

phase of this project remains as previously published, commencing April 1, 2004, lasting for a 5-month period. Both periods will be enforced 24 hours a day. We received one letter commenting on the rule which will be discussed further in the section of Discussion of Comments and Changes. No public hearing was requested, and none was held. Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Details regarding this project were not finalized in time to allow for this rule to be published a full 30 days prior to making this rule effective. The rulemaking process began in March 2003 which allowed enough time to publish an NPRM and allow for a public comment period. Accordingly, since timely rehabilitation to the bridge (as discussed in the Background and Purpose section) is crucial to the safety of this bridge, the channel closures must begin on May 1, 2003, less than 30 days after the publication of this rule.

#### Background and Purpose

The San Francisco Department of Public Works requested 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) Reinitiate light rail service across the bridge.

The first phase of this project will entail the removal of the lift span, which will take approximately 8 weeks, scheduled to begin May 1, 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 delays or deferrals in construction will impact the secured funding for the project.

There are two major environmental issues that restricts 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 temporary safety zone in the navigable waters of Mission Creek surrounding the construction site of the Fourth Street Bridge will be enforced during the course of an 8-week period, starting May 1, 2003 and again for a 5-month period, starting April 1, 2004.

#### Discussion of Comments and Changes

We received one letter commenting on this rule. The Mission Creek Harbor Association, an organization of boaters that have both permanent and temporary moorings at Mission Creek Harbor, are in favor of the first closure as it is relatively short in duration and all affected boaters have been provided alternate moorings outside of the affected closure area by the city. The association is concerned about the second closure that will commence on April 1, 2004 and last for 5 months. This closure is much longer than the first closure and will last the full duration of the boating season in 2004. The Mission Creek Harbor Association and city officials have resolved their issue for the first closure and they are currently working on resolving this issue for the closure in 2004. The Mission Creek Harbor Association is pleased with this form of resolution and understands that no changes will be made to this rule as a result of their comments.

As discussed before, a minor change to the effective date for the safety zone has changed since the NPRM was published on March 19, 2003, entitled "Safety Zone; Mission Creek Waterway, China Basin, San Francisco Bay, CA" in the **Federal Register** (68 FR 13244). The first phase of this project was published as commencing on April 15, 2003, and lasting for 6 weeks. Due to a project delay, the safety zone for the first phase of this project will now commence on May 1, 2003, lasting for an 8-week period. The second phase of this project remains as previously published, commencing April 1, 2004, lasting for a 5-month period.

#### Regulatory Evaluation

This rule is not a "significant regulatory action" under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. It is not "significant" under the regulatory policies and procedures of the Department of Homeland Security (DHS).