



801 North Quincy Street
Suite 500
Arlington, VA 22203

PHONE: 703.841.9300
EMAIL: cstewart@americanwaterways.com

Caitlyn E. Stewart
Vice President – Regulatory Affairs

October 19, 2026

Ms. Kenda Conley
Environmental Protection Specialist
Office of Water
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue NW
Washington, DC 20460

RE: Proposed Rule, Updates to the
National Pollutant Discharge Elimination
System Definitions and Exclusions
(Docket ID No. EPA-HQ-OW-2026-6965)

Dear Ms. Conley:

The American Waterways Operators (AWO) is the tugboat, towboat, and barge industry's advocate, resource, and united voice for safe, sustainable, and efficient transportation on America's waterways, oceans, and coasts. As the largest segment of the nation's 40,000-vessel domestic maritime fleet, our industry safely and efficiently moves 665 million tons of cargo each year and enables the flow of goods through ports on the inland and intracoastal waterways; the Atlantic, Pacific, and Gulf coasts; and the Great Lakes. On behalf of our over 300 members, we appreciate the opportunity to comment on the Environmental Protection Agency's (EPA) proposed rule to update the definitions and exclusions under the National Pollutant Discharge Elimination System (NPDES) permitting program, as part of the Clean Water Act (CWA).

AWO members are proud to be the safest and most environmentally responsible mode of freight transportation. Our industry is committed to building on this success and actively exceeds regulatory requirements to preserve and protect the environment while facilitating the efficient movement of maritime commerce. For many years, AWO has worked with Congress, EPA and the states to ensure that vessel discharges are regulated under a clear, consistent, and uniform national framework that protects the environment without imposing duplicative or unnecessary requirements on vessel operators. As part of this long-running engagement, AWO strongly supported Congress's passage of the Vessel Incidental Discharge Act (VIDA) in 2018, which amended the CWA by establishing 33 U.S.C. §1322(p) to remove discharges incidental to the normal operation of commercial vessels from regulation under the NPDES permitting program. We support EPA's proposal to align its NPDES regulations with the CWA, which will provide greater regulatory clarity and certainty for commercial vessel

operators as we await the U.S. Coast Guard's VIDA implementation and enforcement regulations.

Under the CWA, discharges into navigable waters, the contiguous zone, and the ocean are generally prohibited unless authorized by an NPDES permit. Central to this prohibition is the statutory definition of "discharge of a pollutant," which varies depending on where the discharge occurs. For the contiguous zone and the ocean, the CWA excludes pollutants from "a vessel or other floating craft" from this definition, meaning such vessels are excluded from regulation under the NPDES permitting program. However, EPA's current regulatory definition narrows this statutory exclusion by limiting it to vessels "being used as a means of transportation."

EPA's proposal to remove the phrase "which is being used as a means of transportation" from the regulatory definition would align the regulatory text with the statute, consistent with the intent of Congress as expressed in the CWA. AWO supports this change and agrees with EPA that it supports the best reading of CWA Section 502(12)(B). AWO also supports EPA's clarification that incidental anchoring or mooring to a buoy, which vessels may do during voyages, does not make a vessel secured to the seabed, and urges EPA to incorporate this distinction in the final rule.

On behalf of AWO's members, thank you for the opportunity to comment on the proposed rule to update the definitions and exclusions under the NPDES permitting program, as part of the CWA. We would be pleased to provide any additional information.

Sincerely,

A handwritten signature in cursive script that reads "Caitlyn E. Stewart".

Caitlyn E. Stewart
Vice President – Regulatory Affairs