



September 15, 2025

Via Federal eRulemaking Portal: <http://www.regulations.gov>

Docket Clerk  
Office of Legal Policy  
US Department of Justice  
950 Pennsylvania Avenue NW  
Washington DC 20530

**SUBJECT: Request for Information on State Laws Having Significant Adverse Effects on the National Economy or Significant Adverse Effects on Interstate Commerce**  
***Federal Register Notice 90 FR 39427, August 15, 2025***  
**Docket ID OLP182**  
**Submission of Comments**

Dear Sir or Madam:

The Biological Products Industry Alliance (BPIA) appreciates the opportunity to provide comments in response to the Department of Justice's Request for Information on *State Laws Having Significant Adverse Effects on the National Economy or Significant Adverse Effects on Interstate Commerce*.

BPIA is the leading US trade association representing the manufacturers, marketers, and distributors of biological products—including biopesticides, biostimulants, and biofertilizers. These innovative products help growers improve plant health, enhance resilience to stress, and expand the range of tools available for sustainable crop production. They play an increasingly important role in modern agriculture by supporting soil health, improving nutrient uptake, and helping farmers maintain productivity under challenging conditions. Our membership includes more than 175 companies committed to advancing innovation and sustainability in US agriculture.

#### IMPORTANCE OF REGULATORY CONSISTENCY

For BPIA members, regulatory fragmentation across states presents a serious challenge to innovation, commercialization, and interstate commerce.

For beneficial substances like biostimulants, the absence of a Federal definition of "plant biostimulant" and varied approaches among state departments of agriculture have led to inconsistent labeling, registration, and compliance requirements.

For crop protection products like biopesticides, state-specific labeling requirements and restrictions can significantly affect interstate commerce, resulting in multiple product labels specific to certain states or addition of state-specific sections, which cause confusion among users. This is especially troubling as

FIFRA<sup>1</sup> §24(b) [7 USC §136v(b)] explicitly preempts states from imposing “any requirements for labeling or packaging in addition to or different from those required under this Act.”

These divergent requirements create uncertainty for manufacturers, distributors, and growers alike, while delaying farmer access to innovative tools that can improve productivity, soil health, and overall sustainability.

#### EXAMPLES OF STATE-LEVEL DIVERGENCE

For biostimulant products, some states classify plant biostimulants under fertilizer law, while others regulate them as pesticides, and others apply hybrid approaches.<sup>2, 3, 4, 5</sup>

For both biopesticides and biostimulants, registration requirements can vary from minimal filing to lengthy reviews that duplicate federal assessments.<sup>6, 7</sup>

Labeling requirements (including format, disclaimers, and claims) often differ from one state to another, resulting in costly relabeling, added compliance burdens, and unnecessary barriers to market entry.<sup>8, 9, 10</sup>

#### IMPACTS ON THE NATIONAL ECONOMY AND INTERSTATE COMMERCE

This patchwork of statutes and regulations is confounding and confusing to both the producers of biological products and users alike. The lack of clear, overarching Federal standards results in the following:

- **Barriers to interstate commerce:** A product legally registered in one state may be denied entry into another due to differing definitions or interpretations.

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<sup>1</sup> Federal Insecticide, Fungicide, and Rodenticide Act, as amended (7 USC §136 *et seq.*).

<sup>2</sup> California Department of Food and Agriculture – Fertilizing Materials Inspection Program: <https://www.cdfa.ca.gov/is/ffldrs/fertilizer.html>.

<sup>3</sup> Oregon Department of Agriculture – Fertilizer Program (ORS 633; Division 59 rules) <https://www.oregon.gov/oda/pesticides/fertilizers/pages/default.aspx>.

<sup>4</sup> Washington State Department of Agriculture – Commercial Fertilizers and Soil Amendments <https://agr.wa.gov/departments/pesticides-and-fertilizers/fertilizers>.

<sup>5</sup> AAPCO Letter to NASDA on Biostimulants (2019): <https://aapco.org/wp-content/uploads/2019/05/aapco-letter-to-nasda-usda-biostimulants.pdf>.

<sup>6</sup> Oregon Department of Agriculture – Fertilizer Program <https://www.oregon.gov/oda/pesticides/fertilizers/pages/default.aspx>.

<sup>7</sup> California Department of Pesticide Regulation – Registration Process [https://www.cdpr.ca.gov/docs/registration/reg\\_process/reg\\_process.htm](https://www.cdpr.ca.gov/docs/registration/reg_process/reg_process.htm).

<sup>8</sup> Oregon Revised Statutes 633.321 – Label requirements: [https://oregon.public.law/statutes/ors\\_633.321](https://oregon.public.law/statutes/ors_633.321)

<sup>9</sup> Washington State Department of Agriculture – Labeling and Registration Guidance <https://agr.wa.gov/departments/pesticides-and-fertilizers/fertilizers>.

<sup>10</sup> AAPCO Letter to NASDA on Biostimulants (2019): <https://aapco.org/wp-content/uploads/2019/05/aapco-letter-to-nasda-usda-biostimulants.pdf>.

- **Increased costs for small businesses:** Many BPIA members are small-to medium-sized enterprises that cannot sustain duplicative compliance costs across dozens of jurisdictions.
- **Delays in innovation adoption:** Growers face slower access to new, innovative solutions that can control pests by less toxic means, and/or improve crop yield, soil function, and crop resilience.

It is vitally important to remove the duplicative, redundant, and oftentimes contradictory regulations and create a uniform, streamlined policy to improve the regulatory process and encourage and promote the use of biological input products.

#### FEDERAL ACTION NEEDED

For biostimulants, BPIA strongly supports legislative efforts at the Federal level—such as the bipartisan **PLANT BIOSTIMULANT ACT OF 2025** (introduced as *H.R. 3783 and S. 1907*)—to establish a uniform, national definition of plant biostimulants and to provide US EPA with a clear rulemaking pathway to exclude plant biostimulants from FIFRA. In the interim, DOJ’s review of state laws should recognize how inconsistent state regulatory schemes for plant biostimulants create significant adverse effects on interstate commerce and the broader agricultural economy.

For biopesticides, BPIA strongly supports the express preemption in FIFRA §24(b) [7 USC §136v(b)] prohibiting state-mandated additions, changes, or restrictions to US EPA-approved labeling and/or packaging.

#### CONCLUSION

In summary, regulatory clarity and harmonization will help strengthen the domestic biological products industry, supporting American jobs in research, manufacturing, and distribution. Many of BPIA’s members are US-based companies employing thousands of workers nationwide. A predictable, uniform framework is critical to sustaining and growing this workforce.

BPIA encourages DOJ to highlight regulatory fragmentation in the biological products industry as an example of state barriers to commercialization. The lack of clarity and defined parameters in the regulation of plant biostimulants serves as a case study on how inconsistent state laws impede commerce, stifle innovation, and harm the national economy. Inconsistent treatment of biological products not only disadvantages small businesses but also undermines opportunities for US farmers to remain globally competitive.

BPIA appreciates the opportunity to comment and offer support to DOJ. Should you have any questions about these comments, please feel free to contact me.

Sincerely,



Keith J. Jones  
Executive Director

**BIOLOGICAL PRODUCTS INDUSTRY ALLIANCE**