

**DEPARTMENT OF HOMELAND SECURITY**

**Coast Guard**

**33 CFR Part 165**

[Docket No. USCG–2011–0578]

RIN 1625–AA00

**Safety Zone; Chicago Harbor, Navy Pier Southeast, Chicago, IL**

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of enforcement of regulation.

**SUMMARY:** The Coast Guard will enforce the Navy Pier Southeast Safety Zone in Chicago Harbor from September 3, 2011 through September 24, 2011. This action is necessary and intended to ensure safety of life on the navigable waters of the United States immediately prior to, during, and immediately after fireworks events. During the aforementioned period, restrictions will be enforced upon, and control movement of, vessels in a specified area immediately prior to, during, and immediately after fireworks events. During the enforcement period, no person or vessel may enter the safety zones without permission of the Captain of the Port, Sector Lake Michigan.

**DATES:** The regulations in 33 CFR 165.931 will be enforced at various times and on various dates between 10 p.m. on September 3, 2011 to 10:30 p.m. on September 24, 2011.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this notice, call or e-mail BM1 Adam Kraft, Prevention Department, Coast Guard Sector Lake Michigan, Milwaukee, WI at 414–747–7154, e-mail [Adam.D.Kraft@uscg.mil](mailto:Adam.D.Kraft@uscg.mil).

**SUPPLEMENTARY INFORMATION:**

The Coast Guard will enforce the Safety Zone; Chicago Harbor, Navy Pier Southeast, Chicago, IL listed in 33 CFR 165.931 for the following events:

(1) *Navy Pier Fireworks*; on September 3, 2011 from 10 p.m. through 10:30 p.m.; on September 17, 2011 from 8:45 p.m. through 9:15 p.m.; and on September 24, 2011 from 8:45 p.m. through 9:15 p.m.

All vessels must obtain permission from the Captain of the Port, Sector Lake Michigan, or his or her on-scene representative to enter, move within or exit the safety zone. Vessels and persons granted permission to enter the safety zone shall obey all lawful orders or directions of the Captain of the Port, Sector Lake Michigan, or his or her on-scene representative. While within a safety zone, all vessels shall operate at the minimum speed necessary to maintain a safe course.

This notice is issued under authority of 33 CFR 165.931 and 5 U.S.C. 552 (a). In addition to this notice in the **Federal Register**, the Coast Guard will provide the maritime community with advance notification of these enforcement periods via broadcast Notice to Mariners or Local Notice to Mariners. The Captain of the Port, Sector Lake Michigan, will issue a Broadcast Notice to Mariners notifying the public when enforcement of the safety zone established by this section is suspended. If the Captain of the Port, Sector Lake Michigan, determines that the safety zone need not be enforced for the full duration stated in this notice, he or she may use a Broadcast Notice to Mariners to grant general permission to enter the safety zone. The Captain of the Port, Sector Lake Michigan, or his or her on-scene representative may be contacted via VHF Channel 16.

Dated: July 25, 2011.

**M.W. Sibley,**

*Captain, U.S. Coast Guard, Captain of the Port Lake Michigan.*

[FR Doc. 2011–20090 Filed 8–8–11; 8:45 am]

**BILLING CODE 9110–04–P**

**DEPARTMENT OF HOMELAND SECURITY**

**Coast Guard**

**33 CFR Part 165**

[Docket No. USCG–2011–0688]

RIN 1625–AA00

**Safety Zones; August Fireworks Displays and Swim Events in the Captain of the Port New York Zone**

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing four temporary safety zones for marine events within the Coast Guard Captain of the Port (COTP) New York Zone for fireworks displays and swim events. This action is necessary to provide for the safety of life on navigable waters during the events. Entry into, transit through, mooring or anchoring within these zones is prohibited unless authorized by the COTP New York.

**DATES:** This rule is effective in the CFR on August 9, 2011 to 11:59 p.m. August 27, 2011. This rule is effective with actual notice for purpose of enforcement beginning at 12 p.m. August 6, 2011 to 11:59 p.m. August 27, 2011.

**ADDRESSES:** Documents indicated in this preamble as being available in the docket are part of docket USCG–2011–

0688 and are available online by going to <http://www.regulations.gov>, inserting USCG–2011–0688 in the “Keyword” box, and then clicking “Search.” They are also available for inspection or copying at the Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this temporary rule, call or e-mail LT Eunice James, Coast Guard Sector New York Waterways Management Division; 718–354–4163, e-mail

[Eunice.A.James@uscg.mil](mailto:Eunice.A.James@uscg.mil). If you have questions on viewing the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202–366–9826.

**SUPPLEMENTARY INFORMATION:**

**Regulatory Information**

The Coast Guard is issuing this temporary final rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are “impracticable, unnecessary, or contrary to the public interest.” Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because any delay encountered in this regulation’s effective date by publishing a NPRM would be contrary to public interest, since immediate action is needed to provide for the safety of life and property on navigable waters from the hazards associated with fireworks including unexpected detonation and burning debris; also immediate action is needed to provide for the safety of life and property on navigable waters from the hazards associated with swimmers in the water in or near navigable channels. We spoke with each event sponsor and each indicated they were unable and unwilling to move their event date to a later time. Sponsors for the Ocean Breeze Fishing Pier Fireworks Display stated they are unwilling to reschedule this event because it is being held in conjunction with a prescheduled concert sponsored by the Staten Island Borough President’s Office. Changing the date would cause numerous cancelations and hurt small businesses. Rescheduling would not be

a viable option because the event venue, vendors, and artists have fully booked summer schedules making rescheduling nearly impossible. Sponsors for the Annual Newburgh to Beacon Swim, Swim Across America, and the Rose Pintoff Centennial Swim stated they are unwilling to reschedule these events because the dates of each swim event were chosen based on optimal tide, current, and weather conditions needed to promote the safety of swim participants. In addition, any change to the dates of the events would cause economic hardship on the marine event sponsors, negatively impacting other activities being held in conjunction with these events, potentially cause numerous event participant cancellations, and create unsafe event conditions.

Additionally, due to the dangers posed by the pyrotechnics used in fireworks displays and the hazards associated with swim events, the safety zones are necessary to provide for the safety of event participants, spectator crafts, and other vessels operating near the event areas. For the safety concerns noted, it is in the public interest to have this regulation in effect during these events.

These fireworks displays and swim events are all reoccurring marine events with a proposed permanent rule currently in a public comment period under docket number USCG-2010-1001 titled, Special Local Regulations and Safety Zones; Recurring Events in Captain of the Port New York Zone. Additionally, the Coast Guard has ordered safety zones or special local regulations for all of these areas for past events and has not received public comments or concerns regarding establishment of waterways restrictions.

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**. The rule must become effective on the dates specified in Table 1 and Table 2 in order to provide for the safety of the public including spectators and vessels operating in the area near these events. Delaying the effective date of this rule until after 30 days have elapsed after publication is impractical and would expose spectators, vessels, and other property to the hazards associated with these marine events.

#### **Basis and Purpose**

The legal basis for the temporary rule is 33 U.S.C. 1226, 1231, 46 U.S.C. Chapter 701, 3306, 3703; 50 U.S.C. 191, 195; Public Law 107-295, 116 Stat. 2064; and Department of Homeland Security Delegation No. 0170.1, which

collectively authorize the Coast Guard to define safety zones.

The fireworks display and swim events are being held during the month of August on the navigable waters within the COTP New York Zone. In the past, the Coast Guard has established safety zones for these events on a case by case basis to ensure the protection of the maritime public and event participants from the hazards associated with these events. The Coast Guard has not received public comments or concerns regarding the impact to waterway traffic from these events.

This temporary final rule will apprise the public in a timely manner through publication in the **Federal Register**.

These events pose significant risk to participants, spectators and the maritime public because of hazardous conditions associated with fireworks displays and swim events. These temporary safety zones are necessary to ensure the safety of participants, spectators and vessels.

#### **Discussion of Rule**

This rule establishes temporary safety zones on the waters of the COTP New York zone. These temporary safety zones will encompass various locations, listed in Table 1 and Table 2 below.

All persons and vessels shall comply with the instructions of the COTP New York or the designated on-scene representative. Entry into, transiting, or anchoring within the temporary safety zones are prohibited unless authorized by the COTP New York, or the designated representative. The COTP New York or the designated representative may be reached on VHF Channel 16.

Because large numbers of spectator vessels are expected to congregate around the location of these events, the regulated areas are needed to protect both spectators and participants from the safety hazards created by fireworks displays and swimmers in the water. During the enforcement period of the regulated areas, persons and vessels are prohibited from entering, transiting through, remaining, anchoring or mooring within the zone unless specifically authorized by the COTP or the designated representatives. The Coast Guard may be assisted by other federal, state and local agencies in the enforcement of these regulated areas.

The Coast Guard determined that these regulated areas will not have a significant impact on vessel traffic due to their temporary nature and limited size and the fact that vessels are allowed to transit the navigable waters outside of the regulated areas. Additionally, the Coast Guard has ordered safety zones for

all of these four areas for past events and has not received public comments or concerns regarding the impact to waterway traffic from events.

Advanced public notifications will also be made to the local maritime community by the Local Notice to Mariners as well as Broadcast Notice to Mariners.

#### **Regulatory Analyses**

We developed this rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on 13 of these statutes or executive orders.

#### **Executive Order 12866 and Executive Order 13563**

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, as supplemented by Executive Order 13563, 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.

The Coast Guard's implementation of these temporary safety zones will be of short duration and designed to minimize the impact to vessel traffic on the navigable waters. These safety zones will only be enforced for a short duration. Furthermore, vessels may be authorized to transit the zones with permission of the COTP New York or the designated on-scene representative.

#### **Small Entities**

Under the Regulatory Flexibility Act (5 U.S.C. 601-612), we have considered whether this rule would have a significant economic impact on a substantial number of small entities. The term "small entities" comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

This rule will affect the following entities, some of which may be small entities: the owners and operators of vessels intending to transit or anchor in a portion of the navigable waterway in the vicinity of these marine events during the effective period.

This rule will not have a significant economic impact on a substantial number of small entities for the following reasons: Vessel traffic can

safely transit around these safety zones or through the zones with permission of the COTP New York or the designated on-scene representative. Before the effective period, we will issue maritime advisories widely available to users of the waterway. This rule will be in effect for a short duration at various times from August 06, 2011 until August 27, 2011.

#### Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we offer to assist small entities in understanding the rule so that they can better evaluate its effects on them and participate in the rulemaking process.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–reg–fair (1–888–734–3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

#### Collection of Information

This rule calls for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

#### Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this rule under that Order and have determined that it does not have implications for federalism.

#### Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such expenditure, we

do discuss the effects of this rule elsewhere in this preamble.

#### Taking of Private Property

This rule will not cause a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

#### Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

#### Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not create an environmental risk to health or risk to safety that may disproportionately affect children.

#### Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

#### Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a “significant energy action” under that order because it is not a “significant regulatory action” under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. The Administrator of the Office of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

#### Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these

standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (*e.g.*, specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

#### Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.ID, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have concluded this action is one of a category of actions which do not individually or cumulatively have a significant effect on the human environment. This rule is categorically excluded, under figure 2–1, paragraph (34)(g), of the Instruction. This rule involves the establishment of temporary safety zones. An environmental analysis checklist and a categorical exclusion determination are available in the docket where indicated under

#### ADDRESSES.

#### List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR Part 165 as follows:

#### PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

- 1. The authority citation for part 165 continues to read as follows:

**Authority:** 33 U.S.C. 1226, 1231; 46 U.S.C. Chapter 701, 3306, 3703; 50 U.S.C. 191, 195; Public Law 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

- 2. Add § 165.T01–0688 to read as follows:

#### § 165.T01–0688 Safety Zones; August Fireworks Displays and Swim Events in the Captain of the Port New York Zone.

(a) *Regulations.* The general regulations contained in 33 CFR 165.23 as well as the following regulations apply to the fireworks displays and swim events listed in Table 1 and Table 2 of § 165.T01–0688. These regulations

will be enforced for the duration of each event. Notifications of exact dates and times of the enforcement period will be made to the local maritime community through the Local Notice to Mariners, and Broadcast Notice to Mariners. First Coast Guard District Local Notice to Mariners can be found at <http://www.navcen.uscg.gov/>.

(b) *Definitions.* The following definitions apply to this section:

(1) *Designated Representative.* A “designated representative” is any Coast Guard commissioned, warrant or petty officer of the U.S. Coast Guard who has been designated by the COTP, Sector New York to act on his or her behalf. The designated representative may be on an official patrol vessel or may be on shore and will communicate with vessels via VHF–FM radio or loudhailer. In addition, members of the Coast Guard Auxiliary may be present to inform vessel operators of this regulation.

(2) *Official patrol vessels.* Official patrol vessels may consist of any Coast

Guard, Coast Guard Auxiliary, state, or local law enforcement vessels assigned or approved by the COTP.

(3) *Spectators.* All persons and vessels not registered with the event sponsor as participants or official patrol vessels.

(c) Vessel operators desiring to enter or operate within the regulated areas shall contact the COTP or the designated representative via VHF channel 16 or 718–354–4353 (Sector New York command center) to obtain permission to do so.

(d) Spectators or other vessels shall not anchor, block, loiter, or impede the transit of event participants or official patrol vessels in the regulated areas during the effective dates and times, or dates and times as modified through the Local Notice to Mariners, unless authorized by COTP or designated on-scene representative.

(e) Upon being hailed by a U.S. Coast Guard vessel or the designated representative, by siren, radio, flashing light or other means, the operator of the vessel shall proceed as directed. Failure

to comply with a lawful direction may result in expulsion from the area, citation for failure to comply, or both.

(f) The COTP or the designated representative may delay or terminate any marine event in this subpart at any time it is deemed necessary to ensure the safety of life or property.

(g) The regulated area for all fireworks displays listed in Table 1 is that area of navigable waters within a 360 yard radius of the launch platform or launch site for each fireworks display, unless otherwise noted in Table 1 or modified in USCG First District Local Notice to Mariners at: <http://www.navcen.uscg.gov/>.

(h) Fireworks barges used in these locations will also have a sign on their port and starboard side labeled “Fireworks—Stay Away”. This sign will consist of 10 inch high by 1.5 inch wide red lettering on a white background. Shore sites used in these locations will display a sign labeled “Fireworks—Stay Away” with the same dimensions.

TABLE 1 OF § 165.T01–0688

1.0		New York Harbor
1.1	Ocean Breeze Fishing Pier, Staten Island Safety Zone.	<ul style="list-style-type: none"> <li>• Date: August 26, 2011.</li> <li>• Rain Date: August 27, 2011.</li> <li>• Time: 8:30 p.m. to 10 p.m.</li> <li>• Launch site: A barge located in approximate position 40°34'46.3" N 074°04'02.0" W (NAD 1983), approximately 1150 yards west of Hoffman Island. This Safety Zone is a 360-yard radius from the barge.</li> </ul>

TABLE 2 OF § 165.T01–0688

1.0		Western Long Island Sound
1.1	Swim Across America .....	<ul style="list-style-type: none"> <li>• Date: August 13, 2011.</li> <li>• Rain Date: NA.</li> <li>• Time: 6 a.m. to 11 a.m.</li> <li>• Location site: Participants will swim from Larchmont, New York to Glen Cove, New York.</li> <li>• This Safety Zone includes all waters within a 100-yard radius of each participating swimmer.</li> </ul>
2.0		Hudson River
2.1	Newburgh Beacon Swim .....	<ul style="list-style-type: none"> <li>• Date: August 6, 2011.</li> <li>• Rain Date: August 7, 2011.</li> <li>• Time: 1 p.m. to 3 p.m.</li> <li>• Rain Date Time: 2 p.m. to 4 p.m.</li> <li>• Location site: Participants will cross the Hudson River between Newburgh and Beacon, New York approximately 1300 yards south of the Newburgh-Beacon Bridge.</li> <li>• This Safety Zone includes all waters within a 100-yard radius of each participating swimmer.</li> </ul>
2.2	Rose Pitonof Swim .....	<ul style="list-style-type: none"> <li>• Date: August 13, 2011.</li> <li>• Rain Date: NA.</li> <li>• Time: 8 a.m. to 8 p.m.</li> <li>• Location: Participants will swim between Manhattan, New York and the shore of Coney Island, New York transiting through the Upper New York Bay, under the Verrazano-Narrows Bridge and south in the Lower New York Bay. The route direction is determined by the predicted tide state and direction of current on the scheduled day of the event.</li> </ul>

TABLE 2 OF § 165.T01-0688—Continued

- This Safety Zone includes all waters within a 100-yard radius of each participating swimmer.

Dated: July 25, 2011.  
**G.P. Hitchen,**  
*Captain, U.S. Coast Guard, Captain of the Port New York (Acting).*  
 [FR Doc. 2011-20093 Filed 8-8-11; 8:45 am]  
**BILLING CODE 9110-04-P**

**POSTAL SERVICE**

**39 CFR PART 111**

**Domestic Mail Manual; Incorporation by Reference**

**AGENCY:** Postal Service™.  
**ACTION:** Final rule.

**SUMMARY:** The Postal Service announces the issuance of DMM 300, dated July 5, 2011, of the *Mailing Standards of the United States Postal Service, Domestic Mail Manual (DMM®)*, and its incorporation by reference in the *Code of Federal Regulations*.

**DATES:** *Effective Date:* This final rule is effective on August 9, 2011. The incorporation by reference of Issue 300,

July 5, 2011, of the DMM is approved by the Director of the Federal Register as of August 9, 2011.

**FOR FURTHER INFORMATION CONTACT:** Lizbeth Dobbins (202) 268-3789.

**SUPPLEMENTARY INFORMATION:** The most recent Issue 300 of the *Domestic Mail Manual (DMM)* was issued on July 5, 2011. This Issue of the DMM contains all Postal Service domestic mailing standards. This issue continues to: (1) Increase the user's ability to find information; (2) increase confidence that users have found all the information they need; and (3) reduce the need to consult multiple chapters of the Manual to locate necessary information. Issue 300, dated July 5, 2011, set forth specific changes, such as new standards throughout the DMM to support the standards and mail preparation changes implemented since the May 11, 2009 version.

Changes to mailing standards will continue to be published through **Federal Register** notices and the Postal Bulletin, and will appear in the next online version available via the Postal

Explorer® Web site at: <http://pe.usps.com>.

**List of Subjects in 39 CFR Part 111**

Administrative practice and procedure, Incorporation by reference.

In view of the considerations discussed above, the Postal Service hereby amends 39 CFR Part 111 as follows:

**PART 111—GENERAL INFORMATION ON POSTAL SERVICE**

■ 1. The authority citation for 39 CFR Part 111 continues to read as follows:

**Authority:** 5 U.S.C. 552(a); 13 U.S.C. 301-307; 18 U.S.C. 1692-1737; 39 U.S.C. 101, 401, 403, 404, 414, 416, 3001-3011, 3201-3219, 3403-3406, 3621, 3622, 3626, 3632, 3633, and 5001.

■ 2. Amend § 111.3(f) by adding the following new entry at the end of the table: § 111.3 Amendments to the Mailing Standards of the United States Postal Service, Domestic Mail Manual.

\* \* \* \* \*  
 (f) \* \* \*

Transmittal letter for issue	Dated	Federal Register publication
Issue 300	May 7, 2008	73 FR 25508
Issue 300	May 11, 2009	75 FR 31702
DMM 300	July 5, 2011	[Insert FR citation for this Final Rule].

■ 3. Amend § 111.4 by removing “June 4, 2010” and adding “August 9, 2011.”

**Stanley F. Mires,**  
*Chief Counsel, Legislative.*  
 [FR Doc. 2011-20078 Filed 8-8-11; 8:45 am]  
**BILLING CODE 7710-P**

**DEPARTMENT OF THE INTERIOR**

**Fish and Wildlife Service**

**50 CFR Part 17**

[Docket No. FWS-R4-ES-2011-0027; MO 92210-0-0008 B2]

RIN 1018-AV85

**Endangered and Threatened Wildlife and Plants; Endangered Status for the Cumberland Darter, Rush Darter, Yellowcheek Darter, Chucky Madtom, and Laurel Dace**

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Final rule.

**SUMMARY:** We, the U.S. Fish and Wildlife Service (Service), determine endangered status for the Cumberland darter (*Etheostoma susanae*), rush darter (*Etheostoma phytophilum*), yellowcheek darter (*Etheostoma moorei*), chucky

madtom (*Noturus crypticus*), and laurel dace (*Chrosomus saylori*) under the Endangered Species Act of 1973, as amended (Act). This final rule implements the Federal protections provided by the Act for these species throughout their ranges, including Cumberland darter in Kentucky and Tennessee, rush darter in Alabama, yellowcheek darter in Arkansas, and chucky madtom and laurel dace in Tennessee. We intend to propose critical habitat in an upcoming rulemaking, which is expected within the next few months.

**DATES:** This rule becomes effective September 8, 2011.

**ADDRESSES:** This final rule is available on the Internet at <http://www.regulations.gov> at Docket No. FWS-R4-ES-2010-0027. Comments and materials received, as well as supporting documentation used in the preparation of this rule, will be