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*Submitted electronically via Regulations.gov*

Docket Clerk, Office of Legal Policy  
U.S. Department of Justice  
950 Pennsylvania Ave. NW  
Washington, DC 20530

**Re: Request for Information on State Laws Having Significant Adverse Effects on the National Economy or Significant Adverse Effects on Interstate Commerce; Docket No. OLP182; DOJ-OLP-2025-0169**

Dear Sir or Madam:

The National Chicken Council (NCC) appreciates the opportunity to provide comment to the Department of Justice's (DOJ's) Request for Information (RFI) regarding state laws that significantly and adversely affect the national economy or interstate commerce.<sup>1</sup> NCC represents vertically integrated companies that produce and process more than 95 percent of the chicken marketed in the United States. The chicken industry is highly competitive—both within the U.S. and globally—and that competitive pressure has resulted in an extremely efficient production process from farm to table. Because of this efficiency, consumers enjoy access to a very affordable source of high-quality, nutritious protein. Americans consume more than 100 pounds of chicken per capita each year, and broiler chicken exports contribute more than \$5 billion a year to the U.S. trade ledger.

Despite these market-driven efficiencies, regulatory pressures, red tape, and anti-market policies all impose costs that must be absorbed by companies, workers, and consumers. NCC earlier submitted comments identifying for DOJ's Anticompetitive Regulations Task Force various pre-existing federal regulations that stifled productivity and drove up prices. NCC is pleased that DOJ is also considering actions in response to state laws and regulations that similarly economic growth and hold back the American economy. Eliminating costly regulations and reforming misguided policy will directly reduce costs, drive efficiency, and advance the Administration's goals of unlocking lower prices for American consumers and unleashing American agriculture.

NCC broadly supports efforts to cut red tape and ease administrative and economic burdens imposed by state laws and regulations, especially when those laws impose costs on parties outside the state. As DOJ considers how to ease these burdens, NCC encourages the Department to consider:

1. State Extended Producer Responsibility (EPR) laws governing packaging and paper products;
2. State laws imposing restrictions on polystyrene foam and other materials in food packaging;
3. State climate reporting and cap and trade laws;
4. State laws unreasonably restricting agricultural land use; and
5. Ensuring states have the resources to combat activist crimes targeting the animal protein industry.

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<sup>1</sup> 90 Fed. Reg. 39427 (August 15, 2025).

These state laws create a patchwork of differing requirements that disrupt the national market and force companies to change their operations, even in states without these laws. As these laws raise national questions about national economic policies, they are better addressed through a uniform, national approach.

## **1. Extended Producer Responsibility Laws for Packaging and Paper Products**

EPR laws shift responsibility for the end-of-life management of packaging and paper products from consumers and local governments to “producers” (i.e., the companies that produce, distribute, or sell these products). Companies subject to EPR laws are required to fund or participate in state-approved Producer Responsibility Organizations (PROs) that manage the collection, recycling, and disposal of products. Seven states—California, Colorado, Maryland, Maine, Minnesota, Oregon, and Washington—have enacted broad EPR laws, and several other states have introduced similar legislation. These laws create significant compliance challenges for companies across the supply chain, including manufacturers, brand owners, shippers, and distributors, and impose costs that can reach millions of dollars for large businesses.

Although based on similar environmental objectives, the various state EPR laws differ substantially in scope, fees, covered materials, and compliance mechanisms. States define key terms such as “producer,” “covered material,” and “recyclable” differently. Certain packaging may be covered by one state’s law but not by another. Exemptions apply inconsistently. Timelines for registration and reporting vary significantly. These inconsistencies impose unreasonable, burdensome, and arbitrary requirements on businesses, including NCC members, forcing them to implement costly, state-specific compliance programs.

Moreover, some state EPR laws raise serious constitutional concerns because they unduly burden interstate commerce and unlawfully control commerce occurring wholly outside the state. For example, a group of businesses has challenged Oregon’s EPR law, arguing it “unduly burden[s] interstate commerce by subjecting producers to complex, non-reviewable volume-based fees and reporting obligations determined by the state-specific PRO, unnecessarily creating inconsistent obligations that disrupt the uniformity of an inherently national market.”<sup>2</sup>

NCC believes that market dynamics, including the continual drive for further efficiency in the chicken industry, are best suited to incentivize efficient packaging reduction. State EPR laws, by contrast, amount to de facto taxes on businesses across the country and will drive up costs for consumers. NCC urges DOJ to identify appropriate mechanisms for asserting a national approach in place of patchwork EPR requirements.

## **2. State Restrictions on Polystyrene Foam and Other Materials in Food Packaging**

Many states, and indeed even some individual cities, restrict various types of food packaging, including polystyrene foam containers and packaging containing certain substances. These laws vary widely in scope, prohibited materials, and compliance dates. For companies distributing regionally or nationally, which includes the overwhelming majority of NCC members, these laws create a nearly unnavigable patchwork of requirements that vary state to state and even city to city. Navigating these laws imposes significant administrative costs on companies and restricts operational efficiency. In effect, companies are often forced to base their packaging material decisions on the most restrictive requirement in the markets they service, even if that requirement is imposed by an individual city. This imposes costs on

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<sup>2</sup> Compl. ¶ 73, *Nat’l Ass’n Wholesaler-Distributors v. Oregon DEQ et al.*, No. 3:25-cv-01334 (D. Or. July 30, 2025).

businesses and, in turn, consumers across the country. Absent federal harmonization, these state restrictions materially impair interstate commerce.

### **3. Climate Reporting and Cap and Trade Laws**

Some states have mandated certain climate reporting (*e.g.*, California) or developed cap and trade laws (*e.g.*, Washington). These laws threaten to impose tremendous costs. They require substantial administrative and recordkeeping resources to track and report data. They subject companies to potential litigation. And they directly impose compliance costs and fines. As importantly, these laws attempt to regulate broad and extremely complex systems that are inherently national in nature. The federal government has already considered climate reporting and corresponding policies. As a national matter, policies with respect to climate reporting and climate regulation should be addressed at the federal level.

### **4. State Zoning and Land Use Restrictions**

Some states and local governments have begun imposing zoning and land use requirements that are unduly restrictive toward animal agriculture. These laws range from overly strict restrictions on land applications of constituents from processing to unreceptive local boards to outright bans on certain agricultural operations. Although local governments historically have enjoyed the ability to regulate local zoning, when taken to the extreme, land use policies intentionally hostile to animal agriculture impose significant costs on the industry by limiting or disrupting land use, place employers further away from potential employees, and making long-term planning less predictable. NCC encourages the Department to identify mechanisms to ensure that land use policies and applications remain reasonable and are not abused to advance political agendas hostile to animal production.

### **5. Enhanced Law Enforcement to Prevent Sensational Crimes by Activists**

The animal protein industry is the backbone of American agriculture and supports rural communities across all 50 states. Unfortunately, the industry is plagued by radical activists who intentionally target companies, and even individual employees, with sensational crimes. Instead of engaging in the political process or policy conversation, these radical activists chain themselves to fences, block streets, commit fraud and violate food safety policies to sneak into facilities, trespass on private property and family farms, damage property, steal animals, violate biosecurity procedures, abuse animals, and kill animals. This type of criminal activity is not only extremely disruptive in the moment, but it also imposes substantial long-term costs as companies must adjust operations and hire security personnel. These individuals create risks to food safety and, by entering farms, risk spreading deadly animal diseases, including Highly Pathogenic Avian Influenza (HPAI). NCC urges DOJ to ensure that state and local law enforcement prioritize preventing, disrupting, and prosecuting these intentional criminal acts and have sufficient resources to do so.

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NCC greatly appreciates your consideration of these comments identifying opportunities for regulatory reform to promote competition and unlock lower prices for consumers. Please do not hesitate to contact us if we can provide further information.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Ashley B. Peterson". The signature is written in a cursive, flowing style with a large initial 'A'.

Ashley B. Peterson, Ph.D.  
Senior Vice President, Scientific and Regulatory Affairs  
National Chicken Council