reptile species, and it proposed ESA 4(d) rules for each.
- FWS proposed designating critical habitat for the [sickle darter](#) (a freshwater fish).
- FWS proposed delisting the [wood stork \(Southeast U.S. DPS\)](#) due to species recovery.
- FWS reopened comments on delisting the [Puerto Rican boa](#) due to species recovery.

Summary of FWS 90-Day and 12-Month ESA Findings Published and Tracked in 2023

- FWS issued 12-month findings that listing was not warranted for 30 species.
- FWS issued a 12-month finding that delisting was not warranted for one species, the [southern sea otter](#).
- FWS issued 90-day findings that delisting may be warranted for the Northern Continental Divide Ecosystem DPS and the Greater Yellowstone Ecosystem DPS of the [grizzly bear](#).
- FWS issued 90-day findings that listing may be warranted for one fish, one insect, and one mammal species.
- FWS issued 90-day findings that uplisting the [West Indian manatee](#) and its Antillean manatee and Florida manatee subspecies from threatened to endangered may be warranted, as may be designating and uplisting the Puerto Rico DPS of the Antillean Manatee subspecies.

Summary of FWS Five-Year ESA Status Reviews Initiated for 115 Animal Species and Tracked in 2023

Date Published	Reviews Initiated	Date Published	Reviews Initiated
January 11, 2023	20 species	March 13, 2023	12 species
January 13, 2023	3 species	March 23, 2023	28 species
March 6, 2023	1 species	May 11, 2023	36 species
March 13, 2023	1 species	August 17, 2023	14 species

FWS Plans to Reintroduce Bird Extinct in the Wild for 30 Years

FWS [announced](#) that it is introducing the Guam kingfisher on Palmyra Atoll as an experimental population under the ESA. The rare bird has been extinct in the wild for more than three decades and currently exists only in captivity.

FWS Announces Availability of Final EIS for Experimental Population of Gray Wolves in Colorado

FWS [announced](#) the availability of a final environmental impact statement and draft record of decision under the National Environmental Policy Act for FWS's intended action of establishing a nonessential experimental population of gray wolves in Colorado under the ESA.

FWS Announces Proposal to Support Recovery and Reintroduction of Grizzly Bears in Washington State

FWS [announced](#) a proposal to establish a nonessential experimental population of grizzly bears in the portion of the North Cascades Ecosystem located in the State of Washington. Through the proposal, FWS seeks to support the reintroduction and recovery of grizzly bears in the area under the ESA. FWS will accept public comments on the proposal through November 13, 2023.

Conservation Groups Petition FWS for ESA Protection of Black-Throated Green Warblers

The Center for Biological Diversity, Dogwood Alliance, North Carolina Coastal Federation, Coastal Plain Conservation Group, Waccamaw Audubon Society, and the Cape Fear Chapter of the National Audubon Society filed a [petition](#) with FWS seeking ESA protection for the coastal (Wayne's) black-throated green warbler. According to petitioners, there may be fewer than 1,000 of the imperiled birds remaining in their native wetland forests in the Carolinas and Virginia.

FWS Finalizes ESA Rule Establishing Nonessential Experimental Population of Gray Wolves in Colorado

FWS [finalized](#) an ESA rule establishing a nonessential experimental population of gray wolves in Colorado in response to a request by Colorado and in conjunction with the state's gray wolf reintroduction efforts. The rule is effective December 8, 2023.

FWS ESA RECOVERY AND ENHANCEMENT OF SURVIVAL PERMIT ACTIONS

FWS Considering Multiple ESA Recovery Permit Applications

FWS announced receipt of multiple ([one](#), [two](#), and [three](#)) ESA recovery permit applications for protected species of insects, fish, reptiles, birds, amphibians, and mammals. FWS will accept public comments on the applications through April 24, 2023.

FWS Opens Public Comment Period on Multiple ESA Recovery Permit Applications

FWS published [notice](#) of its receipt of 19 applications for the recovery of multiple species of protected wildlife. FWS will accept public comments on the applications through July 3, 2023.

FWS Opens Public Comment Period on ESA Recovery Permit Application for Rare Butterfly

FWS published [notice](#) of its receipt of an ESA recovery permit application for activities intended to enhance the propagation and survival of endangered Mariana eight-spot butterflies. FWS will accept public comments on the application through July 13, 2023.

FWS Announces Public Comment Period on Multiple ESA Recovery Permit Applications

FWS published [notice](#) of its receipt of ESA recovery permit applications for activities intended to enhance the propagation and survival of endangered lesser prairie chickens, Indiana bats, Northern long-eared bats, and Southwest willow flycatchers. FWS will accept public comments on the application through July 14, 2023.

FWS Opens Public Comment Period on Multiple ESA Recovery Permit Applications

FWS published [notice](#) that it has received multiple applications for permits to conduct activities intended to enhance the propagation or survival of endangered bats, birds, flying squirrels, and aquatic animals under the ESA. FWS will accept public comments on the recovery permit applications through August 9, 2023.

FWS Seeks Public Input on Multiple ESA Recovery Permit Applications

FWS [announced](#) its receipt of multiple applications for permits to conduct activities intended to enhance the propagation or survival of ESA-protected species, including insects, birds, reptiles, fish, amphibians, and mammals. FWS will accept public comments on the proposed permits through September 8, 2023.

FWS Opens Public Comment Period on Multiple ESA Recovery Permit Applications

FWS announced its receipt of two sets of applications for ESA permits to conduct activities intended to enhance the propagation or survival of endangered and threatened species. [One set of applications](#) announced regards the rusty patched bumble bee and bat and mussel species. [The other set of applications](#) concerns species of bats, turtles, birds, and fish. FWS will accept public comments on both sets of applications through September 27, 2023.

Texas Foundation Seeks ESA Permit for Ocelot Reintroduction Project

FWS [announced](#) its receipt of an ESA enhancement of survival permit application. The applicant, East Foundation, one of the [largest](#) ranch holdings in Texas, seeks to reintroduce ocelots and conduct related monitoring, habitat management, and research activities in South Texas. FWS is accepting public comments on the application through October 16, 2023.

FWS Considers ESA Permit Applications for the Recovery of a Variety of Species

FWS [opened](#) a public comment period on ESA permit applications to conduct activities intended to recover and enhance the survival of a variety of animals including bird, amphibian, reptile, fish, and insect species. FWS will accept public comments through October 25, 2023.

FWS's Colorado Field Office Seeking ESA Recovery Permit for Gray Wolves and Mexican Wolves

FWS's Colorado Field Office in Lakewood, Colorado has [applied](#) for an ESA permit to capture, handle, tag, relocate, and perform other recovery and enhancement-related activities with gray wolves and Mexican wolves. FWS will accept public comments on the application through October 26, 2023.

FWS Opens Public Comment Period on ESA Recovery Permit Applications

FWS [announced](#) its consideration of multiple ESA recovery permit applications for protected species that include mussels, crustaceans, fish, bees, and bats. FWS will accept comments from the public on the applications through November 20, 2023.

FWS Opens Public Comment Period on ESA Recovery Permit Applications

FWS published [notice](#) that it has received two ESA permit applications for activities meant to further the recovery of Taylor's checkerspot butterflies. FWS will accept public comments on the permit applications through January 8, 2024.

FWS ESA INCIDENTAL TAKE PERMIT (ITP) ACTIONS

FWS Opens Public Comment Period on Permit That Would Allow Incidental Take of ESA-Protected California Tiger Salamander

FWS [announced](#) its receipt of an application for an ITP under the ESA that would authorize the take of the Santa Barbara County distinct population segment of the California tiger salamander incidental to activities associated with Golden State Water Company's Kelt Reservoir Project in Santa Barbara County, California. FWS will accept public comments on the ITP application through February 9, 2023.

FWS Opens Public Comment Period on ESA Incidental Take Permit Application

FWS published [notice](#) of an application it received from Consumers Energy Company for an ITP under the ESA that would authorize the incidental take of the endangered Indiana bat and the endangered northern long-eared bat in connection with a wind energy project. FWS will accept public comments through February 27, 2023.

FWS Considers ESA Permit Application that Would Allow Incidental Takes of California Condors

FWS [announced](#) that it has received an application for an ITP under the ESA that would authorize takes of the federally endangered California condor incidental to wind energy projects. FWS will accept comments through March 24, 2023.

FWS Seeks Public Comments on Incidental Take Permit Application

FWS [announced](#) receipt of an application from Sampath Srikanth for an ITP under the ESA. The applicant requests the ITP to take the federally listed Alabama beach mouse incidental to construction on Fort Morgan Peninsula, Baldwin County, Alabama. FWS is accepting public comments on the ITP through May 8, 2023.

FWS Opens Public Comment Period on Permit Application for Incidental Take of the Florida Scrub-Jay in Connection with Florida Commercial Development

FWS [announced](#) receipt of an application from Remington Stewart, LLP for an ITP under the ESA. The applicant requests the ITP to take the federally threatened Florida scrub-jay incidental to the construction and operation of a commercial development in Indian River County, Florida. FWS is accepting public comments through May 15, 2023.

Conoco Philips Seeks ESA Permit to Take Protected Frogs and Salamanders Incidental to Soil Remediation Project

FWS [announced](#) its receipt of an application from Conoco Philips for an ITP, pursuant to the ESA, that would authorize take of the California red-legged frog and the Santa Barbara County distinct population segment of the California tiger salamander incidental to excavation and remediation of soils contaminated with hydrocarbons at the historical Cox 3-32 oil well sump and oilfield lease access road. FWS will accept public comments on the proposed ITP through July 10, 2023.

Property Developer Seeks ESA Permit to Take Sand Skinks Incidental to Residential Property Development in Florida

FWS [announced](#) receipt of an application from Park Square Commercial for an ITP under the ESA. The applicant requests the ITP to take the federally listed sand skink incidental to the construction of a residential development in Lake County, Florida. FWS will accept public comments through July 17, 2023.

FWS Seeks Public Input on ESA Permit Application That Would Allow Incidental Take of Protected Sand Skinks

FWS [announced](#) its receipt of an ESA permit application from Park Square Enterprises, LLC for an ITP to take sand skinks incidental to a roadway construction project in Lake County, Florida. Sand skinks are [listed](#) as threatened species under the ESA. FWS also is seeking comment on its determination that the proposed action may qualify for categorical exclusion from review under the National Environmental Policy Act. FWS will accept public comments on the ITP application through August 10, 2023.

FWS Seeks Public Comments on ESA Incidental Take Permit Application for Residential Development Project

FWS [announced](#) receipt of an application from Vistas at Davenport, LLC for an ITP to take sand skink and blue-tailed mole skink, both of which are species listed under the ESA. The takes would be incidental to a residential development construction project in Polk County, Florida. FWS will accept public comments through December 26, 2023.

FWS Opens Public Comment Period on Application to Take Polar Bears Incidental to Oil Well Plugging Project

FWS [proposed](#) authorizing the nonlethal take of Southern Beaufort Sea polar bears for a period of one year. The authorization allows certain harassment of the bears in connection with an oil well plugging and reclamation project and other activities in the North Slope Borough of Alaska. FWS will accept public comments on the proposed authorization through January 25, 2024.

FWS ESA TROPHY IMPORT, RESEARCH, AND OTHER PERMIT AND REGISTRATION ACTIONS

FWS Extends the Public Comment Period on Proposed ESA Rule Change for African Elephants

FWS [extended](#) the public comment period on its November 17, 2022, [proposed revisions](#) to the ESA rules for African elephants that would close an existing regulatory loophole that allows import, export, and other trade in live African elephants without a permit. The extended public comment period will be open through March 20, 2023.

FWS Opens Public Comment Period on Multiple ESA Permit Applications

FWS [announced](#) its receipt of multiple ESA permit applications for the import or export of live animals and for the import of trophy hunted animals taken from a captive bontebok population in South Africa. FWS is accepting public comments through February 17, 2023.

FWS Opens Public Comment Period for Multiple ESA Permit Applications

FWS [announced](#) its receipt of multiple ESA permit applications, including applications for the import of biological samples from chimpanzees in the Republic of the Congo, the export of one live and one deceased panda back to China, captive bred wildlife registration for Arabian oryx to facilitate captive hunting, authorization for killing Arabian oryx at a captive hunting facility, and the import of sport-hunted trophies of bontebok taken from a captive facility in South Africa. FWS will accept public comments on the respective applications through April 12, 2023.

FWS Opens Public Comment Period on Multiple ESA Permit Applications

FWS [announced](#) its receipt of applications for multiple activities that are otherwise prohibited by the ESA, including for research, import of sport-hunted trophies, captive-bred wildlife registration, and transfer of museum specimens. FWS will accept public comments on the five applications through May 1, 2023.

FWS Opens Public Comment Period on Multiple ESA Permit Applications

FWS published [notice](#) of its receipt of multiple ESA permit applications for breeding, scientific research, and import of sport-hunted trophies. FWS will accept public comments through May 10, 2023.

FWS Seeks Public Comments on Multiple ESA Permit Applications

FWS [announced](#) its receipt of ESA permit applications for otherwise prohibited activities with protected species from Sedgewick County Zoo, Oregon Zoo, University of Georgia College of Veterinary Medicine, Virginia Institute of Marine Science, Smithsonian National Zoo and Conservation Biology Institute, the Virginia Safari Park & Preservation Center, which [lacks AZA accreditation](#), and multiple trophy hunters. FWS will accept public comments on the permit applications through July 12, 2023.

FWS Seeks Public Comments on Multiple ESA Permit Applications

FWS published [notice](#) of its receipt of three ESA permit applications:

- Fresno Chaffee Zoo seeks an ESA permit to import a captive-born Sumatran orangutan from the Toronto Zoo;
- The Toledo Zoo seeks an ESA permit to export up to 4,000 captive-bred Kihansi spray toads; and
- The Smithsonian National Museum of Natural History is requesting renewal of an ESA permit to export and re-import non-living specimens of endangered and threatened species.

FWS will accept public comments on the three permit applications through August 28, 2023.

FWS Opens Public Comment Period on Multiple ESA Permit Applications

FWS [announced](#) its receipt of multiple ESA permit applications for otherwise prohibited activities with protected species, including trophy hunting imports, captive bred wildlife registrations, and the import and export of biological samples of protected species. FWS will accept public comments on the applications through November 3, 2023.

FWS Opens Public Comment Period on Multiple ESA Section 10 Permit Applications

FWS [announced](#) its receipt of multiple ESA permit applications for the import or export of biological samples, live animals, museum specimens, and sport-hunted trophies. FWS will accept public comments on the applications through December 14, 2023.

FWS Announces Public Comment Period on Multiple ESA Permit Applications and a Captive-Bred Wildlife Registration Application

FWS [announced](#) its receipt of multiple ESA applications for permits to import live animals, biological samples, and sport-hunted trophies. FWS also announced receipt of an application for a captive-bred wildlife registration under ESA regulations for five species of crocodiles as well as Galapagos tortoises and military macaws. FWS will accept public comments on the applications through December 15, 2023.

FWS Solicits Public Comments on Two ESA Permit Applications for the Import of Captive Exotic Animals

FWS [announced](#) that the Gulf Breeze Zoo in Gulf Breeze, Florida has applied for an ESA permit to import six captive-born golden-headed lion tamarins from the Czech Republic. FWS also announced that the Columbus Zoo and Aquarium has applied for an ESA permit to import an Asian elephant from African Lion Safari in Ontario, Canada. FWS will accept public comments on the applications through January 3, 2024.

FWS Opens Public Comment Period on Multiple ESA Applications

FWS [opened](#) a public comment period on multiple Endangered Species Act (ESA) applications for captive-bred wildlife registration and permits for the import or export and re-import of live animals, biological samples, museum specimens, and bontebok hunting trophies. FWS will accept public comments on the applications through January 26, 2024.

FOOD AND DRUG ADMINISTRATION (FDA)

FDA Announces Final Guidance to Ensure Food Importers Comply with Foreign Supplier Verification Programs

FDA [announced](#) the availability of final guidance entitled “Foreign Supplier Verification Programs for Importers of Food for Humans and Animals: Guidance for Industry.”

FDA Commissioner Proposes Improvements to the Agency’s Food Safety Program

FDA Commissioner Dr. Robert Califf [announced](#) changes to the agency’s food safety program following a [review](#) that found the agency’s current program lacks clear leadership. The changes include the establishment of a deputy commissioner for human foods, who will report directly to the commissioner and will lead a human foods program. Under the proposed plan, the Center for Food Safety and Applied Nutrition and the Office of Food Policy and Response will be combined.

FDA Opens Public Comment Period on Labeling of Plant-Based Milk Alternatives

FDA [announced](#) draft industry guidance entitled “Labeling of Plant-Based Milk Alternatives and Voluntary Nutrient Statements: Guidance for Industry.” The draft guidance notably proposes that plant-based milk products continue to be sold and labeled as “milk” in marketing and packaging materials. The document also recommends voluntary packaging statements conveying how plant-based milk alternatives nutritionally compare with standard cow’s milk. FDA is accepting comments through April 24, 2023, and is particularly interested in input on nutritional disclosure information.

FDA Announces Updated Guidance on Use of Published Literature in Animal Drug Approvals

FDA [announced](#) the availability of a final guidance entitled “The Use of Published Literature in Support of New Animal Drug Approvals.” This guidance replaces existing guidance that FDA published in August 2000.

FDA Issues Second Approval Letter for Cultivated Chicken

GOOD Meat, the cultivated meat division of Eat Just, Inc., received a [letter of no questions](#) from FDA for its cultivated chicken product two years after it was approved in Singapore. FDA stated that it has “no questions at this time regarding GOOD Meat’s conclusion that foods comprised of or containing cultured chicken cell material . . . are as safe as comparable foods produced by other methods.” World-famous chef [José Andrés](#) will be the first in the country to offer GOOD Meat’s chicken to restaurant customers in the United States. The GOOD Meat letter comes four months after [UPSIDE Foods](#) received the first FDA pre-clearance for a cultivated chicken product. Both products now must receive additional regulatory approval from the USDA before they can be offered to consumers.

FDA Announces Final Guidance on Animal Studies Used to Evaluate Medical Devices

FDA [announced](#) the availability of a final guidance entitled “General Considerations for Animal Studies Intended to Evaluate Medical Devices.” FDA developed the guidance document to assist medical device sponsors, testing facilities, and other persons involved in designing, conducting, and reporting the results of animal studies intended to assess the safety of medical devices to support premarket submissions.

FDA Seeks Public Comments on Draft Guidance for Human User Safety for New Animal Drugs

FDA [announced](#) the availability of draft guidance entitled “Human User Safety in New and Abbreviated New Animal Drug Applications.” Human User Safety is an integral component of the overall safety evaluation of proposed new animal drugs. FDA will accept public comments on the proposed guidance through June 5, 2023.

FDA Seeks Public Comments on Information Collection Relating to Animal Food Safety Tracking Information

FDA [announced](#) a proposed collection of information relating to the Center for Veterinary Medicine and the Partnership for Food Protection’s development of a web-based tracking network to allow Federal, State, and Territorial regulatory and public health agencies to share safety information about animal food. FDA will accept public comments on the proposed information collection through May 11, 2023.

FDA Reopens Public Comment Period on Plant-Based Milk Alternatives Labeling Guidelines

FDA is [reopening](#) the comment period for the draft guidance entitled “Labeling of Plant-Based Milk Alternatives and Voluntary Nutrient Statements; Guidance for Industry” in response to requests for an extension to allow interested persons additional time to submit comments. FDA will now accept public comments through July 31, 2023.

FDA Seeks Public Comments on Proposed Information Collection Relating to New Animal Drugs

FDA [announced](#) that it is seeking a proposed information collection relating to new animal drugs. FDA will accept public comments on the proposed information collection through July 31, 2023.

FDA Considers Petition to Allow Use of Chromium Propionate in Turkey Feed

FDA [filed](#) a petition submitted by [Kemin Industries, Inc.](#), a food technology company. The petition proposes amending FDA’s food additive regulations to allow the use of chromium propionate as a source of chromium in turkey feed. [Chromium propionate](#) is currently the only FDA-approved chromium source for broiler chicken diets and is used to “increase performance of broilers especially when reared under heat stress conditions.”

FDA is performing an environmental assessment of the impacts of the petition pursuant to the National Environmental Policy Act.

FDA Opens Public Comment Period on Reporting Requirements for Extralabel Drug Use in Animals

FDA is [soliciting](#) comments on the reporting requirements associated with the extralabel use of drugs in animals. FDA will accept public comments through October 30, 2023.

FDA Announces Draft Guidance for Industry Relating to Antimicrobial Drugs Used in Animal Agriculture

FDA [announced](#) the availability of draft guidance for industry (GFI) entitled “Defining Durations of Use for Approved Medically Important Antimicrobial Drugs Fed to Food-Producing Animals.” The guidance “will provide recommendations on how sponsors may voluntarily establish defined durations of use for certain antimicrobial new animal drugs used in or on the medicated feed of food-producing animals that are currently approved with one or more indications that lack a defined duration of use.” FDA will accept public comments on the draft GFI through December 26, 2023.

FDA Seeks Public Comments on Information Collection Relating to Prohibited Cattle Origin Animal Feed Materials

FDA [opened](#) a public comment period on a proposed information collection relating to reporting and recordkeeping requirements for cattle origin materials that are prohibited from use in animal food or feed in order to mitigate the risk of bovine spongiform encephalopathy. The comment period is open through December 11, 2023.

FDA Seeks Public Comment on Draft Guidance for Substantiating Urinary Tract Health Claims on Certain Cat Foods

FDA [announced](#) draft guidance for the pet food industry entitled “Using Relative Supersaturation to Support ‘Urinary Tract Health’ Claims for Adult Maintenance Cat Food.” FDA will accept public comments on the draft guidance through February 28, 2024.

FDA Announces Animal Drug Application Approvals

FDA [announced](#) a final rule amending certain animal drug regulations to reflect application approvals, changes of application sponsors, and technical amendments, as well as withdrawals of approvals of nine animal drugs that are no longer manufactured or marketed. The changes are effective December 6, 2023.

NATIONAL INSTITUTES OF HEALTH (NIH)

Animal Advocacy Group Urges NIH to Defund Primate Experiments at Harvard

White Coat Waste Project (WCW) submitted a [complaint](#) to NIH about Harvard Medical School's NIH-funded primate experiments, alleging that Harvard has violated federal law by failing to publicly disclose how taxpayer money has been used on the experiments. WCW is urging NIH to investigate alleged disclosure violations and defund the experiments. Harvard Law School's Animal Law & Policy Clinic is among those who have previously [called upon](#) NIH to terminate funding for the school's primate experiments.

AWI Files Complaint with NIH Over Baylor University Undergraduate Rat Experiments

The Animal Welfare Institute (AWI) filed a [complaint](#) with NIH raising significant issues about Baylor University's (BU) mistreatment of rats in an undergraduate Learning & Behavior Lab course. The complaint details the institution's failure to respond to AWI's documented concerns about a BU undergraduate psychology class in which instructors misled students to believe that approximately 60 live rats enlisted in their experiments would not be euthanized at the end of the class on the basis that it was better for students not to know. At least one student [complained](#) to NIH after his requests to the instructor and the department chair to have the rats adopted, placed in a sanctuary, or kept as class pets were denied.

NIH Announces Upcoming Public Meetings of the Scientific Advisory Committee on Alternative Toxicological Methods

NIH [announced](#) upcoming meetings of the Scientific Advisory Committee on Alternative Toxicological Methods (SACATM), a federally chartered external advisory group of scientists, including representatives from regulated industries and animal protection organizations.

SACATM advises on statutorily mandated duties of the Interagency Coordinating Committee on the Validation of Alternative Methods and activities of the National Toxicology Program Interagency Center for the Evaluation of Alternative Toxicological Methods. The meetings are open to the public and will be held in person and virtually on September 21 and 22, 2023.

NATIONAL MARINE FISHERIES SERVICE (NMFS)

NMFS Announces Prohibition on Directed Fishing for Groundfish in Certain Areas of Alaska

NMFS [announced](#) it is prohibiting directed fishing for groundfish by vessels using nonpelagic trawl gear in the Red King Crab Savings Subarea of the Bering Sea and Aleutian Islands management area because the State of Alaska did not establish a guideline harvest level fishery for red king crab in the Bristol Bay area for the current fishing year. The prohibition is effective January 20, 2023, through December 31, 2023.

NMFS Authorizes Take of Marine Mammals During Geophysical Survey Activity in the Gulf of Mexico

NMFS published [notice](#) that a Letter of Authorization (LOA) has been issued pursuant to the Marine Mammal Protection Act to Echo Offshore LLC for the take of marine mammals incidental to geophysical survey activity in the Gulf of Mexico. The LOA is effective through June 30, 2023.

NMFS Announces Emergency Rule to Protect North Atlantic Right Whales

NMFS [announced](#) it is extending a temporary emergency rule to prohibit trap/pot fishery buoy lines between federal and state waters within the Massachusetts Restricted Area to reduce the incidental mortality and serious injury of North Atlantic right whales. The emergency closure is effective February 1, 2023, through April 30, 2023. The Massachusetts Lobstermen's Association already has [sued](#) NMFS to challenge the closure.

NMFS Announces Final Revisions to Process for Distinguishing Serious from Non-Serious Injury of Marine Mammals

NMFS [announced](#) final revisions to the Process for Distinguishing Serious from Non-Serious Injury of Marine Mammals. NMFS has incorporated public comments into the final Procedural Directive, which becomes effective February 7, 2023.

NMFS Seeks Public Comments on Air Force Request to Take Marine Mammals

NMFS [received](#) a request from the U.S. Department of the Air Force to take marine mammals incidental to testing and training military operations proposed to be conducted in the Eglin Gulf Test and Training Range from 2023 to 2030 in the Gulf of Mexico. NMFS is accepting public comments through March 9, 2023, on the proposed authorization.

NMFS Seeks Public Comments on Proposed Additions to Marine Life Conservation Agreement

NMFS [announced](#) the nomination of multiple species of sharks, rays, reptiles, and fish to the Annexes of the Cartagena Convention on Specially Protected Areas and Wildlife, a regional agreement for the protection and development of the marine environment of the wider Caribbean. NMFS is soliciting comments on the nominations through March 16, 2023.

NMFS Opens Public Comment Period on Mystic Aquarium MMPA Permit Application

NMFS [announced](#) that Mystic Aquarium in Mystic, Connecticut has applied for a permit to collect, receive, import, and export marine mammal parts for scientific research. The comment period is open through March 20, 2023.

NMFS Opens Public Comment Period on ESA Permit Applications for Anadromous Species Research

NMFS [announced](#) that it has received 17 Endangered Species Act scientific research permit application requests relating to Pacific salmon, steelhead, green sturgeon, rockfish, and eulachon. NMFS will accept public comments on the applications through March 20, 2023.

NMFS Authorizes Take of Marine Mammals in Gulf of Mexico by Shell Oil

NMFS [announced](#) that it issued a Letter of Authorization (LOA) to Shell Offshore Inc. for the take of marine mammals incidental to geophysical survey activity in the Gulf of Mexico. The LOA is effective from March 7, 2023, through March 31, 2024.

NMFS Seeks Public Input on Navy’s Request to Take Marine Mammals in Ventura County

NMFS [received](#) a request from the United States Navy for authorization to take marine mammals incidental to pile driving training exercises at Naval Base Ventura County, Port Hueneme, California. NMFS will accept public comments on the proposed authorization through April 14, 2023.

NMFS Announces Proposal to List Sunflower Sea Star as Threatened Under the ESA

NMFS [announced](#) a proposal to list the sunflower sea star as a threatened species under the Endangered Species Act. NMFS will accept public comments on the proposed listing through May 15, 2023.

NMFS Authorizes Take of Marine Mammals by Anadarko Petroleum Company

NMFS [announced](#) that it has issued a Letter of Authorization (LOA) pursuant to the Marine Mammal Protection Act to Anadarko Petroleum Corporation for the take of marine mammals incidental to geophysical survey activity in the Gulf of Mexico. The LOA is effective from April 1, 2023, through June 1, 2023.

NMFS Seeks Public Input on California’s ESA Permit Application to Monitor Coho Salmon Hatchery

The California Department of Fish and Wildlife has [applied](#) to NMFS for an Endangered Species Act permit that would authorize hatchery and monitoring activities associated with the Fall Creek Hatchery coho salmon program. NMFS is accepting public comments through April 26, 2023.

NMFS Prohibits Pollock Fishing in the Gulf of Alaska to Prevent Overfishing

NMFS is [prohibiting](#) directed fishing for pollock in the West Yakutat District of the Gulf of Alaska to prevent exceeding the 2023 total allowable catch of pollock in the District. The prohibition is effective from March 29, 2023, through December 31, 2023.

NMFS Announces Endangered Species Status for the Atlantic Humpback Dolphin

NMFS [determined](#) that the Atlantic humpback dolphin warrants listing as an endangered species but will not designate a critical habitat since the species occurs only in coastal Atlantic waters off western Africa and NMFS only is authorized to designate critical habitat within U.S. jurisdictions. NMFS will accept public comments on the proposed listing through June 6, 2023, and public hearing requests through May 22, 2023.

NMFS Seeks Public Comments on Petition to Protect Rice's Whales

NMFS [announced](#) that the Natural Resources Defense Council, Healthy Gulf, Center for Biological Diversity, Defenders of Wildlife, Earthjustice, and the New England Aquarium submitted a [petition for rulemaking](#) to the agency to establish a year-round, 10-knot vessel speed limit and other vessel-related mitigation measures in the Rice's whale "core" habitat area. NMFS is requesting comments on the petition through July 6, 2023.

NMFS Would Exercise Greater Oversight of Chilean Sea Bass Importers Under Proposed Regulation

NMFS [proposed](#) to revise Antarctic Marine Living Resources Convention Act regulations by enhancing the conditions that Chilean sea bass importers must meet to bring the deep-water fish to the U.S. and specifying when the agency would deny certain import and export documents. NMFS will accept public comments on the proposed regulatory changes through June 5, 2023.

NMFS Announces New Regulations to Reduce Shark and Ray Bycatch

NMFS [announced](#) a final rule establishing fish aggregating device design requirements, International Maritime Organization number requirements, bycatch restrictions for sharks and rays, and protocols for freeing entangled sharks to facilitate species identification. The rule is effective June 12, 2023.

NMFS Considers ESA Permit Application for Import of Hammerhead Shark Parts

NMFS published [notice](#) that a researcher at Texas A&M University is seeking a permit to import scalloped hammerhead shark parts for scientific research. NMFS will accept public comments through June 15, 2023.

NMFS Authorizes BLM to Take Marine Mammals During Lighthouse Construction Project

NMFS [announced](#) it has issued an incidental harassment authorization (IHA) to the Bureau of Land Management for authorization to incidentally harass marine mammals during construction activities associated with a lighthouse stabilization project in Humboldt County, California. The IHA is effective from June 1, 2023, through October 1, 2023.

Advocacy Groups Petition NMFS to Grant ESA Protection for Certain Chinook Salmon

The Center for Biological Diversity and Pacific Rivers submitted a [petition for rulemaking](#) to NMFS, urging the agency to protect Washington coast spring-run Chinook salmon under the Endangered Species Act.

NMFS Opens Public Comment Period on Proposal that Would Authorize the Take of Marine Mammals Incidental to Wind Energy Construction Project

NMFS [announced](#) it has received a request from Park City Wind, LLC for Incidental Take Regulations (ITR) and an associated Letter of Authorization (LOA) pursuant to the Marine Mammal Protection Act. The requested regulations would govern the take of small numbers of marine mammals incidental to construction of the New England Wind Project between 2025 and 2030. NMFS will accept public comments on the proposed ITR and LOA through July 10, 2023.

FWS and NMFS Propose to Revise ESA Regulations to Improve Interagency Cooperation

The U.S. Fish & Wildlife Service (FWS) and NMFS [announced](#) their intention to amend portions of the Endangered Species Act regulations to further clarify and improve the interagency consultation processes, while continuing to provide for the conservation of listed species. FWS and NMFS will accept comments through August 21, 2023.

FWS and NMFS Propose ESA Regulatory Updates Relating to Listing Criteria and Implementation

The U.S. Fish & Wildlife Service (FWS) and NMFS [announced](#) their intent to revise portions of the Endangered Species Act regulations to clarify, interpret, and implement portions of the Act concerning the procedures and criteria used for listing, reclassifying, and delisting species on the Lists of Endangered and Threatened Wildlife and Plants and designating critical habitat. FWS and NMFS will accept public comments on the proposed regulatory changes through August 21, 2023.

NMFS Announces Authorization for Oil Company to Take Marine Mammals During Exploration in Gulf of Mexico

NMFS [announced](#) that a Letter of Authorization (LOA) has been issued pursuant to the Marine Mammal Protection Act to Murphy Exploration and Production Company for the take of marine mammals incidental to geophysical survey activity in the Gulf of Mexico. The LOA is effective from July 14, 2023, through September 13, 2023.

NMFS Opens Public Comment Period on Proposed Revisions to MMPA, ESA, and Fur Seal Act Information Collections

NMFS is [proposing](#) an extension of and revision to an existing information collection relating to takes of cetaceans, pinnipeds, smalltooth sawfish, sea turtles, sturgeon, and certain other species authorized under the Marine Mammal Protection Act, the Fur Seal Act, and the Endangered Species Act. NMFS is seeking revisions to the information collection to improve the reasonableness of applicants' take estimates and the accuracy of their subsequent reporting after finding that the takes requested often are "substantially greater" than those used. NMFS will accept public comments on the proposed revisions through August 28, 2023.

NMFS Seeks Public Comments on Caltrans' Request for Authorization to Take Marine Mammals During a Northern California Bridge Restoration Project

NMFS [received](#) a request from the California Department of Transportation (Caltrans) for authorization to take marine mammals incidental to Phase II of the Richmond-San Rafael Bridge Restoration Project in Richmond, CA. NMFS will accept public comments through July 28, 2023, on its proposal to issue an incidental harassment authorization to Caltrans to incidentally take marine mammals during the specified activities.

NMFS Announces Approval to Take of Marine Mammals Incidental to Oil Exploration in the Gulf of Mexico

NMFS [announced](#) that it has issued a Letter of Authorization (LOA) to LLOG Exploration Company (LLOG) for the take of marine mammals incidental to geophysical survey activity in the Gulf of Mexico. The LOA is effective from July 1, 2023, through July 5, 2025.

NMFS Announces Issuance of Authorization for Energy Company to Take Marine Mammals During Site Characterization Surveys

NMFS [announced](#) that it has issued an Incidental Harassment Authorization (IHA) to Attentive Energy LLC to incidentally harass marine mammals during marine site characterization surveys off New York and New Jersey in the New York Bight. The IHA is effective from June 20, 2023, through June 19, 2024.

NMFS Opens Public Comment Period on ESA Permit Application

NMFS published [notice](#) that the University of Massachusetts Dartmouth School for Marine Science and Technology has applied for an Endangered Species Act permit for the incidental take of listed sturgeon and sea turtles associated with the otherwise lawful fisheries survey activities within and adjacent to the Massachusetts/Rhode Island Wind Energy Area. NMFS will accept public comments on the application through August 7, 2023.

NMFS Seeks Public Input on EIS on Measures to Minimize Salmon Bycatch in the Bering Sea Pollack Fishery

NMFS, in consultation with the North Pacific Fishery Management Council, [announced](#) its intent to prepare an Environmental Impact Statement (EIS) under that National Environmental Policy Act on measures to minimize bycatch of non-Chinook salmon by participants in the Bering Sea pollack fishery. NMFS will accept public comments on the proposed EIS through September 15, 2023.

NMFS Renewed UC Davis’ ESA Permit for Conservation Research Relating to White Abalone

NMFS [announced](#) that it has “renewed a scientific research and enhancement permit . . . issued to the University of California, Davis, under the Endangered Species Act” to support the recovery of listed white abalone.

NMFS Opens Public Comment Period on Proposed Critical Habitat Designation for Green Sea Turtles

NMFS [announced](#) its intent to designate critical habitat along the coasts of Florida, North Carolina, Texas, Puerto Rico, California, Hawaii, American Samoa, Guam, the Commonwealth of Northern Mariana Islands, and the U.S. Virgin Islands for six distinct population segments of the green sea turtle under the Endangered Species Act. NMFS will accept public comments on the proposed designation through October 17, 2023.

NMFS Reopens Public Comment Period on Proposed ESA Listing Status for Atlantic Humpback Dolphins

NMFS [reopened](#) the comment period on its proposed rule to list the Atlantic humpback dolphin under the Endangered Species Act, to identify Morocco as a country within the species’ range, and to align the proposed listing with other cartographic guidance. NMFS will accept public comments through September 18, 2023.

NMFS Considering MMPA Authorization for Takes Incidental to Construction Project in Ketchikan, Alaska

NMFS [announced](#) that it received a request from the Alaska Department of Transportation and Public Facilities for authorization pursuant to the Marine Mammal Protection Act to take marine mammals incidentally to ferry berth construction in Ketchikan, Alaska. NMFS will accept public comments on the application through August 21, 2023.

NMFS Designates Critical Habitat for Five ESA-Listed Corals

NMFS [announced](#) its designation of critical habitat for five threatened Caribbean coral species. The new designations will become effective September 8, 2023.

NMFS Seeks Public Comments on Proposed Classification of Commercial Fisheries

NMFS [published](#) its proposed List of Fisheries (LOF) for 2024. The LOF classifies commercial fisheries based on the documented harm to marine mammals in each fishery, as required by the Marine Mammal Protection Act (MMPA). NMFS is accepting public comments on its proposed LOF for 2024 and associated fishery classifications, which trigger certain MMPA requirements, through October 13, 2023.

NMFS Announces MMPA Incidental Harassment Authorization in Connection with Ferry Berth Construction Project in Ketchikan

NMFS [announced](#) that it issued an incidental harassment authorization to the Alaska Department of Transportation and Public Facilities for the incidental harassment of marine mammals related to a ferry berth construction project in Ketchikan, Alaska. The authorization is effective from September 11, 2023, through September 10, 2024.

NMFS Opens Public Comment Period on Proposal to Protect Whales from Buoy Lines in the North Atlantic

NMFS is [proposing](#) an amendment to the Atlantic Large Whale Take Reduction Plan to expand the boundaries of the Massachusetts Restricted Area to include the Massachusetts Restricted Area Wedge. Through the proposed amendment, NMFS seeks to provide greater protection for North Atlantic right whales who are at “imminent risk” from buoy lines in the area. The expanded protections will also reduce the risk to fin whales and humpback whales. NMFS is accepting public comments on the proposed rule change through October 18, 2023.

NMFS Considers Authorizing the Take of Marine Mammals Incidental to New Jersey Offshore Wind Projects

NMFS [announced](#) that it has received a request for Incidental Take Regulations (ITRs) and associated Letters of Authorization (LOAs) pursuant to the Marine Mammal Protection Act related to the take of marine mammals between 2025–2029. The takings would be incidental to the construction of the Atlantic Shores South wind projects offshore of New Jersey. NMFS will accept public comments on the proposed ITRs and LOAs through October 23, 2023.

NMFS Announces Renewal of MMPA Incidental Harassment Authorization

NMFS [issued](#) a renewal incidental harassment authorization to the Office of Naval Research to take marine mammals, including beluga whales or ringed seals, incidental to research activities conducted in the Beaufort Sea and eastern Chukchi Sea. The renewal is effective September 18, 2023, through September 13, 2024.

NMFS Opens Public Comment Period on Applications that Would Authorize the Collection of Fish and Sharks for Multiple Purposes

NMFS [announced](#) its intent to issue exempted fishing permits, scientific research permits, display permits, letters of acknowledgment, and shark research fishery permits for Atlantic highly migratory species (HMS). The permits would authorize the collection of a limited number of HMS for scientific research, data collection, bycatch-related investigation, public display, and other purposes. Affected HMS would include tunas, swordfish, billfishes, and sharks from the Atlantic Ocean, Gulf of Mexico, and Caribbean Sea. NMFS will accept public comments on the proposed permits through November 20, 2023.

NMFS is Considering MMPA Incidental Harassment Authorization for Dock Replacement Project in Alaska

NMFS [announced](#) that it has received a request from Haines Borough for an incidental harassment authorization under the Marine Mammal Protection Act to incidentally take marine mammals during a dock replacement project in Lutak, Alaska. NMFS is accepting public comments on the request through December 15, 2023.

SECURITIES AND EXCHANGE COMMISSION (SEC)

SEC Whistleblower Complaint Alleges JBS “Green Bonds” Misled Consumers

Mighty Earth, an environmental advocacy group, [filed](#) a whistleblower complaint with the SEC calling for an investigation into alleged misleading and fraudulent “green bonds” issued by JBS, the world’s largest meat processing company. Mighty Earth’s complaint alleges that JBS based the bond offerings on its commitment to achieve net zero emissions by 2040 while its emissions have increased in recent years.

State Agency Updates

ARKANSAS

Arkansas AG Orders Divestment of Land and Imposes Maximum Civil Penalty on “Prohibited Foreign-Party-Controlled” Agriculture Business Affiliates

The Arkansas Attorney General (AG) [informed](#) Northrup King Seed Co. and its parent company, Syngenta Seeds, LLC, that their ownership of a parcel of land in Craighead County, Arkansas is [prohibited](#) and that they must divest the land by August 1, 2025. Syngenta Seeds, LLC is owned by Chinese state-owned China National Chemical Corporation, which the AG asserts makes the Arkansas property owned by “an agent, trustee, or other fiduciary for a prohibited foreign-party-controlled business.” The AG’s office is also imposing the maximum allowable civil penalty—\$280,000, 25% of the property’s fair market value of \$1,120,000—on the companies for their failure to file a required report.

CALIFORNIA

California Labor Commissioner Reaches \$1.47 Million Settlement to Resolve Wage Theft Claims Against Los Angeles Poultry Processing Companies and Their Owner

The California Labor Commissioner’s Office [announced](#) it has reached a \$1.47 million settlement with multiple Los Angeles-area poultry processors and their owner to resolve claims they underpaid hundreds of workers and failed to compensate for overtime, rest breaks, and waiting time. The deal resolves a hearing officer’s decision to uphold wage-theft citations against Tony Bran and his companies: The Exclusive Poultry Inc., J.T. Foods Specialty, and D8 Poultry LLC.

DISTRICT OF COLUMBIA

Complaint Urges D.C. Agency to Fine American Humane for Alleged Deceptive Trade Practices

Animal Partisan sent a [complaint](#) to the Washington, D.C. Department of Licensing and Consumer Protection, urging the agency to investigate American Humane for alleged illegal deceptive trade practices in connection with statements that American Humane has published online promoting the “humane” treatment of chickens by Foster Farms. Animal Partisan is urging the agency to impose the maximum allowable civil penalties and order American Humane to remove certain challenged statements from its website.

HAWAII

Petitioners Urge Hawaii Agencies to Take Action Against Petting Zoo that is Capturing and Using Octopuses for Entertainment

For the Fishes, Pono Advocacy, and Mike Nakachi, collectively represented by the Harvard Animal Law & Policy Clinic, submitted complaints to the [Hawaii Division of Aquatic Resources \(DAR\)](#) and to the [Natural Energy Laboratory of Hawaii Authority \(NELHA\)](#), urging the two state agencies to investigate and take action against the Kanaloa Octopus Farm (KOF), a petting zoo that uses wild-caught day octopuses for entertainment. The complaints allege that KOF's capture and possession of octopus paralarvae violates Hawaii law allowing only the possession of day octopus larger than one pound. The petitioners urge the DAR to investigate and deny any of KOF's pending permit applications and ask NELHA to terminate its rental agreement with KOF at a state-owned business park.

Hawaii Department of Health Inspects Oahu Egg CAFO

The Hawaii Department of Health (DOH) conducted an [inspection](#) of Waialua Fresh Egg Farm, a concentrated animal feeding operation (CAFO) also known as Villa Rose Egg Farm. The DOH inspection report describes the CAFO's operations and its current waste management system, which involves storing the ten tons of waste it generates daily in an unused barn. The inspection report states that the egg CAFO, which has approximately 150,000 laying hens

and is situated in the Oahu North Shore watershed, will need to secure a National Pollutant Discharge Elimination System (NPDES) permit before discharging waste into state waters. The report notes that the CAFO could be in violation of state law if it has already discharged without a permit. The facility [supplies](#) retailers such as Safeway and Costco and has plans to increase its capacity to 500,000 birds by the end of 2024.

Octopus Petting Zoo Shuts Down

The Kanaloa Octopus Farm (KOF) has [shut down](#) following the work of multiple group and individual advocates. Among other efforts, a coalition that included Hawaii-based For the Fishes, Moku o Keawe cultural practitioner Mike Nakachi, and Harvard Law School's Animal Law & Policy Clinic urged the Hawaii Department of Land and Natural Resources to investigate apparent legal violations at KOF and to deny the octopus petting zoo an aquaculture facility license. The Natural Energy Laboratory of Hawaii Authority declined to renew the facility's license, and KOF owner Jake Conroy [confirmed](#) a decision to pivot to offshore tours but did not disclose the disposition of the 20 cephalopods housed at KOF when the lease was not renewed.

MICHIGAN

Michigan AG's Office Warns Kroger About Misleading "Cage-Free" Egg Representations

Michigan Attorney General Dana Nessel's office has [warned](#) The Kroger Co. to be clear in its advertising and labeling of eggs following a [report](#) issued by Data for Progress that revealed that Kroger customers find that the grocery chain's marketing of caged chicken eggs "is both confusing and misleading at best." The letter also reminds Kroger that Michigan's ban on the sale of eggs from caged chickens will become effective in 2025.

MISSISSIPPI

Mississippi Wildlife Agency Finalizes Regulation Prohibiting Intrastate Sales of Big Cats

The Mississippi Department of Wildlife, Fisheries, and Parks [approved](#) a final regulation prohibiting the “sale or purchase of animals classified as inherently dangerous to humans,” and will cease issuance of all new permits for the intrastate transfer of big cats. The new rule follows the December 20, 2022, [enactment](#) of the federal [Big Cat Public Safety Act](#), which prohibits the private ownership of big cats, bans exhibitors from facilitating direct public contact with all big cat species except for cheetahs, and requires private owners of big cats to register prohibited animals with the U.S. Fish & Wildlife Service by June 18, 2023, in order to avoid animal confiscation.

PENNSYLVANIA

Pennsylvania Department of Agriculture Announces that the Commonwealth Has Reached “HPAI-Free Status” But Will Remain Under General Quarantine

The Pennsylvania Department of Agriculture and Pennsylvania Governor Josh Shapiro [announced](#) that, after experiencing an outbreak of Highly Pathogenic Avian Influenza (HPAI) that limited trade conditions for Pennsylvania’s \$7.1 billion poultry industry and caused the loss of over 4.6 million domestic birds since April 2022, the commonwealth has reached “HPAI-free status recognized by the World Animal Health Organization.” Pennsylvania remains under a general quarantine to limit virus spread and protect the poultry industry.

TEXAS

Texas Department of Agriculture Announces Research into mRNA Livestock Treatments

Texas Department of Agriculture Commissioner Sid Miller [announced](#) that the agency is working on a fact and science-based assessment of the risks associated with mRNA-related treatments for livestock.

VERMONT

Vermont Fish & Wildlife Board Adopts New Hunting and Trapping Rules Despite Legislative Committee Objections

The Vermont Fish & Wildlife Board unanimously [approved](#) new statewide hunting and trapping rules despite objections from the Vermont General Assembly's Legislative Committee on Administrative Rules (LCAR), which reviews state regulations. Two Vermont laws enacted in 2022 require new hunting and trapping regulations, one of which imposes a moratorium on using dogs to hunt coyotes. The moratorium could be [lifted](#) if the new rules go into effect in January. The new rules could be vulnerable to legal challenge because LCAR objected to them, shifting the burden of proof to the Vermont Fish & Wildlife Department, the relevant enforcement body.

VIRGINIA

Legal Advocacy Group Petitions Virginia Agriculture Board for Regulations Setting Minimum Welfare Standards for the Transport of Poultry to Slaughter

Animal Partisan filed a [petition](#) for rulemaking with the Virginia Department of Agriculture and Consumer Services ("Department"), urging the Department's Board of Agriculture and Consumer Services ("Board") to "adopt regulations setting minimum welfare standards for the transport of live poultry to slaughter." The advocacy organization specifically requests that the Board promulgate regulations "detailing required enclosure specifications and features; minimum ventilation standards and temperature-monitoring hardware and temperature tolerances for conveyances; and guidance for the safe and humane handling of birds by employees and contractors."

WASHINGTON

Conservation Groups Petition Washington Fish and Wildlife Commission to Promulgate Rules for Nonlethal Deterrence of Wolves

Washington Wildlife First, the Center for Biological Diversity, Cascadia Wildlands, WildEarth Guardians, Kettle Range Conservation Group, Northwest Animal Rights Network, the Endangered Species Coalition, and Coexisting with Cougars in Klickitat County [petitioned](#) the Washington Fish and Wildlife Commission (“Commission”) to adopt rules requiring science-based wolf management practices and prioritizing non-lethal control measures. The petition comes after the commission failed to adopt similar rules despite Governor Jay Inslee [directing](#) the Commission in 2020 to initiate rulemaking to implement nonlethal deterrence methods relating to wolves involved in conflicts with livestock.

Conservation Groups Petition Washington Fish and Wildlife Commission to Reverse Regulatory Changes Harmful to Bears and Mountain Lions

Washington Wildlife First, the Mountain Lion Foundation, the Center for Biological Diversity, and the Humane Society of the United States [petitioned](#) the Washington Fish and Wildlife Commission (“Commission”) to reverse the Commission’s actions from 2019 to 2021 that expanded cougar and bear hunting. Petitioners argue that the regulatory changes resulted in unsustainable spikes in bear and cougar killings and are urging the Commission to close cougar hunting upon reaching area-specific quotas and impose a statewide “bag limit” of one bear per hunter, among other requested actions.



2023 YEAR IN REVIEW

Appendix

The U.S. Fish and Wildlife Service's Endangered Species Act listing actions for 121 species, subspecies, and distinct population segments (DPS) in 2023, as tracked by the U.S. Edition of the Brooks Animal Law Digest

This chart is organized first by action status and then by action, animal type, and date the action was effective or published.

Species	Type	Action	Action Status	Date Eff./Pub.	Location
Pearl darter	Fish	Critical habitat designated	Final	May 8, 2023	Mississippi
Miami tiger beetle	Insect	Critical habitat designated	Final	Jun. 22, 2023	Florida
Kauai akialoa	Bird	Delisted (believed extinct)	Final	Nov. 16, 2023	Hawaii
Kauai nukupuu	Bird	Delisted (believed extinct)	Final	Nov. 16, 2023	Hawaii
Kauai 'o'o (honeyeater)	Bird	Delisted (believed extinct)	Final	Nov. 16, 2023	Hawaii
Large Kauai thrush (kam'a)	Bird	Delisted (believed extinct)	Final	Nov. 16, 2023	Hawaii
Maui akepa	Bird	Delisted (believed extinct)	Final	Nov. 16, 2023	Hawaii
Maui nukupuu	Bird	Delisted (believed extinct)	Final	Nov. 16, 2023	Hawaii
Molokai creeper (kakawahie)	Bird	Delisted (believed extinct)	Final	Nov. 16, 2023	Hawaii
Po'ouli (honeycreeper)	Bird	Delisted (believed extinct)	Final	Nov. 16, 2023	Hawaii
Bridled white-eye	Bird	Delisted (believed extinct)	Final	Nov. 16, 2023	Mariana Islands
Bachman's warbler	Bird	Delisted (believed extinct)	Final	Nov. 16, 2023	Southeastern U.S., Cuba, Isle of Pines
San Marcos gambusia	Fish	Delisted (believed extinct)	Final	Nov. 16, 2023	Texas

Species	Type	Action	Action Status	Date Eff./Pub.	Location
Scioto madtom	Fish	Delisted (believed extinct)	Final	Nov. 16, 2023	Ohio
Little Mariana fruit bat	Mammal	Delisted (believed extinct)	Final	Nov. 16, 2023	Guam
Flat pigtoe	Mollusk	Delisted (believed extinct)	Final	Nov. 16, 2023	Alabama, Mississippi
Southern acornshell	Mollusk	Delisted (believed extinct)	Final	Nov. 16, 2023	Alabama, Georgia, Tennessee
Stirrupshell	Mollusk	Delisted (believed extinct)	Final	Nov. 16, 2023	Alabama, Mississippi
Upland combshell	Mollusk	Delisted (believed extinct)	Final	Nov. 16, 2023	Alabama, Georgia, Tennessee
Green blossom (pearly mussel)	Mollusk	Delisted (believed extinct)	Final	Nov. 16, 2023	Tennessee, Virginia
Tubercled blossom (pearly mussel)	Mollusk	Delisted (believed extinct)	Final	Nov. 16, 2023	Alabama, Illinois, Indiana, Mississippi, Kentucky, Ohio, Tennessee, West Virginia, Canada
Turgid blossom (pearly mussel)	Mollusk	Delisted (believed extinct)	Final	Nov. 16, 2023	Alabama, Tennessee
Yellow blossom (pearly mussel)	Mollusk	Delisted (believed extinct)	Final	Nov. 16, 2023	Alabama, Tennessee
San Clemente Bell's sparrow	Bird	Delisted (recovery)	Final	Feb. 24, 2023	California
Okaloosa darter	Fish	Delisted (recovery)	Final	Jul. 28, 2023	Florida
Relict darter	Fish	Downlisted, 4(d) rule	Final	Oct. 27, 2023	Kentucky
Fender's blue butterfly	Insect	Downlisted, 4(d) rule	Final	Feb. 13, 2023	Oregon

Species	Type	Action	Action Status	Date Eff./Pub.	Location
Foothill yellow-legged frog (South Sierra DPS)	Amphibian	Listed as endangered	Final	Sep. 28, 2023	California, Oregon
Foothill yellow-legged frog (South Coast DPS)	Amphibian	Listed as endangered	Final	Sep. 28, 2023	California, Oregon
Black-capped petrel	Bird	Listed as endangered	Final	Jan. 29, 2024	North Carolina, Island of Hispaniola, western Atlantic, Caribbean Sea, Gulf
Sacramento Mountains checkerspot butterfly	Insect	Listed as endangered	Final	Mar. 2, 2023	New Mexico
Bog buck moth	Insect	Listed as endangered	Final	Apr. 14, 2023	New York, Canada
Magnificent ramshorn	Mollusk	Listed as endangered, critical habitat designated	Final	Sep. 18, 2023	North Carolina
Lesser prairie-chicken (Southern DPS)	Bird	Listed as endangered, delayed	Final	Mar. 27, 2023	Colorado, Kansas, New Mexico, Oklahoma, Texas
Foothill yellow-legged frog (North Feather DPS)	Amphibian	Listed as threatened, 4(d) rule	Final	Sep. 28, 2023	California, Oregon
Foothill yellow-legged frog (Central Coast DPS)	Amphibian	Listed as threatened, 4(d) rule	Final	Sep. 28, 2023	California, Oregon
Cactus ferruginous pygmy-owl	Bird	Listed as threatened, 4(d) rule	Final	Aug. 21, 2023	Arizona, Texas, Mexico
Lesser prairie-chicken (Northern DPS)	Bird	Listed as threatened, 4(d) rule, delayed	Final	Mar. 27, 2023	Colorado, Kansas, New Mexico, Oklahoma, Texas

Species	Type	Action	Action Status	Date Eff./Pub.	Location
Scarlet macaw, southern subspecies (Northern DPS)	Bird	Listed as threatened, status affirmed	Final	Mar. 30, 2023	Mexico, Central America, South America
Big Creek crayfish	Crustacean	Listed as threatened, 4(d) rule, critical habitat designated	Final	May 30, 2023	Missouri
St. Francis River crayfish	Crustacean	Listed as threatened, 4(d) rule, critical habitat designated	Final	May 30, 2023	Missouri
Frecklebelly madtom (Upper Coosa River DPS)	Fish	Listed as threatened, 4(d) rule, critical habitat designated	Final	Apr. 3, 2023	Georgia, Tennessee
North American wolverine (Contiguous U.S. DPS)	Mammal	Listed as threatened, interim 4(d) rule	Final	Jan. 2, 2024	Contiguous U.S.
Round hickorynut	Mollusk	Listed as threatened, 4(d) rule, critical habitat designated	Final	Apr. 10, 2023	Alabama, Indiana, Kentucky, Mississippi, Ohio, Pennsylvania, Tennessee, West Virginia
Longsolid freshwater	Mollusk	Listed as threatened, 4(d) rule, critical habitat designated	Final	Apr. 10, 2023	Alabama, Kentucky, Pennsylvania, Tennessee, Virginia, West Virginia
Western fanshell	Mollusk	Listed as threatened, 4(d) rule, critical habitat designated	Final	Jul. 27, 2023	Arkansas, Kansas, Missouri, Oklahoma
Ouachita fanshell	Mollusk	Listed as threatened, 4(d) rule, critical habitat designated	Final	Jul. 27, 2023	Arkansas, Louisiana
Northern long-eared bat	Mammal	Reclassified as endangered, delayed	Final	Mar. 31, 2023	37 U.S. states

Species	Type	Action	Action Status	Date Eff./Pub.	Location
Gray wolf	Mammal	Relisted (court order)	Final	Nov. 3, 2023	44 U.S. states, Mexico
Sickle darter	Fish	Critical habitat designation	Proposed	Jan. 24, 2023	Tennessee, Virginia
Wood stork (Southeast U.S. DPS)	Bird	Delisting (recovery)	Proposed	Feb. 15, 2023	Alabama, Florida, Georgia, Mississippi, North Carolina, South Carolina
Puerto Rican boa	Reptile	Delisting (recovery), comment reopening	Proposed	Jan. 31, 2023	Puerto Rico
Relictual slender salamander	Amphibian	Listing as endangered, critical habitat designation	Proposed	Nov. 21, 2023	California
West Virginia spring salamander	Amphibian	Listing as endangered, critical habitat designation	Proposed, 12-month finding	Dec. 20, 2023	West Virginia
Sira curassow	Bird	Listing as endangered	Proposed	May 31, 2023	Peru
Southern helmeted curassow	Bird	Listing as endangered	Proposed	May 31, 2023	Bolivia
California spotted owl (Coastal-Southern California DPS)	Bird	Listing as endangered	Proposed, 12-month finding	Feb. 23, 2023	California, Nevada
Longfin smelt (San Francisco Bay-Delta DPS)	Fish	Listing as endangered, comment reopening	Proposed	Feb. 27, 2023	California
Fluminense swallowtail	Insect	Listing as endangered	Proposed	Jul. 27, 2023	Brazil
Harris' mimic swallowtail	Insect	Listing as endangered	Proposed	Jul. 27, 2023	Brazil

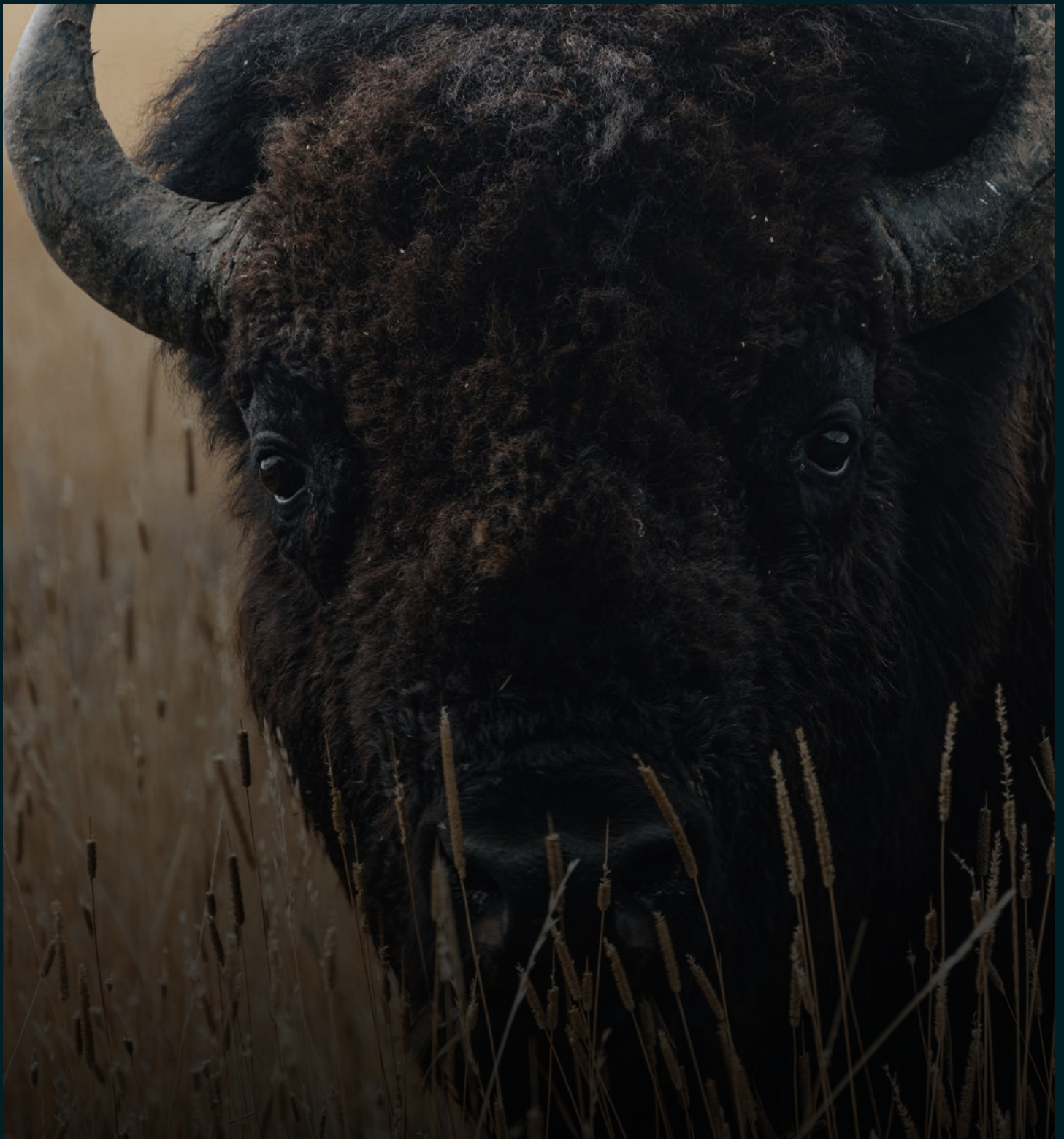
Species	Type	Action	Action Status	Date Eff./Pub.	Location
Hahnel's Amazonian swallowtail, subspecies	Insect	Listing as endangered	Proposed	Jul. 27, 2023	Brazil
Texas kangaroo rat	Mammal	Listing as endangered, critical habitat designation	Proposed, 12-month finding	Aug. 17, 2023	Texas
Tennessee clubshell	Mollusk	Listing as endangered	Proposed	Aug. 22, 2023	Alabama, Georgia, Kentucky, North Carolina, Tennessee, Virginia
Tennessee pigtoe	Mollusk	Listing as endangered	Proposed	Aug. 22, 2023	Alabama, Georgia, North Carolina, Tennessee, Virginia
Cumberland moccasinshell	Mollusk	Listing as endangered	Proposed	Aug. 22, 2023	Alabama, Georgia, Kentucky, Tennessee, Virginia
Oblong rocksnail	Mollusk	Listing as endangered	Proposed, 12-month finding	Oct. 31, 2023	Alabama
Quitobaquito tryonia	Mollusk	Listing as endangered, critical habitat designation	Proposed	Sep. 13, 2023	Arizona
Southern elkto	Mollusk	Listing as endangered, critical habitat designation	Proposed, 12-month finding	Jun. 21, 2023	Alabama, Florida, Georgia
Dunes sagebrush lizard	Reptile	Listing as endangered	Proposed, 12-month finding	Jul. 3, 2023	New Mexico, Texas
Western spadefoot (Northern DPS)	Amphibian	Listing as threatened, 4(d) rule	Proposed, 12-month finding	Dec. 5, 2023	California
Western spadefoot (Southern DPS)	Amphibian	Listing as threatened, 4(d) rule	Proposed, 12-month finding	Dec. 5, 2023	California, Mexico
Kern Canyon slender salamander	Amphibian	Listing as threatened, 4(d) rule, critical habitat designation	Proposed	Nov. 21, 2023	California

Species	Type	Action	Action Status	Date Eff./Pub.	Location
California spotted owl (Sierra Nevada DPS)	Bird	Listing as threatened, 4(d) rule	Proposed, 12-month finding	Feb. 23, 2023	California, Nevada
Brawleys Fork crayfish	Crustacean	Listing as threatened, 4(d) rule, critical habitat designation	Proposed, 12-month finding	Aug. 22, 2023	Tennessee
Coal darter	Fish	Listing as threatened, 4(d) rule	Proposed	Dec. 21, 2023	Alabama
Toothless blindcat	Fish	Listing as threatened, 4(d) rule	Proposed	Aug. 22, 2023	Texas
Widemouth blindcat	Fish	Listing as threatened, 4(d) rule	Proposed	Aug. 22, 2023	Texas
Short-tailed snake	Reptile	Listing as threatened, 4(d) rule	Proposed, 12-month finding	Oct. 3, 2023	Florida
Northwestern pond turtle	Reptile	Listing as threatened, 4(d) rule	Proposed, 12-month finding	Oct. 3, 2023	California, Nevada, Oregon, Washington
Southwestern pond turtle	Reptile	Listing as threatened, 4(d) rule	Proposed, 12-month finding	Oct. 3, 2023	California, Mexico
Fisher (Northern California-Southern Oregon DPS)	Mammal	Request for new information	Proposed	Sep. 26, 2023	California, Oregon
Southern sea otter	Mammal	Delisting not warranted	12-month finding	Sep. 20, 2023	California
Georgia blind salamander	Amphibian	Listing not warranted	12-month finding	Aug. 23, 2023	Florida, Georgia
Cascades frog	Amphibian	Listing not warranted	12-month finding	Sep. 20, 2023	California, Oregon, Washington
Tennessee cave salamander	Amphibian	Listing not warranted	12-month finding	Sep. 20, 2023	Alabama, Georgia, Tennessee

Species	Type	Action	Action Status	Date Eff./Pub.	Location
Chihuahua catfish	Crustacean	Listing not warranted	12-month finding	Aug. 23, 2023	New Mexico, Texas
Cooper's cave amphipod	Crustacean	Listing not warranted	12-month finding	Aug. 23, 2023	West Virginia
Minute cave amphipod	Crustacean	Listing not warranted	12-month finding	Aug. 23, 2023	West Virginia
Morrison's cave amphipod	Crustacean	Listing not warranted	12-month finding	Aug. 23, 2023	Virginia, West Virginia
Pristine crayfish	Crustacean	Listing not warranted	12-month finding	Aug. 23, 2023	Tennessee
Yazoo crayfish	Crustacean	Listing not warranted	12-month finding	Sep. 20, 2023	Mississippi
Texas troglobitic water slater	Crustacean	Listing not warranted	12-month finding	Nov. 29, 2023	Texas
Sicklefin chub	Fish	Listing not warranted	12-month finding	Sep. 20, 2023	13 U.S. states
Sturgeon chub	Fish	Listing not warranted	12-month finding	Sep. 20, 2023	12 U.S. states
Smallscale darter	Fish	Listing not warranted	12-month finding	Nov. 29, 2023	Kentucky, Tennessee
Narrow-foot hygrotus diving beetle	Insect	Listing not warranted	12-month finding	Aug. 23, 2023	Wyoming
Holsinger's cave beetle	Insect	Listing not warranted	12-month finding	Dec. 20, 2023	Virginia
Hubbard's cave beetle	Insect	Listing not warranted	12-month finding	Dec. 20, 2023	Virginia
Hubricht's cave beetle	Insect	Listing not warranted	12-month finding	Dec. 20, 2023	Virginia
Hupp's Hill cave beetle	Insect	Listing not warranted	12-month finding	Dec. 20, 2023	Virginia

Species	Type	Action	Action Status	Date Eff./Pub.	Location
Little Kennedy cave beetle	Insect	Listing not warranted	12-month finding	Dec. 20, 2023	Virginia
Overlooked cave beetle	Insect	Listing not warranted	12-month finding	Dec. 20, 2023	Virginia
Shenandoah cave beetle	Insect	Listing not warranted	12-month finding	Dec. 20, 2023	Virginia
Silken cave beetle	Insect	Listing not warranted	12-month finding	Dec. 20, 2023	Virginia
Alexander Archipelago wolf	Mammal	Listing not warranted	12-month finding	Aug. 23, 2023	Alaska
Plains spotted skunk	Mammal	Listing not warranted	12-month finding	Sep. 20, 2023	Arkansas, Iowa, Kansas, Minnesota, Missouri, Nebraska, North Dakota, Oklahoma, South Dakota, Texas, Wyoming
Tennessee heelsplitter	Mollusk	Listing not warranted	12-month finding	Aug. 23, 2023	Alabama, Georgia, North Carolina, Tennessee, Virginia
Mimic cavesnail	Mollusk	Listing not warranted	12-month finding	Nov. 29, 2023	Texas
Northern cavefish	Mollusk	Listing not warranted	12-month finding	Nov. 29, 2023	Kentucky
Pinaleño talussnail	Mollusk	Listing not warranted	12-month finding	Dec. 20, 2023	Arizona
San Xavier talussnail	Mollusk	Listing not warranted	12-month finding	Dec. 20, 2023	Arizona
Florida pinesnake	Reptile	Listing not warranted	12-month finding	Nov. 29, 2023	Alabama, Florida, Georgia
Grizzly bear (Northern Continental Divide Ecosystem DPS)	Mammal	Delisting, may be warranted	90-day findings	Feb. 6, 2023	Montana

Species	Type	Action	Action Status	Date Eff./Pub.	Location
Grizzly bear (Greater Yellowstone Ecosystem DPS)	Mammal	Delisting, may be warranted	90-day findings	Feb. 6, 2023	Idaho, Montana, Wyoming
Roughhead shiner	Fish	Listing, may be warranted	90-day findings	Mar. 21, 2023	Virginia
Morro Bay polyphyllan scarab beetle	Insect	Listing, may be warranted	90-day findings	Mar. 21, 2023	California
Common hippopotamus	Mammal	Listing, may be warranted	90-day findings	Mar. 21, 2023	39 African nations
West Indian manatee, Antillean manatee subspecies (Puerto Rico DPS)	Mammal	Uplisting and designation may be warranted	90-day findings	Oct. 12, 2023	Puerto Rico
West Indian manatee	Mammal	Uplisting may be warranted	90-day findings	Oct. 12, 2023	Florida, U.S. eastern and southern coast, Caribbean, South America
West Indian manatee, Florida manatee subspecies	Mammal	Uplisting may be warranted	90-day findings	Oct. 12, 2023	U.S. eastern and southern coast, Caribbean
West Indian manatee, Antillean manatee subspecies	Mammal	Uplisting may be warranted	90-day findings	Oct. 12, 2023	Caribbean, Central America, South America



*Recent Developments in United States Animal
Rights Law & Policy: 2023 Year in Review*

A COLLABORATIVE PUBLICATION BY THE BROOKS INSTITUTE FOR ANIMAL
RIGHTS LAW & POLICY, INC. AND THE BROOKS MCCORMICK JR. ANIMAL LAW &
POLICY PROGRAM AT HARVARD LAW SCHOOL