



**DEPARTMENT OF HOMELAND SECURITY**

**Coast Guard**

**33 CFR Part 165**

**Docket Number USCG-2025-0320**

**RIN 1625-AA11**

**Regulated Navigation Area; Illinois River, Naplate, IL**

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Coast Guard is proposing to establish a regulated navigation area for certain waters of the Illinois River. This action is necessary to provide for the safety of human health and the environment on these navigable waters near Naplate, IL due to an Environmental Protection Agency Superfund Alternative Site. This proposed rulemaking would prohibit persons and vessels from anchoring or pushing their vessels onto the bank of the river in the regulated navigation area unless authorized by the Captain of the Port Sector Lake Michigan or a designated representative, or in the event of an emergency. We invite your comments on this proposed rulemaking.

**DATES:** Comments and related material must be received by the Coast Guard on or before [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

**ADDRESSES:** You may submit comments identified by docket number USCG-2025-0320 using the Federal Decision-Making Portal at <https://www.regulations.gov>. See the “Public Participation and Request for Comments” portion of the **SUPPLEMENTARY INFORMATION** section for further instructions on submitting comments. This notice of proposed rulemaking with its plain-language, 100-word-or-less proposed rule summary will be available in this same docket.

**FOR FURTHER INFORMATION CONTACT:** If you have questions about this proposed rulemaking, call or email LT Matthew Jones, Chief, Waterways Management, U.S. Coast Guard; telephone 630-986-2131, email D09-SMB-MSUChicago-WWM@uscg.mil.

**SUPPLEMENTARY INFORMATION:**

**I. Table of Abbreviations**

CFR	Code of Federal Regulations
DHS	Department of Homeland Security
FR	<b>Federal Register</b>
NPRM	Notice of proposed rulemaking
§	Section
U.S.C.	United States Code

**II. Background, Purpose, and Legal Basis**

In October of 2024, the United States Environmental Protection Agency (EPA), Pilkington North America, Inc. (PNA), Illinois Environmental Protection Agency (IEPA), and the United States Coast Guard (USCG) began discussions to explore establishing a Regulated Navigation Area for Operable Unit 2 (OU2) of the Ottawa Township Flat Glass (OTFG) Superfund Alternative Site (the Site; EPA ID: ILD005468616) along the Illinois River. The purpose of this Regulated Navigation Area is to prevent disturbance of riverbed sediment in OU2 that has been contaminated with arsenic due to historic Site operations. In 2000, PNA characterized arsenic contamination in Illinois River sediment, collecting sediment samples and conducting bathymetric surveys with EPA oversight. Sampling results indicated that arsenic concentrations in sediment adjacent to the Site and Original Sand Pond source area on the north side of the Illinois River were above background levels. PNA performed additional work in 2002 to determine if sediment deposits within OU2 were stable and to evaluate whether arsenic exceedances had an adverse impact on benthic organisms living in the sediment. Through various sampling efforts, radioisotope, and bioassay studies conducted by the State of Illinois and PNA, EPA concluded that contaminated arsenic sediment deposits in OU2

were stable, not prone to washout by yearly flood events, and has negligible effect on river water quality or toxicity to aquatic organisms. As part of the 2023 Five-Year Review for the Site, EPA recommended that a no anchorage area be established along the OU2 portion of the Illinois River to prohibit the disturbance of contaminated sediment. In December of 2024, EPA identified for the Coast Guard the appropriate area for a Regulated Navigation Area. The Ninth District Commander has determined that the protection provided by this remedy will also protect human health and the environment.

The purpose of this rulemaking is to ensure the protectiveness of the remedy for OU2, as outlined in the 2008 EPA Record of Decision for the OTFG Site, by prohibiting anchoring or pushing a vessel onto the bank within the Regulated Navigation Area except as otherwise set forth herein. The Coast Guard is proposing this rulemaking under authority in 46 U.S.C. 70034.

### **III. Discussion of Proposed Rule**

The Ninth District Commander is proposing to establish a Regulated Navigation Area to protect the integrity of the OTFG Site remedy. The Regulated Navigation Area would cover the Illinois River Operable Unit (OU2). Specific coordinates are included in the supplemental regulatory text. All vessels and persons are prohibited from activities that would disturb the integrity of the riverbed to limit disturbance of contaminated sediments within the Regulated Navigation Area. Activities may include, but are not limited to: anchoring, dragging, spudding, or dredging. The regulatory text we are proposing appears at the end of this document.

### **IV. Regulatory Analyses**

We developed this proposed rule after considering numerous statutes and Executive orders related to rulemaking. Below we summarize our analyses based on a number of these statutes and Executive orders, and we discuss First Amendment rights of protestors.

### *A. Regulatory Planning and Review*

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. This NPRM has not been designated a “significant regulatory action,” under section 3(f) of Executive Order 12866. Accordingly, the NPRM has not been reviewed by the Office of Management and Budget (OMB).

This regulatory action determination is based on the necessity to avoid disrupting contaminated soils on the Illinois Riverbed under most circumstances and preserve the health of the humans and the environment. In the event of an emergency, anchoring and other actions will be authorized.

### *B. Impact on Small Entities*

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, as amended, requires Federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term “small entities” comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule would not have a significant economic impact on a substantial number of small entities.

While some owners or operators of vessels intending to transit the Regulated Navigation Area may be small entities, for the reasons stated in section IV.A. above, this proposed rule would not have a significant economic impact on any vessel owner or operator.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this proposed rule would have a significant economic impact on it, please submit a comment (see **ADDRESSES**) explaining why you think it

qualifies and how and to what degree this rule would economically affect it.

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104-121), we want to assist small entities in understanding this proposed rule. If the proposed rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please call or email the person listed in the **FOR FURTHER INFORMATION CONTACT** section. The Coast Guard will not retaliate against small entities that question or complain about this proposed rule or any policy or action of the Coast Guard.

*C. Collection of Information*

This proposed rule would not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

*D. Federalism and Indian Tribal Governments*

A rule has implications for federalism under Executive Order 13132 (Federalism), if it has a substantial direct effect on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this proposed rule under that Order and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in Executive Order 13132.

Also, this proposed rule does not have tribal implications under Executive Order 13175 (Consultation and Coordination with Indian Tribal Governments) because it would not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes. If you believe this proposed rule has implications for federalism or Indian tribes, please call or email the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

### *E. Unfunded Mandates Reform Act*

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. Though this proposed rule would not result in such an expenditure, we do discuss the potential effects of this proposed rule elsewhere in this preamble.

### *F. Environment*

We have analyzed this proposed rule under Department of Homeland Security Directive 023-01, Rev. 1, associated implementing instructions, and Environmental Planning COMDTINST 5090.1 (series), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have made a preliminary determination that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This proposed rule involves all vessels conducting operations potentially disturbing contaminated seabed in the regulated area to include, but not limited to: anchoring, dragging, spudding, or dredging. Normally such actions are categorically excluded from further review under paragraph L[60a] of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 1. A preliminary Record of Environmental Consideration supporting this determination is available in the docket. For instructions on locating the docket, see the ADDRESSES section of this preamble. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

## **V. Public Participation and Request for Comments**

We view public participation as essential to effective rulemaking and will

consider all comments and material received during the comment period. Your comment can help shape the outcome of this rulemaking. If you submit a comment, please include the docket number for this rulemaking, indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation.

*Submitting comments.* We encourage you to submit comments through the Federal Decision-Making Portal at <https://www.regulations.gov>. To do so, go to <https://www.regulations.gov>, type USCG-2025-0320 in the search box and click "Search." Next, look for this document in the **Search Results** column, and click on it. Then click on the **Comment** option. If you cannot submit your material by using <https://www.regulations.gov>, call or email the person in the **FOR FURTHER INFORMATION CONTACT** section of this proposed rule for alternate instructions.

*Viewing material in docket.* To view documents mentioned in this proposed rule as being available in the docket, find the docket as described in the previous paragraph, and then select "Supporting & Related Material" in the Document Type column. Public comments will also be placed in our online docket and can be viewed by following instructions on the <https://www.regulations.gov> Frequently Asked Questions webpage. Also, if you click on the Dockets tab and then the proposed rule, you should see a "Subscribe" option for email alerts. The option will notify you when comments are posted, or a final rule is published.

We review all comments received, but we will only post comments that address the topic of the proposed rule. We may choose not to post off-topic, inappropriate, or duplicate comments that we receive.

*Personal information.* We accept anonymous comments. Comments we post to <https://www.regulations.gov> will include any personal information you have provided.

For more about privacy and submissions to the docket in response to this document, see DHS's eRulemaking System of Records notice (85 FR 14226, March 11, 2020).

### **List of Subjects in 33 CFR Part 165**

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard is proposing to amend 33 CFR part 165 as follows:

### **PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS**

#### **AREAS**

1. The authority citation for part 165 continues to read as follows:

**Authority:** 46 U.S.C. 70034, 70051, 70124; 33 CFR 1.05-1, 6.04-1, 6.04-6, and 160.5; Department of Homeland Security Delegation No. 00170.1, Revision No. 01.3

2. Add § 165.946 to read as follows:

#### **§ 165.946 Regulated navigation area; EPA Superfund Site, Naplate, Illinois.**

(a) *Location.* The following area is a Regulated Navigation Area (RNA): All waters of the Illinois River, from surface to bottom, encompassed by a line connecting the following points beginning at 41°19'24.495" N, 88°53'23.388" W; thence to 41°19'22.5156" N, 88°53'25.2198" W; thence to 41°19'17.4684" N, 88°53'17.4876" W; thence to 41°19'17.259" N, 88°53'15.3126" W; thence to 41°19'21.9468" N, 88°52'44.8206" W; thence to 41°19'27.4404" N, 88°52'33.9708" W; thence to 41°19'32.3862" N, 88°52'29.1534" W; thence to 41°19'33.8088" N, 88°52'31.8612"; and along the shore line back to the beginning point. These coordinates are based on World Geodetic System 1984 (WGS 84).

(b) *Regulations.* In addition to the general RNA regulations in § 165.13, the following regulations apply to the RNA described in paragraph (a) of this section.

(1) All vessels and persons are prohibited from anchoring, dredging, laying cable, dragging, seining, bottom fishing, conducting salvage operations, or any other activity

which could potentially disturb the seabed in the designated area. Vessels may otherwise transit or navigate within the RNA.

(2) The prohibition described in paragraph (b)(1) of this section does not apply to vessels or persons engaged in activities associated with remediation efforts related to the Ottawa Township Flat Glass Superfund Alternative Site, provided that the Coast Guard Captain of the Port Lake Michigan (COTP) is given advance notice of those activities by the U.S. Environmental Protection Agency (EPA).

(c) *Contact information.* If you observe violations of the regulations in this section, you may notify the COTP by email, at D09-SMB-MSUChicago-WWM@uscg.mil, or by phone, 414-747-7080.

Dated: May 22, 2025.

J. P. Hickey,  
Rear Admiral, U.S. Coast Guard,  
Commander, Ninth Coast Guard District.

[FR Doc. 2025-10937 Filed: 6/13/2025 8:45 am; Publication Date: 6/16/2025]