

On the other hand, the boatyards and boaters have asserted that requiring a lengthy advance notice makes scheduling vessel transits difficult, especially when assembling a flotilla of 5 or more vessels. They also assert the unpredictability of single vessels desiring passage for maintenance or repairs.

In an attempt to accommodate these conflicting needs, the proposed rule provides for 20 hours advance notice for weekend and Wednesday daytime openings and for flotillas of 5 or more vessels. A 6 hour advance notice would be required for evening openings. Except for Sunday openings, these requirements should enable the City to arrange for the necessary personnel during normal business hours, either for an opening that evening or the next day, and would allow boaters and the boatyards to arrange for openings on relatively short notice. The Coast Guard believes that providing boaters an opportunity to request a Sunday opening, based on events occurring on Saturday, is appropriate and not unduly burdensome for the City.

The above discussion summarizes the analysis, methodology, and conclusions of the Coast Guard in arriving at this proposed rulemaking. During the many discussions with interested parties that have occurred, certain other issues were raised that are not determinative of the issues, but which still merit discussion.

The City expressed concern that runs would be scheduled in response to a request and crews mobilized, but that no vessels would show up. The available data do indicate that this has occurred, but the Coast Guard is unable to conclude that this is a problem requiring regulatory action. The statutes addressing drawbridge operation are generally directed at the responsibilities of the bridge owner and provide penalties for not opening the bridge when required to do so. No specific penalties are provided under these statutes penalizing the vessel operator who does not show up for a requested opening, although there are prohibitions against requesting unnecessary openings. The Coast Guard will monitor this situation and may address it in a separate rulemaking if it appears necessary.

The data on pedestrian delays caused by drawbridge openings were informative but did not contribute significantly to the Coast Guard's decisions in the formulation of this proposed regulation. The amount of delay to vehicles and the extent of the vehicle "backup" also did not contribute significantly to the formulation of this proposal. Delay to

land traffic caused by a drawbridge opening is unavoidable but can be mitigated by efficient operation of the bridges. The Coast Guard is not aware of any standardized method of determining the value of delay time and current procedures require only the submission of traffic count data. Therefore, the Coast Guard did not quantify delay time or assign a value to it to balance land traffic and vessel transits. The proposed action should reduce the number of openings and, therefore, the cumulative delay time of pedestrians and vehicles, which could be substantial, should be reduced.

During the negotiated rulemaking process, a letter from the boatyard's attorneys contained the following allegations concerning deficiencies in the traffic data presented by the City:

1. The letter asserted that the study grossly overstates the delay time by assuming each person is delayed 12 minutes.

*Response:* Coast Guard regulations, policy and procedures do not require data to be expressed in terms of person-hours of delay. The volume of vehicular and pedestrian traffic was considered, but delay time was not a determining factor in the rulemaking decision. Assigning a value to person-hours delay appears to be even more subjective than determining the impact of bridge openings on vehicles. Persons delayed could be engaged in personal affairs or on a business venture. The Coast Guard has not relied on estimates of person-hours of delay in formulating the proposed schedule of drawbridge openings in this rulemaking.

2. The letter asserted that, in addition to the methodological error described above, the placement of vehicle counters has led to a significant overstatement of bridge traffic.

*Response:* The location of the traffic counter on Lake Shore Drive was identified as being susceptible to recording traffic that did not cross the drawbridge over the Chicago River. The level of traffic recorded at the Lake Shore Drive counting station and projected for crossing the bridge may be subject to some inaccuracies. However, Lake Shore Drive Bridge is but one of 10 drawbridges on the main branch of the Chicago River. Although the data from Lake Shore Drive may be inaccurate, data from other bridges were considered accurate. As previously stated, the data pertaining to Lake Shore Drive were discounted for the purpose of developing this proposal and the City has been asked to provide more accurate data in time for the public hearing.

3. The letter asserts that, in addition to the above errors, the traffic data are

skewed by a failure to separate out delays caused by bridge malfunctions and other problems unrelated to boaters.

*Response:* The length of delays to land traffic caused by individual bridge opening was not a significant factor in formulating this regulation. Regardless of whether delays to land traffic were attributable to mechanical or other problems, the delay would not occur unless the bridge was opened for the passage of vessels. The length of the delay was not quantified or assigned a value in developing these proposed regulations.

4. The letter asserts that the evidence of delays to emergency vehicles is not believable.

*Response:* The information regarding documented cases of delays to emergency vehicles was requested by the Coast Guard to verify the cases reported by the City of Chicago. Impacts of drawbridges on emergency vehicle response were considered, but were not a determinative factor, in developing this proposed regulation. Emergency land vehicles are given special consideration, as stated in 33 CFR 117.31, which allows drawbridges to close for passage of emergency vehicles. In addition, readily available alternative routes exist. Requiring advance notice of requested opening will facilitate dispatching emergency vehicles when bridge openings occur.

5. The letter asserts that the conclusion that current restrictions on weekday daytime openings "only achieve a small reduction in land traffic impacts" and, therefore, support complete elimination of weekday daytime openings, is contradicted by the study's own data.

*Response:* The Coast Guard reviewed the data and has found that there is evidence of heavy vehicular traffic during most of the weekday hours, not just during rush hours. The proposed rule is based on evidence that there is a drop in weekday land traffic between 10 a.m. and noon. Bridge openings during that period would therefore have the least impact on land traffic, especially if the number of weekday openings is minimal. The proposed regulation provides that single vessels or flotillas of less than five vessels may request passage only on Wednesday in this time period.

The City asserts that there should be no continuation of on demand openings and expressed a desire for consistency and predictability to schedule bridge crews. The proposed restrictions on the days and times that openings can be requested for vessels not transiting in a flotilla of five or more, and the notification requirements, are designed