City sought" and that it "perpetuates weekday daytime openings to meet the needs of less than 100 boaters" despite the fact that "at least 3000 vehicles are delayed each time a bridge is opened." The City of Chicago also stated that despite a specific request in the NPRM that the boatyards provide data to show how they are in fact negatively impacted by a rule containing scheduled openings, no such data were ever provided. In the absence of such data, the City of Chicago urged that weekend openings are all that is required.

As discussed previously, the Coast Guard is not unmindful of these concerns. But the Coast Guard has determined for the reasons articulated by the boatyards and boaters that some weekday openings should be allowed. While quantitative data were not supplied by the boatyards, concerns about any overly-restrictive access schedule were voiced by many boaters. The approach adopted in the final rule, which allows weekday openings only on Wednesdays, is a reasonable accommodation between the needs of boaters for the flexibility afforded by some weekday daytime passages and the needs of Chicago and its citizens to limit daylight openings to a schedule that is predictable and that does not unnecessarily result in vehicle delays and congestion on Chicago streets. The specific points raised in Chicago's comments are discussed below.

First, the City states that it should not be required to raise two or more bridges at a time since this places undue burdens on the bridge system and on traffic. As the City notes, however, drawbridge openings are in large respect dependent on flotilla size. Thus, the more opportunity there is for boaters to transit the river, the more reasonablysized individual flotillas can be. While on-demand openings have the potential for repeated disruption of Chicago traffic, in the Coast Guard's view the rule affords enough reasonable windows of opportunity for boaters to schedule their runs between the boatyards and Lake Michigan so as to encourage reasonably-sized flotillas to be formed. The rule's provision for additional boat runs for flotillas of 5 or more boats provides more opportunities for river passages, gives the City and boatyards the flexibility to accommodate reasonably-sized flotillas as necessary, and accommodates additional vessels at the earliest available time. The Coast Guard believes this approach answers the expressed needs of boaters for flexibility and reduces the potential disruption to Chicago traffic occasioned by large flotillas that might be required if daylight openings were more

restricted. This approach also minimizes the problems concerning the opening of the Lake and Wells Street bridges, which the City notes are dependent on Chicago Transit Authority train movements.

Second, the City states that the rule should impose a means to prevent or curtail the possibility that boaters will request a bridge opening and then not show up at the scheduled time. As previously noted, the Coast Guard is not adopting such a provision at this time since no data have been provided to the Coast Guard that would confirm a problem concerning "no shows." As a result, the Coast Guard does not believe that this matter is a significant problem that necessitates regulatory intervention.

Third, the City states that the rule "ignores the impact on emergency vehicle response times." The rule does not ignore this issue, and the potential for emergency vehicles being delayed by bridge openings has in fact received the Coast Guard's careful attention. The Coast Guard has noted, and discussed above, the fact that the traffic study commissioned by the City reports instances of emergency vehicle delays occasioned by bridge openings, and that the possibility of these delays is greatest during weekday daylight openings. Limiting the times at which bridges are opened, of course, limits the times when these delays could occur. The Coast Guard recognizes fully that weekend openings run less of a risk of delaying emergency vehicles since traffic is lighter than on weekdays, and concomitantly that allowing daylight weekday openings-even when limited solely to Wednesdays-runs the risk that emergency vehicles will be delayed as a result. But again, the Coast Guard has concluded that there is a basis and a need for allowing some limited, nonweekend, daylight openings. The Coast Guard believes that its approach of allowing Wednesday daylight openings accommodates reasonably the stated needs of boaters for weekday passages, while minimizing the likelihood of emergency vehicle delays.

Fourth, the City states that the Coast Guard may be wrong in its premise that bridge openings on the North and South Branch bridges do not impact Chicago traffic as much as openings on the Main Branch of the river. The data in the traffic study bear out the Coast Guard's conclusion, and in developing the final rule the Coast Guard has considered these data on the impacts of bridge openings on vehicle traffic crossing the North and South Branch bridges. The Coast Guard's decision to restrict openings to weekends, specific weekday evenings, and one weekday during daylight hours, is designed to practically address the needs of boaters without unduly disrupting the substantial vehicular traffic that passes over the North and South Branch bridges during weekday daylight hours.

The City also addresses several other issues. It takes exception with Coast Guard's statement in the preamble of the NPRM that there is evidence of deterioration in Chicago's bridges and notes that it has made great investments in its bridges. Nonetheless, Chicago's own prior comments, as well as the traffic study the City commissioned, have noted occasions of bridge malfunctions. Chicago also states that the Michigan Avenue bridge accident and freight tunnel flooding in 1992 should not be characterized as the basis for the City's request for new bridge regulations. These events were discussed by the City in prior correspondence, but as is evident from the analysis set forth in this preamble, the rule that the Coast Guard is adopting results from an extensive review of the articulated needs of the public, including boaters, vehicular traffic, individuals, and businesses, not from these past extraordinary events.

Chicago also recommends that, due to reconstruction, the Randolph and Loomis Street bridges should now be placed under the 30-minute notice requirement for commercial bridge openings, and that the Ogden Avenue bridge has been removed and therefore should be deleted from the lists of bridges subject to 30-minute notice requirement by commercial vessels. The Coast Guard agrees and has adopted this last comment.

Reasons for Effective Date

In the notice announcing the formation of the negotiated rulemaking committee, the Coast Guard indicated its intent to have rules in place during the Fall, 1995 recreational boating season. That intent was repeated in the NPRM. Due to the time needed to produce a fully comprehensive and explanatory final rule, this final rule is being published shortly after the beginning of the Fall Return.

As this final rule was being written, representatives of the City of Chicago and boating interests met on September 20, 1995 under the auspices of the Coast Guard and agreed on a schedule for the 1995 Fall Return. This temporary schedule tracks closely to the final rule and includes openings on Saturday and Sunday mornings, Wednesday mornings following rush hour, along with approximately five scheduled supplemental weekday openings. It is the expectation of the Coast Guard,