

May 19 ,2026

U.S. Environmental Protection Agency  
1200 Pennsylvania Ave NW  
Washington, DC 20460

Re: Docket ID No. EPA-HQ-OLEM-2025-1707 Clean Water Act Hazardous Substance Facility Response Plans; Amendment Reconsideration

To whom it may concern.

Please find attached, the poultry and egg industry's response to the U.S. Environmental Protection Agency's (EPA's) advance notice of proposed rulemaking to seek feedback on reconsidering Clean Water Act Hazardous Substance Facility Response Plans regulations that were published in the Federal Register on March 28, 2024.

On February 18, 2026, EPA published an advanced notice of proposed rulemaking to seek feedback on reconsidering the provisions under Title 40 of the Code of Federal Regulations Part 118 for CWA Hazardous Substance FRPs that were published in the Federal Register on March 28, 2024.

These comments are submitted on behalf of the national and state organizations that support the poultry and egg industries. We appreciate the opportunity to provide comments. If you should have any questions about our comments or need additional information, please contact Paul Bredwell at 678-514-1973 or via email at [pbredwell@uspoultry.org](mailto:pbredwell@uspoultry.org).

Sincerely,

U.S. Poultry & Egg Association

**Docket ID No. EPA-HQ-OLEM-2025-1707**

**U.S. Environmental Protection Agency**

**1200 Pennsylvania Avenue NW, Washington, DC 20460**

**Subject: Response to the U.S. Environmental Protection Agency's (USEPA's) advance notice of proposed rulemaking to seek feedback on reconsidering Clean Water Act Hazardous Substance Facility Response Plans regulations that were published in the Federal Register on March 28, 2024.**

## **Introduction**

US Poultry & Egg Association (USPOULTRY) is the world's largest and most active poultry organization. Membership includes producers and processors of broilers, turkeys, ducks, eggs, and breeding stock, as well as allied companies. Formed in 1947, the association has affiliations in 26 states and member companies worldwide.

These comments are submitted on behalf of the national and state organizations that support the poultry and egg industries. We appreciate the opportunity to provide comments on this proposed rule.

## **History**

On March 28, 2024, EPA published a final rule requiring certain facilities to develop facility response plans for a worst-case discharge of Clean Water Act (CWA) hazardous substances, or threat of such a discharge. A worst-case discharge is the largest foreseeable discharge in adverse weather conditions. Facilities subject to the rule are required to prepare response plans in the event of worst-case discharges, or threat of such discharges, and submit them to EPA.

The facility response plan requirements apply to facilities that could reasonably be expected to cause substantial harm to the environment, based on their location. These include facilities with a maximum onsite quantity of a CWA hazardous substance that meets or exceeds threshold quantities, located within a 0.5-mile radius of navigable water or conveyance to navigable water, and that meets one or more substantial harm criteria.

On February 10, 2026, the EPA Administrator signed an advanced notice of proposed rulemaking to seek feedback on reconsidering the provisions under Title 40 of the Code of Federal Regulations Part 118 for CWA Hazardous Substance FRPs that were published in the Federal Register on March 28, 2024.

The poultry and egg processing industry submits these comments in response to the Environmental Protection Agency's request for feedback reconsidering the provisions under the CWA Hazardous Substance FRPs.

The first section of comments provides focus on technical implementation challenges, regulatory duplication, and disproportionate financial burdens. The second section of comments specifically addresses the technical objections where the sole triggering CWA hazardous substance is anhydrous ammonia utilized in closed-loop refrigeration which will be the case for many poultry and egg processing facilities.

## **A. Technical Implementation Challenges, Regulatory Duplication, and Disproportionate Financial Burdens.**

### **1. Overly Broad Scope and Lack of Risk Proportionality**

The 2024 final rule broadened the scope of covered facilities by dropping the threshold screening multiplier from 10,000x down to 1,000x the Reportable Quantity (RQ). By shifting to a 1000x the RQ, the rule becomes far too broad. This in turn exceeds the scope of what is necessary to protect against the risk of a true worst-case discharge. Lowering the thresholds to these levels, captures industrial operations that fall outside the operations that truly pose a substantial harm.

### **2. Impracticality of "Worst-Case" Modeling and Weather Variables**

Evaluating planning distance calculations for multiple adverse weather and complex hydrological conditions is highly impractical. The resulting methodology is too complex for standard facility operators to apply consistently. Forcing facilities to engineer scenarios for extreme, unpredictable natural events produces a severe manpower and cost burden with limited, speculative environmental benefits.

We are aware of some instances where facility operators have sought the consultation of professional engineers to address this issue only hear that the impracticability of the "Worst-Case" modeling and weather variability places substantial liability on the engineer preparing the Plan. This circumstance has led some engineers to refuse providing technical services for industrial facilities that would be affected by the regulation.

### **3. Regulatory Duplication with the Clean Air Act Risk Management Program (RMP).**

The Rule fails to account for robust emergency safeguards already implemented on poultry and egg processing facilities. Poultry and egg facilities storing anhydrous ammonia above the 10,000 lbs threshold are already strictly regulated under Section 112(r) of the Clean Air Act (CAA), Risk Management Program (RMP) and OSHA's Process Safety Management (PSM) standard. Mandating a separate CWA-specific response plan creates severe regulatory duplication.

RMP already forces facilities to model worst-case vapor cloud release scenarios, maintain active emergency response plans, coordinate annually with Local Emergency Planning Committees (LEPCs), and execute mechanical integrity audits. Requiring an overlapping CWA FRP creates administrative friction, divergent documentation formatting, and conflicting localized emergency command architectures.

EPA should adopt an "Equivalent Compliance" mechanism. Any facility that can demonstrate full compliance with CAA RMP requirements for anhydrous ammonia should be automatically deemed compliant with CWA FRP planning standards.

Mandating a separate CWA-specific response plan creates severe regulatory duplication for facilities that already maintain EPA Risk Management Plans (RMP) or Spill Prevention, Control, and Countermeasure (SPCC) protocols

#### 4. Excessive Administrative and Modeling Costs

Classifying, tracking, and modeling the exact planning distances for complex chemical mixtures across an entire property boundary is a massive financial and labor drain. Because the rule lacks a reasonable de minimis container size exemption, small storage units trigger full modeling requirements. This creates a severe economic impact on poultry and egg operations that simply do not have the specialized engineering staff to perform these advanced calculations. This would again require facilities to seek out registered engineers willing to accept the liability associated with modeling potential discharges.

#### 5. Inadequate Local Infrastructure and Notification Capabilities

The Rule requires complex coordination with downstream public water systems and Local Emergency Planning Committees (LEPCs). This presumes an unrealistic level of coordination with local entities that does not exist in some cases. Many areas feature inactive or underfunded LEPCs, making active integration and rapid notification processes impossible to reliably implement. EPA must first verify state and local infrastructure capacities before legally forcing facilities to rely on local bodies that are unequipped to handle complex data or timely emergency downstream notifications.

## **B. Technical Objections**

The poultry and egg industries maintain that applying a liquid-centric surface water discharge planning framework to a highly volatile, self-dispersing compressed gas is arbitrary, technically flawed, and duplicative of existing federal safety frameworks. The EPA should establish a categorical exemption or an alternative "zero-impact" pathway for closed-loop anhydrous ammonia refrigeration systems in food production.

### **1. Fundamental Scientific Flaw: Atmospheric Dispersion vs. Surface Water Transport**

Anhydrous ammonia has a boiling point of -28°F (-33.3°C). At ambient pressure and temperature, any catastrophic release from a processing facility's refrigeration lines instantly flashes into a gas or forms an aerosol cloud that disperses into the atmosphere.

The CWA FRP rule forces facilities to model a "Worst-Case Discharge" (WCD) moving over a "planning distance" across surface waters. It is scientifically invalid to require poultry and egg processing facilities to engineer liquid flow path trajectories and downstream water-delivery impacts for a substance whose physics dictate immediate atmospheric volatilization rather than overland liquid migration.

EPA would be prudent to exclude compressed gases and cryogenic liquids, like anhydrous ammonia, from CWA liquid overland transport modeling requirements unless they are stored as aqueous solutions.

### **2. Arbitrary Threshold Multiplier Ignoring High-Volume Closed Systems**

The final rule published on March 28, 2024, establishes an applicability threshold using a 1,000x multiplier of the chemical's Reportable Quantity (RQ). For anhydrous ammonia, which has an RQ of 100 lbs, the threshold is a mere 100,000 lbs.

Modern, humane, and efficient poultry processing plants routinely require more than 100,000 lbs of ammonia safely sealed inside closed-loop refrigeration configurations to protect food safety. This low threshold captures poultry and egg processing facilities as a "substantial harm" threat. It ignores the basic engineering truth that these systems are segmented, valved, and monitored to prevent a singular, total-volume release.

EPA should raise the applicability threshold multiplier for closed-loop refrigeration systems to at least 10,000x the RQ, or implement an exemption based on isolated system segmentation.

### **3. Impracticality of CWA "Worst-Case Discharge" Response Protocols**

The CWA FRP rules require facilities to maintain specialized containment booms, skimming equipment, or liquid remediation contracts to capture spilled hazardous substances on surface waters.

There is no engineering protocol or safety equipment capable of "booming" or "skimming" gaseous or aerosolized ammonia releases off the surface of a river or stream. Requiring poultry and egg processing facilities to contract with aquatic spill response organizations for an atmospheric release is a useless financial requirement that provides no environmental protection.

Common sense dictates EPA must clarify that facilities whose only hazardous substance is gaseous/volatile anhydrous ammonia are exempt from maintaining water-recovery response equipment contracts.

#### **Conclusion**

Applying a rule designed for liquid oil or persistent liquid chemicals to closed-loop anhydrous ammonia refrigeration systems fails the basic administrative requirement of rational agency decision-making. The poultry and egg industry urges the EPA to exempt anhydrous ammonia from the final rule, or recognize existing CAA RMP frameworks as a complete substitute for CWA FRP compliance.

The poultry and egg industries appreciate that EPA has taken on the effort to seek feedback on reconsidering Clean Water Act Hazardous Substance Facility Response Plans regulations that were published in the Federal Register on March 28, 2024.

Additionally, the poultry and egg industries appreciate that EPA is seeking feedback on potential amendments to address implementation challenges and clarify requirements from the 2024 final rule and have prioritized opportunities to address and remove regulatory burden on industries. The poultry and egg industries welcome the opportunity to provide these comments and look forward to working with EPA. If you have any questions regarding these comments or would like additional information, please contact Paul Bredwell at [pbredwell@uspoultry.org](mailto:pbredwell@uspoultry.org).

Respectfully submitted,

U.S. Poultry & Egg Association