based on the agreement of the City and the boatyards, that this schedule will bring the 1995 boating season to an amicable and successful conclusion. Therefore, the Coast Guard has made this rule effective on November 19. 1995, following the expiration of the Fall Return schedule agreed upon by the City and the boatyards. It should be emphasized that the flexibility and scheduling aspects of the Coast Guard's rule are consistent with the schedule agreed to by the boatyards and the City. This indicates that future seasonal boat runs should be able to proceed under the rule without untoward problems for the City or the boatyards and without continued diversion of Coast Guard resources.

Regulatory Process

A. Regulatory Evaluation

The Coast Guard has determined that this rule is not a significant rulemaking activity under Executive Order 12886 and the Department of Transportation's Regulatory Policies and Procedures (44 FR 11040; February 26, 1979). The Coast Guard has received extensive information from the City of Chicago on the costs associated with operating drawbridges to accommodate transits of recreational sailboats. Despite repeated requests to the boatyards, these businesses have provided the Coast Guard only with general allegations of lost profits and have not provided the Coast Guard with comparable information on the financial impacts that they would experience as a result of a more limited schedule of drawbridge openings. The final rule is not seen as having a significant adverse economic impact on any other businesses.

No requirements for commercial transits are affected by this rulemaking. As a matter of record, most commercial transits consist of barges which typically do not require bridge openings. In addition, there are virtually no recreational vessel transits during the off-season and the requirements governing recreational transits during the off-season are expected to have little or no economic impact.

The rule does not constitute a "taking" under the Fifth Amendment to the Constitution, as discussed in E.O. 12630 and the Attorney General's Guidelines implementing that Order. The Coast Guard has determined that the regulation will substantially advance the governmental purpose of balancing the needs of land-based transpiration and the navigational rights of recreational boaters. The provisions for supplemental openings for flotillas

of five or more vessels and the provision ensuring access by all single vessels on five out of the seven days in each week should minimize the economic impact, if any, on the boatyards.

B. Small Entities

The Regulatory Flexibility Act requires an assessment of whether the rule would have a significant economic impact on a substantial number of small entities. The Coast Guard has concluded the rule would not have such an impact and, therefore, a detailed regulatory flexibility analysis has not been undertaken. Nonetheless, the Coast Guard has weighed the potential impact of the rule on small entities.

For this rule, the Coast Guard considers any business employing less than 500 persons to be a small entity. The four boatyards remaining on the North and South Branches of the Chicago River are small businesses, and they have asserted that restricting the drawbridge openings will adversely affect their businesses. However, the Coast Guard also received a number of comments from other small businesses in the area that asserted that on-demand openings adversely affected their operations. The small businesses that objected to the on-demand openings included, among others, taxi companies, delivery services, and small shops in downtown Chicago.

As discussed elsewhere in the preamble, the Coast Guard has carefully considered the views of the boatyards and of other small businesses that might be affected. The rule allows scheduled openings on five days of the week for single vessels in addition to allowing additional openings at all times, other than rush hour periods, for flotillas of five or more vessels. This approach is more flexible to boating interests than any of the prior temporary schedules implemented by the Coast Guard and also provides more opportunities for transit than did the 1994 rule. As noted above, the rule provides for drawbridge openings on days and at times when sailboaters have traditionally traversed the river. Specifically, the schedule provided for in the rule is also consistent with the requirements of boatyards as evidenced by the fact that it would accommodate recreational transits on the dates and at the time times agreed to by the boatyards during those periods in the past two years when drawbridge openings have been set pursuant to negotiations between the City and the boatyards. There is no basis for concluding that the boatyards will be significantly harmed by such an approach. As a result, the Coast Guard has concluded that the rule should have

no significant impact on the operations of the boatyards. In addition to allowing on-demand openings for boats needing emergency repairs, the openings prescribed by the rule will allow any vessel that needs non-emergency repairs to transit the river for mid-week service and return to Lake Michigan in time for sailing on the following weekend.

This provision answers expressed concerns by boaters and the boatyards during the comment periods and the negotiated rulemaking process. The schedule of boat runs emphasizes openings on evenings and weekends, and this will minimize the impact of openings on other small businesses in the area. While these entities by and large called for no weekday openings at all, the Coast Guard has determined, as explained above, that some such openings are necessary to meet the navigational needs of boaters. The schedule of openings and advance notice requirements set forth in the rule affords more certainty and predictability to this process and therefore will be more beneficial to small business than a continuation of the 1976 on-demand rule.

Therefore, the Coast Guard certifies under 605(b) of the Regulatory Flexibility Act (5 U.S.C. 601 et seq.) that this regulation will not have a significant economic impact on a substantial number of small entities.

Collection of Information

This rule contains no collection of information requirements under the Paperwork Reduction Act (44 U.S.C. 3501 et seq.). No reports or information would be submitted to the government. As in common with other drawbridge regulations, persons desiring passage of a vessel have to make their requests known to the operator of a drawbridge some time in advance. This advance notice is normally a single phone call, even when there is a flotilla of several vessels. Advance notice has been required under the existing rule for drawbridges on the Chicago River, and a simple verbal request for bridge openings would continue to be required under the new rules.

Federalism

The Coast Guard has analyzed this action under the principles and criteria contained in Executive Order 12612 and has determined that this regulation involves only an area within Chicago and, therefore, will not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.