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editor's note

Welcome back to Food & Agriculture Quarterly (FAQ) 2.0. In this third-quarter edition, we feature articles addressing important environmental law developments affecting the food and agriculture sector and a roundup of recent antitrust and consumer protection enforcement actions in agriculture.

Featured in this Fall edition:

- **Environmental due diligence:** Kevin Porter examines the critical role environmental due diligence plays in the acquisition and expansion of agricultural operations. His article explains why effective diligence extends well beyond traditional site assessments and highlights the areas where environmental risks are most commonly uncovered.
- ***United States v. Agri Stats, Inc.* antitrust litigation:** Summer Associate Regina Loyola examines how the settlement could significantly alter information-sharing and benchmarking practices in the poultry, pork, and turkey industries and what agricultural companies should consider when participating in industry data programs.
- **PFAS in the U.S. and Europe:** Neil Simon continues our coverage of the evolving PFAS regulatory landscape. He provides an overview of emerging global regulatory frameworks and offers practical steps businesses can take now to prepare for future compliance obligations.
- **Right-to-repair litigation involving Deere & Company:** Regina jumps in again, this time to analyze recent settlements with the FTC and private plaintiffs. The agreements could have lasting implications for agricultural equipment manufacturers, dealers, independent repair providers, and farmers seeking access to repair tools and software.
- **Egg producers and allegations of benchmark price manipulation:** Helen Fite reviews the U.S. Department of Justice's recent antitrust action and highlights the government's continued focus on competition and food affordability in agricultural markets, and the compliance considerations for businesses operating in benchmark-driven industries.

As always, if there is a topic you would like us to explore in a future issue, please do not hesitate to contact me at jlevine@porterwright.com.

Jay Levine
Editor

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Food & Agriculture Quarterly
Porter Wright Morris & Arthur LLP

Editor
Jay Levine

Authors
Helen Fite
Jay Levine
Regina Loayza
Kevin Porter
Neil Simon

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Before you buy or expand: Environmental due diligence for agricultural operations

KEVIN PORTER

Whether acquiring a neighboring livestock operation, purchasing a grain elevator, expanding feed storage capacity, or investing in additional farmland, buyers routinely evaluate financial and operational considerations before closing. Environmental due diligence, however, is sometimes overlooked because agricultural properties may be perceived as presenting relatively less environmental risk than manufacturing plants and industrial properties.

Agricultural operations can have decades of history involving chemical storage, fuel tanks, manure management, waste disposal, and regulatory oversight. Those conditions can affect property value, financing, permitting, and future expansion. As agricultural operations continue to consolidate through acquisitions and expansion, environmental due diligence has become an increasingly important component of prudent risk management rather than simply another item on the closing checklist.

Due diligence: More than a Phase I Environmental Site Assessment

For many transactions, environmental due diligence begins with a Phase I Environmental Site Assessment (Phase I ESA). Conducted in accordance with American Society for Testing and Materials (ASTM) standards, a Phase I ESA evaluates historical and current uses of a property to identify recognized environmental conditions (RECs)—the presence or likely presence of hazardous substances or petroleum products that may warrant additional investigation.

A Phase I ESA conducted in accordance with ASTM standards can satisfy the federal All Appropriate Inquiries (AAI) requirements that are a prerequisite to certain Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) liability protections, including the innocent landowner and bona fide prospective purchaser defenses. When properly established, these protections can help shield a new property owner from CERCLA liability for pre-existing contamination. A typical Phase I ESA reviews historical aerial photographs, fire insurance maps, regulatory databases, environmental records, available permits, and other historical sources, as well as a site inspection and interviews with current or former owners or operators.

Phase I does not include soil or groundwater sampling. If it identifies potential concerns, a purchaser may elect to conduct a Phase II investigation which typically includes soil, groundwater, or other environmental sampling to better evaluate the nature and extent of potential contamination. For agricultural acquisitions, however, a Phase I ESA should be viewed as a starting point rather than the end of environmental diligence. Buyers should also review permits, inspection histories, notices of violation, consent orders, outstanding corrective measures, and other records that may reveal environmental obligations associated with the operation.

Spotlight on Ohio: Environmental history can follow agricultural operations

Ohio's agricultural industry provides a real-world example of why environmental due diligence should extend beyond a traditional property assessment. In the early 2000s, Ohio Fresh Eggs, LLC, acquired commercial egg-production facilities formerly operated by Buckeye Egg Farm. Buckeye Egg Farm had an extensive history of environmental compliance problems, including permit violations and obligations under a state consent order.

Following the acquisition, those environmental issues did not simply disappear. A 2004 federal settlement required more than $1.6 million in pollution-control improvements at the facilities and imposed an $880,598 civil penalty on Buckeye Egg Farm. While Buckeye Egg Farm sold its facilities to Ohio Fresh Eggs, the settlement required Buckeye to bind the purchaser to implement the environmental improvements required under the consent decree. In 2011, Ohio Fresh Eggs entered another consent order resolving 71 alleged violations and requiring a $625,000 civil penalty, $300,000 in supplemental environmental projects, and $10,000 in enforcement costs.

Ultimately, Buckeye Egg Farm sold Ohio Fresh Eggs an expensive lesson: The environmental history of an agricultural operation is a critical part of the asset being acquired.

Where environmental risks are most often found

Agricultural properties often present environmental concerns that differ from traditional industrial sites. Because many agricultural operations have been in continuous use for decades, historical practices may not meet today's regulatory standards.

Chemical and petroleum storage

Pesticides, herbicides, fertilizers, diesel, gasoline, and waste oil are common at agricultural operations. Historical mixing areas, spills, underground storage tanks, and abandoned tanks can leave residual contamination in soil and groundwater, even when the original activities ended decades ago. Identifying these features before closing allows purchasers to evaluate cleanup obligations, coordinate removal, and negotiate appropriate contractual protections.

Livestock operations

Livestock facilities present additional considerations, including manure storage and transfer systems, wastewater management, mortality disposal, silage areas, nutrient-management practices, and related permits. Purchasers should review the condition and compliance history of this infrastructure, as well as notices of violation and prior enforcement actions.

A recent Ohio case illustrates the point. In *State ex rel. Yost v. Hastings Dairy, L.L.C.*, a manure-storage pit at a Geauga County dairy breached, discharging manure into neighboring waters. Ohio EPA and the Ohio Department of Agriculture identified additional alleged violations involving manure storage, freestall barns, silage, animal mortality, and discharges to waters of the state. The resulting proceedings required substantial corrective measures, including work on manure storage structures and a Comprehensive Nutrient Management Plan, and resulted in a $30,000 civil penalty.

Historical waste disposal practices

Many older agricultural properties contain legacy disposal areas that predate modern environmental regulations. Burn pits, buried debris, abandoned drums, dry wells, or former dumping areas may still exist even if they are no longer visible. While these practices may have been common decades ago, they

can create environmental liabilities that become the responsibility of a new owner.

Emerging contaminants

Emerging contaminants such as per- and polyfluoroalkyl substances (PFAS) have become an increasing focus for agricultural producers. Potential sources include historical biosolid applications, neighboring industrial facilities, or contaminated groundwater. Although regulatory requirements continue to evolve, purchasers should understand whether PFAS may present a future operational or transactional risk and whether additional environmental evaluation is appropriate.

For a more detailed discussion of PFAS and the potential risks PFAS may pose to agricultural land, readers can refer to the June issue's article discussing the dangers of PFAS to agricultural land.

Looking beyond today's operation

Environmental due diligence should also consider what the buyer plans to do with the property. A purchaser intending to add livestock barns, grain storage, feed facilities, or other improvements may encounter wetlands, drainage issues, historical contamination, or permitting constraints that affect the project's cost or schedule.

For example, a livestock producer purchasing acreage to construct additional confinement barns should determine whether wetlands or other regulated features affect the proposed footprint and whether existing environmental conditions or permits could constrain the project. Identifying these issues before closing allows purchasers to incorporate them into development planning rather than confronting unexpected delays after the acquisition.

Managing environmental liability

One of the most common misconceptions in real estate transactions is that a purchaser cannot be responsible for contamination they did not cause. Federal and state environmental laws may, in certain circumstances, impose liability on current property owners regardless of when contamination occurred. Conducting appropriate environmental due diligence before acquisition can help purchasers identify potential issues early and may preserve important liability protections available under federal law.

Environmental counsel can help purchasers evaluate identified conditions and allocate risk through representations and warranties, seller disclosures, indemnification provisions, escrow arrangements, or rights to conduct additional investigation before closing. For agricultural buyers, that means evaluating both the condition of the property and the environmental obligations associated with the business being acquired. In many cases, addressing an environmental issue before closing is significantly less costly than attempting to resolve it after the transaction is complete.

Environmental counsel can also help coordinate the consultant's scope with the transaction timeline. Depending on the property and the issues identified, that may include targeted sampling, review of historical waste-management practices, confirmation of permit-transfer requirements, or investigation of specific areas identified during the Phase I assessment. The goal is to obtain enough information to make a business decision before closing—not necessarily to conduct every conceivable environmental investigation.

ENVIRONMENTAL DUE DILIGENCE CHECKLIST

Before purchasing or expanding an agricultural operation, consider:

- Review historical uses and environmental reports.
- Identify chemical-storage areas, aboveground and underground storage tanks, and disposal areas.
- Review manure, wastewater, mortality, and nutrient-management systems.
- Review permits and their transfer requirements, notices of violation, enforcement actions, and consent orders.
- Evaluate wetlands, drainage, and other permitting constraints.
- Determine whether additional soil and groundwater sampling is warranted.
- Address known environmental risks in the purchase agreement.

Conclusion

Agricultural operations are substantial, long-term investments. Environmental conditions associated with decades of agricultural operations can present significant legal and financial consequences if they go unidentified. By engaging environmental counsel early, purchasers can identify potential liabilities, evaluate operational impacts, negotiate appropriate contractual protections, and make informed decisions about whether—and on what terms—to proceed.

That risk-allocation exercise is particularly important where the purchaser knows of an existing environmental condition but does not yet know its full cost to review and remediate. A purchase agreement can address who performs additional investigation, who pays for cleanup, and what happens if conditions are materially different from the parties' expectations.

Ultimately, environmental due diligence is not about finding reasons to walk away from a deal. Rather, it ensures a new owner understands all environmental risk before it becomes an unexpected liability. For agricultural cooperatives, livestock producers, and other agribusinesses making substantial investments in facilities or farmland, that knowledge can be just as valuable as the property itself. ■

Kevin is an associate in the Litigation Department and builds on his experience as an assistant attorney general in the Environmental Enforcement Section of the Ohio Attorney General's Office. He can be reached at 614.227.2144 or kporter@porterwright.com.

Agri Stats settlement signals major shift for information sharing in meat processing markets

JAY LEVINE

Special thanks to summer associate Regina Loayza for her work on this article.

In a closely watched antitrust case with significant implications for the poultry, pork, and turkey industries, Agri Stats, Inc. has agreed to a proposed settlement with the U.S. Department of Justice and several states that would fundamentally reshape how the company collects, analyzes, and distributes industry data. The matter, *United States v. Agri Stats, Inc.*, is pending before the U.S. District Court for the District of Minnesota.

Background of the case

Agri Stats is a data-sharing and consulting company that provided services in the pork, turkey, and chicken sectors. According to the DOJ, Agri Stats collected detailed information directly from processors' accounting systems, including data relating to prices, production levels, costs, and profitability. The company then standardized that information and redistributed it to participating processors through reports, benchmarking tools, and in-person meetings.

In September 2023, the DOJ filed a Sherman Act Section 1 lawsuit against Agri Stats, alleging that the company facilitated the exchange of competitively sensitive information among broiler chicken, pork, and turkey processors. The states of Minnesota, California, North Carolina, Tennessee, Texas, and Utah later joined the action. The complaint alleged that Agri Stats and its processor participants agreed to exchange detailed non-public information regarding prices, output, costs, and other key business metrics and that the exchange resulted in reduced competition, stabilized prices, and contributed to reduced production across multiple protein markets.

Key terms of the settlement

On May 15, 2026, the DOJ filed a Corrected Stipulation and Order notifying the court of the proposed settlement. Under the agreement, Agri Stats must begin complying with substantial portions of the proposed Final Judgment even before final court approval. Certain reporting, data handling, and compliance provisions must be implemented within 90 days of the stipulation.

The proposed Final Judgment imposes extensive restrictions on the company's data-sharing practices. Most notably, Agri Stats must discontinue its traditional sales report books and is generally prohibited from collecting, maintaining, or reporting sales-price data, subject to limited exceptions. The decree also prohibits several reporting features that regulators viewed as facilitating competitor coordination, including participant lists, rankings of processors, and "flags" that revealed how many companies contributed to particular metrics.

In addition, Agri Stats may no longer report individual processor-level information except in narrowly defined circumstances. Future reports will generally be limited to aggregated or statistical data that satisfy confidentiality thresholds designed to prevent participants from identifying competitors' information. For many reports, data must reflect contributions from at least three processors, with no single processor accounting for more than 70% of the reported metric. Quartile reporting also must satisfy minimum participation requirements.

The settlement further requires Agri Stats to make its reports available to non-processors on terms comparable to those offered to meat processors. Regulators viewed broader access as a key step toward reducing the exclusive nature of the information exchanges that were at the center of the lawsuit.

Compliance and monitoring requirements

The proposed decree establishes a robust oversight framework. A court-appointed monitor, selected by the DOJ, will oversee Agri Stats' compliance with the judgment. The monitor will have authority to review reports, customer agreements, data practices, and compliance efforts and will provide periodic reports to federal and state enforcement agencies. The monitorship is expected to last up to seven years, subject to review by the government.

Agri Stats also must implement a formal antitrust compliance program, including employee training, whistleblower protections, data-security measures, restrictions on the identification of participating companies, and mandatory disclosure of potential violations. The company must provide regulators with updated reports, customer information, and compliance certifications.

In addition to the injunctive relief, Agri Stats agreed to pay $350,000 to the states of Minnesota, California, North Carolina, Tennessee, Texas, and Utah within 60 days of filing the proposed Final Judgment. The company also agreed to bear the cost of publishing the required notice under the Antitrust Procedures and Penalties Act.

What happens next?

The settlement must still undergo review under the Tunney Act, which governs antitrust consent decrees entered by the federal government. As part of that process, the proposed Final Judgment and a Competitive Impact Statement was published in the *Federal Register* on June 5, 2025. Interested parties will have 60 days to submit written comments regarding the settlement. After considering any public comments, the District Court may enter the Final Judgment if it determines that the settlement is in the public interest.

Practical takeaways for agribusinesses and industry participants

Agricultural companies that participate in benchmarking, information-sharing, or industry reporting programs should consider the following lessons from the Agri Stats settlement:

- **Benchmarking programs remain under antitrust scrutiny.** The DOJ continues to view exchanges of competitively sensitive information—particularly pricing, production, capacity, output, and profitability data—as a significant antitrust risk. Companies should periodically evaluate whether industry data-sharing practices could raise similar concerns.
- **Trade associations and third-party consultants are not immune from enforcement.** The case demonstrates that antitrust scrutiny extends beyond competitors themselves and can reach consultants, data providers, and other intermediaries that facilitate information exchanges.
- **Antitrust compliance programs are increasingly important.** The settlement requires formal compliance policies, employee training, whistleblower protections, and monitoring. Agribusinesses should consider whether their own compliance programs adequately address information-sharing risks.
- **Expect continued enforcement in food and agriculture markets.** The DOJ has expressly stated that the settlement is intended to restore competition in broiler chicken markets and prevent similar practices in pork and turkey markets, signaling ongoing enforcement attention in the protein sector.

Jay represents agriculture producers, cooperatives, and other agribusinesses in antitrust and consumer protection matters. He can be reached at 202.778.3021 or jlevine@porterwright.com.

PFAS: Patchwork changes keep agribusiness on watch across Europe and US

Shifts in chemical regulations impact everything from soil and water to food packaging

NEIL SIMON

The Environmental Protection Agency's actions this summer to delay regulations on some so-called "forever chemicals," including those found in metal-plating, plastics, and non-stick coatings, may signal a deregulatory trend. However, more European regulations on PFAS and state-level action in the United States give agribusinesses new reason to consider examining their chemical supply chains.

There is little doubt PFAS will remain a top concern on regulators' agendas. The immediate issue is which PFAS compounds, products, waste streams, packaging materials, and export channels will be subject to testing, disclosure, phaseout, litigation, or consumer-driven expectations.

In the U.S., the EPA is moving to preserve enforceable drinking water limits for PFAS while extending and proposing to rescind federal limits for certain types of PFAS, including PFHxS, PFNA, and GenX.

Meanwhile, over a dozen U.S. states have already initiated bans on products that contain PFAS, and in Europe, regulators are moving even faster with broader class-based restrictions, more frequent mandatory drinking water monitoring, soil and water-quality updates, emissions reporting, and food-contact packaging restrictions.

For companies that touch agricultural chemicals, irrigation or process water, biosolids, packaging, firefighting systems, or EU-facing supply chains, the practical message is clear: PFAS compliance is shifting from an environmental issue to a supply-chain and market-access one.

US regulatory direction: Narrower federal limits, longer timelines, more uncertainty

EPA's PFAS drinking water program has shifted quickly from the comprehensive 2024 rule toward a narrower federal framework. The EPA announced proposed rules in May 2026 that would keep the maximum contaminant levels for PFOA and PFOS in place while giving eligible drinking water systems extra time to come into compliance by 2031.

This may give water utilities additional implementation flexibility, but for agribusinesses, landowners, processors, and input suppliers, the risk forecast is more complicated. While less federal limits may remove compliance demands in the short term, businesses still face other risks to navigate from state enforcement rules, consumer demands, lender diligence, or export-market expectations.

Companies should therefore avoid treating the U.S. federal rollback as a safe harbor. The more prudent posture is to assume that PFAS testing, documentation, and risk allocation will continue expanding through permits, contracts, transactions, insurance reviews, product stewardship programs, and groundwater or waste-stream investigations. Preparedness on these fronts now could generate key savings later.

Europe's direction: Broader controls and supply-chain pressure

The European Union is taking a broader and more integrated approach. Rather than regulating PFAS compound by compound, EU regulators are advancing class-based restrictions through the European Chemicals Agency while also layering sector-specific controls on water, soil, emissions, packaging, and product uses. EU institutions are updating water-pollutant lists to better reflect emerging science, soil monitoring requirements are being designed to identify contamination hotspots, and food-contact packaging restrictions are moving toward tighter limits on intentionally added PFAS. As of this year, member states also now have mandatory drinking water monitoring obligations.

"We need to protect our environment, the health of current and future generations, but we also need to incentivize innovation and provide our businesses with regulatory clarity," said Jessika Roswall, European Commissioner for Environment, Water Resilience and a Competitive Circular Economy, this past June.

The result is a compliance model that reaches beyond chemical manufacturers and into agricultural inputs, packaging, waste handling, and cross-border trade—all adding scrutiny to EU imports that could have PFAS-related risk.

For U.S. agribusinesses with EU customers or multinational buyers, these European rules may become their functional standard for ease of doing business even if there are no changes to U.S. laws.

What this means for US agribusiness and water law

The combined U.S. and EU policies point toward a more fractured yet demanding compliance environment. In the United States, a narrower federal drinking water rule may push more responsibility to states, plaintiffs, commercial counterparties, and sector-specific regulators. States have already been adopting more PFAS restrictions for firefighting foam, biosolids, consumer products, packaging, wastewater, and groundwater, leaving companies to manage a patchwork of requirements.

The leading voice for state environmental directors, Ben Grumbles, called for a unifying national standard in the U.S. for PFAS in drinking water. "States need more specific implementation frameworks, stronger federal investment, and more coordinated national leadership. Guidance is useful, but insufficient without enforceable standards and funding support," said ECOS' executive director Ben Grumbles at a PFAS briefing organized by Porter Wright in Congress this spring.

Businesses and landowners should also expect more PFAS language on warranties, insurance exclusions, permit questions, and lender inquiries in transactions involving farmland, processing facilities, water infrastructure, chemical storage, or legacy industrial sites. And where government regulators do not ask for PFAS related documentation, customers, retailers, or expert partners likely will.

Practical steps to prepare

To get ahead of this issue, agribusiness should proactively consider taking these steps:

- **Map risk.** Begin by mapping where PFAS risks may enter or leave the business. Consider crop protection products, packaging, process water, irrigation sources, wastewater, biosolids, firefighting systems, equipment coatings, storage areas, and legacy sites. Each poses their own risks and comes with its own mitigation strategies.
- **Review agreements.** Have legal counsel review contracts, purchase terms, leases, environmental diligence protocols, and insurance policies to determine whether PFAS risk is allocated clearly.
- **Check your export practices.** Companies that export should also compare their current practices against EU expectations. Where testing is appropriate, businesses should work with qualified environmental laboratories and preserve chain-of-custody records that may be needed for regulatory, transactional, or litigation needs down the road.
- **Consider the business, not just compliance.** Finally, business leaders should treat PFAS as an enterprise risk rather than a technical compliance issue: organizations that build inventory controls, supplier documentation, alternative chemical plans, and legal review processes now will be better positioned whether the next binding standard comes from EPA, a state agency, the European Union, a retailer, a lender, or a plaintiff's lawyer. ■

Neil is a government affairs principal at Porter Wright. He previously covered agriculture and rural America as a journalist and worked on appropriations for a member of Congress. He can be reached at 202.778.3036 or nsimon@porterwright.com.

FTC and private plaintiffs reach settlements with Deere over right-to-repair restrictions

JAY LEVINE

Special thanks to summer associate Regina Loayza for her work on this article.

Deere & Company's long-running dispute over agricultural equipment repairs reached a significant milestone in July 2026, when both private plaintiffs and federal and state regulators reached settlements aimed at expanding farmers' ability to repair Deere equipment. Taken together, the agreements represent one of the most significant developments to date in the broader "right-to-repair" movement affecting the agricultural sector.

The litigation stemmed from allegations that Deere maintained control over the repair of its tractors, combines, planters, and other agricultural equipment by restricting access to critical diagnostic software, repair tools, and embedded software capabilities. Farmers and independent repair providers argued that these restrictions forced equipment owners to rely on Deere's authorized dealer network for many repairs, increasing costs and creating delays during critical planting and harvesting seasons.

Two cases, one core issue

The first action, *In re Deere & Company Repair Services Antitrust Litigation*, was filed by farmers and other private plaintiffs in 2022 and consolidated as multidistrict litigation in the Northern District of Illinois. The plaintiffs alleged that Deere violated federal antitrust laws by designing agricultural equipment in a manner that required Deere-controlled software and equipment to diagnose and complete various repairs, effectively steering customers to authorized dealerships. According to the plaintiffs, Deere's practices limited competition in the repair market and increased repair costs for equipment owners.

The second action, *Federal Trade Commission et al. v. Deere & Co.*, was filed in January 2025 by the FTC and the states of Illinois, Arizona, Michigan, Minnesota, and Wisconsin. The FTC and the states alleged that Deere unlawfully maintained a monopoly over repair services for Deere agricultural equipment by withholding repair capabilities from farmers and independent repair providers in violation of Section 2 of the Sherman Act, Section 5 of the FTC Act, and state antitrust laws.

FTC settlement focuses on expanding repair access

After the parties engaged in discovery and subsequently obtained a stay to continue settlement discussions, Deere and the government plaintiffs filed a Joint Motion for Entry of a Stipulated Order for Permanent Injunction and Other Relief on July 8, 2026. The proposed order resolves all claims asserted by the FTC and participating states without Deere admitting liability.

At the center of the FTC settlement is a requirement that Deere provide equipment owners and independent repair providers access to repair resources equivalent to those made available to Deere dealers. Under the order, Deere must make those resources available on "fair and reasonable terms" through licenses, subscriptions, or purchases.

The settlement's definition of *repair resources* is extensive. It includes access to diagnostic trouble codes, diagnostic testing, software programming and reprogramming capabilities, replacement of electronic control units, embedded software installation, equipment calibration tools, technical manuals, schematics, troubleshooting information, warranty information, recall notices, and Deere's Dealer Technical Assistance Center solutions. The order also requires access to capabilities necessary to return equipment to fully functional condition in accordance with factory specifications.

Importantly, the order extends beyond currently available tools. Deere must also provide "future repair resources"—including successor products, upgrades, updates, and newly developed repair tools—once such resources have been deployed to more than 50% of Deere dealer locations in the United States.

Dealer obligations and anti-retaliation provisions

The FTC settlement also places obligations on Deere's dealer network. Deere must instruct dealers to promote and support repair resources and to sell those resources to owners and independent repair providers regardless of whether they purchase repair services from the dealership. Dealers are further prohibited from discriminating against or retaliating against equipment owners or independent repair providers that perform repairs or purchase Deere's repair tools. This prohibition extends to the sale, financing, and servicing of Deere equipment, parts, and tools, subject to ordinary business considerations such as geographic location, creditworthiness, and legal compliance.

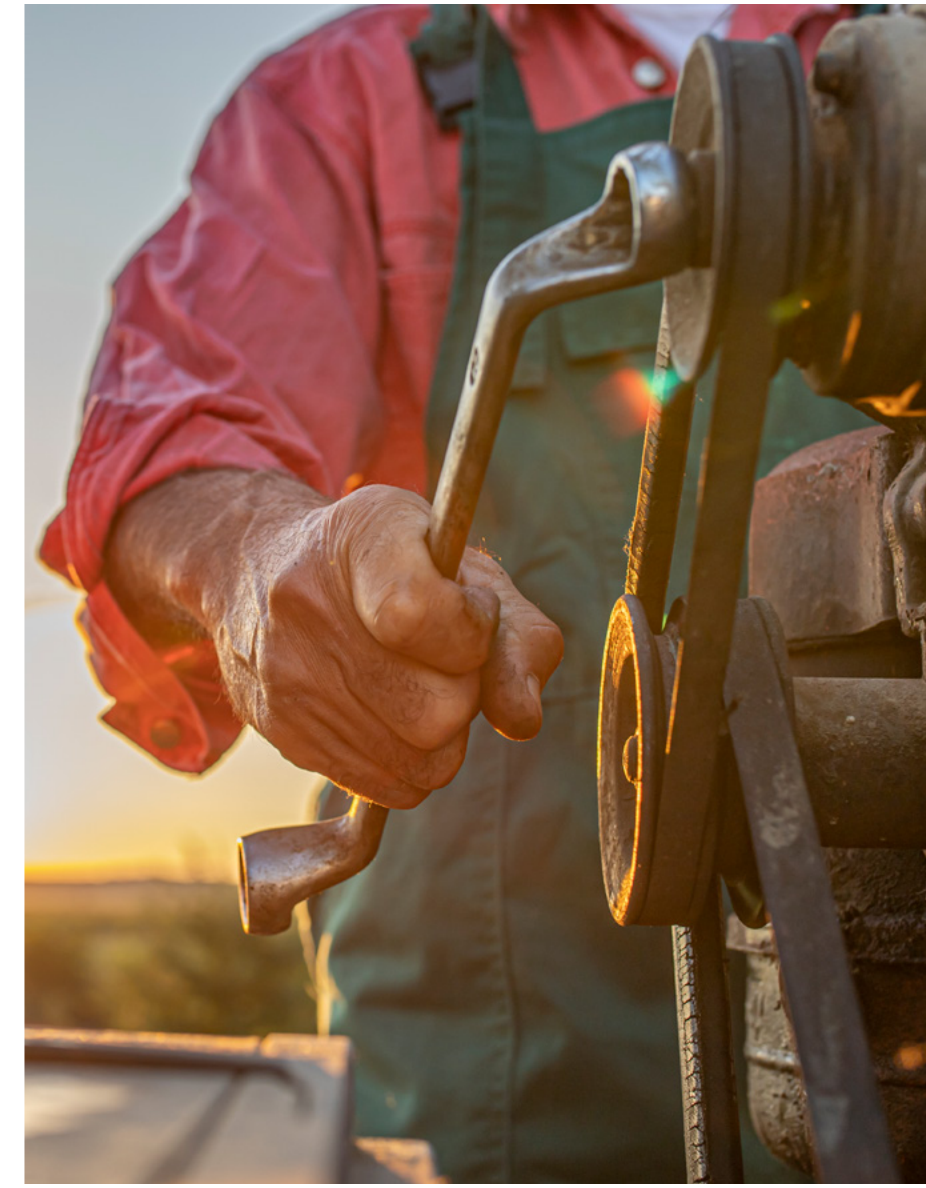
These provisions reflect the FTC's broader concern that meaningful repair access requires not only the availability of software tools but also the ability of customers and independent technicians to obtain those tools without interference from authorized dealers.

Compliance and oversight

The stipulated order contains substantial compliance measures. Deere must provide notice of the settlement to owners, independent repair providers, and dealers, post information regarding the settlement on its website, and submit periodic compliance reports to the FTC and participating states. Initially, Deere must report every 60 days until the rollout of the required repair resources is complete and then provide annual reports for an additional nine years. The order remains in effect for 10 years and grants regulators ongoing authority to monitor compliance and seek enforcement if Deere fails to meet its obligations.

In addition, Deere agreed to pay $1 million to the plaintiff states to cover costs and attorneys' fees associated with the litigation.

FTC Bureau of Competition Director Daniel Guarnera has indicated that the agency intends to continue challenging anticompetitive restrictions that limit consumers' right to repair, suggesting that the Deere settlement may serve as a model for future enforcement efforts involving software-enabled products.



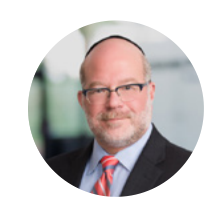
Relationship to the class action settlement

The private antitrust litigation resulted in a separate settlement. Under that agreement, Deere committed to provide owners and independent repair providers with digital repair tools for a 10-year period and agreed to establish a $99 million settlement fund, plus accrued interest, for the benefit of the settlement class.

On July 9, 2026, the court preliminarily approved the class settlement and directed the parties to submit briefing comparing the injunctive relief available under the class settlement and the FTC settlement by July 27, 2026. Both matters are pending before U.S. District Judge Iain D. Johnston in the Northern District of Illinois.

Key takeaways

- **Right-to-repair enforcement is gaining momentum.** The FTC's lawsuit and settlement demonstrate that regulators are willing to challenge restrictions on repair tools, software, and technical information that are perceived to limit competition in aftermarket repair markets.
- **Agricultural equipment manufacturers should review repair-access policies.** Companies that limit access to diagnostic tools, software updates, repair manuals, or parts may face increased scrutiny from regulators and private plaintiffs.
- **Government enforcement and private litigation can create parallel exposure.** Here, Deere faced both an FTC enforcement action resulting in extensive injunctive relief and a separate class action settlement that includes a $99 million fund for class members.
- **The settlement may serve as a roadmap for future right-to-repair disputes.** Agricultural, construction, and other equipment manufacturers should expect continued focus on ensuring owners and independent repair providers have access to the tools needed to maintain and repair equipment. ■



Jay represents agriculture producers, cooperatives, and other agribusinesses in antitrust and consumer protection matters. He can be reached at 202.778.3021 or jlevine@porterwright.com.

DOJ and states' attorneys general pursue settlement over alleged egg price benchmark manipulation

HELEN FITE

On June 29, 2026, the U.S. Department of Justice, together with the attorneys general of 17 states, filed a civil antitrust complaint against, and proposed settlement with, three major egg producers: Cal-Maine Foods, Inc., Hickman's Egg Ranch, Inc., and Versova-affiliated entities. The complaint alleges that the defendants coordinated bidding activity from June 2022 to March 2025 in order to artificially inflate egg price quotations published by Urner Barry Publications. The DOJ alleges that because Urner Barry's quotations are widely used in egg supply contracts, the conduct increased prices throughout the supply chain and boosted the producers' profits.

Alleged manipulation of the egg pricing benchmark

Unlike a traditional price-fixing scheme, where competitors allegedly agree on the price at which a product will be sold, the DOJ alleges that the producers indirectly fixed the price of eggs by colluding to manipulate the Urner Barry benchmark reporting system.

According to the complaint, the companies:

- frequently submitted large numbers of bids immediately before Urner Barry updated its daily quotation;
- coordinated bidding activity to create the appearance of stronger market demand and support higher benchmark prices;
- submitted bids that were unlikely to result in completed purchases, suggesting that the bids were intended to influence benchmark reporting rather than satisfy legitimate business need; and
- executed trades at premium prices and reported those transactions to Urner Barry, to support higher benchmark quotations.

The complaint also states that benchmark egg prices declined significantly after the defendants learned of the DOJ's investigation in March 2025, which the DOJ cites as evidence that the coordinated conduct was intended to influence prices.

Proposed consent judgments impose restrictions on communications, bidding practices, and compliance

At the same time as the DOJ filed the complaint, the DOJ also filed proposed consent judgments that would resolve the matter without further litigation. If approved, the judgments will prohibit the companies from:

- communicating or coordinating with competitors regarding bidding strategies, bid prices, timing, volumes, or transaction terms;
- sharing certain supply, demand, or pricing information that may influence benchmark publications; or
- communicating regarding bids or transactions that are not supported by legitimate business needs.

The proposed judgments would remain in effect for five years and require the companies to implement antitrust compliance programs, appoint antitrust compliance officers, conduct annual antitrust training and audits, monitor certain cooperative and industry association meetings, and provide periodic certifications regarding compliance. These measures are intended to prevent recurrence of the alleged conduct and restore competition to the shell egg market, says the DOJ.

Tunney Act review and public comment process

The proposed settlements are subject to review under the Antitrust Procedures and Penalties Act, commonly known as the Tunney Act. Under that statute, a court must determine whether a proposed antitrust consent decree is in the public interest before entering a final judgment.

First, the DOJ filed a Competitive Impact Statement, which triggers a 60-day public comment period. In this case, the DOJ filed its statement on Aug. 4, 2026. Members of the public now have the opportunity to submit written comments to the DOJ regarding the proposed settlements. After the public comment period, the DOJ may seek entry of the judgments. The court, however, retains final authority to determine whether the settlements serve the public interest.

Implications for the agricultural industry

This case underscores the DOJ's continued focus on food affordability and competition in agricultural markets, and highlights the increased scrutiny of communications among competitors in industries that rely on benchmark pricing.

The proposed settlements also illustrate the importance of robust antitrust compliance programs and training, particularly for companies that participate in cooperatives, trade associations, or benchmark-driven markets. Agricultural businesses, and their counsel, should evaluate whether their compliance programs adequately address communications involving market demand, pricing benchmarks, and other competitively sensitive information that could affect published prices. ■

Helen is an associate with a strong foundation in litigation and regulatory law gained through hands-on experience in both judicial and private settings. She can be reached at 614.227.2111 or hfite@porterwright.com.