

**§ 23.46 Compliance procedures.**

(a) Treasury may enforce the Act and these regulations through:

(1) Termination of a recipient's Federal financial assistance from Treasury under the program or activity involved where the recipient has violated the Act or these regulations. The determination of the recipient's violation may be made only after a recipient has had an opportunity for a hearing on the record before an administrative law judge.

(2) Any other means authorized by law, including but not limited to:

(i) Referral to the Department of Justice for proceedings to enforce any rights of the United States or obligations of the recipient created by the Act or these regulations;

(ii) Referral to the Equal Employment Opportunity Commission, Department of Labor, the Department of Health and Human Services, or the Department of Education, as applicable; and

(iii) Use of any requirement of or referral to any Federal, State, or local government agency that will have the effect of correcting a violation of the Act or these regulations.

(b) Treasury will limit any termination under paragraph (a)(1) of this section to the particular recipient and particular program or activity or part of such program or activity Treasury finds in violation of these regulations. Treasury will not base any part of a termination on a finding with respect to any program or activity of the recipient that does not receive Federal financial assistance from Treasury.

(c) Treasury will take no action under paragraph (a) of this section until:

(1) The Secretary has advised the recipient of its failure to comply with the Act and these regulations and has determined that voluntary compliance cannot be obtained.

(2) Thirty days have elapsed after the Secretary has sent a written report of the circumstances and grounds of the action to the committees of Congress having legislative jurisdiction over the Federal program or activity involved. The Secretary will file a report whenever any action is taken under paragraph (a) of this section.

(d) Treasury also may defer granting new Federal financial assistance to a recipient when a hearing under paragraph (a)(1) of this section is initiated.

(1) New Federal financial assistance from Treasury includes all assistance for which Treasury requires an application or approval, including renewal or continuation of existing activities, or authorization of new activities, during the deferral period. New Federal

financial assistance from Treasury does not include increases in funding as a result of changed computation of formula awards or assistance approved prior to the beginning of a hearing under paragraph (a)(1) of this section.

(2) Treasury will not begin a deferral until the recipient has received a notice of an opportunity for a hearing under paragraph (a)(1) of this section. Treasury will not continue a deferral for more than 60 days unless a hearing has begun within that time or the time for beginning the hearing has been extended by mutual consent of the recipient and the Secretary. Treasury will not continue a deferral for more than 30 days after the close of the hearing, unless the hearing results in a finding against the recipient.

(3) Treasury will limit any deferral to the particular recipient and particular program or activity or part of such program or activity Treasury finds in violation of these regulations. Treasury will not base any part of a deferral on a finding with respect to any program or activity of the recipient that does not, and would not in connection with the new funds, receive Federal financial assistance from Treasury.

**§ 23.47 Hearings, decisions, post-termination proceedings.**

Treasury procedural provisions for hearings, decisions, and post-termination proceedings applicable to Title VI of the Civil Rights Act of 1964 and its implementing regulations within Title 31 of the CFR shall apply to Treasury enforcement of these regulations.

**§ 23.48 Remedial action by recipient.**

Where Treasury finds a recipient has discriminated on the basis of age in violation of the Act or this part, the recipient shall take any remedial action that Treasury may require to overcome the effects of the discrimination.

**§ 23.49 Alternate funds disbursement procedure.**

(a) When Treasury withholds funds from a recipient under these regulations, the Secretary may disburse the withheld funds directly to an alternate recipient, where appropriate: Any public or non-profit private organization or agency, or State or political subdivision of the State.

(b) The Secretary will require any alternate recipient to demonstrate:

(1) The ability to comply with these regulations; and

(2) The ability to achieve the goals of the Federal statute authorizing the Federal financial assistance.

**§ 23.50 Exhaustion of administrative remedies.**

(a) A complainant may file a civil action following the exhaustion of administrative remedies under the Act. Administrative remedies are exhausted if:

(1) 180 days have elapsed since the complainant filed the complaint and Treasury has made no finding with regard to the complainant; or

(2) Treasury issues any finding in favor of the recipient.

(b) If Treasury fails to make a finding within 180 days or issues a finding in favor of the recipient, Treasury shall:

(1) Promptly advise the complainant of this fact; and

(2) Advise the complainant of his or her right to bring a civil action for injunctive relief; and

(3) Inform the complainant:

(i) That the complainant may bring a civil action only in a United States district court for the district in which the recipient is found or transacts business;

(ii) That a complainant prevailing in a civil action has the right to be awarded the costs of the action, including reasonable attorney's fee, but that the complainant must demand these costs in the complaint.

(iii) That before commencing the action the complainant shall give 30 days notice by registered mail to the Secretary, the Secretary of HHS, the Attorney General of the United States, and the recipient.

(iv) That the notice must state: The alleged violation of the Act; the relief requested; the court in which the complainant is bringing the action; and whether or not attorney's fees are demanded in the event the complainant prevails; and

(v) That the complainant may not bring an action if the same alleged violation of the Act by the same recipient is the subject of a pending action in any court of the United States.

**Kody H. Kinsley,**

*Assistant Secretary for Management.*

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**DEPARTMENT OF HOMELAND SECURITY****Coast Guard****33 CFR Part 117**

[Docket No. USCG-2017-0963]

**Drawbridge Operation Regulation; Sacramento River, Sacramento, CA**

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of deviation from drawbridge regulation.

**SUMMARY:** The Coast Guard has issued a temporary deviation from the operating schedule that governs the Tower Drawbridge across the Sacramento River, mile 59.0, at Sacramento, CA. The deviation is necessary to allow the community to participate in the Walk Against Breast Cancer event. This deviation allows the bridge to remain in the closed-to-navigation position during the deviation period.

**DATES:** This deviation is effective from 8 a.m. through 11 a.m. on October 22, 2017.

**ADDRESSES:** The docket for this deviation, USCG–2017–0963, is available at <http://www.regulations.gov>. Type the docket number in the “SEARCH” box and click “SEARCH.” Click on Open Docket Folder on the line associated with this deviation.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this temporary deviation, call or email Carl T. Hausner, Chief, Bridge Section, Eleventh Coast Guard District; telephone 510–437–3516; email [Carl.T.Hausner@uscg.mil](mailto:Carl.T.Hausner@uscg.mil).

**SUPPLEMENTARY INFORMATION:** The California Department of Transportation has requested a temporary change to the operation of the Tower Drawbridge over the Sacramento River, mile 59.0, at Sacramento, CA. The drawbridge navigation span provides a vertical clearance of 30 feet above Mean High Water in the closed-to-navigation position. The draw operates as required by 33 CFR 117.189(a). Navigation on the waterway is commercial and recreational.

The drawspan will be secured in the closed-to-navigation position from 8 a.m. through 11 a.m. on October 22, 2017, to allow the community to participate in the Walk Against Breast Cancer event. This temporary deviation has been coordinated with the waterway users. No objections to the proposed temporary deviation were raised. Vessels able to pass through the bridge in the closed position may do so at any time. In the event of an emergency the draw can open on signal if at least one hour notice is given to the bridge operator. There are no immediate alternate routes for vessels to pass. The Coast Guard will also inform the users of the waterway through our Local and Broadcast Notices to Mariners of the change in operating schedule for the bridge so that vessel operators can arrange their transits to minimize any impact caused by the temporary deviation.

In accordance with 33 CFR 117.35(e), the drawbridge must return to its regular operating schedule immediately at the end of the effective period of this temporary deviation. This deviation from the operating regulations is authorized under 33 CFR 117.35.

Dated: October 5, 2017.

**Carl T. Hausner,**  
*District Bridge Chief, Eleventh Coast Guard District.*

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## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 165

[Docket Number USCG–2017–0801]

RIN 1625–AA00

#### Safety Zone; Atlantic Intracoastal Waterway, Socastee, SC

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary interim rule; request for comments.

**SUMMARY:** The Coast Guard is establishing an intermittent safety zone related to ongoing construction of South Carolina Highway 31 (SC–31) Bridge located in Socastee, SC on the Atlantic Intracoastal Waterway at mile marker 372.3. The temporary safety zone will be set one day per week during overhead construction operations. The safety zone is needed to ensure the safety of persons, vessels, and the marine environment from potential hazards created by the bridge construction. Details for specific dates and times will be relayed via Sector Charleston Marine Safety Information Bulletin and Seventh District Local Notice to Mariners. Entry of vessels or persons into these zones is prohibited unless specifically authorized by the Captain of the Port Charleston or a designated representative. We invite your comments on this rulemaking.

**DATES:** This rule is effective from October 11, 2017 until March 19, 2018. Comments and related materials must be received by the Coast Guard on or before November 13, 2017.

**ADDRESSES:** You may submit comments identified by docket number USCG–2017–0801 using the Federal eRulemaking Portal at <http://www.regulations.gov>. See the “Public Participation and Request for Comments” portion of the **SUPPLEMENTARY INFORMATION** section for further instructions on submitting

comments. To view documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov>, type USCG–2017–0801 in the “SEARCH” box and click “SEARCH.” Click on Open Docket Folder on the line associated with this rule.

**FOR FURTHER INFORMATION CONTACT:** Lieutenant Justin Heck, Sector Charleston Office of Waterways Management, Coast Guard; telephone (843) 740–3184, email [Justin.C.Heck@uscg.mil](mailto:Justin.C.Heck@uscg.mil).

#### SUPPLEMENTARY INFORMATION:

##### I. Table of Abbreviations

CFR Code of Federal Regulations  
DHS Department of Homeland Security  
FR Federal Register  
NPRM Notice of proposed rulemaking  
§ Section  
U.S.C. United States Code  
OMB Office of Management and Budget

##### II. Background Information and Regulatory History

The Coast Guard is issuing this temporary rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are “impracticable, unnecessary, or contrary to the public interest.” Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because immediate action is needed to respond to the potential safety hazards associated with bridge construction operations that are scheduled to begin on October 16, 2017. The Coast Guard was initially notified of the need for a safety zone on August 8, 2017. Hurricane Irma impacted the timeline for commencement of the project and the Coast Guard received updated plans for the construction operations on September 18, 2017. Therefore, publishing an NPRM is impracticable and contrary to public interest.

Under 5 U.S.C. 553(d)(3), and for the same reasons stated above, the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**.

##### III. Public Participation and Request for Comments

We view public participation as essential to effective rulemaking, and will consider all comments and material