

Department has expressed the view that the fiduciary standards of sections 403 and 404 do not preclude consideration of collateral benefits, such as those offered by a “socially-responsible” fund, in a fiduciary’s decision to designate an investment alternative in an individual account plan. Whether a particular fund or investment alternative satisfies the requirements set forth in sections 403 and 404 of ERISA is an inherently factual question that the appropriate plan fiduciaries must decide based on all the facts and circumstances of the individual situation.

The following Interpretive Bulletin deals solely with the applicability of the prudence and exclusive purpose requirements of ERISA as applied to fiduciary decisions to invest plan assets in ETIs, and in particular the collateral benefits they may provide apart from a plan’s performance and the interests of participants and beneficiaries in their retirement income. The bulletin does not supersede the regulatory standard contained at 29 CFR 2550.404a-1, nor does it address any issues which may arise in connection with the prohibited transaction provisions or the statutory exemptions from those provisions.

#### List of Subjects in 29 CFR Part 2509

Employee benefit plans, Pensions.

For the reasons set forth in the preamble, the Department is amending subchapter A, part 2509 of title 29 of the Code of Federal Regulations as follows:

#### SUBCHAPTER A—GENERAL

#### PART 2509—INTERPRETIVE BULLETINS RELATING TO THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974

■ 1. The authority citation for part 2509 continues to read as follows:

**Authority:** 29 U.S.C. 1135, Secretary of Labor’s Order 1–2003, 68 FR 5374 (Feb. 3, 2003). Sections 2509.75–10 and 2509.75–2 issued under 29 U.S.C. 1052, 1053, 1054. Sec. 2509.75–5 also issued under 29 U.S.C. 1002. Sec. 2509.95–1 also issued under sec. 625, Public Law 109–280, 120 Stat. 780.

#### § 2509.08–1 [Removed]

■ 2. Part 2509 is amended by removing § 2509.08–1.

■ 3. Part 2509 is further amended by adding § 2509.2015–01 to read as follows:

**§ 2509.2015–01 Interpretive bulletin relating to the fiduciary standard under ERISA in considering economically targeted investments.**

This Interpretive Bulletin sets forth the Department of Labor’s interpretation of sections 403 and 404 of the Employee

Retirement Income Security Act of 1974 (ERISA), as applied to employee benefit plan investments in “economically targeted investments” (ETIs), that is, investments selected for the economic benefits they create apart from their investment return to the employee benefit plan. Sections 403 and 404, in part, require that a fiduciary of a plan act prudently, and to diversify plan investments so as to minimize the risk of large losses, unless under the circumstances it is clearly prudent not to do so. In addition, these sections require that a fiduciary act solely in the interest of the plan’s participants and beneficiaries and for the exclusive purpose of providing benefits to their participants and beneficiaries. The Department has construed the requirements that a fiduciary act solely in the interest of, and for the exclusive purpose of providing benefits to, participants and beneficiaries as prohibiting a fiduciary from subordinating the interests of participants and beneficiaries in their retirement income to unrelated objectives.

With regard to investing plan assets, the Department has issued a regulation, at 29 CFR 2550.404a–1, interpreting the prudence requirements of ERISA as they apply to the investment duties of fiduciaries of employee benefit plans. The regulation provides that the prudence requirements of section 404(a)(1)(B) are satisfied if (1) the fiduciary making an investment or engaging in an investment course of action has given appropriate consideration to those facts and circumstances that, given the scope of the fiduciary’s investment duties, the fiduciary knows or should know are relevant, and (2) the fiduciary acts accordingly. This includes giving appropriate consideration to the role that the investment or investment course of action plays (in terms of such factors as diversification, liquidity, and risk/return characteristics) with respect to that portion of the plan’s investment portfolio within the scope of the fiduciary’s responsibility.

Other facts and circumstances relevant to an investment or investment course of action would, in the view of the Department, include consideration of the expected return on alternative investments with similar risks available to the plan. It follows that, because every investment necessarily causes a plan to forgo other investment opportunities, an investment will not be prudent if it would be expected to provide a plan with a lower rate of return than available alternative investments with commensurate degrees

of risk or is riskier than alternative available investments with commensurate rates of return.

The fiduciary standards applicable to ETIs are no different than the standards applicable to plan investments generally. Therefore, if the above requirements are met, the selection of an ETI, or the engaging in an investment course of action intended to result in the selection of ETIs, will not violate section 404(a)(1)(A) and (B) and the exclusive purpose requirements of section 403.

**Phyllis C. Borzi,**

*Assistant Secretary, Employee Benefits Security Administration, U.S. Department of Labor.*

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#### DEPARTMENT OF HOMELAND SECURITY

#### Coast Guard

#### 33 CFR Part 117

[USCG–2015–0964]

#### Drawbridge Operation Regulations; Tchefuncta River, Madisonville, LA

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of deviation from regulations.

**SUMMARY:** The Coast Guard has issued a temporary deviation from the operating schedule that governs the SR 22 Bridge over the Tchefuncta River, mile 2.5, at Madisonville, St. Tammany Parish, Louisiana. This deviation is necessary to complete scheduled maintenance of the bridge. This deviation allows the bridge to remain closed to navigation for approximately six weeks while allowing for two scheduled openings on scheduled work days except for a five-day period and a 36-hour period, both in December, when there will be complete closures. The bridge will operate normally on non-scheduled work days and on weekends.

**DATES:** This deviation is effective from 7 a.m. on November 2, 2015 until 7 p.m. on December 15, 2015.

**ADDRESSES:** The docket for this deviation, [USCG–2015–0964] is available at <http://www.regulations.gov>.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this temporary deviation, call or email Jim Wetherington, D8 Bridge Administration Branch, Coast Guard; telephone 504–671–2128, email [james.r.wetherington@uscg.mil](mailto:james.r.wetherington@uscg.mil).

**SUPPLEMENTARY INFORMATION:** Coastal Bridge Company, LLC, on behalf of Louisiana Department of Transportation and Development (LDOTD), requested a deviation from the operating regulation for the SR 22 Bridge across the Tchefuncta River, mile 2.5, at Madisonville, St. Tammany Parish, Louisiana. The SR 22 Bridge is a swing bridge with a vertical clearance of 6.2 feet above Mean High Water (MHW) in the closed-to-navigation position and unlimited clearance in the open-to-navigation position. The operation of this bridge is currently governed by 33 CFR 117.500.

The closure is necessary for mechanical and electrical rehabilitation of the bridge. The deviation from the operating regulations will be in effect from Monday, November 2, 2015 until Tuesday, December 15, 2015, except for weekends. Within this time frame there will be multiple closure periods, deviating from the regular operating schedule, as follows:

(1) The first closure period will be from 7 a.m. on November 9th, until 7 p.m. on November 13th, 2015, except that the bridge will open at 9 a.m. and 7 p.m., daily, to pass all vessel traffic;

(2) The second closure period will be from 7 a.m. on November 16th until 9 p.m. on November 17th except that the bridge will open at 9 a.m. and 7 p.m., daily, to pass all vessel traffic;

(3) The third closure period will be from 7 a.m. on November 23rd until 9 p.m. on November 24th except that the bridge will open at 9 a.m. and 7 p.m., daily, to pass all vessel traffic;

(4) The fourth closure period will be a total closure from 7 a.m. on November 30th until 7 p.m. on December 4th; there will be no openings during this period;

(5) The fifth and final closure period will be a total closure from 9 a.m. on December 14th until 7 p.m. on December 15th; there will be no openings during this period. All work is expected to be completed by 7 p.m. on Tuesday, December 15, 2015.

Any changes to the scheduled closure times will be announced through the Local Notice to Mariners or through a broadcast. The traffic on the Tchefuncta River is primarily recreational with minimal commercial traffic. The contractor approached each marina and business that could possibly be impacted and forwarded them a copy of the work schedule. No negative comments were noted.

Vessels able to pass through the bridge in the closed-to-navigation position may do so at anytime. The bridge will not be able to open for emergencies and there is no immediate alternate route for vessels to pass. The

Coast Guard will also inform the users of the waterways through our Local and Broadcast Notices to Mariners of the change in operating schedule for the bridge so that vessels 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 designated time periods. This deviation from the operating regulations is authorized under 33 CFR 117.35.

Dated: October 20, 2015.

**David M. Frank,**

*Bridge Administrator, Eighth Coast Guard District.*

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## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 117

[Docket No. USCG-2015-0904]

RIN 1625-AA09

#### **Drawbridge Operation Regulation; Atlantic Intracoastal Waterway, John F. Kennedy Space Center/NASA Parkway Bridge, Addison Point, FL**

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

**SUMMARY:** The Coast Guard has issued a temporary deviation from the operating schedule that governs the John F. Kennedy Space Center/NASA Parkway Bridge across the Atlantic Intracoastal Waterway, mile 885.0, Addison Point, FL. For the safety of the participants, this temporary operating schedule will allow the bridge to not open to navigation including tugs with tows, during the Rocketman Triathlon in November.

**DATES:** This deviation is effective from 7:30 a.m. on November 15, 2015 through 3 p.m. November 15, 2015.

**ADDRESSES:** The docket for this deviation, [USCG-2015-0904] is available at <http://www.regulations.gov>.

**FOR FURTHER INFORMATION CONTACT:** If you have questions about this temporary deviation, call or email LT Storm, Coast Guard Sector Jacksonville, Chief, Prevention Office; telephone 904-564-7563, email [Allan.h.storm@uscg.mil](mailto:Allan.h.storm@uscg.mil).

**SUPPLEMENTARY INFORMATION:** In order to accommodate the annual Triathlon, a temporary schedule deviation has been authorized for the John F. Kennedy Space Center (NASA) Parkway Bridge,

across the Atlantic Intracoastal Waterway, mile 885.0 at Addison Point, FL. This deviation is in effect from 7:30 a.m. to 3 p.m. on November 15, 2015. During this time, the bridge shall remain closed to navigation, including tugs with tows. Currently, the bridge opens as required per 33 CFR 117.261(l). The regulation changes may have a minor impact on vessels transiting the Atlantic Intracoastal Waterway in the vicinity of Addison Point, FL, but will still meet the reasonable needs of navigation.

The John F. Kennedy Space Center (NASA) Parkway Bridge provides a vertical clearance of 27 feet at mean high water in the closed position and a horizontal clearance of 90 feet. Vessels able to pass through the bridge in the closed position may do so at anytime. The bridge will be able to open for emergencies. The Coast Guard will inform users of the waterways through Local and Broadcast Notices to Mariners of the change in operating schedule for the bridge so that vessels can arrange 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 following the end of the effective period of this temporary deviation. This deviation from the normal operating regulations is authorized under 33 CFR 117.35.

Dated: 21 October 2015.

**Barry Dragon,**

*Director, Bridge Administration, Seventh Coast Guard District.*

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## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 117

[Docket No. USCG-2015-0970]

#### **Drawbridge Operation Regulation; Houma Navigation Canal, Mile 36.0, at Houma, Terrebonne Parish, LA**

**AGENCY:** Coast Guard, DHS.

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

**SUMMARY:** The Coast Guard has issued a temporary deviation from the operating schedule that governs the SR 661 Swing Bridge across the Houma Navigation Canal, mile 36.0, in Houma, Terrebonne Parish, Louisiana. The deviation is necessary to conduct scheduled metal repairs and maintenance. This deviation allows the bridge to remain closed-to-