

United Egg Producers

Leadership by Egg Farmers for Egg Farmers

UEP OFFICERS

Mike West
Chairman

Chad Gregory
President and CEO

J.T. Dean
Vice Chairman

Sherman Miller
Treasurer

Sandra Lausecker
Secretary

UEP STAFF

Chad Gregory
President and CEO

Tabitha McCoy
VP of Finance

Oscar Garrison
Sr. VP, Food Safety

Dr. Larry Sadler
Sr. VP, Animal Welfare

DC Offices

Louie Perry
Cornerstone Govt
Affairs

Randy Green
Watson Green LLC

March 18, 2025

Honorable Brooke Rollins
Secretary of Agriculture
U.S. Department of Agriculture
1400 Independence Avenue, S.W.
Washington, D.C. 20250

Dear Madam Secretary:

As you know, United Egg Producers (UEP) – representing 90 percent of the U.S. egg supply – strongly supports your five-pronged comprehensive strategy to curb highly pathogenic avian influenza (HPAI). One of the elements of this strategy is entitled “Remove Unnecessary Regulatory Burdens on the Chicken and Egg Industry to Further Innovation and Reduce Consumer Prices.”

We commend you for recognizing that regulation imposes costs on farmers and other regulated businesses. By definition, these costs represent funds that are not available for investment in biosecurity and other HPAI defenses. Thus, a fundamental justification for reexamining regulations is to provide opportunities for producers to invest in the safety and security of their farms and still remain economically viable.

Of course, regulations that are critical to maintaining food safety, safeguarding the environment and achieving other critical societal benefits also involve costs. We do not seek relief from truly necessary regulations. It is only where regulatory burden exceeds what is reasonably necessary that we would like to see change, and we are sure you approach the issue with similar values.

We have identified regulatory burdens in four areas that, in our judgment, impose unnecessary and excessive costs on producers. As a follow up to your stated goal of working with Environmental Protection Agency (EPA) Administrator Lee Zeldin, we have summarized these areas for reform in Attachment A, which provides insight into the areas of requested regulatory relief regarding environmental issues impacting egg producers.



Council Representative

United Egg Producers
6455 E. Johns Crossing, Ste. 130
Johns Creek, Georgia 30097
770-360-9220
www.unitedegg.com

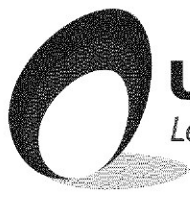
Government Relations Office
Cornerstone Government Affairs
800 Maine Ave, SW 7th Floor
Washington, DC 20024
(202) 448-9500

Government Relations Office
Watson Green LLC
5059 35th Road North
Arlington, VA 22207
(202) 384-1840

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In addition, we wish to respectfully point out two areas in which, although regulatory costs certainly exist, significant change is not, in our judgment, warranted. First, we have consistently supported, and continue to support, the Egg Safety Rule administered by the Food and Drug Administration (FDA). Since 2009, the industry has worked with the FDA to implement this regulation, which has enjoyed notable success in reducing the incidence of *Salmonella* Enteritidis (SE). The agency's evaluations have consistently found this rule to be a success. Its provisions complement and enhance the same biosecurity measures that are helpful in excluding the HPAI virus. Therefore, we urge the administration to make no changes to the Egg Safety Rule. In particular, we believe the refrigeration requirements of the rule, which are critical to avoiding growth in the SE load, should be enforced on all eggs entering human food channels, including eggs for breaking. Exceptions to the refrigeration requirement would risk compromising the safety of the food supply.

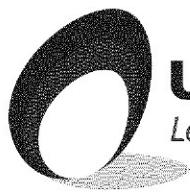
Second, we believe it would be unproductive for the administration to take action against the 10 states, with 89 million residents, that have passed laws requiring that only cage-free eggs (or eggs meeting specific hen housing space requirements) be produced and/or sold within their borders.

Egg farmers certainly did not initiate these state laws and indeed opposed many of them. We know that regardless of housing type, all modern egg production systems allow for appropriate hen care, while also ensuring a safe, fresh and affordable supply of eggs for consumers.

In addition, the HPAI virus does not discriminate by housing type. Outbreaks have occurred in large farms and small, in conventional and cage-free farms. There is no convincing evidence that state laws have played a role in the egg shortage.

As it stands, most of the state laws have now been on the books for years – almost 20 years in the case of California. Moreover, the vast majority of our retail customers – retail grocers, consumer packaged goods manufacturers and food service companies – have made pledges to source only cage-free eggs by certain dates. The HPAI crisis and other factors have caused some of these customers to delay the dates of the pledges (and some state laws have also been paused), but for the most part, the customer pledges themselves have remained in place, and we have to assume they will be effective at some point. Needless to say, these customers sell products in all states, not just those with cage-free laws, and they will need our egg producers to supply them.

In these circumstances, egg farmers have had no choice but to make investments to expand the supply of cage-free eggs. These investments – which are estimated to total more than \$11 billion over time – include retrofitting conventional housing, constructing new housing, purchasing new equipment, hiring the additional labor that cage-free systems require, and multiple other costs.



Should the federal government take some undefined action that would override state laws or void customer commitments, much of this \$11 billion investment would be lost. Producers of cage-free eggs would face a choice between abandoning all the investments they have made over the past decade and more or continuing to produce cage-free eggs for a conventional market, at a cost which Iowa State University and other authorities say is substantially higher than the cost of producing conventional eggs.

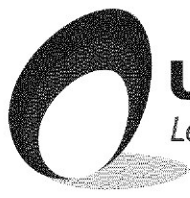
For these reasons, any federal action to override state laws or private-sector commitments would not be regulatory relief for egg farmers. It would be an additional burden.

Therefore, we urge the Department of Agriculture to work with its partner federal agencies toward the regulatory relief identified herein and in Attachment A. We fully recognize that for the most part, these items are under the purview of other agencies, but we feel confident that your leadership can be key to persuading the relevant agencies that the relief we have requested is appropriate.

Madam Secretary, we again commend you for your leadership in this area and look forward to working with you on all five prongs of your HPAI strategy, including regulatory relief.

Thank you,

Chad Gregory
President/CEO

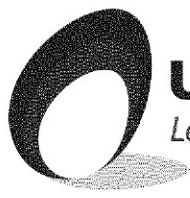


Attachment A:

Priority Environmental Regulatory Relief Issues for United Egg Producers

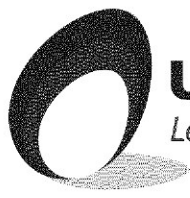
Nutrient and Water Quality Issues - Curtail use of Safe Drinking Water Act, Total Maximum Daily Load and Industrial Stormwater regulatory approaches that lead to overregulation of the egg industry.

- Since 2014, environmental groups have petitioned EPA at the regional level to take **emergency action under the Safe Drinking Water Act (SDWA) to address nitrate contamination**: 2014 – Wisconsin; 2020 – Oregon; 2021 – Washington; 2023 – Minnesota; 2024 – Iowa
- Underpinning all the challenges is an alleged link between nitrate and human health via oral exposure. EPA's Office of Research and Development's Integrated Risk Information System (IRIS) program is currently evaluating that connection, and it is important to get the process right.
- In each of those states, the egg industry would be seriously impacted if EPA allows use of its SDWA authority to add additional regulation to the industry.
- Furthermore, across the country, environmental groups are taking cut-and-paste approaches to their activism seen in the Chesapeake Bay to force **Total Maximum Daily Loads (TMDLs)** to be more stringent in their regulation of agriculture.
- On May 1, 2024, an environmental group sued EPA over its approval of Ohio EPA's Total Maximum Daily Load (TMDL) for western Lake Erie (known as the Maumee Watershed Nutrient TMDL). This is the third time the same environmental group has sued EPA over the western Lake Erie impairment status and designation.
- UEP has joined other agricultural groups to seek intervention in the lawsuit. At its core, the lawsuit pushes for the need for additional limits and restrictions in the amount of phosphorus that both livestock and row crop farmers can use and that may, ultimately, enter the Maumee River and the Western Lake Erie Basin.
- One of UEP's biggest concerns is that the environmental group appears to be going after the agricultural stormwater exemption and seeking to have tile drainage be considered a point source.
- In some areas of the country, especially within the footprint of Region 5 EPA, EPA has for years been evolving its view of water on egg laying operations from that of agricultural stormwater to **industrial stormwater**. UEP can provide specific examples of the farms and fact-patterns where the interpretation of EPA staff has led to significant increases in the regulatory burden on egg farms.



Rodenticides – Reshape an approach to rodenticide regulation that prioritizes keeping such products affordable and available for egg producers.

- The EPA is currently pursuing federal rodenticide policy changes to ensure its pesticide decisions conform with the Endangered Species Act (ESA).
- On November 22, 2024, the EPA released the final biological evaluation (BE) for 11 different rodenticide products. The BE serves as a record of that assessment and is EPA's first step in its process for evaluating the products under the ESA. In addition, with this final rodenticide BE, EPA chose to have it also serve as the agency's Rodenticide Strategy. As such, it will guide the EPA's work to register and reevaluate rodenticides into the future.
 - Now that EPA has issued its final BE, formal consultation with the US Fish and Wildlife Services (FWS), which will look at each of the 11 rodenticides, has begun. At the conclusion of this 90-day consultation period, FWS has 45 additional days to prepare a biological opinion (BiOp). That BiOp will state whether EPA has ensured its action is not likely to jeopardize the continued existence of a listed species or result in the destruction or adverse modification of critical habitat. The BiOp will also include recommendations on mitigation measures. BiOps go through draft stages, and public comment opportunities are available before finalization. It is likely that farmers will not see a draft BiOp from FWS on the rodenticide products until the spring of 2025. At that point, FWS will consider all public comment received, and finalize its BiOp. No final FWS action will likely be seen on this issue until the late summer or fall of 2025. At that point, the EPA will consider the decision in its individual rodenticide registration and reevaluation efforts on an individual product basis as they are scheduled to be addressed.
 - This current EPA document – the combined final BE and Rodenticide Strategy - does not impose additional requirements on rodenticide use at this time but has set it up for future restriction.
 - Access to affordable and effective rodenticide products are critical to egg laying operations ability to follow biosecurity protocol and fight highly pathogenic avian influenza.



Concentrated Animal Feeding Operation (CAFO) Rule Challenges - Engage with the livestock groups to discuss needed reforms of the CAFO rules that will allow egg producers to innovate within the terms of federal NPDES permits.

- In 2017 and 2022, environmental groups petitioned EPA requesting EPA revise the National Pollutant Discharge Elimination System (NPDES) permitting requirements, effluent limitations, and standards for CAFOs. Specifically, the initial petitions called on EPA to adopt a “rebuttable presumption” that all CAFOs are discharging and are either subject to NPDES permitting or must demonstrate they do not discharge. The initial petitions also sought a revision of EPA's interpretation of the agricultural stormwater exemption such that no discharges resulting from CAFO activities are exempt as non-point source pollution.
- In August 2023, the Biden EPA responded and denied the environmental group petitions. Instead of rewriting the CAFO rules, the Biden EPA established an Animal Agriculture Water Quality Subcommittee (AAWQ) to discuss potential changes needed to the CAFO rule and the Biden EPA also set out to update the CAFO Effluent Limitation Guideline data collection.
- UEP has been engaged in the AAWQ subcommittee. It is important to the egg industry that any changes to the CAFO rules streamline regulation and allow for more flexible and innovative approaches to be utilized at the production area and in the land application areas alike. UEP is working with other livestock groups to formulate the details of what those reforms would include.

National Air Emissions Monitoring Study (NAEMS) for Animal Feeding Operations (AFOs) and the Air Compliance Agreement (ACA) - Continue to engage with the livestock groups to revisit the air emissions estimation methods and air compliance agreement terms so that modern day egg producers can move on with certainty from the 20-year-old agreement.

- In 2005, approximately 14,000 livestock facilities (including egg-laying operations) entered into the Air Compliance Agreement (ACA) and paid a penalty to contribute to the cost of a study of animal feeding operation emissions (AFOs).
- Since 2012, EPA has been working on the emissions estimating methods (EEMs) for AFOs.
- Once EPA publishes final EEMs for AFOs, the deadlines in the ACA will be triggered.
- The egg industry has evolved significantly since the 2005 ACA and the beginning of the EEM development. The egg industry has many concerns on how the old data from the study will be used to characterize and/or regulate the industry as it exists today.
- UEP wants to continue to work with EPA and other livestock groups to revisit the terms of the ACA and offer comments on the EEM with the webtool and ACA implementation details in mind.