record that the Coast Guard has assembled to date, the information obtained from the negotiation process, and its professional judgment. In particular, the Coast Guard's final rule incorporates weekend openings, advance notice requirements, and weekday evening openings that received support by some committee members, although not unanimous consensus in a formal committee report. Weekday openings were clearly the most contentious issue, which the Coast Guard is resolving by scheduling one mid-week opening without flotilla requirements and authorizing unlimited opportunities for additional openings for flotillas of at least five vessels. The Coast Guard's solution does not match the negotiating position of either the City, which bargained for no weekday openings, or the boatyards and boaters which wanted on-demand openings every day of the week. On this issue, the Coast Guard determined that a compromise was necessary to meet the needs of both groups and the public interest. The analysis of the final rule can be best summarized by responding to the comments submitted to the NPRM public docket by the attorney for Crowley's Yacht Yard, Inc. and by the City of Chicago.

Written comments to the August 2, 1995 NPRM public docket submitted by the attorney for Crowley's, one of the boatyards on the Chicago River, discussed five topics. Each of these topics is addressed below in the Coast Guard's detailed response to this submission. However, no changes to the operating schedule proposed in the NPRM were made as a result of these comments because they did not offer any additional material facts for the Coast Guard to consider.

The first comment asserts that no legitimate reason has been identified for altering an existing regulation that has worked well for many years. The City of Chicago requested that the Coast Guard initiate a rulemaking to change a basically on-demand system that provided maximum flexibility and access for waterborne transportation. The City and every non-boating interest that has participated in this two-year proceeding has argued that the current system is not equitable to the surface transportation needs of commercial, emergency, and other traffic in a major metropolitan center. The City's request was made in the context of a legislative change that now requires the Coast Guard, acting on the delegation of the Secretary of Transportation, to the extent practical and feasible, to establish rules that provide a schedule of openings that will help reduce traffic

delays and congestion. The Coast Guard's decision to change the regulations is consistent with its statutory mandate and supported by the traffic study submitted by the City and analyzed elsewhere in the preamble.

The statement that the existing regulation is working well is simply incorrect and is belied by the record, which contains ample evidence that ondemand openings are opposed by all non-boating parties in Chicago and have a disruptive effect on Chicago traffic and commerce, as is indicated not only by comments but by the traffic study. Furthermore, the actual operations under the existing regulation are based on agreements by the boatyards and the City to schedule openings. This approach has required significant and continuing involvement by, and costs to, the Coast Guard as shown in letters and other documents in the administrative record: to remind the parties to initiate scheduling, to facilitate compromises, to interpret agreements, to monitor implementation, and to mediate disagreements. The final rule, by contrast, gives notice to the public of the operating procedures and schedule to be followed and allows Coast Guard resources to be properly focused on enforcement.

The second comment asserts that there is no basis for the NPRM and, by extension, the adoption of the proposal as a final rule. The comment is based on a perception of significant flaws in the traffic study requested by the Coast Guard and submitted by the City of Chicago. The Coast Guard's analysis and use of the study findings to support its final determination are explained separately in the preamble. In addition, the comment overlooks significant information that the Coast Guard received from the negotiated rulemaking and other data available to it. As discussed under the section on the negotiated rulemaking, the Coast Guard has based its new regulations on matters addressed in the public record, including areas where support, although not consensus, was reported in the negotiation process. Given the record of this proceeding, there is clearly a basis for an NPRM proposing a reasonable compromise aimed at accommodating the public interest.

The third comment asserts that important Coast Guard reports were ignored in developing the proposed regulations. As mentioned above, the absence of predictable and permanent regulations in this area has required significant Coast Guard resources to be applied to facilitate bridge openings. For the 1995 Spring Breakout, Coast Guard personnel were assigned to observe and

report on drawbridge openings for recreational boaters. The purpose of these reports was to ensure that agreements between the boatyards and the City were carried out and that passage of boats was achieved safely. These reports were not intended to record traffic impacts or to supplement professionally-conducted traffic studies, but to the extent that this information has been relevant to traffic and boating operations it has been considered, as discussed above.

In developing the proposed rules, adopted without change as final by this document, the Coast Guard has relied on the following: traffic study findings and data submitted by the City of Chicago, the reports on and experience gained from an unsuccessful negotiated rulemaking, analyses of numerous submissions to this and earlier rulemaking and administrative dockets, and the Coast Guard's professional judgment gained from monitoring and overseeing the operation of the Chicago drawbridge system and other drawbridges throughout the United States. All of this played a part in formulating the new rule.

The fourth comment asserts that certain elements of the rulemaking are arbitrary and capricious. Again, this is simply not so. The Coast Guard's final rule is based on exhaustive consideration of the factors discussed above and on its determination that a predictable schedule that still affords flexibility to the boaters and predictability to the City will stabilize the relationship between the boatyards and the City, meet to a substantial degree the expressed concerns of all groups, and reduce Coast Guard involvement in day-to-day disputes. As is evident from the discussion in this preamble, there is ample support in both the record and the law for the rule that the Coast Guard has adopted.

The fifth comment criticizes the Coast Guard's response to various administrative requirements beyond the Administrative Procedure Act. Despite the expedited schedule for issuing a NPRM, the requisite discussions in response to the Regulatory Flexibility Act and Executive Order 12866 were included in the NPRM. This matter is addressed more fully in the following section of this preamble. The discussion there fully supports the Coast Guard's determination made in this final rule.

Significant comments on the August 2, 1995 NPRM were also received from the City of Chicago. Chicago opposed implementation of the proposed rule, and objected to the rationale outlined by the Coast Guard. Chicago stated that the rule "provides none of the relief that the