

Proposed Rule: Updates to the National Pollutant Discharge Elimination System Definitions and Exclusions

On September 4, 2026, U.S. Environmental Protection Agency (EPA) published a proposed rule that would update its regulations for National Pollutant Discharge Elimination System (NPDES) permitting related to certain discharges by mobile vessels into ocean waters more than three nautical miles offshore. This action would ensure that the agency's NPDES regulations align with the clear statutory language and authority provided by Congress under the Clean Water Act. In doing so, the proposed rule would remove duplicative regulatory authority, allowing certain offshore activities to be covered by alternative statutory authorities established by Congress to protect ocean waters and ecosystems, such as the Marine Protection, Research, and Sanctuaries Act (MPRSA) and Vessel Incidental Discharge Act (VIDA). The proposed rule would clarify permitting requirements of offshore activities that occur miles offshore and would apply to current activities (e.g., certain seafood processors) and future activities (e.g., potential deep seabed mining).

Summary of the Proposed Rule

EPA is proposing to revise the regulatory definition of “discharge of a pollutant” in its NPDES regulations to reflect the Clean Water Act’s clear direction that vessels and other floating craft not secured to the seabed that release pollutants in the contiguous zone or ocean are excluded from this definition. The contiguous zone includes waters that are three to 12 nautical miles from the shoreline while the ocean includes any portion of the high seas beyond 12 nautical miles from the shoreline. By virtue of being excluded from the definition of “discharge of a pollutant” in the Clean Water Act, EPA is proposing that these vessels would not subject to NPDES permitting requirements. They may, however, be subject to alternative statutory authorities.

The proposal does not affect vessels or other floating craft discharging to waters of the United States, including the territorial seas (i.e., waters less than 3 nautical miles from the shoreline). Those discharges would continue to be subject to NPDES permitting requirements where applicable. The proposal also would not change NPDES applicability for facilities secured to the seabed in the contiguous zone or ocean (e.g., mobile offshore drilling units). Those facilities would remain subject to NPDES permitting requirements. Additionally, the proposal would not affect how vessels are permitted in state waters less than 3 nautical miles from the shoreline.

Next steps

The proposed rule will be available for public comment through October 19, 2026. For more information, visit <https://www.epa.gov/npdes/npdes-regulations>

Illustration of Proposed NPDES Coverage Offshore (where applicable)

Shoreline

