

a categorical exclusion under section 2.B.2 of the Instruction. Therefore, this rule is categorically excluded, under figure 2-1, paragraph (32)(e) of the Instruction, from further environmental documentation. Under figure 2-1, paragraph (32) (3), of the Instruction, an "Environmental Analysis Check List" and a "Categorical Exclusion Determination" are not required for this rule.

List of Subjects in 33 CFR Part 117

Bridges.

Regulations

■ For the reasons discussed in the preamble, the Coast Guard amends 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; Department of Homeland Security Delegation No. 0170.1; 33 CFR 1.05-1(g); section 117.255 also issued under the authority of Pub. L. 102-587, 106 Stat. 5039.

■ 2. In § 117.261, remove and reserve paragraphs (cc), (dd), (ee), (ff), (gg), (hh), (jj), and (kk) and revise paragraph (bb) to read as follows:

§ 117.261 Atlantic Intracoastal Waterway from St. Mary's River to Key Largo.

* * * * *

(bb) Broward County (1) Hillsboro Boulevard bridge (SR 810), mile 1050.0 at Deerfield Beach. The draw shall open on the hour and half-hour.

(2) NE 14th Street bridge, mile 1055.0 at Pompano. The draw shall open on the quarter-hour and three-quarter hour.

(3) Atlantic Boulevard (SR 814) bridge, mile 1056.0 at Pompano. The draw shall open on the hour and half-hour.

(4) Commercial Boulevard (SR 870) bridge, mile 1059.0, at Lauderdale-by-the-Sea. The draw shall open on the hour and half-hour.

(5) Oakland Park Boulevard bridge, mile 1060.5 at Fort Lauderdale. The draw shall open on the quarter-hour and three-quarter hour.

(6) East Sunrise Boulevard (SR 838) bridge, mile 1062.6, at Fort Lauderdale. The draw shall open on the hour and half-hour. On the first weekend in May, the draw need not open from 4 p.m. to 6 p.m. on Saturday and Sunday, and, on the first Saturday in May, the draw need not open from 9:45 p.m. to 10:45 p.m.

(7) East Las Olas bridge, mile 1064 at Fort Lauderdale. The draw shall open on the quarter-hour and three-quarter hour. On the first weekend in May, the

draw need not open from 4 p.m. to 6 p.m. on Saturday and Sunday, and, on the first Saturday in May, the draw need not open from 9:45 p.m. to 10:45 p.m.

(8) SE 17th Street (Brooks Memorial) bridge, mile 1065.9 at Fort Lauderdale. The draw shall open on the hour and half-hour.

(9) Dania Beach Boulevard bridge, mile 1069.4 at Dania Beach. The draw shall open on the hour and half-hour.

(10) Sheridan Street bridge, mile 1070.5, at Fort Lauderdale. The draw shall open on the quarter-hour and three-quarter hour.

(11) Hollywood Beach Boulevard (SR 820) bridge, mile 1072.2 at Hollywood. The draw shall open on the hour and half-hour.

(12) Hallandale Beach Boulevard (SR 824) bridge, mile 1074.0 at Hallandale. The draw shall open on the quarter-hour and three-quarter hour.

* * * * *

Dated: June 20, 2006.

D.W. Kunkel,

Rear Admiral, U.S. Coast Guard, Commander, Seventh Coast Guard District.

[FR Doc. E6-10252 Filed 6-28-06; 8:45 am]

BILLING CODE 4910-15-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[CGD05-05-041]

RIN 1625-AA09

Drawbridge Operation Regulations; Atlantic Intracoastal Waterway (AICW), Elizabeth River, Southern Branch, Virginia

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: The Coast Guard is changing the regulations that govern the operation of the Dominion Boulevard (US 17) Bridge across the Southern Branch of the Elizabeth River, at Atlantic Intracoastal Waterway (AICW) mile 8.8, at Chesapeake, Virginia. The final rule will provide for hourly openings of the draw which will now start at 6 a.m. on weekdays and weekends and will not change the morning and evening rush hours, which are from 7 a.m. to 9 a.m. and from 4 p.m. to 6 p.m., respectively. The Dominion Boulevard (US 17) Bridge will continue to open on signal at any time for commercial vessels carrying liquefied flammable gas or other hazardous materials, and for commercial vessels that provide a two-

hour advance notice. At all other times, the draw shall open on signal. These changes are necessary in order to relieve increased vehicular traffic congestion on weekends and between the weekday morning and evening rush hour periods while still providing for the reasonable needs of navigation.

DATES: This rule is effective July 31, 2006.

ADDRESSES: Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, are part of docket CGD05-05-041 and are available for inspection or copying at Commander (dpb), Fifth Coast Guard District, Federal Building, 1st Floor, 431 Crawford Street, Portsmouth, VA 23704-5004 between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays. The Fifth Coast Guard District maintains the public docket for this rulemaking.

FOR FURTHER INFORMATION CONTACT:

Waverly W. Gregory, Jr., Bridge Administrator, Fifth Coast Guard District, at (757) 398-6222.

SUPPLEMENTARY INFORMATION:

Regulatory History

The Coast Guard published in the **Federal Register** (69 FR 75472) a temporary 90-day deviation and request for comments from the drawbridge operation regulations in an effort to test an alternate drawbridge operation schedule and to solicit comments from the public. The deviation was in effect from December 13, 2004 to March 13, 2005, and from 8:30 a.m. to 4 p.m., Monday through Friday, except Federal holidays, the draw was opened only every hour on the half hour. Fifty-two e-mail messages and 4 on-paper responses were received during the comment period that ended March 14, 2005.

On May 10, 2005, we published a notice of proposed rulemaking (NPRM) entitled "Drawbridge Operation Regulations; Atlantic Intracoastal Waterway (AICW), Elizabeth River, Southern Branch, VA" in the **Federal Register** (70 FR 24492). We received 690 comments on the proposed rule. No public hearing was requested, and none was held.

On August 19, 2005, we published an interim rule with request for comment entitled "Drawbridge Operation Regulations; Atlantic Intracoastal Waterway (AICW), Elizabeth River, Southern Branch, VA" in the **Federal Register** (70 FR 48637). We received 28 e-mail messages and 4 on-paper responses on the interim rule. No public

meeting was requested, and none was held.

On January 13, 2006, we published an interim rule; reopening of comment period and a notice of public meeting entitled "Drawbridge Operation Regulations; Atlantic Intracoastal Waterway, Elizabeth River, Southern Branch, VA" in the **Federal Register** (71 FR 2151) and (70 FR 2176), respectively.

Background and Purpose

The current interim rule operating regulations require the Dominion Boulevard (US 17) Bridge across the Southern Branch of Elizabeth River, at AICW mile 8.8, to open on signal at any time for commercial vessels carrying liquefied flammable gas or other hazardous materials and for commercial vessels that provide a two-hour advance notice. In addition, from 9 a.m. to 4 p.m., Monday through Friday and from 7 a.m. to 6 p.m. on Saturdays, Sundays and Federal holidays, the draw opens every hour on the hour. From 7 a.m. to 9 a.m. and from 4 p.m. to 6 p.m., Monday to Friday, except Federal holidays, the draw need not open for recreational vessels and commercial vessels carrying non-hazardous material that do not provide a 2-hour advance notice.

On December 17, 2004, we published a notice of temporary deviation from the regulations and request for comments entitled "Drawbridge Operation Regulations; Atlantic Intracoastal Waterway (AICW), Elizabeth River, Southern Branch, VA" in the **Federal Register** (69 FR 75472). The temporary deviation was an effort to test an alternate drawbridge operation schedule for 90 days and to solicit comments from the public. In accordance with the

temporary deviation, from December 13, 2004 to March 13, 2005, from 8:30 a.m. to 4 p.m., Monday through Friday, except Federal holidays, the draw was opened only every hour on the half hour.

The Coast Guard received 52 e-mail messages and 4 on-paper responses commenting on the provisions of the temporary deviation. The majority of the comments from motorists favored scheduled versus unscheduled bridge openings, so they could better plan their movements. Many respondents indicated that even though the vehicular rush hour traffic starts at 6:30 a.m., the weekday rush hour traffic peaks between 7 a.m. and 9 a.m. In addition, they stated a preference that commercial vessels carrying non-hazardous materials be regulated. However, since tugs and tugs with tows have no place to tie up in the proximity of the bridge in order to wait for a bridge opening, the Coast Guard will continue to include them in the 2-hour advance notice requirement. Bridge records supplied by the City of Chesapeake indicate that the 2-hour advance notice requirement occurs about 10 times a month. Commercial vessel operators make a determined effort to schedule their transits on the hour and to circumvent the morning and evening rush hour closure periods for the Dominion Boulevard Bridge.

The NPRM, which was published on May 10, 2005, proposed on-signal openings for commercial vessels carrying hazardous materials and for commercial vessels that provide a two-hour advance notice. In addition, the NPRM proposed that year-round from 9 a.m. to 4 p.m., Monday through Friday, except Federal holidays, the draw need

be opened every hour on the hour. From 7 a.m. to 9 a.m. and from 4 p.m. to 6 p.m., Monday to Friday, except Federal holidays, the draw need not open for recreational vessels and commercial vessels carrying non-hazardous material that do not provide a 2-hour advance notice.

We received 690 comments from the public on the NPRM. The majority of respondents favored scheduled openings of the drawbridge year-round between the morning and evening rush hour periods. As a result of these comments, on August 19, 2005, we published an interim rule with request for comment in the **Federal Register** (70 FR 48637) that changed the operating regulations for the Dominion Boulevard Bridge. We received 28 e-mail messages and 4 on-paper responses from the public.

After the interim rule comment period ended on October 3, 2005, we also received a number of unfavorable comments, many by telephone and e-mail, on the provisions of the interim rule from local commuters and recreational vessels that are referred to as "snowbirds". During the spring and fall months, the flow of recreational vessels is constant. There were approximately 7400 vessel passages occurring in 2005 over a five-month period (April, May, June, October and November) according to records furnished by the City of Chesapeake. Owners of these transitory recreational vessels are either traveling north to south towards a warmer climate in the fall or south to north towards a cooler climate in the spring and this can result in frequent bridge openings due to their numbers. (See Table A)

TABLE A
[Bridge Openings for 2005]

Jan.	Feb.	Mar.	Apr.	May	Jun.	Jul.	Aug.	Sep.	Oct.	Nov.	Dec.
262	255	359	503	724	502	484	384	423	461	407	310

[Boat Passages for 2005]

Jan.	Feb.	Mar.	Apr.	May	Jun.	Jul.	Aug.	Sep.	Oct.	Nov.	Dec.
335	320	475	934	1911	1612	873	593	683	1660	1285	503

Based on all of the information received, we have made changes to the final rule for the Dominion Boulevard Bridge.

On January 13, 2006, we published an interim rule; reopening of the comment period in the **Federal Register** (71 FR

2151) because the Dominion Boulevard Bridge is utilized frequently and members of the public and the Mayor of Chesapeake communicated to the Coast Guard that they wanted to make additional comments. Concurrently, we also published a notice of public

meeting in the **Federal Register** (71 FR 2177). On March 1, 2006, from 3 p.m. to 8 p.m., we held the public meeting at the Chesapeake Central Library, at 298 Cedar Road, in Chesapeake, Virginia. The purpose of this public meeting was to provide an opportunity for citizens to

provide oral or written comments regarding the changes to the regulations that govern the operation of the Dominion Boulevard Bridge. Requests to make oral presentations on the interim rule at the public meeting ended on February 28, 2006. Written comments ended on March 10, 2006.

We received 195 comments from the public on the interim rule, including 32 oral remarks received at the public meeting.

Discussion of Comments and Changes

The Coast Guard received 195 responses to the interim rule. The responses were supplied by 70 e-mails, 33 on-paper comments, 60 comments accepted from an internet Web site survey posted by the City of Chesapeake along with 32 oral remarks offered at the public meeting.

The majority of the responses could be categorized into one of four groups. One group of respondents preferred that the Coast Guard maintain the interim or current operating regulations for the Dominion Boulevard Bridge with no modifications.

Another group of respondents offered differing adjustments to the morning and evening rush hour closure periods

and the hourly opening schedule of the bridge. These respondents, mostly local commuters, generally preferred the changes offered by the City of Chesapeake to adjust the weekday morning and evening rush hour closure period from 6:30 a.m. to 8:30 a.m. and 5 p.m. to 7 p.m., respectively, along with vessel openings every hour on the half-hour between the weekday rush hour periods and on weekends and Federal holidays. The local commuters expressed their opposition to the current morning rush hour closure period from 7 a.m. to 9 a.m. Due to unscheduled openings occurring before 7 a.m. which delayed morning transits on the Dominion Bridge, the commuters preferred that the Coast Guard either maintain the previous morning rush hour closure schedule from 6:30 a.m. to 8:30 a.m. or change the morning closure schedule to 6 a.m. to 8 a.m. Also, a number of the respondents proposed longer drawbridge closure periods to vessels than the current regulations from 6 a.m. to 9 a.m. for the morning rush hour and from 4 p.m. to 7 p.m. for the evening rush hour. They stated a preference that commercial vessels carrying non-hazardous materials be regulated.

The third group of respondents included mariners who opposed the hourly restriction for vessel openings because of the potentially unsafe situation created while transiting this waterway and preferred a less restrictive half-hour opening schedule. Also, mariners in general suggested that if the Dominion Boulevard Bridge was to open only once each hour, an on the hour opening would be preferred.

The fourth group of respondents offered no substantive changes to the current regulations but generally expressed their overall concerns regarding vehicular traffic delays, area development and plans for a higher-level replacement bridge.

The Coast Guard thoroughly examined and considered all of these comments and made minor adjustments to the final rule. Hourly openings of the draw will now begin at 6 a.m. on weekdays and weekends. The draw will also open at 7 a.m. on weekdays, but after this opening will remain closed for the morning rush hour period. The weekday morning and evening rush hours will remain unchanged from 7 a.m. to 9 a.m. and from 4 p.m. to 6 p.m., respectively. (See Table B)

TABLE B

(Current) Interim regulations	Final regulations
Year Round Operating Schedule*	
From 9 a.m. to 4 p.m. Opens every hour on the hour. Commercial vessels must provide a two-hour advance notice for an on-demand opening.**.	From 6 a.m. to 7 a.m. and from 9 a.m. to 4 p.m. Opens every hour on the hour. Commercial vessels must provide a two-hour advance notice for an on-demand opening.**
Saturdays, Sundays and Federal Holidays	
From 7 a.m. to 6 p.m. Opens every hour on the hour. Commercial vessels must provide a two-hour advance notice for an on-demand opening.**.	From 6 a.m. to 6 p.m. Opens every hour on the hour. Commercial vessels must provide a two-hour advance notice for an on-demand opening.**
Rush Hour Restrictions*	
From 7 a.m. to 9 a.m.; and from 4 p.m. to 6 p.m. Need not open. Commercial vessels must provide a two-hour advance notice for an on-demand opening.**.	From 7 a.m. to 9 a.m.; and from 4 p.m. to 6 p.m. Need not open. Commercial vessels must provide a two-hour advance notice for an on-demand opening.**

* Mon. to Fri., except Federal holidays.

** Bridge will open on demand for vessels carrying hazardous liquefied flammable gas or other hazardous materials; and open on demand at all other times.

The modifications made to this final rule will help to address vehicular traffic congestion and reduce traffic delays at the Dominion Boulevard Bridge during and between the weekdays rush hour periods, on weekends and Federal holidays, while still providing for the reasonable needs of navigation.

Discussion of Rule

The Coast Guard amends 33 CFR 117.997, by revising paragraph (g)(3). Paragraph (g)(3) will be revised to read "From 6 a.m. to 7 a.m., from 9 a.m. to 4 p.m., Monday to Friday, and from 6 a.m. to 6 p.m. on Saturdays, Sundays and Federal holidays, the draw need only be opened every hour on the hour, except the draw shall open on signal for

commercial vessels that qualify under paragraphs (g)(1) or (g)(2) of this section."

Regulatory Evaluation

This rule is not a "significant regulatory action" under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs

and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. It is not "significant" under the regulatory policies and procedures of the Department of Homeland Security (DHS).

This conclusion based on the fact that the changes have only a minimal impact on maritime traffic transiting the bridge. Mariners can plan their transits in accordance with the scheduled bridge openings, to minimize delays.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered whether this rule would have a significant economic impact on a substantial number of small entities. 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 rule would not have a significant economic impact on a substantial number of small entities.

This conclusion is based on the fact the rule would not have a significant economic impact on a substantial number of small entities because the rule only adds minimal restrictions to the movement of navigation, and mariners who plan their transits in accordance with the schedule bridge openings minimizes delays.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104–121), we offered to assist small entities in understanding this rule so that they could better evaluate its effects on them and participate in the rulemaking process. No assistance was requested from any small entity.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rate each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–800–REG–FAIR (1–800–734–3247).

Collection of Information

This rule calls for no new collection of information under the Paperwork

Reduction Act of 1995 (44 U.S.C. 3501–3520).

Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this rule under that Order and have determined that it does not have implications for federalism.

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 or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

Taking of Private Property

This rule would not affect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and would not create an environmental risk to health or risk to safety that might disproportionately affect children.

Indian Tribal Governments

This 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.

Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a "significant energy action" under that order because it is not a "significant regulatory action" under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. The Administrator of the Office of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (*e.g.*, specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

Environment

We have analyzed this rule under Commandant Instruction M16475.ID and Department of Homeland Security Management Directive 5100.1, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have made a preliminary determination that there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore, we believe that this rule should be categorically excluded, under figure 2–1, paragraph (32)(e) of the Instruction, from further environmental documentation because it has been determined that the promulgation of operating regulations for drawbridges are categorically excluded.

List of Subjects in 33 CFR Part 117

Bridges.

Regulations

■ For the reasons discussed in the preamble, the Coast Guard amends 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; Department of Homeland Security Delegation No. 0170.1; 33 CFR 1.05–1(g); section 117.255 also issued under the authority of Pub. L. 102–587, 106 Stat. 5039.

■ 2. In § 117.997, paragraph (g)(3) is revised to read as follows:

§ 117.997 Atlantic Intracoastal Waterway, South Branch of the Elizabeth River to the Albemarle and Chesapeake Canal.

* * * * *

(g) * * *

(1) * * *

(2) * * *

(3) From 6 a.m. to 7 a.m. and from 9 a.m. to 4 p.m., Monday to Friday, and from 6 a.m. to 6 p.m. on Saturdays, Sundays, and Federal holidays, the draw need only be opened every hour on the hour, except the draw shall open on signal for commercial vessels that qualify under paragraphs (g)(1) or (g)(2) of this section.

* * * * *

Dated: June 16, 2006.

L.L. Hereth,

*Rear Admiral, United States Coast Guard,
Commander, Fifth Coast Guard District.*

[FR Doc. 06–5934 Filed 6–28–06; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Docket No. 051028280–6160–02; I.D. 102105A]

RIN 0648–AT11

Fisheries Off West Coast States; Coastal Pelagic Species Fisheries; Amendment 11

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule

SUMMARY: NMFS issues this final rule to implement Amendment 11 to the Coastal Pelagic Species (CPS) Fishery Management Plan (FMP), which

changes the framework for the annual apportionment of the Pacific sardine harvest guideline along the U.S. Pacific coast. The purpose of this final rule is to achieve optimal utilization of the Pacific sardine resource and equitable allocation of the harvest opportunity for Pacific sardine.

DATES: Effective July 31, 2006.

ADDRESSES: Copies of Amendment 11 entitled *Allocation of the Pacific Sardine Harvest Guideline Amendment 11 to the Coastal Pelagic Species Fishery Management Plan*, and the accompanying environmental assessment/final regulatory flexibility analysis/regulatory impact review may be obtained at the address below.

• Mail: Rodney R. McInnis, Regional Administrator, Southwest Region, NMFS, 501 West Ocean Boulevard, Suite 4200, Long Beach, CA 90802.

FOR FURTHER INFORMATION CONTACT: Joshua Lindsay, Southwest Region, NMFS, (562) 980–4034.

SUPPLEMENTARY INFORMATION:

Amendment 11 changes the regional allocation structure of Pacific sardine that has been in place for the last three years and establishes a coastwide, seasonal allocation apportionment. Amendment 11 provides the following allocation formula for the non-tribal share of the harvest guideline: (1) thirty-five percent of the harvest guideline to be allocated coastwide on January 1; (2) reallocate 40 percent of the harvest guideline coastwide, plus any portion not harvested from the initial allocation, on July 1; and (3) reallocate the remaining 25 percent of the harvest guideline coastwide, plus any portion not harvested from earlier allocations, on September 15. A proposed rule to implement Amendment 11 to the Coastal Pelagic Species (CPS) Fishery Management Plan (FMP) was published in the **Federal Register** on November 16, 2005 (70 FR 69502). On January 26, 2006, NMFS Southwest Region (SWR) sent a letter to the Pacific Fishery Management Council (Council) approving Amendment 11 to the CPS FMP.

The Council adopted the CPS FMP in 1998. The CPS FMP was implemented on January 1, 2000 (64 FR 69888, December 15, 1999). The original Pacific sardine allocation formula in the FMP partitioned 33 percent of the annual harvest guideline to the northern subarea and 66 percent to the southern subarea. Nine months after the January start of the fishery (i.e., October 1), the remaining harvest guideline was pooled and reallocated 50 percent - 50 percent to each subarea. The original boundary between the two subareas was 35° 40' N.

lat. (approximately Point Piedras Blancas, California). This formula was incorporated into the CPS FMP from existing California state law. The state law was designed to balance the fishing opportunity for Pacific sardine between the southern California-based fleet and the Monterey-based fleet. At the time of the FMP's implementation, this was considered a status quo action (as the Pacific sardine fishery occurred principally in California) with no environmental impacts. No alternative allocation formulae were considered.

After the original CPS FMP was adopted, the Pacific sardine biomass expanded north along the U.S. West Coast allowing fisheries to develop in the Pacific Northwest (Oregon and Washington). With this expansion, under the original formula, the northern area allocation was shared by the Monterey-based fleet and the Oregon and Washington-based fleets. Oregon and Washington-based fleets expressed concern to the Council that the original allocation framework did not provide optimal harvest opportunity to the respective fishery sectors. Generally, the southern California-based fleet starts harvesting Pacific sardine January 1, and the harvest increases steadily throughout the year; the Monterey-based fleet starts in August (tied to market squid availability) and harvest increases through January or February of the following year; Oregon and Washington-based fleets have a more abbreviated season, which starts in June and ends in October. Because these sectors operate on very different schedules, annual allocations help to ensure that each sector receives a reasonable fishing opportunity. Ex-vessel landings in all sectors are driven by domestic and international market forces for Pacific sardines, as well as the availability and markets for other species of economic benefit to the Pacific sardine vessels and processors (e.g., market squid). The northern California-based fleets and the Oregon and Washington-based fleets are also affected by adverse weather which occurs and affects the ability of these fleets to harvest Pacific sardine during such periods.

In April 2003, the Council recommended to NMFS an interim framework for the allocation of Pacific sardine. The revised allocation system: (1) changed the definition of the subareas by moving the geographic boundary between the two areas from 35° 40' N. lat. to 39° N. lat. (Point Arena, California); (2) moved the date when remaining unharvested Pacific sardine is reallocated to the subareas from October 1 to September 1; (3) changed the percentage of the unharvested