

for doing so as required by 5 U.S.C. 553(d)(3).

Public Meeting

We do not now plan to hold a public meeting. But you may submit a request for a meeting by writing to the Waterways Management Branch at the address under **ADDRESSES** explaining why one would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a separate notice in the **Federal Register**.

Background and Purpose

The San Francisco Department of Public Works is requesting a waterway closure on Mission Creek for the purpose of performing significant work to the Fourth Street Bridge. The Fourth Street Bridge was erected across the Mission Creek Waterway at the China Basin in 1917, and was determined eligible for listing in the National Register of Historic Places in 1985 as part of the California Department of Transportation (Caltrans) Historic Bridge Inventory. Caltrans, Division of Structures, evaluated the Fourth Street Bridge and recommended that the bridge be brought up to current seismic safety standards. In view of extensive corrosion to the steel components and concrete approaches of the bridge, Caltrans has also placed traffic load limitations over this bridge. Three primary objectives are to be met in rehabilitating the Fourth Street Bridge: (i) Seismically retrofit the structure while not significantly altering the historical appearance of the bridge; (ii) repair the damage to the concrete approaches and several steel and concrete members of the movable span, and (iii) reinstate light rail service across the bridge.

The first phase of this project will entail the removal of the lift span, which will take approximately 6 weeks, scheduled to begin April 15, 2003. During this period, the channel will be closed at the Fourth Street Bridge to boating traffic. The second phase of this project will entail the construction of the north and south approaches, the new counterweight and its enclosing pit; but for the most part, boating traffic will not be affected during this phase. The last phase of this project will entail the replacement of the lift span and aligning the bridge to accept the light rail track system, which will take approximately five months, scheduled to begin April 1, 2004. During this period, the channel will be closed at the Fourth Street Bridge to boating traffic.

The Fourth Street Bridge Project is funded by Federal Highway

Administration and State of California. The state funding restricts the construction to a start date before August 2003 and completion by September 2005. Any additional delays or deferrals in start of construction will impact the secured funding for the project.

There are two major environmental issues that restrict the construction in the channel, namely the annual Pacific hearing-spawning season that runs from December 1st to March 31st and noise constraint in the water for steelhead from December 1st to June 1st. Any demolition, pile driving and excavation in the water during those time periods will be monitored and restricted for possible impact on the fish.

The Fourth Street Bridge Project is part of the larger Third Street Light Rail Project and many public presentations on the project's components, channel closure schedules, impacts to surrounding uses and project duration have been made by the City and Port of San Francisco. The Third Street Light Rail Advisory Group was created as a forum to keep the public informed on the progress being made on the Third Street Light rail project. Also, this project has been presented at several Mission Bay Citizen Advisory Committee meetings. At these meetings, the public was notified of the project components, impacts and the need to temporarily close the waterway. Specific to the Fourth Street Bridge project, an Environmental Assessment, required by the Federal Highway Administration and Caltrans, (under the National Environmental Protection Act) was conducted by the City of San Francisco. A public hearing regarding the Environmental Assessment was held on January 17, 2002, at San Francisco Arts College, Timken Lecture Hall, 1111 8th Street in San Francisco, California, and was well attended.

In January 2003, the City of San Francisco advised the Coast Guard Captain of the Port that two channel closures would be necessary in order to accomplish the Fourth Street Bridge project. The Coast Guard met with various City and Port officials to ensure that there would be minimal impacts on involved and potentially involved entities.

This proposed temporary safety zone in the navigable waters of Mission Creek surrounding the construction site of the Fourth Street Bridge would be in effect during the course of a 6-week period, starting April 15, 2003, and again for a 5-month period, starting April 1, 2004. Both periods would be effective 24 hours a day.

Discussion of Rule

The Coast Guard proposes to establish a safety zone that consists of a portion of the navigable waters located at the Fourth Street Bridge in the Mission Creek Waterway in China Basin, San Francisco, California. The proposed safety zone is to affect a waterway closure during periods of demolition and reconstruction of the Fourth Street Bridge and would be effective 24 hours a day between April 15, 2003, and May 27, 2003, and again between April 1, 2004, and September 1, 2004.

The proposed safety zone is necessary to protect persons and vessels from hazards, injury and damage associated with bridge construction activities. No vessel or person may come within 100 yards of either side of the bridge, or pass beneath the bridge during construction.

The proposed safety zone would encompass the navigable waters, from the surface to the bottom, within two lines; one line drawn from a point on the north shore of Mission Creek extending southeast to a point on the opposite shore, 100 yards west of the bridge, and the other line drawn from a point on the north shore of Mission Creek extending southeast to a point on the opposite shore, 100 yards east of the bridge.

Vessels and people may be allowed to enter an established safety zone on a case-by-case basis with authorization from the Captain of the Port or a designated representative thereof. Section 165.23 of title 33, Code of Federal Regulations, prohibits any unauthorized person or vessel from entering or remaining in this Safety Zone.

Vessels or persons violating this section will be subject to the penalties set forth in 33 U.S.C. 1232. Pursuant to 33 U.S.C. 1232, any violation of the safety zone described herein, is punishable by civil penalties (not to exceed \$27,500 per violation, where each day of a continuing violation is a separate violation), criminal penalties (imprisonment up to 6 years and a maximum fine of \$250,000), and *in rem* liability against the offending vessel. Any person who violates this section, using a dangerous weapon, or who engages in conduct that causes bodily injury or fear of imminent bodily injury to any officer authorized to enforce this regulation, also faces imprisonment up to 12 years.

Coast Guard personnel will enforce this regulation and the Captain of the Port may be assisted by other Federal, State, or local agencies in the patrol and enforcement of the regulation.