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Food Law Update

Susan A. Schneider\*  
William H. Enfield Professor of Law  
Director, LL.M. Program in Agricultural & Food Law  
University of Arkansas School of Law  
Fayetteville, Arkansas

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This outline presents an outline of some of the most significant food law issues that occurred since our last symposium, covering the time period from October 2018 - August 2019. This outline will be supplemented in the symposium presentation Friday, November 7, 2019.

## I. Introductory Comments

The legal issues affecting farm and food are inseparable. Traditional elements of agricultural law impact our food system, and food laws can have a direct impact on agricultural production.

This selected food law update does not purport to cover all of the food law developments of the past year. Rather, it focuses on the most significant developments, considering emerging trends, systemic controversies, and issues of significant impact.

Note that the outline generally excludes updates on pending litigation, pending legislation, regulation and litigation involving wine, beer, and spirits, and issues in involving foreign jurisdictions and international trade.

## II. Food Law Resources

### A. News Services

For additional food law information, the following sources are highly recommended. Many of the issues described herein were first signaled in one of these fine services:

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- *Morning Ag*, Politico, a daily online briefing on agricultural and food policy, daily email subscription available for no cost, <http://www.politico.com/tipsheets/morning-agriculture>
- *Politico* also has a paid service with many in-depth reports on agriculture news, data-points, and other excellent resources; visit [Politico.com](http://www.politico.com) for more information
- *Food Safety News*, a daily online newspaper focusing on food safety issues and illness outbreaks, email subscription available at no cost, <http://www.foodsafetynews.com/>
- *Shook, Hardy, Bacon Food & Beverage Litigation Update*, a weekly newsletter, subscription available at no cost, <http://www.shb.com/newsletters/food-beverage-litigation-update>
- Bill Marler's Blog at <http://www.marlerblog.com/> with other resources on specific foodborne illnesses at <http://marlerclark.com/>

## B. Government Websites:

- USDA, Food Safety & Inspection Service (FSIS) website, <https://www.fsis.usda.gov/wps/portal/fsis/home> with information on subscriptions, RSS feeds and apps at <https://www.fsis.usda.gov/wps/portal/fsis/newsroom/meetings/feeds-and-subscriptions>
- USDA, Agricultural Marketing Service (AMS) website, <https://www.ams.usda.gov/>, with organic certification information at <https://www.ams.usda.gov/services/organic-certification>; Grades and Standards information at <https://www.ams.usda.gov/grades-standards>; and, Resources linked at <https://www.ams.usda.gov/resources>
- In recent years, the USDA Economic Research Service has expanded its excellent work into more and more analysis of food-related issues. Their reports are accessed at <https://www.ers.usda.gov/>. In recognition of the importance of this work, this outline contains an annotated listing of food related reports issued by the ERS this past year.
- FDA, Food website at <https://www.fda.gov/Food/default.htm>; Numerous links to topics of interest to business and consumers are linked from this page under the header "Navigate the Food Section"
- FDA, Animal & Veterinarian website at <https://www.fda.gov/AnimalVeterinary/default.htm>
- EPA, Regulation of Pesticide Residue on Foods website at <https://www.epa.gov/pesticide-tolerances>
- The FDA and USDA jointly administer a food safety website, [FoodSafety.gov](http://www.foodsafety.gov), that announces food safety outbreaks and provides related information for consumers and industry. It is found at <https://www.foodsafety.gov>.

## C. CRS Reports

Congressional Research Service (CRS) reports provide excellent background resources on a wide-range of current legal issues. They are now available directly from the CRS on a new website at [CRSreports.Congress.govcom](https://www.crs.gov/crsreports). Listed below are the reports from the last year that relate directly to food law issues. Each is available for free download from the new CRS website. Search by title or report number.

- **Domestic Food Assistance: Summary of Programs**, R42353, Randy Alison Aussenberg, Kara Clifford Billings, Kirsten J. Colello (Aug. 27, 2019)
- **International Food Assistance: Food for Peace Nonemergency Programs**, R45879, Emily M. Morgenstern (Aug. 21, 2019)
- **2018 Farm Bill Primer: Support for Indian Tribes**, IF11287, Renée Johnson, Tadlock Cowan (Aug. 12, 2019)
- **The Supplemental Nutrition Assistance Program (SNAP): Categorical Eligibility**, R42054, Randy Alison Aussenberg, Gene Falk (Aug. 01, 2019)
- **Hemp-Derived Cannabidiol (CBD) and Related Hemp Extracts**, IF10391, Renée Johnson (June 21, 2019)
- **Farm Policy: USDA's 2018 Trade Aid Package**, R45310, Randy Schnepf, Jim Monke, Megan Stubbs, Anita Regmi (June 19, 2019)
- **2018 Farm Bill Primer: Support for Local Food Systems**, IF11252, Renée Johnson, Tadlock Cowan, Randy Alison Aussenberg (June 18, 2019)
- **FY2020 Agriculture Appropriations: H.R. 3164**, IN11132, Jim Monke (June 13, 2019)
- **FDA Regulation of Cannabidiol (CBD) Products**, IF11250, Agata Dabrowska, Renée Johnson (June 12, 2019)
- **FY2019 Supplemental Appropriations for Agriculture**, IF11245, Megan Stubbs, Jim Monke (June 07, 2019)
- **USDA Domestic Food Assistance Programs: FY2019 Appropriations**, R45743, Randy Alison Aussenberg, Kara Clifford Billings (May 24, 2019)
- **2018 Farm Bill Primer: Agricultural Trade and Food Assistance**, IF11223, Anita Regmi, Alyssa R. Casey (May 22, 2019)
- **African Swine Fever (ASF)**, IF11215, Sahar Angadjivand, Joel L. Greene (May 17, 2019)
- **Chronic Wasting Disease (CWD) and Government Response**, IF11213, Sahar Angadjivand, R. Eliot Crafton (May 17, 2019)
- **2018 Farm Bill Primer: Support for Urban Agriculture**, IF11210, Renée Johnson, Tadlock Cowan (May 16, 2019)

- **Agriculture and Related Agencies: FY2019 Appropriations**, R45230, Jim Monke (May 08, 2019)
- **FY2018 and FY2019 Agriculture Appropriations: International Food Aid**, R45712, Alyssa R. Casey, (May 08, 2019)
- **2018 Farm Bill Primer: Dairy Programs**, IF11188, Joel L. Greene (Apr. 24, 2019)
- **Child Nutrition Programs: Current Issues**, R45486, Kara Clifford Billings (Apr. 24, 2019)
- **Agricultural Provisions of the U.S.-Mexico-Canada Agreement**, R45661, Anita Regmi (Apr. 08, 2019)
- **Projected Economic Impacts of Climate Change**, IF11156, Danielle A. Arostegui, Jane A. Leggett (Mar. 28, 2019)
- **Dairy Provisions in USMCA**, IF11149, Joel L. Greene (Mar. 26, 2019)
- **An Introduction to Child Nutrition Reauthorization**, IF10266, Kara Clifford Billings, Randy Alison Aussenberg (Mar. 08, 2019)
- **Budget Issues That Shaped the 2018 Farm Bill**, R45425, Jim Monke (Feb. 28, 2019)
- **The 2018 Farm Bill (P.L. 115-334): Summary and Side-by-Side Comparison**, R45525, Mark A. McMinimy, et al (Feb. 22, 2019)
- **School Meals Programs and Other USDA Child Nutrition Programs: A Primer**, R43783 Kara Clifford Billings, Randy Alison Aussenberg (Feb. 11, 2019)
- **Foodborne Illnesses and Outbreaks from Fresh Produce**, IF11092, Renée Johnson (Feb. 04, 2019)
- **2018 Farm Bill Primer: SNAP and Nutrition Title Programs**, IF11087, Randy Alison Aussenberg, Kara Clifford Billings (Jan. 30, 2019)
- **Farm Bill Primer Series: Guide to Agriculture & Food Programs in the 2014 Farm Bill**, R44913, Mark A. McMinimy (Jan. 15, 2019)
- **Animal and Plant Health Import Permits in U.S. Agricultural Trade**, R45457, Sahar Angadjivand (Jan. 11, 2019)
- **Overview of U.S. International Food Assistance**, IF11059, Alyssa R. Casey (Dec. 31, 2018)
- **USDA Domestic Food Assistance Programs: FY2018 Appropriations**, R45433, Randy Alison Aussenberg, Kara Clifford Billings (Dec. 11, 2018)
- **U.S. International Food Assistance: An Overview**, R45422, Alyssa R. Casey (Dec. 06, 2018)
- **FY2018 and FY2019 Agriculture Appropriations: Federal Food Safety Activities**, R45413, Renée Johnson, Sahar Angadjivand (Nov. 27, 2018)

- **The Emergency Food Assistance Program (TEFAP): Background and Funding**, R45408, Kara Clifford Billings (Nov. 19, 2018)
- **Invasive Species: A Brief Overview**, IF11011, R. Eliot Crafton, Sahar Angadjivand, (Oct. 26, 2018)
- **Regulation of Cell-Cultured Meat**, IF10947, Joel L. Greene, Sahar Angadjivand (Oct. 25, 2018)
- **Errors and Fraud in the Supplemental Nutrition Assistance Program (SNAP)**, R45147, Randy Alison Aussenberg (Sept. 28, 2018)
- **Proposed Reorganization of U.S. Federal Food Safety Agencies**, IF10974, Renée Johnson, Agata Dabrowska (Sept. 7, 2018)

#### D. ERS Reports

The relocation of the ERS from Washington, D.C. to Kansas City this Fall is causing a major disruption in the important economic analysis that this agency provides. Although there may be some fluctuation in the numbers up until a Sept. 30, 2019 deadline, reports have indicated about two-thirds of USDA employees will leave their positions. See, Ben Guarino, [Many USDA Workers to Quit as Research Agencies Move to Kansas City: 'The Brain Drain We All Feared.'](#) WASH. POST (July 18, 2019); For an overview of the planned move and objections to it, see Tadlock Cowan, [Proposed Relocation/Realignment of USDA's ERS and NIFA](#), Cong. Res. Serv. In Focus Rep. No. (updated Aug. 13, 2019).

The following outline provides information about the many excellent ERS Reports involving food-related issues published between September 2018 and August 2019.

#### USDA ERS Reports: Food Related

Fall 2018 – 2019

Research by Shirah Dedman, JD, LL.M. Candidate

Title	URL	Citation	Description
Adult Eating and Health Patterns: Evidence From the 2014-16 Eating & Health Module of the American Time Use Survey	<a href="https://www.ers.usda.gov/publication/pub-details/?pubid=90465">https://www.ers.usda.gov/publication/pub-details/?pubid=90465</a>	Eliana Zeballos and Brandon Restrepo, USDA, EIB-198 (October 29, 2018)	With data from the 2014-16 Eating & Health Module (EHM) of the American Time Use Survey (ATUS), this report presents national statistics on eating and health patterns for the U.S. adult population as a whole and for a wide variety of important demographic subgroups.

<p>Americans Still Can Meet Fruit and Vegetable Dietary Guidelines for \$2.10-\$2.60 per Day</p>	<p><a href="https://www.ers.usda.gov/amber-waves/2019/june/americans-still-can-meet-fruit-and-vegetable-dietary-guidelines-for-210-260-per-day/">https://www.ers.usda.gov/amber-waves/2019/june/americans-still-can-meet-fruit-and-vegetable-dietary-guidelines-for-210-260-per-day/</a></p>	<p>Hayden Stewart and Jeffrey Hyman, USDA, Amber Waves (June 02, 2019)</p>	<p>ERS researchers calculated the average cost to consume 157 fresh and processed fruits and vegetables by adjusting for inedible parts and losses that may occur in cooking. A greater share of vegetables (77 percent) than fruits (47 percent) cost less than 80 cents per cup equivalent.</p>
<p>America's Eating Habits: Food Away From Home</p>	<p><a href="https://www.ers.usda.gov/publications/pub-details/?pubid=90227">https://www.ers.usda.gov/publications/pub-details/?pubid=90227</a></p>	<p>Michelle Saksena, ET AL., USDA, EIB-196 (September 26, 2018)</p>	<p>This report examines the growing availability of food away from home (FAFH), presenting research on food choices and availability; nutrition and diet quality; and food policies, including menu labeling and food assistance programs. It also examines how FAFH choices relate to diet quality and sociodemographic characteristics.</p>
<p>Both At Home and Away, Americans Are Choosing More Lower Fat Foods Than They Did 35 Years Ago</p>	<p><a href="https://www.ers.usda.gov/amber-waves/2018/october/both-at-home-and-away-americans-are-choosing-more-lower-fat-foods-than-they-did-35-years-ago/">https://www.ers.usda.gov/amber-waves/2018/october/both-at-home-and-away-americans-are-choosing-more-lower-fat-foods-than-they-did-35-years-ago/</a></p>	<p>Joanne Guthrie and Biing-Hwan Lin, USDA, Amber Waves (September 30, 2018)</p>	<p>Analysis of national survey data found that between 1977-78 and 2011-14, declines in the share of calories coming from fat were largest for at-home foods and foods served in schools and day care facilities.</p>
<p>Capturing the Complete Food Environment With Commercial Data: A Comparison of TDLinx, ReCount, and NETS Databases</p>	<p><a href="https://www.ers.usda.gov/publications/pub-details/?pubid=92628">https://www.ers.usda.gov/publications/pub-details/?pubid=92628</a></p>	<p>Clare Cho, ET AL., USDA, TB-1953 (March 18, 2019)</p>	<p>This study compares various databases to evaluate each dataset's relative coverage of the food environment.</p>
<p>Consumer Food Safety Practices: Raw Milk Consumption and Food Thermometer Use</p>	<p><a href="https://www.ers.usda.gov/publications/pub-details/?pubid=91109">https://www.ers.usda.gov/publications/pub-details/?pubid=91109</a></p>	<p>M. Taylor Rhodes, Fred Kuchler, Ket McClelland, and Karen Hamrick, USDA, EIB-205 (January 28, 2019)</p>	<p>Researchers investigate the application of two FDA-recommended food-safety practices by taking a closer look at the estimated 14 percent of at-home meal preparers who use meat thermometers when preparing meat and the 2 percent who use non-pasteurized raw milk in a typical week.</p>

<p>Economic Implications of Increased Breastfeeding Rates in WIC</p>	<p><a href="https://www.ers.usda.gov/amber-waves/2019/february/economic-implications-of-increased-breastfeeding-rates-in-wic/">https://www.ers.usda.gov/amber-waves/2019/february/economic-implications-of-increased-breastfeeding-rates-in-wic/</a></p>	<p>Victor Oliveira and Mark Prell, USDA, Amber Waves (February 13, 2019)</p>	<p>A recent ERS study estimated the economic impacts if 90 percent of infants participating in WIC in 2016 were breastfed for 12 months and received no infant formula. Under this scenario, mothers would stay in the program longer and annual WIC costs would rise by \$252.4 million. These higher program costs would be partially offset by lower Federal Medicaid costs. WIC households and their health insurance providers would also realize health-related cost savings.</p>
<p>ERS's SNAP Distribution Schedule Database Allows for New Research on Program Impacts</p>	<p><a href="https://www.ers.usda.gov/amber-waves/2019/august/ers-s-snap-distribution-database-allows-for-new-research-on-program-impacts/">https://www.ers.usda.gov/amber-waves/2019/august/ers-s-snap-distribution-database-allows-for-new-research-on-program-impacts/</a></p>	<p>Jessica E. Todd and Christian A. Gregory, USDA, Amber Waves (August 11, 2019)</p>	<p>SNAP participants receive their benefits in a lump-sum on a single day each month. States are allowed to stagger delivery of benefits over the month, with a portion of SNAP recipients receiving benefits each distribution day. States are increasingly likely to distribute SNAP benefits over a longer span of days.</p>
<p>Examining Food Store Scanner Data: A Comparison of the IRI InfoScan Data with Other Data Sets, 2008–2012</p>	<p><a href="https://www.ers.usda.gov/publications/pub-details/?pubid=90354">https://www.ers.usda.gov/publications/pub-details/?pubid=90354</a></p>	<p>David Levin, ET AL., USDA, TB-1949 (October 16, 2018)</p>	<p>ERS has purchased proprietary retail scanner data (InfoScan) since 2008 to examine food policy questions. To determine how representative the data are, this report compares the number of stores and sales revenue reported in the InfoScan data with the same information from other datasets.</p>
<p>Expert Panel on Technical Questions and Data Gaps for the ERS Loss-Adjusted Food Availability (LAFA) Data Series</p>	<p><a href="https://www.ers.usda.gov/publications/pub-details/?pubid=92408">https://www.ers.usda.gov/publications/pub-details/?pubid=92408</a></p>	<p>Mary K. Muth, ET AL., USDA, CCR-70 (March 24, 2019)</p>	<p>The ERS Loss-Adjusted Food Availability (LAFA) data series is derived from ERS's Food Availability (FA) data by adjusting for food spoilage, plate waste, and other losses to more closely approximate actual intake. ERS refers to the LAFA data series as preliminary and recognizes the need to systematically update and improve the loss assumptions underlying the LAFA per capita availability estimates.</p>

<p>Food Pantries Provide Emergency Food to More Than One-Quarter of Food-Insecure Households</p>	<p><a href="https://www.ers.usda.gov/amber-waves/2018/november/food-pantries-provide-emergency-food-to-more-than-one-quarter-of-food-insecure-households/">https://www.ers.usda.gov/amber-waves/2018/november/food-pantries-provide-emergency-food-to-more-than-one-quarter-of-food-insecure-households/</a></p>	<p>Alisha Coleman-Jensen, UDSDA, Amber Waves (November 04, 2018)</p>	<p>In 2017, 26 percent of U.S. households that were food insecure used a food pantry, down from 28.2 percent in 2015 but higher than the annual rates during 2001-12.</p>
<p>Food Safety Requirements for Produce Growers: Retailer Demands and the Food Safety Modernization Act</p>	<p><a href="https://www.ers.usda.gov/publications/pub-details/?pubid=92760">https://www.ers.usda.gov/publications/pub-details/?pubid=92760</a></p>	<p>Travis Minor, ET AL., USDA, EIB-206 (April 02, 2019)</p>	<p>Interviews with nine food retailers, selected to cover a wide range of store types, sizes, and locations, form a case study of the retail sector’s food safety requirements for its produce suppliers before the FSMA.</p>
<p>Food Spending of Middle-Income Households Hardest Hit by the Great Recession</p>	<p><a href="https://www.ers.usda.gov/amber-waves/2018/september/food-spending-of-middle-income-households-hardest-hit-by-the-great-recession/">https://www.ers.usda.gov/amber-waves/2018/september/food-spending-of-middle-income-households-hardest-hit-by-the-great-recession/</a></p>	<p>Clare Cho, Jessica E. Todd, and Michelle Saksena, USDA, Amber Waves (September 26, 2018)</p>	<p>As household incomes fell during the Great Recession, inflation-adjusted food spending by U.S. households declined by 7 percent between 2007 and 2010 and did not return to pre-recession levels until 2015. Eating out took a bigger hit than grocery store spending, and food spending among middle-income households dropped more than that of the lowest and highest income groups.</p>
<p>Frequency and Time of Day That Americans Eat: A Comparison of Data From the American Time Use Survey and the National Health and Nutrition Examination Survey</p>	<p><a href="https://www.ers.usda.gov/publications/pub-details/?pubid=93513">https://www.ers.usda.gov/publications/pub-details/?pubid=93513</a></p>	<p>Eliana Zeballos, Jessica E. Todd, and Brandon Restrepo, USDA, TB-1954 (July 16, 2019)</p>	<p>This study compares the time-of-day and the number of eating occasions of U.S. adults as reported in the American Time Use Survey and the Eating &amp; Health Module to those in the dietary intake data in the National Health and Nutrition Examination Survey.</p>
<p>Grocery Store Prices Rose for the First Time in 3 Years in 2018</p>	<p><a href="https://www.ers.usda.gov/amber-waves/2019/march/grocery-store-prices-rose-for-the-first-time-in-3-years-in-2018/">https://www.ers.usda.gov/amber-waves/2019/march/grocery-store-prices-rose-for-the-first-time-in-3-years-in-2018/</a></p>	<p>Annemarie Kuhns, USDA, Amber Waves (March 12, 2019)</p>	<p>Average grocery store prices rose 0.4 percent in 2018. With the exception of eggs (up 10.8 percent) and fish and seafood (up 2.1 percent), prices for major food categories rose at rates of 1.1 percent or less.</p>
<p>Growth in Quick-Service Restaurants Outpaced Full-</p>	<p><a href="https://www.ers.usda.gov/amber-">https://www.ers.usda.gov/amber-</a></p>	<p>Patrick W. McLaughlin,</p>	<p>Over the last decade and a half, the number of quick-service</p>



<p>Service Restaurants in Most U.S. Counties</p>	<p><a href="https://www.ers.usda.gov/amber-waves/2018/november/growth-in-quick-service-restaurants-outpaced-full-service-restaurants-in-most-us-counties/">waves/2018/november/growth-in-quick-service-restaurants-outpaced-full-service-restaurants-in-most-us-counties/</a></p>	<p>USDA, Amber Waves (November 04, 2018)</p>	<p>restaurants operating in the U.S. grew by 20 percent, with many urban counties— especially in the Mid-Atlantic and Southeast—posting growth in excess of 30 percent.</p>
<p>Higher Vehicle Exclusions and Asset Limits in SNAP May Encourage Asset Accumulation Among Low-Income Households</p>	<p><a href="https://www.ers.usda.gov/amber-waves/2019/march/higher-vehicle-exclusions-and-asset-limits-in-snap-may-encourage-asset-accumulation-among-low-income-households/">https://www.ers.usda.gov/amber-waves/2019/march/higher-vehicle-exclusions-and-asset-limits-in-snap-may-encourage-asset-accumulation-among-low-income-households/</a></p>	<p>Jessica E. Todd, USDA, Amber Waves (March 12, 2019)</p>	<p>SNAP eligibility is based on income and asset levels. While higher vehicle exclusions were not found to affect liquid asset or vehicle holdings, eliminating the SNAP asset limit increased a low-income household’s liquid assets by 20 percent and the likelihood of owning a vehicle by 3 percentage points.</p>
<p>Linking USDA Nutrition Databases to IRI Household-Based and Store-Based Scanner Data</p>	<p><a href="https://www.ers.usda.gov/publications/pub-details/?pubid=92570">https://www.ers.usda.gov/publications/pub-details/?pubid=92570</a></p>	<p>Andrea Carlson, ET AL., USDA, TB-1952 (March 12, 2019)</p>	<p>To measure the overall healthfulness of Americans' food-at-home (FAH) purchases, USDA researchers created a purchase-to-plate “crosswalk”— linking data between USDA data and household and retail scanner data. Substantial improvements in the healthfulness of Americans' FAH purchases would be needed to comply with Federal dietary guidance.</p>
<p>Measuring the Value of the U.S. Food System: Revisions to the Food Expenditure Series</p>	<p><a href="https://www.ers.usda.gov/publications/pub-details/?pubid=90154">https://www.ers.usda.gov/publications/pub-details/?pubid=90154</a></p>	<p>Abigail Okrent, Howard Elitzak, Timothy Park, and Sarah Rehkamp, USDA, TB-1948 (September 19, 2018)</p>	<p>ERS researchers updated methods and sources used in the Food Expenditure Series, which tracks annual and monthly trends in the U.S. food system, revising estimates back to 1997, introducing "advance" estimates, and establishing a release timetable.</p>

<p>Monthly Timing of SNAP Spending Less Smooth for Some Households</p>	<p><a href="https://www.ers.usda.gov/amber-waves/2018/december/monthly-timing-of-snap-spending-less-smooth-for-some-households/">https://www.ers.usda.gov/amber-waves/2018/december/monthly-timing-of-snap-spending-less-smooth-for-some-households/</a></p>	<p>Christian A. Gregory, USDA, Amber Waves (December 02, 2018)</p>	<p>A recent study found that 38 percent of SNAP households spent an average of 67 percent of their SNAP benefits within 4 days of receiving them; the remaining households spent 18 percent of their benefits during this time period.</p>
<p>New Data Linkages Provide Healthfulness Measures for American Grocery Store Sales</p>	<p><a href="https://www.ers.usda.gov/amber-waves/2019/june/new-data-linkages-provide-healthfulness-measures-for-american-grocery-store-sales/">https://www.ers.usda.gov/amber-waves/2019/june/new-data-linkages-provide-healthfulness-measures-for-american-grocery-store-sales/</a></p>	<p>Elina T. Page and Andrea Carlson, USDA, Amber Waves (June 02, 2019)</p>	<p>Newly established data links between retail food sales data and USDA nutrition databases now allow researchers to study the composition and healthfulness of Americans' purchases at retail stores. ERS researchers used this new linked data to score the nutritional quality of retail food sales and found substantial room for improvement.</p>
<p>New National Menu Labeling Provides Information Consumers Can Use To Help Manage Their Calorie Intake</p>	<p><a href="https://www.ers.usda.gov/amber-waves/2018/october/new-national-menu-labeling-provides-information-consumers-can-use-to-help-manage-their-calorie-intake/">https://www.ers.usda.gov/amber-waves/2018/october/new-national-menu-labeling-provides-information-consumers-can-use-to-help-manage-their-calorie-intake/</a></p>	<p>Brandon Restrepo and Travis Minor, USDA, Amber Waves (October 30, 2018)</p>	<p>Newly implemented Federal regulations require chain restaurants to post calorie contents on menus. ERS's analysis of 2007-14 data found that total daily calorie intakes were lower for consumers who saw and used nutrition or health information on restaurant menus relative to those who saw but did not use the information.</p>
<p>New U.S. Food Expenditure Estimates Find Food-Away-From-Home Spending Is Higher Than Previous Estimates</p>	<p><a href="https://www.ers.usda.gov/amber-waves/2018/november/new-us-food-expenditure-estimates-find-food-away-from-home-spending-is-higher-than-previous-estimates/">https://www.ers.usda.gov/amber-waves/2018/november/new-us-food-expenditure-estimates-find-food-away-from-home-spending-is-higher-than-previous-estimates/</a></p>	<p>Howard Elitzak and Abigail Okrent, USDA, Amber Waves (November 04, 2018)</p>	<p>U.S. consumers, businesses, and government entities spent \$1.62 trillion on food and beverages in 2017. Food-away-from-home establishments accounted for 54 percent of this spending, and grocery stores, supercenters, and other retail stores accounted for 46 percent.</p>
<p>Not All Consumers Are Following Food Safety Advice From Health Officials</p>	<p><a href="https://www.ers.usda.gov/amber-waves/2019/april/not-all-consumers-are-following-food-">https://www.ers.usda.gov/amber-waves/2019/april/not-all-consumers-are-following-food-</a></p>	<p>Fred Kuchler, USDA, Amber Waves (March 31, 2019)</p>	<p>Using time use survey data, ERS researchers estimate that on a weekly basis in 2014-16, 2.0 percent of at-home meal preparers consumed or served raw milk and 13.7 percent used a</p>

	<a href="#">safety-advice-from-health-officials/</a>		food thermometer when preparing meals with meat, poultry, or seafood.
Older Infants Participating in WIC Are More Likely To Eat Vegetables Than Low-Income Non-Participating Infants	<a href="https://www.ers.usda.gov/amber-waves/2019/may/older-infants-participating-in-wic-are-more-likely-to-eat-vegetables-than-low-income-non-participating-infants/">https://www.ers.usda.gov/amber-waves/2019/may/older-infants-participating-in-wic-are-more-likely-to-eat-vegetables-than-low-income-non-participating-infants/</a>	Joanne Guthrie, USDA, Amber Waves (April 30, 2019)	A recent study found that older infants participating in WIC had the same likelihood of eating fruits and vegetables as higher income infants not participating in the program and a higher likelihood of eating vegetables than lower income infants who did not participate.
Quantifying the Impact of SNAP Benefits on the U.S. Economy and Jobs	<a href="https://www.ers.usda.gov/amber-waves/2019/july/g-quantifying-the-impact-of-snap-benefits-on-the-us-economy-and-jobs/">https://www.ers.usda.gov/amber-waves/2019/july/g-quantifying-the-impact-of-snap-benefits-on-the-us-economy-and-jobs/</a>	Patrick Canning and Rosanna Mentzer Morrison, USDA, Amber Waves (July 17, 2019)	Participants in USDA’s Supplemental Nutrition Assistance Program (SNAP) generally spend their benefits soon after receiving them, spending that has cascading effects through the economy. A recent ERS analysis finds that during a slowing economy, \$1 billion in new SNAP benefits would increase GDP by \$1.54 billion and support 13,560 jobs, including 480 agricultural jobs.
Retail Food Price Inflation Has Slowed Over Time	<a href="https://www.ers.usda.gov/amber-waves/2019/july/retail-food-price-inflation-has-slowed-over-time/">https://www.ers.usda.gov/amber-waves/2019/july/retail-food-price-inflation-has-slowed-over-time/</a>	Abigail Okrent and Annemarie Kuhns, UDA, Amber Waves (June 30, 2019)	Grocery store food prices generally rise each year. However, in 2016, retail food prices actually fell 1.3 percent and fell again in 2017 (0.2 percent). These back-to-back years of deflation helped lower the 20-year moving average for grocery store price inflation from 3.6 percent in 1999 to 2.0 percent in 2018. ERS researchers identify the multiple factors contributing to recent retail food price deflation.
Selected Charts from Ag and Food Statistics: Charting the Essentials, October 2018	<a href="https://www.ers.usda.gov/publication/pub-details/?pubid=90490">https://www.ers.usda.gov/publication/pub-details/?pubid=90490</a>	Kathleen Kassel, Alex Melton, and Rosanna Mentzer Morrison, USDA, AP-080 (October 29, 2018)	This collection of charts and maps presents examples of key statistics on the farm sector, food spending and prices, food security, rural communities, agricultural production and trade, the interaction of agriculture and natural

			resources, and more found in ERS's regularly updated web product, Ag and Food Statistics: Charting the Essentials.
SNAP Households Adjust Their Expenditures and How They Spend Their Time in Response to Changes in Program Benefits	<a href="https://www.ers.usda.gov/amber-waves/2019/august/snap-households-adjust-their-expenditures-and-how-they-spend-their-time-in-response-to-changes-in-program-benefits/">https://www.ers.usda.gov/amber-waves/2019/august/snap-households-adjust-their-expenditures-and-how-they-spend-their-time-in-response-to-changes-in-program-benefits/</a>	Matthew P. Rabbitt, USDA, Amber Waves (August 11, 2019)	The American Recovery and Reinvestment Act of 2009 (ARRA) mandated higher monthly benefits for households participating in USDA's Supplemental Nutrition Assistance Program (SNAP). Subsequent legislation ended these higher benefits in November 2013. Researchers found that SNAP households spent less time on food shopping and meal preparation and more time in income-generating work following the sunset of the higher ARRA-mandated benefits.
SNAP Participants Are More Likely To Leave the Program When Local Labor Markets Improve	<a href="https://www.ers.usda.gov/amber-waves/2019/july/snap-participants-are-more-likely-to-leave-the-program-when-local-labor-markets-improve/">https://www.ers.usda.gov/amber-waves/2019/july/snap-participants-are-more-likely-to-leave-the-program-when-local-labor-markets-improve/</a>	Erik Scherpf, USDA, Amber Waves (June 30, 2019)	Using 2007-12 administrative SNAP records for New York counties, ERS and Census Bureau researchers investigated the impact of local labor market conditions on the likelihood that SNAP recipients leave the program. The researchers found that a 1-percent increase in county employment resulted in a nearly four-fold increase in the likelihood that an adult recipient would leave the program.
SNAP Redemptions Contributed to Employment During the Great Recession	<a href="https://www.ers.usda.gov/amber-waves/2019/may/snap-redemptions-contributed-to-employment-during-the-great-recession/">https://www.ers.usda.gov/amber-waves/2019/may/snap-redemptions-contributed-to-employment-during-the-great-recession/</a>	John Pender and Young Jo, USDA, Amber Waves (May 27, 2019)	Recent ERS research found that SNAP redemptions were associated with increased local employment— with \$10,000 of redemptions contributing to 0.4 additional urban jobs and 1.0 additional rural jobs.
Specialized Stores Serving WIC Customers in California Improve	<a href="https://www.ers.usda.gov/amber-waves/2019/may/specialized-">https://www.ers.usda.gov/amber-waves/2019/may/specialized-</a>	Patrick W. McLaughlin, USDA, Amber Waves (April 30, 2019)	While most stores that redeem WIC benefits are typical food retailers, States can also authorize "above-50-percent" (A50) stores, which derive more

<p>Food Access Without Raising Food Costs</p>	<p><a href="https://www.ers.usda.gov/publications/pub-details/?pubid=90497">stores-serving-wic-customers-in-california-improve-food-access-without-raising-food-costs/</a></p>		<p>than 50 percent of their food sales from WIC transactions, to redeem WIC benefits. A50 stores tend to locate close to WIC participants. A recent study found that without A50 stores, most WIC participants reliant on these stores in the Greater Los Angeles area would need to travel further to redeem their WIC benefits.</p>
<p>The Association Between Restaurant Menu Label Use and Caloric Intake</p>	<p><a href="https://www.ers.usda.gov/publications/pub-details/?pubid=90497">https://www.ers.usda.gov/publications/pub-details/?pubid=90497</a></p>	<p>Brandon Restrepo, Travis Minor, and Janet Peckham, USDA, ERR-259 (October 30, 2018)</p>	<p>Federal menu-labeling regulations now require certain restaurants to post the calorie content of all standard items on menus. This study uses survey data to analyze the association between restaurant menu label use and total and source-specific daily caloric intakes among individuals who saw nutrition information on a menu the last time they visited a fast-food or sit-down restaurant.</p>
<p>The Economic Impacts of Breastfeeding: A Focus on USDA's Special Supplemental Nutrition Program for Women, Infants, and Children (WIC)</p>	<p><a href="https://www.ers.usda.gov/publications/pub-details/?pubid=91272">https://www.ers.usda.gov/publications/pub-details/?pubid=91272</a></p>	<p>Victor Oliveira, Mark Prell, and Xinzhe Cheng, USDA, ERR-261 (February 13, 2019)</p>	<p>Breastfeeding rates among participants in USDA's Special Supplemental Nutrition Program for Women, Infants, and Children (WIC) are lower than the U.S. average. This study estimates the effects that increased breastfeeding rates in WIC would have on the number of WIC participants, costs to WIC and Medicaid, and health-related costs that accrue to WIC households or their health insurance providers.</p>
<p>The Food Assistance Landscape: FY 2018 Annual Report</p>	<p><a href="https://www.ers.usda.gov/publications/pub-details/?pubid=92895">https://www.ers.usda.gov/publications/pub-details/?pubid=92895</a></p>	<p>Victor Oliveira, USDA, EIB-207 (April 17, 2019)</p>	<p>This report uses preliminary data from USDA's Food and Nutrition Service to examine trends in U.S. food and nutrition assistance programs through fiscal 2018. It also summarizes two recent ERS reports: one on trends in the prevalence and severity of U.S. household food insecurity</p>

			through 2017 and another that estimates the economic impacts of increased breastfeeding among WIC participants.
The Impacts of Supplemental Nutrition Assistance Program Redemptions on County-Level Employment	<a href="https://www.ers.usda.gov/publications/pub-details/?pubid=93168">https://www.ers.usda.gov/publications/pub-details/?pubid=93168</a>	John Pender, Young Jo, Jessica E. Todd, and Cristina Miller, USDA, ERR-263 (May 27, 2019)	This study investigates the impacts of USDA's Supplemental Nutrition Assistance Program (SNAP) redemptions on metro and nonmetro county-level employment. From 2001 to 2014, SNAP redemptions had a positive average impact on county-level employment in nonmetro counties but no measurable impact in metro counties. The impacts of SNAP were positive from 2008 to 2010 in both metro and nonmetro areas.
The Supplemental Nutrition Assistance Program (SNAP) and the Economy: New Estimates of the SNAP Multiplier	<a href="https://www.ers.usda.gov/publications/pub-details/?pubid=93528">https://www.ers.usda.gov/publications/pub-details/?pubid=93528</a>	Patrick Canning and Brian Stacy, USDA, ERR-265 (July 17, 2019)	An analysis of the impact that increasing SNAP benefits by \$1 billion during an economic downturn would have on U.S. gross domestic product, employment, and incomes across the farm economy and other industries impacted by SNAP.
The U.S. and EU Animal Pharmaceutical Industries in the Age of Antibiotic Resistance	<a href="https://www.ers.usda.gov/publications/pub-details/?pubid=93178">https://www.ers.usda.gov/publications/pub-details/?pubid=93178</a>	Stacy Sneeringer, Maria Bowman, and Matthew Clancy, USDA, ERR-264 (May 29, 2019)	Increased scrutiny from policymakers and consumers is changing how the animal pharmaceutical industry develops and sells its drugs, which in turn, can affect agricultural production and meat prices. In recent years, antibiotics sales for U.S. and EU food-animal production have shown declines, even as demand for food-animal products has increased.
Time Spent Eating Varies by Age, Education, and Body Mass Index	<a href="https://www.ers.usda.gov/amber-waves/2019/april/time-spent-eating-varies-by-age-education-">https://www.ers.usda.gov/amber-waves/2019/april/time-spent-eating-varies-by-age-education-</a>	Brandon Restrepo and Eliana Zeballos, USDA, Amber Waves (March 31, 2019)	ERS researchers used data from the Eating & Health Module of the 2014-16 American Time Use Survey to see if time spent eating varies by adult subpopulations. The researchers

	<a href="#">and-body-mass-index/</a>		found that time spent eating increased with age and educational attainment. Healthy weight individuals were found to spend more time eating than those who were overweight or obese.
U.S. Produce Growers' Decisionmaking Under Evolving Food Safety Standards	<a href="https://www.ers.usda.gov/publications/pub-details/?pubid=93241">https://www.ers.usda.gov/publications/pub-details/?pubid=93241</a>	Gregory Astill, Travis Minor, Suzanne Thornsbury, and Linda Calvin, USDA, EIB-210 (June 05, 2019)	U.S. produce growers face increased demand for implementing more food safety practices, prompted by a series of high-profile foodborne illness outbreaks. A series of case studies with growers of five commodities in six regions reveal the industry's long history of voluntarily adopted food safety standards as well as requirements set by commercial buyers and government agencies.
U.S. Shoppers' Access to Multiple Food Stores Varies by Region	<a href="https://www.ers.usda.gov/amber-waves/2019/june/us-shoppers-access-to-multiple-food-stores-varies-by-region/">https://www.ers.usda.gov/amber-waves/2019/june/us-shoppers-access-to-multiple-food-stores-varies-by-region/</a>	Alana Rhone and Michele Ver Ploeg, USDA, Amber Waves (June 02, 2019)	ERS researchers recently calculated distances between households and the nearest and third-nearest food stores. Distance to the third-nearest store gives a sense of consumer choice and the competition facing the nearest store. The median distance to the third-nearest food store for the overall U.S. population was 1.7 miles in 2015; for rural residents, this distance was 6.1 miles.
Understanding Low-Income and Low-Access Census Tracts Across the Nation: Subnational and Subpopulation Estimates of Access to Healthy Food	<a href="https://www.ers.usda.gov/publications/pub-details/?pubid=93140">https://www.ers.usda.gov/publications/pub-details/?pubid=93140</a>	Alana Rhone, Michele Ver Ploeg, Ryan Williams, and Vince Breneman, USDA, EIB-209 (May 22, 2019)	This report estimates access to food stores for subsets of the population. Data are also aggregated to the census-tract-level to show State and local estimates of low-income and low-access (LILA) census tracts.
USDA School Meal Programs: How and Why the Cost of Food Purchases Varies Across Locales	<a href="https://www.ers.usda.gov/publications/pub-details/?pubid=90599">https://www.ers.usda.gov/publications/pub-details/?pubid=90599</a>	Michael Ollinger, Joanne Guthrie, and Audrey Peo, USDA, ERR-260 (November 13, 2018)	This report examines how school meal costs vary by volume of purchases and the characteristics of school food authorities (SFA) such as location and purchasing practices.

<p>Variety-Adjusted Food Prices Are Slightly Higher in Census Tracts Where Households Have Limited Access to a Supermarket</p>	<p><a href="https://www.ers.usda.gov/amber-waves/2018/december/variety-adjusted-food-prices-are-slightly-higher-in-census-tracts-where-households-have-limited-access-to-a-supermarket/">https://www.ers.usda.gov/amber-waves/2018/december/variety-adjusted-food-prices-are-slightly-higher-in-census-tracts-where-households-have-limited-access-to-a-supermarket/</a></p>	<p>Michele Ver Ploeg and Daniel Kane, USDA, Amber Waves (December 02, 2018)</p>	<p>Researchers found that consumers who live in urban census tracts with limited access to supermarkets, but are able to shop in nearby tracts, face variety-adjusted food prices that are 3.5 percent higher than prices in urban tracts with better access.</p>
<p>Volume of Purchases and Regional Location Have Strong Effects on Food Costs for School Meals</p>	<p><a href="https://www.ers.usda.gov/amber-waves/2019/april/volume-of-purchases-and-regional-location-have-strong-effects-on-food-costs-for-school-meals/">https://www.ers.usda.gov/amber-waves/2019/april/volume-of-purchases-and-regional-location-have-strong-effects-on-food-costs-for-school-meals/</a></p>	<p>Michael Ollinger and Joanne Guthrie, USDA, Amber Waves (March 31, 2019)</p>	<p>An ERS study found that food costs for USDA school meals were highest in the Northern Plains, Mountain, and Southern Plains States and lowest in the Southeast States. The volume of food purchases was also found to affect costs.</p>

### III. FDA Regulatory Actions & Guidance for Industry

In addition to the regulations promulgated by the FDA, the agency also publishes many guidance documents designed to provide industry with information on their approach to regulatory compliance. Note that these documents do not have the full force and effect of law but are merely the agency’s statement of their current interpretation of that law. They can be changed at any time.

The Guidances are published on the FDA website, [Guidance and Regulatory Information By Topic](#) and noticed in the Federal Register. Food-related Guidances published since October 2018 are listed as follows:

- Food Defense: [\(DRAFT\) Mitigation Strategies to Protect Food Against Intentional Adulteration](#) (March 2019)
- Food Safety (FSMA): [\(DRAFT\) Reducing Microbial Food Safety Hazards in the Production of Seed for Sprouting](#) (June 2019)
- Food Safety (FSMA): [Guidance for Industry: Determining the Number of Employees for Purposes of the “Small Business” Definition in Parts 117 and 507](#) (June 2019)
- Food Safety (FSMA): [\(DRAFT\) Evaluating Alternate Curricula for the Standards for the Growing, Harvesting, Packing, and Holding of Produce for Human Consumption](#)(June 2019)



- Food Safety (FSMA): [Enforcement Policy for Entities Growing, Harvesting, Packing, or Holding Hops, Wine Grapes, Pulse Crops, and Almonds](#) (March 2019)
- Infant Formula: [Preparation of Food Contact Notifications for Food Contact Substances in Contact with Infant Formula and/or Human Milk](#) (May 2019)
- Labeling & Nutrition: [Converting Units of Measure for Folate, Niacin, and Vitamins A, D, and E on the Nutrition and Supplement Facts Labels](#) (August 2019)
- Labeling & Nutrition: [Declaration of Added Sugars on Honey, Maple Syrup, Other Single-Ingredient Sugars and Syrups, and Certain Cranberry Products](#) (June 2019)
- Labeling & Nutrition: [\(DRAFT\) The Use of an Alternate Name for Potassium Chloride in Food Labeling](#) (May 2019)
- Labeling & Nutrition: [\(DRAFT\) The Declaration of Allulose and Calories from Allulose on Nutrition and Supplement Facts Labels](#) (April 2019)
- Labeling & Nutrition: [\(DRAFT\) Voluntary Labeling Indicating Whether Food Has or Has Not Been Derived From Genetically Engineered Atlantic Salmon](#) (Revised March 2019)
- Labeling & Nutrition: [Voluntary Labeling Indicating Whether Foods Have or Have Not Been Derived from Genetically Engineered Plants](#) (Revised March 2019)
- Food Defense (Recalls): [Questions and Answers Regarding Mandatory Food Recalls](#) (November 2018)

Two guidances intended to “provide clarity to food manufacturers to help them comply with the FDA’s updated nutrition labeling regulations.” The updated labels are required by January 1, 2020, for manufacturers with \$10 million or more in annual food sales. Manufacturers with less than \$10 million in annual food sales have an additional year to comply.

- DRAFT Guidance, [Food Labeling: Serving Sizes of Foods That Can Reasonably Be Consumed at One Eating Occasion, Reference Amounts Customarily Consumed, Serving Size Related Issues, Dual Column Labeling, and Miscellaneous Topics: Guidance for Industry](#) (Nov. 2018)
- [Nutrition and Supplement Facts Labels: Questions and Answers Related to the Compliance Date, Added Sugars, and Declaration of Quantitative Amounts of Vitamins and Minerals: Guidance for Industry](#) (Q&A to help manufacturers determine how to calculate “added sugars” in their products) (Nov. 2018)

## IV. Significant Issues & Trends

These issues will be discussed at the conference, with updates provided.

### A. Climate Change

#### 1) Food Security

- [Climate Change and Land: An IPCC Special Report On Climate Change, Desertification, Land Degradation, Sustainable Land Management, Food Security, and Greenhouse Gas Fluxes in Terrestrial Ecosystems](#), Intergovernmental Panel on Climate Change, United Nations (Aug. 2019);
- [World Food Security Increasingly At Risk Due To 'Unprecedented' Climate Change Impact, New UN Report Warns](#), UN News Release (Aug. 8, 2019) (summary of findings)

#### 2) Economic Costs

- [Climate Change Could Cost the U.S. Up To 10.5 Percent of Its GDP by 2100, Study Finds](#), Andrew Freedman, WASH. POST (Aug. 19, 2019);
- [Long-Term Macroeconomic Effects of Climate Change: A Cross-Country Analysis](#), Matthew E. Kahn, Kamiar Mohaddes, Ryan N.C. Ng, M. Hashem Pesaran, Mehdi Raissi, Jui-Chung Yang, Nat'l Bureau of Econ. Res. Working Paper No. 26167 (Aug. 2019)
- [Projected Economic Impacts of Climate Change](#)  
IF 11156  
Danielle A. Arostegui, Jane A. Leggett  
Mar. 28, 2019
- [Carbon Dioxide \(CO<sub>2</sub>\) Levels This Century Will Alter the Protein, Micronutrients, and Vitamin Content of Rice Grains With Potential Health Consequences for the Poorest Rice-Dependent Countries](#), Chunwu Zhu, et al, ScienceAdvances (May 23, 2018)

#### 3) News Reports Regarding Administration Efforts to Minimize Study Results

- [Agriculture Department Buries Studies Showing Dangers of Climate Change](#), (The Trump administration has stopped promoting government-funded research into how higher temperatures can damage crops and pose health risks), Helena Bottemiller Evich, POLITICO (June 23, 2019);

- ['It feels like something out of a bad sci-fi movie' A Top Climate Scientist Quit USDA](#), Following Others Who Say Trump Has Politicized Science, Helena Bottemiller Evich, POLITICO (Aug. 5, 2019);

## B. Plant-based Proteins, Cell-Cultured Meat and Fish

### 1) Plant-based Protein Update

- Increased sales: It is reported that U.S. sales of plant-based foods grew 11% last year with total sales of \$4.5 billion during the year ending in April 2019. [Plant-based Sales Rose 11% Last Year, Moving Beyond Niche Status](#), Kristen Leigh Painter, Minneapolis Star Tribune (July 16, 2019) (survey published by the Good Food Institute and the Plant-Based Foods Association; data from Spins, Inc.)
  - Dairy alternatives account for more than two-thirds of the entire plant-based market.
  - Plant-based ice cream or yogurt grew at 26.5% and 39.1% respectively.
  - Plant-based milk grew at 5.6%; traditional dairy milk declined 3%
  - Plant-based milk now accounts for 13% of the entire fluid milk category.
  - Plant-based meat grew less than 10% last year, which outpaced traditional meat's 2.2% growth, but was far below the previous year's growth rate of 25%.
- [Half-Milk, Half-Nut Drink? In A First, Minnesota Dairy Brand Offers Blended Milks Live Real Farms Gives Nod To The Plant-Based Trend While Keeping Lactose-Free In The Mix](#), Kristen Leigh Painter, Minneapolis Star Tribune (Aug. 29, 2019).
- The FDA amended the color additive regulations “to provide for the safe use of soy leghemoglobin as a color additive in ground beef analogue products.” This decision was made in response to the color additive petition submitted by Impossible Foods, Inc. Listing of Color Additives Exempt From Certification; Soy Leghemoglobin, 84 Fed. Reg. 37,573 (final rule to be codified at 21 C.F.R. pt. 73) (Aug. 1, 2019).

Soy leghemoglobin, better known as “heme” is the product used in “Impossible burgers” to mimic the look and taste of meat. From [their website](#):

Heme is what makes meat taste like meat. It's an essential molecule found in every living plant and animal -- most abundantly in animals -- and something we've been eating and craving since the dawn of humanity. Here at Impossible Foods, our plant-based heme is made via fermentation

of genetically engineered yeast, and safety-verified by America's top food-safety experts and peer-reviewed academic journals.

- As the Washington Post recently noted, the decades-old “veggie burger” has been caught up in the labeling restrictions: [Veggie Burgers Were Living An Idyllic Little Existence. Then They Got Caught In A War Over The Future Of Meat](#), Laura Reiley, Wash. Post (Aug. 25, 2019). See below for more on labeling issues.

## 2) Cell-cultured Meat: Update

- USDA and FDA Agree to Share Regulatory Jurisdiction

On Nov. 16, 2018, USDA Secretary Perdue and FDA Commissioner Gottlieb announced that they had reached agreement on a joint regulatory framework to share jurisdiction over cell-cultured meat products. [Formal Agreement Between the U.S. Department of Health and Human Services Food and Drug Administration and U.S. Department of Agriculture Office of Food Safety](#), Mar. 7, 2019.

FDA will regulate cell collection, cell banks, cell growth and differentiation.” Then, “[a]t the time of harvest” regulatory oversight will pass to USDA to determine “whether the harvested cells are eligible to be processed into meat or poultry products that bear the USDA mark of inspection.” Such mark of inspection will be required. USDA will also be responsible for approving the labeling of the products, subject to USDA’s prior approval process.

Note that this issue presents a number of interesting legal perspectives:

- If cell-cultured meat is not meat, then what is the basis of USDA jurisdiction? Can one agency (FDA) transfer jurisdiction to another (USDA) if it is not authorized by statute?
- If cell-cultured meat is meat, can the use of that term be restricted?
- FDA and USDA’s consistent approach to the regulation of new technology such as biotechnology has been to say that process does not matter - only the final product is judged; Will the regulation of cell-cultured meat change this approach?
- A number of states have passed laws limiting the use of the term “meat” and similar terms in an effort to protect the livestock industry; in several states these statutes have added in other protections, in particular restricting the use of the term “rice”; a table attached at the end of this

report provides a synopsis of these state laws. Note that some laws have been challenged as violative of commercial free speech rights; Forthcoming USDA regulation of the labeling of cell-cultured meat may give rise to preemption

- While the USDA/FDA agreement applies to meat and poultry related products, cell-cultured fish will be regulated by FDA; vegetable-based products such as all of the plant-based protein products will also continue to be regulated solely by FDA

### 3) Beverages and the Term "Milk": Update

There is also a controversy raging around the Standard of Identity of milk and whether plant-based beverages such as soy and almond "milk" should be allowed to use the term "milk."

- Last year, FDA Commissioner Scott Gottlieb outlined the FDA's plan to update the Standards of Identity with respect to some of the most controversial foods.

"Food labels — including the name of food — inform consumers about what they're buying, and standards of identity are used to ensure that foods have the characteristics expected by consumers," Gottlieb said Thursday. "The information provided through food labeling must be truthful and not misleading."

"One area that needs greater clarity — and which has been the subject of much discussion of late — is the wide variety of plant-based foods that are being positioned in the marketplace as substitutes for standardized dairy products," he added. . .

The goal is to take "next steps" in the next year, he said, something that will "likely" include guidance for industry and a new compliance policy for labeling enforcement.

- The FDA has scheduled a public meeting for Sept. 27, 2019 to “give interested persons an opportunity to discuss FDA’s efforts to modernize food standards of identity (SOI) and provide information about changes we could make to existing SOI, particularly changes that could be made across categories of standardized foods (i.e. horizontal changes), to facilitate innovation and provide flexibility for the development of healthier foods. We are also interested in discussing horizontal changes that would better facilitate innovation.” [\*Horizontal Approaches to Food Standards of Identity Modernization; Public Meeting; Request for Comments\*](#), 84 Fed. Reg. 45,497 (Aug. 29, 2019).

The notice states that:

FDA is seeking to modernize food SOI in a manner that will achieve three primary goals: (1) Protect consumers against economic adulteration; (2) maintain the basic nature, essential characteristics, and nutritional integrity of food; and (3) promote industry innovation and provide flexibility to encourage manufacturers to produce more healthful foods.

Note that the Background section of this notice provides a helpful narrative that explains the issues under consideration and FDA's legal authorities. An update will be provided at the AAALA Symposium.

### C) Labeling of Genetically Engineered Food / Ingredients

**National Bioengineered Food Disclosure Standard**, 83 Fed. Reg. 65,814 (Dec. 21, 2018) (final rule) (codified at 7 C.F.R. pt. 66). This final rule establishes a mandatory uniform national standard for disclosure of information to consumers about the BE status of foods. Highlights:

- The rule adopts the terminology "bio-engineered" (BE) rather than the more commonly used terms, genetically engineered or genetically modified (GMO) and provides a narrow definition of this term.
- Foods will be considered bio-engineered only if they contain "detectable genetic material" and thus, gene-edited foods will not be considered to be BE.
- The AMS will maintain a list of BE foods, and only foods that are on the "List of Bioengineered Foods" are covered by the rule.
- Foods that are primarily regulated by USDA are excluded from coverage.
- Certified organic foods are excluded from coverage.
- Industry can choose to disclose the existence of BE ingredients by text, use of the BE symbol, or an electronic or digital link. Special rules allow more flexibility for small food manufacturers and small packages
- The implementation date of the Standard is January 1, 2020, except for small food manufacturers, whose implementation date is January 1, 2021. The mandatory compliance date is January 1, 2022. Regulated entities may voluntarily comply with the Standard until December 31, 2021.
- The USDA AMS developed a webinar explaining the new rule. This is available on the [BE Disclosure website](#).

## D. Organic Food

### 1) Continued Growth of the organic sector

Both of the two main published studies of the organic sector noted consistent market growth. The most significant numbers are summarized below. Differences are likely attributed to slightly different test periods and methodology.

**2019 U.S. Organic Industry Survey** (commissioned by the Organic Trade Association and performed by the Nutrition Business Journal), [US Organic Sales Break Through \\$50 Billion Mark in 2018](#), Maggie McNeil, Organic Trade Association (May 17, 2019)

Organic sales in 2018 passed the \$50 billion mark for the first time, with \$52.5 billion in sales, up 6.3% from 2017; About 6% of food sales are now organic

- Organic food sales were \$47.9 billion (5.9% increase); Comparison with overall food sales that showed an increase of 2.3%
- Organic non-food sales \$4.6 billion (10.6% increase); Comparison with overall non-food sales that showed an increase of 3.7%
- Organic fruits and vegetables (top category in organic sales) rose to \$17.4 billion (5.6% increase); Comparison with overall market for fruits and vegetable sales that showed an increase of 1.7%; Organic fruits and vegetables are now almost 15% of all U.S. produce sales
- Organic dairy products and eggs (second highest category of sales) were \$6.5 billion, up .8%; within that category, organic eggs sales were \$858 million, up 9.3%

**Nielson Data for 2018 Organic Sales** as reported in [Organic Sales Soared in 2018: Nielsen](#), Hilary Smith, FOOD INDUSTRY EXECUTIVE (Jan. 9, 2019)

- 2018 organic sales increased nearly 9% over 2017
- Increased sales to millennial (up 13.8%) and Hispanic (up 13.4%) shoppers provided a significant boost to the industry
- Organic pre-packaged salads had the largest dollar sales of specific food products, exceeding \$1.1 billion (increase of 5.7%)
- Nielsen Retail Measurement Services identified the following organic products as producing the biggest percentage growth:
  - Kombucha +41.9% to \$412 million
  - Sandwich bread +18.8% to \$466 million
  - Fresh chicken +11.1% to \$499 million

Baby food +8.8 to \$341 million  
Chicken eggs +6.9% to \$814 million

- Neilson also reported mixed results on “milk” sales, considering the plant-based beverages and dairy milk together:

Almond milk +23.3%  
Lactose-reduced/lactose-free milk -1.0%  
Cow’s milk -2.3%  
Soy milk -3.8%

- Nielsen analysts identified the pricing disparity between organic (\$4.76/carton) and conventional milk (\$2.59) as an industry problem; however other experts have questioned whether concerns about integrity within the organic industry, specifically within the livestock industry, is hurting sales

## **2) Maintaining Organic Integrity**

- Industry and consumer efforts to increase animal welfare standards within the organic standards (reaction to Trump administration repeal of Obama administration regulation)
- AMS efforts to increase organic inspections
- Successful prosecutions

## **3) 2018 Farm Bill and Organic Production**

The enacted 2018 Farm Bill strengthens the National Organic Program and increases funding for organic agricultural research.

- The new law also makes changes to USDA’s National Organic Program (NOP) and related programs, addressing concerns about organic import integrity by including provisions that strengthen the tracking, data collection, and investigation of organic product imports, including certain provisions in H.R. 3871 (Organic Farmer and Consumer Protection Act of 2017). It also amends the eligibility and consultation requirements of the National Organic Standards Board, among other changes. The law reauthorizes NOP appropriations above current levels while reauthorizing current funding for the Organic Production and Market Data Initiatives and for technology upgrades to improve tracking and verification of organic imports. It also expands mandatory funding for the National Organic Certification Cost Share Program.



*The 2018 Farm Bill (P.L. 115-334): Summary and Side-by-Side Comparison*, R45525, Mark A. McMinimy (Feb. 22, 2019); Specific additional references include:

Payment limitations for conservation practices related to organic production are increased to a total of \$140,000 from FY2019 through FY2023. (§2304(f))

USDA is required to allocate CSP funding to states to support organic transition and production. Allocations must be based on the number of organic operations and organic acres within a state (§2308(d)(8))

State agricultural mediation program jurisdiction is expanded to include the national organic program (§5402)

Increased funding for the Organic Agriculture Research and Extension Initiative, providing mandatory spending of \$20 million for FY2019 and FY2020, \$25 million for FY2021, \$30 million for FY2022, and \$50 million for FY2023 and each year thereafter. (§7210)

## E. Food Safety

### **1) Update Regarding *E. coli* O157:H7 Infections Linked to Romaine Lettuce from Yuma Growing Region**

Because there have been here have been five suspected or confirmed multistate foodborne illness outbreaks tied to fresh produce from the Yuma area since 2012, the FDA has continued to monitor that production area in coordination with the Produce Marketing Association.

[\*FDA Releases Results of Romaine Lettuce Sampling Assignment in Yuma Growing Region\*](#), FDA Constituent Notice (Aug, 14, 2019).

During the assignment, the FDA collected and tested 118 samples for each pathogen. The FDA did not detect Salmonella in any of the samples. The agency detected Shiga toxin-producing *E. coli* (STEC) in a single sample, however, further analysis determined that the bacteria was not pathogenic.

The findings of this assignment suggest that there was no widespread STEC or Salmonella spp. contamination of romaine lettuce from the Yuma growing region during the period when the sampling occurred. The FDA is continuing to work with leafy greens stakeholders in the Yuma region to consider a longer-term environmental study to identify and control risks that will prevent future outbreaks, with the ultimate goal of protecting consumers.

While growers and consumer groups were pleased, the limited scope of the testing was noted. POLITICO Morning Ag reported that the Produce Marketing Association was “not taking the results as a sign that everything is A-OK.”

"While these findings may provide positive evidence of the multiple food safety system enhancements the industry has implemented, the limited scope of the sampling should not be taken as any rationale for complacency in moving forward with on-going efforts to dig deeper," said Bob Whitaker, Chief Science and Technology Officer at PMA, in an email update after the FDA news.

Factors to consider: Whitaker said the industry needs to continue digging into the role of the changing environment, weather and other factors that might affect the risk of contamination.

Helena Bottemiller Evich, [Morning Ag](#), POLITICO (Aug. 16, 2019)

Food Safety News raised the concern that processing plants were not included in the testing, and that contamination can occur as a result of processing equipment. Coral Beach, [FDA Romaine Testing Downplayed Facilities That Chopped the Heads](#), Food Safety News (Aug. 14, 2019).

## 2) Food Safety Modernization Act (FSMA) Update

- Public meeting on the draft guidance to support compliance with the Intentional Adulteration Rule issued under the FSMA on April 17, 2019 (84 Fed. Reg. 9987)
- October 2018: Draft Guidance for Industry: Standards for the Growing, Harvesting, Packing, and Holding of Produce for Human Consumption (21 C.F.R. 112)
- Guidance for Industry: Determining the Number of Employees for Purposes of the “Small Business” Definition in Parts 117 and 507
- FY2020 Fee Rates for Voluntary Qualified Importer Program and Third-Party Certification Program

Status of the water testing rules under the FSMA Produce Safety Rule:

[Standards for the Growing, Harvesting, Packing, and Holding of Produce for Human Consumption; Extension of Compliance Dates for Subpart E](#), 84 Fed. Reg. 9706 (to be codified at 21 C.F.R. pt. 112) (Mar. 18, 2019) , This regulation confirms the FDA’s promised extension of the compliance dates for parts of the PFSMA produce Safety Rule dealing with agricultural water (except for sprouts) to begin in 2022, 2023, or 2024, depending on the size of the farming operation. From the prefatory comments:

We are extending the compliance dates to address questions about the practical implementation of compliance with certain provisions and to

consider how we might further reduce the regulatory burden or increase flexibility while continuing to protect public health.

### 3) Hurricane and Flood Damage: Guidance from FDA

Because of recent storms, the FDA has highlighted the following guidances for industry related to flood-affected food, crops, and related contamination issues. Additional information for industry and for consumers is found at [Disaster Assistance from FoodSafety.gov](https://www.fda.gov/food/food-safety-and-inspection-service/food-safety-and-inspection-service-disaster-assistance).

- [Guidance for Industry: Evaluating the Safety of Flood-affected Food Crops for Human Consumption](#)
- Disposition of Food From Flood-Affected Crops
  - [Letter to the Vermont Agency of Agriculture](#)[External Link](#)  
[Disclaimer](#) September 16, 2011
  - [Letter to State Agriculture Departments/Agencies](#)[External Link](#)  
[Disclaimer](#) September 27, 2011
- [Guidance for Industry: Use of Water by Food Manufacturers in Areas Subject to a Boil-Water Advisory](#)
- [Restaurants and Grocers Reopening After Hurricanes and Flooding](#)
- [A Notice to Growers, Food Manufacturers, Food Warehouse Managers, and Transporters of Food Products on How to Dispose of Contaminated Food](#)
- [A Notice to Growers, Food Manufacturers, Food Warehouse Managers, and Transporters of Food Products About the Safety of Food Affected by Hurricanes, Flooding, and Power Outages](#)
- [Guidance for Industry: A Notice to Growers, Food Manufacturers, Food Warehouse Managers, and Transporters of Food Products on Decontamination of Transport Vehicles](#)

### 4) Data Regarding Confirmed Food Safety Outbreaks

Source: FDA Outbreaks of Foodborne Illness  
 Research by Jessica Guarino, JD, LL.M. Candidate

Date of Outbreak	Pathogen(s)	# of Persons Affected	Location	# of Deaths	# Hospitalized	Identified Food Source
Aug. 2019	<i>Listeria monocytogenes</i>	24	CA, FL, IA, IL, IN, KS, KY, MI, MO, NY, OH, OR, TX	2	22	Unidentified
July 2019	<i>Cyclospora cayetanensis</i>	205	CT, FL, GA, IA, MA, MN, NY, OH, RI, SC, WI	0	5	Fresh basil imported from Mexico

July 2019	<i>Salmonella</i>	127	AL, AZ, CA, CO, CT, FL, GA, HI, IL, IN, IA, KS, KY, LA, ME, MA, MI, MN, MO, NH, NJ, NM, NY, NC, ND, OH, OR, PA, SC, TX, UT, WA, WI	0	26	Pig ear dog treats
June 2019	<i>E.coli</i>	21	CT, FL, MI, MO, NJ, NY, PA	0	8	Ground bison from Northfork Bison Distributions Inc.
June 2019	<i>Salmonella</i>	71	CT (14), FL (1), MA (5), NJ (18), NY (27), PA (4), RI (1), TX (1)	0	27	Cavi brand whole, fresh papaya
June 2019	<i>Vibrio, Shigella, Norovirus, STEC, and Campylobacter</i>	16	AK, CA, IL, NH, NV	0	2	Oysters imported from Mexico
May 2019	<i>E.coli 026</i>	21	CA, CT, MA, MO, NJ, NY, OH, PA, RI	0	3	ADM Milling Co. flour
May 2019	<i>Salmonella</i>	5	MN, WI	0	0	Del Monte Fresh Produce vegetable trays
May 2019	<i>Salmonella</i>	6	NY(4), MA(1), TX(1)	0	1	Tahini
May 2019	<i>Salmonella</i>	137	AL, IA, IL, IN, KY, MI, MO, MN, OH, WI	0	38	Pre-cut melon products
May 2019	<i>Salmonella</i>	7	MN, WI, NC	0	1	Butterball brand ground turkey
Apr. 2019	<i>Listeria monocytogenes</i>	8	MI, PA, NY, NJ	1	4	Deli-sliced meats and cheeses
Mar. 2019	<i>Salmonella</i>	13	CT, IA, IL, MN, ND, NY, WA	0	2	Frozen ground tuna
Mar. 2019	<i>Salmonella</i>	358	AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IA, IL, IN, KS, KY, LA, MD, MA, MI, MN, MO, NB,	1	133	Raw turkey products

			NV, NJ, NM, NY, NC, ND, OH, OK, OR, PA, SC, SD, TN, TX, UT, VA, WA, WI			
Feb. 2019	<i>Salmonella</i>	129	AL, AR, CA, CO, CT, DE, FL, GA, HI, IL, IN, KY, LA, ME, MD, MA, MI, MN, MO, NC, NE, NJ, NY, OH, PA, RI, SC, TN, TX, VA, WA, WI	1	25	Raw chicken products
Dec. 2018	<i>E.coli 0157:H7</i>	62	CA (12), CT (1), DC (1), FL (1), GA (1), IL (2), LA (1), MA (1), MD (1), MI (7), NH (6), NJ (13), NY (7), OH (1), PA (5), RI (1), WI (1)	0	25	Romaine lettuce
Nov. 2018	<i>Listeria monocytogenes</i>	4	MI, TN, TX, LA	0	4	Pork products produced by Long Phung Food
Oct. 2018	<i>Salmonella</i>	7	FL (1), MD (2), MO (1), OH (2), WI (1)	0	0	Duncan Hines cake mixes

## State Labeling Laws Enacted to Address Concerns About the Labeling of New Protein Products

Research by Savannah Clay, J.D., LL.M. Candidate

State	Citation	Operative definition	Penalty for violation	Comments
AR	<p>Ark. Code Ann. § 2-1-305 (“Act 501”)</p> <p><a href="http://www.arkleg.state.ar.us/assembly/2019/2019R/Bills/HB1407.pdf">http://www.arkleg.state.ar.us/assembly/2019/2019R/Bills/HB1407.pdf</a></p>	<p>No person shall misbrand or misrepresent an agricultural product that is edible by humans, including without limitation by:</p> <ul style="list-style-type: none"> <li>• Representing the agricultural product as meat or a meat product when the agricultural product is not derived from harvested livestock, poultry, or cervids</li> <li>• Representing the agricultural product as rice when the agricultural product is not rice</li> <li>• Representing the agricultural product as beef or a beef product when the agricultural product is not derived from a domesticated bovine</li> <li>• Representing the agricultural product as pork or a pork product when the agricultural product is not derived from a domesticated swine</li> <li>• Utilizing a term that is the same as or similar to a term that has been used or defined historically in reference to a specific agricultural product</li> <li>• Affixing a label that uses a variation of rice in the name of the agricultural product when the agricultural product is not rice or derived from rice</li> </ul> <p>Agricultural product- horticultural, viticultural, forestry, dairy, livestock, poultry, or bee product or any other farm, ranch, plantation, or range product</p> <p>Beef- flesh of a domesticated bovine, such as a steer or cow, that is edible by humans</p> <p>Beef product- agricultural product that is edible by humans and produced in whole or in part from</p>	<p>Person who violates the law shall be fined an amount that will not exceed \$1,000 for each violation.</p> <p>Each item that violates the law will constitute a separate violation subject to the civil penalty.</p> <p>Persons subject to the civil penalty may request an administrative hearing within ten calendar days after receipt of notice of the penalty.</p> <p>The Director of the Arkansas Bureau of Standards shall conduct a hearing after giving appropriate notice to the person, and the decision of the director is subject to appropriate judicial review.</p> <p>If person has exhausted all administrative appeals and the civil penalty is upheld, the person or entity shall pay the penalty within twenty calendar days after the effective date of the final decision.</p> <p>If the person fails to pay the civil penalty as required, a civil action may be brought by the director in a court of competent</p>	<p>The ACLU and the Tofurky Company filed a civil rights action challenging the Act’s constitutionality on July 22, 2019, claiming that the Act “create[d] consumer confusion where none existed before in order to impede competition.”</p> <p>The action claims the Act violates the Free Speech Clause of the First Amendment, the Due Process Clause of the Fourteenth Amendment, and the dormant Commerce Clause.</p> <p><a href="https://www.gfi.org/files/policy/arkansas-tofurky-complaint.pdf">https://www.gfi.org/files/policy/arkansas-tofurky-complaint.pdf</a></p> <p>The Act became effective on July 24, 2019.</p> <p>Arkansas became the sixth state to pass such a law and was the first to include rice.</p>

		<p>beef, including without limitation beef jerky, beef patties, chopped beef, fabricated steak, hamburger, ground beef, ribs, and roast</p> <p>Livestock- swine, bovines, sheep, and goats</p> <p>Meat- a portion of a livestock, poultry, or cervid carcass that is edible by humans; does not include:</p> <ul style="list-style-type: none"> <li>• Synthetic product derived from a plant, insect, or other source, or</li> <li>• Product grown in a laboratory from animal cells</li> </ul> <p>Meat product- an agricultural product that is edible by humans and made wholly or in part from meat or another portion of a livestock, poultry, or cervid carcass</p> <p>Pork- the flesh of a domesticated swine that is edible by humans</p> <p>Pork product-an agricultural product that is edible by humans and produced in whole or in part from pork, including without limitation bacon, bratwurst, ground pork, ham, pork chops, ribs, roast, and sausage</p> <p>Poultry- domestic birds that are edible by humans</p> <p>Rice- the whole, broken, or ground kernels or byproducts obtained from the species <i>Oryza sativa</i> L. or <i>Oryza glaberrima</i>, or wild rice, which is obtained from one of the four species of grasses from the genus <i>Zizania</i> or <i>Porteresia</i></p>	<p>jurisdiction to recover the civil penalty.</p> <p>Civil penalties collected under this section shall be deposited into the Plant Board Fund.</p>	
LA	SB152 becomes Act No. 273.	<p>No person shall intentionally misbrand or misrepresent any food product as an agricultural product through any activity including:</p> <ul style="list-style-type: none"> <li>• Representing a food product as meat or a meat product when the food product is not</li> </ul>	<p>Person will be subject to civil penalty of not more than \$500 for each violation. Each day in which a violation occurs is considered a separate offense.</p>	<p>Signed by the Governor on June 11, 2019.</p>

	<a href="https://legiscan.com/LA/text/SB152/2019">https://legiscan.com/LA/text/SB152/2019</a>	<p>derived from a harvested beef, pork, poultry, alligator, farm-raised deer, turtle, domestic rabbit, crawfish, or shrimp carcass</p> <ul style="list-style-type: none"> <li>• Representing a food product as rice when the food product is not rice</li> <li>• Representing a food product as beef or a beef product when the food product is not derived from a domesticated bovine</li> <li>• Representing a food product as pork or a pork product when the food product is not derived from a domesticated swine</li> <li>• Representing a food product as poultry when the food product is not derived from domesticated birds</li> <li>• Utilizing a term that is the same as or deceptively similar to a term that has been used or defined historically in reference to a specific agricultural product</li> <li>• Affixing a label that uses the term “rice” in the name of the food product when the food product is not rice or derived from rice.</li> <li>• Representing a cell cultured food product as a meat product</li> <li>• Representing a food product as sugar when it is not an unaltered plant-based simple sugar or sucrose</li> </ul> <p>Agricultural product- any beef, pork, poultry, crawfish, shrimp, meat, sugar, or rice product that is edible by humans.</p> <p>Beef- the flesh of a domesticated bovine that is edible by humans</p> <p>Beef product- a type of agricultural product that is edible by humans and produced in whole or in part form beef, including beef jerky, beef patties,</p>	<p>These penalties may only be assessed by a ruling of the commissioner based on an adjudicatory hearing held by the Louisiana Commission of Weights and Measures.</p> <p>The commissioner may institute injunctive relief to restrain and prevent violation of provisions of the rules and regulations.</p>	<p>This Act will become effective on October 1, 2020.</p> <p>Louisiana is the second state to include rice in its labeling laws.</p>
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		<p>chopped beef, fabricated steak, hamburger, ground beef, ribs, and roast</p> <p>Cell cultured food product- any cultured animal tissue produced from in vitro animal cell cultures outside of the organism form which it is derived</p> <p>Food product- any edible product sold or offered for retail sale that is intended for human consumption</p> <p>Meat- a portion of a beef, pork, poultry, alligator, farm-raised deer, turtle, domestic rabbit, crawfish, or shrimp carcass that is edible by humans but does not include a:</p> <ul style="list-style-type: none"> <li>• Synthetic product derived from a plant, insect, or other source</li> <li>• Cell cultured food product grown in a laboratory from animal cells</li> </ul> <p>Meat product- a type of agricultural product that is edible by humans and made wholly or in part from meat or another portion of a beef, pork, poultry, alligator, farm-raised deer, turtle, domestic rabbit, crawfish, or shrimp carcass</p> <p>Pork- the flesh of a domesticated swine that is edible by humans</p> <p>Pork product- a type of agricultural product that is edible by humans and produced in whole or in part from pork, including bacon, bratwurst, ground pork, ham, pork chops, ribs, roast, and sausage</p> <p>Poultry- domesticated birds that are edible by humans</p> <p>Rice- the whole or broken kernels obtained from the species <i>Oryza sativa</i> L. or <i>Oryza glaberrima</i>, or</p>		
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		wild rice, which is obtained from one of the four species of grasses from the genus <i>Zizania</i> or <i>Porteresia</i>		
MS	SB2922  <a href="http://billstatus.ls.state.ms.us/documents/2019/pdf/SB/2900-2999/SB2922SG.pdf">http://billstatus.ls.state.ms.us/documents/2019/pdf/SB/2900-2999/SB2922SG.pdf</a>	<p>When any meat or meat food product has been inspected as hereinbefore provided and marked "Mississippi inspected and passed" or appropriate marking shall be place or packed in any can, pot, tin, canvas, or other receptacle or covering in any establishment where inspection under the provisions of this chapter is maintained, the person, firm, or corporation preparing said product shall cause a label to be attached to said can, pot, tin, canvas, or other receptacle or covering, under supervision of an inspector, which label shall state the contents thereof have been "Mississippi inspected and passed" or appropriate marking under the provisions of this chapter, and no inspection and examination of meat or meat food products deposited or enclosed in cans, tins, pots, canvas, or other receptacle or covering in any establishment where inspection under the provisions of this chapter is maintained shall be deemed to be complete until such meat or meat food products have been sealed or enclosed in said can, tin, pot, canvas, or other receptacle or covering under the supervision of an inspector.</p> <p>All carcasses, parts of carcasses, meat and meat food products inspected at any establishment under the authority of this chapter and found to be not adulterated, shall at the time they leave the establishment bear, in distinctly legible form, directly thereon or on their containers, as the commissioner may require, the information required under paragraph (k) of Section 75-35-3.</p> <p>No item or product subject to this article shall be sold or offered for sale by any person, firm, or corporation, under any name or other marking or</p>	<p>If the commissioner has reason to believe that any marketing or labeling or the size or form of any container in use or proposed for use with respect to any item subject to this article is false or misleading in any particular, he may direct that such use be withheld unless the marking, labeling, or container is modified in such manner as he may prescribe so that it will not be false or misleading.</p> <p>If the person, firm, or corporation using or proposing to use the marking, labeling or container does not accept the determination of the commissioner, such person, firm, or corporation may request a hearing, but the use of the marking, labeling, or container shall, if the commissioner so directs, be withheld pending hearing and final determination by the commissioner.</p> <p>Any party aggrieved by such final determination may, within thirty (30) days after receipt of notice of such final determination, effect an appeal therefrom to the chancery court of the county in which such party resides or in which the principal place of his</p>	<p>This Act took effect on July 1, 2019.</p> <p>A lawsuit was filed by Upton's Naturals Co. and the Plant Based Foods Association on July 1, 2019.</p> <p>This lawsuit alleged that the Act placed an unconstitutional limitation on freedom of speech under the First Amendment- specifically focusing on the labeling of plant-based products, rather than clean meat products.</p>

		<p>labeling which is false or misleading, or in any container of a misleading form or size, but established trade names and other marking and labeling and containers which are not false or misleading and which are approved by the commissioner, are permitted.</p> <p>A food product that contains cultured animal tissue produced from animal cell cultures outside of the organism from which it is derived shall not be labeled as meat or a meat food product. A plant-based or insect-based food product shall not be labeled as meat or a meat food product.</p>	<p>business is domiciled; and, on appeal, such chancery court shall affirm, modify, or set aside the commissioner's final determination.</p>	
MO	<p>SB627</p> <p>Mo. Rev. Stat. §265.494(7)</p> <p><a href="https://1.next.westlaw.com/Documents/N0D0C4FB08B0811E8A539AE95E614ABC1/View/FullText.html?originati onContext=previousnextsection&amp;contextData=(sc.Document)&amp;transitionType=StatuteNavigator&amp;needToInjectTerms=False">https://1.next.westlaw.com/Documents/N0D0C4FB08B0811E8A539AE95E614ABC1/View/FullText.html?originati onContext=previousnextsection&amp;contextData=(sc.Document)&amp;transitionType=StatuteNavigator&amp;needToInjectTerms=False</a></p>	<p>No person advertising, offering for sale or selling all or part of a carcass or food plan shall engage in any misleading or deceptive practices, including, but not limited to, any one or more of the following:</p> <ul style="list-style-type: none"> <li>(7) Misrepresenting the cut, grade, brand or trade name, or weight or measure of any product, or misrepresenting a product as meat that is not derived from harvested production livestock or poultry;</li> </ul> <p>Livestock- cattle, calves, sheep, swine, ratite birds including but not limited to ostrich and emu, aquatic products as defined in section 277.024, llamas, alpaca, buffalo, bison, elk documented as obtained from a legal source and not from the wild, goats, or horses, other equines, or rabbits raised in confinement for human consumption.</p> <p>Meat- any edible portion of livestock, poultry, or captive cervid carcass or part thereof</p> <p>Meat product- anything containing meat intended for or capable of use for human consumption, which is derived, in whole or in part, from livestock, poultry, or captive cervids</p>	<p>Any person who violates any provision of sections 265.490 to 265.499 is guilty of a class A misdemeanor.</p> <p>Upon conviction of a first violation he shall be punished by a fine of not less than \$100 nor more than \$1,000 or by confinement in the county jail for not more than one year or by both such fine and confinement.</p> <p>Persons found guilty of subsequent offenses shall, upon conviction, be punished by a fine of not less than \$500 nor more than \$1,000 or by confinement in the county jail for not more than one year or by both such fine and confinement.</p>	<p>This is the first state where such a law was enacted.</p> <p>The Act went into effect on August 28, 2018.</p> <p>The ACLU of Missouri, the Animal Legal Defense Fund, the Good Food Institute, and Tofurky challenged the law and filed suit on August 27, 2018.</p>

		Poultry- any domesticated bird intended for human consumption		
ND	<p>HB 1400</p> <p><a href="https://legiscan.com/ND/text/1400/id/1948923">https://legiscan.com/ND/text/1400/id/1948923</a></p>	<p>A person may not advertise, offer for sale, sell, or misrepresent cell cultured protein as a meat food product. A cell cultured product:</p> <ul style="list-style-type: none"> <li>• May not be packaged in the same, or deceptively similar, packaging as a meat food product.</li> <li>• Must be labeled as a cell cultured protein food product</li> </ul> <p>Meat- the edible flesh of an animal born and harvested for the purpose of human consumption</p> <p>Meat food product- a product usable as human food which contains any part of carcass from an animal born and harvested for the purpose of human consumption. The term does not include any product that contains any part of an animal carcass in a relatively small proportion or which historically has not been considered by consumers as a product of the meat food industry, and which is not represented as a meat food product.</p> <p>Poultry- domesticated fowl bred for the primary purpose of producing eggs or meat, or both, including chickens, turkeys, ostriches, emus, rheas, cassowaries, waterfowl, and game birds, but excluding doves and pigeons.</p>		This Act was signed by the Governor on March 12, 2019.
OK	<p>SB 392</p> <p><a href="https://legiscan.com/OK/text/SB392/2019">https://legiscan.com/OK/text/SB392/2019</a></p>	<p>No person advertising, offering for sale or selling all or part of a carcass or food plan shall engage in any misleading or deceptive practices, including, but not limited to, any one or more of the following:</p> <ul style="list-style-type: none"> <li>• Bulk meat- beef sold by hanging weight, consisting of whole carcasses and the following primal cuts: <ul style="list-style-type: none"> <li>• Side of beef- chuck and rib with plate and brisket removed</li> </ul> </li> </ul>		This bill was signed into law on April 26, 2019.

		<ul style="list-style-type: none"> <li>• Front quarter of beef- forward portion of a side, back to and including the twelfth rib</li> </ul> <p>Livestock- cattle, calves, sheep, swine, ratite birds including but not limited to ostrich and emu, aquatic animal products, llamas, alpaca, buffalo, bison, elk documented as obtained from a legal source and not from the wild, goats, horses, other equines or rabbits raised in confinement for human consumption</p> <p>Meat- any edible portion of livestock, poultry or captive cervid carcass or part thereof</p> <p>Poultry- any domestic bird intended for human consumption</p>		
SC	<p>Act 79 H4245</p> <p>SC ST § 47-17-520</p> <p><a href="https://www.scstatehouse.gov/sess123_2019-2020/prever/4245_20190509.htm">https://www.scstatehouse.gov/sess123_2019-2020/prever/4245_20190509.htm</a></p>	<p>A person who advertises, offers for sale, or sells all or part of a carcass shall not engage in any misleading or deceptive practices, labeling, or misrepresenting a product as ‘meat’ or ‘clean meat’ that is cell-cultured meat/protein, or is not derived from harvested production livestock, poultry, fish, or crustaceans.</p> <p>The provisions of this article do not apply to plant-based meat substitutes.</p>	<p>Person will be found guilty of a misdemeanor and, upon conviction, must be imprisoned not more than one year, or fined not more than \$1,000, or both.</p>	<p>This Act became effective on May 16, 2019.</p>
SD	<p>SB 68</p> <p><a href="https://sdlegislature.gov/docs/legsession/2019/Bills/SB68SAG.pdf">https://sdlegislature.gov/docs/legsession/2019/Bills/SB68SAG.pdf</a></p>	<p>A food product shall be deemed to be misbranded if the product is labeled or branded in a false, deceptive, or misleading manner that intentionally misrepresents the product as a meat food product as defined in §39-5-6, a meat by-product as defined in §39-5-6, or as poultry.</p> <p>The term, poultry, includes anything containing meat intended for or capable of use for human consumption, that is derived, in whole or in part, from any domesticated bird intended for human consumption.</p>		<p>This Act went into effect on July 1, 2019.</p>

		<p>An intentional violation occurs when the party committing the violation knew or should have known that the conduct was a violation of this section.</p> <p>Livestock- cattle, bison, sheep, swine, goats, equine, ratites, captive cervidae as permitted under 40-3-14, and other species as requested by the owner and authorized by the secretary</p> <p>Meat- the edible part of the muscle of cattle, bison, sheep, swine, goats, equine, ratites, captive cervidae, and other species as requested by the owner and authorized by the secretary, which is skeletal or which is found in the tongue, in the diaphragm, in the heart, or in the esophagus, with or without the accompanying and overlying fat, and the portions of bone, skin, sinew, nerve, and blood vessels which normally accompany the muscle tissue and which are not separated from it in the process of dressing. It does not include the muscle found in the lips, snout, or ears.</p> <p>Meat by-product- any edible part other than meat which has been derived from one or more cattle, bison, sheep, swine, goats, equine, ratites, captive cervidae, and other species as requested by the owner and authorized by the secretary.</p> <p>Meat food products- any product capable of use as human food which is made wholly or in part from any meat or other portion of the carcass of any cattle, bison, sheep, swine, goats, equine, ratites, captive cervidae, and other species as requested by the owner and authorized by the secretary, excepting products which contain meat or other portions of such carcasses only in a relatively small proportion or historically have not been considered by consumers as products of the meat</p>		
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		food industry, and which are exempted from definition as a meat food product by regulations promulgated by the secretary pursuant to chapter 1-26, under such conditions as the secretary may deem appropriate to effectuate the purposes of this chapter		
WA	WA HB1519  <a href="https://legiscan.com/WA/text/HB1519/2019">https://legiscan.com/WA/text/HB1519/2019</a>	A person may not advertise, sell, or offer for sale a cell-cultured meat product in the state.  State funding may not be appropriated or expended to fund research or development of cell-cultured meat product.  Cell-cultured meat product: any meat product artificially grown from cell cultures of animal muscle or organ tissues.	Person will be found guilty of a misdemeanor.  Second or subsequent violations will be gross misdemeanors.  The director may collect a civil penalty not to exceed \$1,000 per day	This Act has not yet been voted on. It was introduced on January 23, 2019.
WY	SF 0068  Act No. 48  <a href="https://www.wyoleg.gov/Legislation/2019/SF0068">https://www.wyoleg.gov/Legislation/2019/SF0068</a>	No person shall include the term “meat” or any synonymous term for meat or a specific animal species in labeling, advertising or other sales promotion unless the product: <ul style="list-style-type: none"> <li>• Is consistent with the definition of meat in W.S. 35-7-119(e)(iii)(A); and</li> <li>• Is derived from harvested livestock, poultry, wildlife or exotic livestock as those terms are defined in W.S. 11-26-101(a), 11-32-101(a)(iv), 23-1-101(a)(xiii) and 23-1-102(a)(xvi).</li> </ul> The department shall promulgate rules with respect to labeling. Every retailer and every wholesaler who sells or offers for sale in this state through an establishment or otherwise any: <ul style="list-style-type: none"> <li>• Meat that is the product of any country foreign to the United States, shall clearly label the meat as “imported,” naming the country of its origin</li> <li>• Cell cultured or plant based products not consistent with the definition of meat in subparagraph (iii)(A) of this subsection</li> </ul>		This Act will become effective on July 1, 2020.

		<p>and not derived from harvested livestock, poultry, wildlife, or exotic livestock as those terms are defined in W.S. 11-26-101(a), 11-32-101(a)(iv), 23-1-101(a)(xiii) and 23-1-102(a)(xvi) shall clearly label cell cultured products as “containing cell cultured product” and clearly label plant based products as “vegetarian,” “veggie,” “vegan,” “plant based” or other similar term indicating that the product is plant based</p> <p>Meat- the edible part of the muscle of animals, which is skeletal or which is found in the tongue, in the diaphragm, in the heart or in the esophagus, with or without the accompanying or overlying fat, and the portions of bone, skin, sinew, nerve and blood vessels which normally accompany the muscle tissue and which are not separated from it in the process of dressing, but shall not include the muscle found in the lips, snout or ears, nor any edible part of the muscle which has been manufactured, cured, smoked, cooked or processed.</p>		
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