

2. If the test described in 16 CFR 1632.6(e) Test Procedure is performed, who is likely to perform the test (e.g., the mattress manufacturer, the ticking supplier, or another party), and why? Is the ticking classification verified by a lab report or some other documentation?

3. If a ticking is to be substituted on a qualified mattress prototype, how are candidate tickings for a substitution evaluated and selected? Other than ticking classification, what factors or features are important when selecting a ticking material? Please explain the benefits and/or concerns and impact on safety related to structure (e.g., knit, woven, nonwoven), fiber content, or other factors that may affect the decision. Is the effect on compliance with the Open Flame Standard a consideration in the selection process?

4. CPSC staff anticipate that recordkeeping requirements may be updated if the Commission opts to amend 16 CFR part 1632. These changes may be made to be consistent with the requirements in 16 CFR part 1633 (for mattresses) and/or separately updated for mattress pads. What recordkeeping changes should be considered for mattresses and/or mattress pads?

5. Are there emerging topics that should be considered in any proposed changes to either 16 CFR part 1632 or 16 CFR part 1633? Examples could include sustainability, accessibility of components, scope of products covered by either standard, and custom products.

**Pamela J. Stone,**

*Acting Secretary, Consumer Product Safety Commission.*

[FR Doc. 2023-09744 Filed 5-5-23; 8:45 am]

**BILLING CODE 6355-01-P**

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 117

[Docket No. USCG-2023-0185]  
RIN 1625-AA09

#### Drawbridge Operation Regulation; Sandusky Bay, Sandusky, OH

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Coast Guard proposes to modify the operating regulations and signaling requirements that govern the Norfolk Southern Railroad Bridge, mile 3.5, over the Sandusky Bay. Further, the Coast Guard also proposes adding information to clarify when and how

wind blockers may be used on the Norfolk Southern Railroad Bridge, mile 3.5. We invite your comments on this proposed rulemaking.

**DATES:** Comments and related material must reach the Coast Guard on or before July 7, 2023.

**ADDRESSES:** You may submit comments identified by docket number USCG-2023-0185 using Federal Decision-Making Portal at <https://www.regulations.gov>.

See the “Public Participation and Request for Comments” portion of the **SUPPLEMENTARY INFORMATION** section below for instructions on submitting comments.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this temporary final rule, call or email Mr. Lee D. Soule, Bridge Management Specialist, Ninth Coast Guard District; telephone 216-902-6085, email [Lee.D.Soule@uscg.mil](mailto:Lee.D.Soule@uscg.mil).

#### SUPPLEMENTARY INFORMATION:

##### I. Table of Abbreviations

CFR	Code of Federal Regulations
DHS	Department of Homeland Security
FR	Federal Register
IGLD	International Great Lakes Datum of 1985
LWD	Low Water Datum based on IGLD85
MPH	Miles Per Hour
OMB	Office of Management and Budget
NPRM	Notice of Proposed Rulemaking
§	Section
U.S.C.	United States Code

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

Located on the south shore of Lake Erie, Sandusky Bay extends west from its entrance between Cedar Point and Bay Point for about 15 miles to Muddy Creek Bay. The Sandusky River flows into the south side of Muddy Creek Bay. Recreational and commercial small craft can navigate through Sandusky Bay, Muddy Creek Bay, and upstream in the Sandusky River for about 15 miles to the Norfolk Southern Railroad Bridge at the town of Fremont, Ohio. The only movable bridge over the Sandusky Bay is the Norfolk Southern Railroad Bridge, mile 3.5.

Sandusky Bay is one of the principal waterways in northern Ohio and its shoreline covers three counties. International commerce is heavy enough in the area that the U.S. Customs and Border Protection opened a Sandusky Bay Station in 2012. The south shore of Sandusky Bay boasts one of the largest rail-to-ship coal loading facilities in the Great Lakes and is home to over 35 recreational vessel marinas and boat ramps. Commercial fishing vessels, uninspected charter vessels, power boat

rental agencies, sailing vessels, and water-skiers pass through the draw of the Norfolk Southern Railroad Bridge, mile 3.5 daily in the summertime.

Cedar Point amusement park and marina, near the mouth of Sandusky Bay, hosts 21,232 visitors each day, except for holidays and special events when visitor numbers average 60,000 people a day.

The Norfolk Southern Railroad Bridge, mile 3.5, is a single leaf bascule bridge in the center of a long causeway that provides a horizontal clearance of 64-feet and a vertical clearance of 9-feet in the closed position and an unlimited clearance in the open clearance based on LWD. The bridge is remotely operated by the Norfolk Southern Railroad Bridge, mile 5.76, at Toledo and is regulated by 33 CFR 117.853. The bridge is required to open on signal, except from November through April the bridge is required to open if a 24-hour advance notice is provided.

In 2009, the Coast Guard posted in the **Federal Register** (74 FR 63612) a final rule adding the authority for the bridge to operate remotely, but the Coast Guard did not update or modernize the rest of the regulation. Much of the current regulation remains the same as it was listed in the **Federal Register** in 1984 (49 FR 17452).

In addition to modernizing the regulation, the Coast Guard also hopes the proposed rule will address two specific concerns the Coast Guard has noted as it relates to the operation of the Norfolk Southern Railroad Bridge, mile 3.5: the responsiveness of drawtenders to marine traffic and improved processes as it relates to the use of wind blockers. The Coast Guard has received several complaints, mostly informal, on the operations of the bridge, specifically complaints that the remote drawtender are, at times, non-responsive to telephone and radio calls from mariners. The Coast Guard is proposing new requirements to address these complaints. As it relates to wind blockers, when the winds exceed 40 mph there is a danger that lightweight railcars could be blown off the causeway. These half-floating railcars are a potential hazard to motorists and marine traffic. During wind events, the railroad routinely sets upwind blockers composed of heavy railcars on the parallel track to block the wind. The heavier railcars protect the lighter cars from the effects of the wind as said lighter cars transit the bridge. When in place, the heavy wind blocking trains prevent the bridge from opening. Accordingly, the railroad must coordinate with the local Coast Guard Sector office before posting wind

blockers, as the wind blockers may disrupt a bridge's posted operating schedule. Often, there is confusion on how long the wind blocker can be posted and when it needs to be moved to allow vessels to pass through the bridge. The Coast Guard is proposing new language that will specify when a wind blocker is appropriate and stipulate how it will be used by the railroad.

The winter hours allowing for a 24-hour advance notice was popular when the U.S. Army Corps of Engineers regulated bridges before the 1966 Transportation Act transferred those duties to the U.S. Coast Guard.

### III. Discussion of Proposed Rule

To enhance communications and insist that the remote drawtender answer the telephone, we propose to require the remote drawtender operate and maintain a telephone so boaters can call. We intend to continue the requirement of maintaining a VHF-FM Marine Radio Telephone.

The remote bridge operator for Norfolk Southern Railroad Bridge, mile 3.5, the subject of this regulation, is physically located at Norfolk Southern Railroad Bridge, mile 5.76, in Toledo. Currently, the winter advance notice requirements for the two bridges are different; which can be confusing to the drawtender. We propose to match the requirements of the Norfolk Southern Railroad Bridge, mile 5.76, with Norfolk Southern Railroad Bridge, mile 3.5.

Over the past few years, the Norfolk Southern Railroad Bridge, mile 3.5, has been programmed to automatically open after a train clears the block. This has greatly reduced complaints and improved the flow of traffic in the waterway. We are proposing to include this as a requirement in the new regulation to ensure that said operations, which greatly benefit marine traffic, are not interrupted by personnel changes at the Railroad.

Norfolk Southern Railroad historically has placed a wind blocker on the bridge when the predicted winds will exceed 40 mph. As discussed earlier, a wind blocker is a heavy train that, when posted on a bridge, shields lighter trains from the effects of wind. Normally the Norfolk Southern Railroad Bridge, mile 5.76, at Toledo, drawtender will call USCG Sector Detroit and request to place the wind blocker. However, at times, drawtenders don't provide sufficient information to the Sector, making it difficult for Sector to effectively act on said requests. Still at other times, wind blockers can be found on bridges well before or after a wind event, delaying or otherwise frustrating

the opening of the bridge for vessels. We are proposing a clause to remedy these issues.

### 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 these statutes and Executive Orders.

#### 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 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 ability that vessels can still transit the bridge given advanced notice.

#### B. Impact on Small Entities

The Regulatory Flexibility Act of 1980 (RFA), 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 bridge 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 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 rule would affect your small business, organization, or governmental

jurisdiction and you have questions concerning its provisions or options for compliance, please contact 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 call for no 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 contact 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 will not result in such an expenditure, we do discuss the effects of this proposed rule elsewhere in this preamble.

#### F. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023–01, Rev.1,

associated implementing instructions, and Environmental Planning Policy COMDTINST 5090.1 (series), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f). The Coast Guard has determined 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 promulgates the operating regulations or procedures for drawbridges. Normally such actions are categorically excluded from further review, under paragraph L49, of chapter 3, Table 3–1 of the U.S. Coast Guard Environmental Planning Implementation Procedures.

Neither a Record of Environmental Consideration nor a Memorandum for the Record are required for this rule. 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–2023–0185 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 your material cannot be submitted using <https://www.regulations.gov>, contact the person in the **FOR FURTHER INFORMATION CONTACT** section of this document 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 web page. 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. Additionally, if you go to the online docket and sign up for email alerts, you will be notified when comments are posted, or a final rule is published of any posting or updates to the docket.

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 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 117

Bridges.

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR part 117 as follows:

#### PART 117—DRAWBRIDGE OPERATION REGULATIONS

- 1. The authority citation for part 117 continues to read as follows:

**Authority:** 33 U.S.C. 499; 33 CFR 1.05–1; Department of Homeland Security Delegation No. 00170.1, Revision 01.3.

- 2. Revise § 117.853 to read as follows:

##### § 117.853 Sandusky Bay.

The draw of the Norfolk Southern Railroad Bridge, mile 3.5, is remotely operated, and is required, in addition to the other signals, to operate a radiotelephone and telephone. It will remain open, except for the passage of trains, from April 1 through October 31. If the winds are predicted to be over 40 MPH, a wind blocker is authorized, and the bridge will open with a 2-hour advance notice of a vessel’s time of intended passage through the draw until the end of the wind event. The drawtender will request the cognizant USCG Sector to issue a broadcast notice to mariners to alert vessels of the wind blocker and the 2-hour advance notice requirement. At all other times, the bridge will open if provided at least a 12-hour advance notice.

**M.J. Johnston,**

*Rear Admiral, U.S. Coast Guard, Commander, Ninth Coast Guard District.*

[FR Doc. 2023–09049 Filed 5–5–23; 8:45 am]

**BILLING CODE 9110–04–P**

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 117

[Docket No. USCG–2023–0189]

RIN 1625–AA09

#### Drawbridge Operation Regulation; Ashtabula River, Ashtabula, OH

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Coast Guard proposes to modify the operating schedule that governs the Fifth Street Bridge, mile 0.15, and the Norfolk Southern Railroad Bridge, mile 1.5, both over the Ashtabula River. The Coast Guard also proposes signaling and signage changes for the Norfolk Southern Railroad Bridge, mile 1.5. The Coast Guard is modifying these rules in response to complaints received concerning the operations of one or more bridges in this waterway and a desire to improve safety, remove barriers to interstate commerce, improve communications, and standardize winter operations associated with these bridges. We invite your comments on this proposed rulemaking.

**DATES:** Comments and related material must reach the Coast Guard on or before July 7, 2023.

**ADDRESSES:** You may submit comments identified by docket number USCG–2023–0189 using Federal Decision-Making Portal at <https://www.regulations.gov>.

See the “Public Participation and Request for Comments” portion of the **SUPPLEMENTARY INFORMATION** section below for instructions on submitting comments.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this temporary final rule, call or email Mr. Lee D. Soule, Bridge Management Specialist, Ninth Coast Guard District; telephone 216–902–6085, email [Lee.D.Soule@uscg.mil](mailto:Lee.D.Soule@uscg.mil).

#### SUPPLEMENTARY INFORMATION:

##### I. Table of Abbreviations

CFR Code of Federal Regulations  
 DHS Department of Homeland Security  
 FR Federal Register  
 IGLD International Great Lakes Datum of 1985  
 LWD Low Water Datum based on IGLD85  
 OMB Office of Management and Budget  
 NPRM Notice of Proposed Rulemaking  
 § Section  
 U.S.C. United States Code