

**§ 1627.5 Applicability of restrictions, recordkeeping, and recipient priorities; private attorney involvement subgrants.**

(a) *Applicability of restrictions.* The prohibitions and requirements set forth in 45 CFR part 1610 apply both to the subgrant and to the subrecipient's non-LSC funds, except as modified by paragraphs (b), (c), and (d) of this section.

(b) *Priorities.* Subrecipients must either:

(1) Use the subgrant consistent with the recipient's priorities; or

(2) Establish their own priorities for the use of the subgrant consistent with 45 CFR part 1620.

(c) *Recordkeeping.* A recipient must be able to account for how its subrecipients spend LSC funds or use property or services funded in whole or in part with LSC funds. A subrecipient must provide to the recipient records as described in paragraphs (c)(1) and (2) of this section.

(1) A subrecipient that handles matters as defined at 45 CFR 1635.2(b) must maintain adequate records to demonstrate that its attorneys and paralegals used the LSC funds or property or services funded in whole or in part with LSC funds:

(i) To carry out the activities described in the subgrant agreement; and

(ii) Consistent with the restrictions set forth at 45 CFR part 1610.

(2) A subrecipient that handles cases as defined at 45 CFR 1635.2(a):

(i) Must require its attorneys and paralegals to maintain records for each case that show the amount of time spent on the case and the activity conducted by date, and a unique client name or case number; and

(ii) Either the subrecipient or the recipient must maintain records for each case that show the problem type and the closing code for the case.

(iii) This requirement does not apply to subrecipients described in paragraph (d)(2)(ii) of this section.

(3) A subrecipient who handles both cases and matters must maintain the types of records described in paragraphs (c)(1) and (2).

(d) *Subgrants for engaging private attorneys—(1) Subgrants of funds.* The prohibitions and requirements set forth in 45 CFR part 1610 apply *only* to the subgranted funds when the subrecipient is a bar association, *pro bono* program, private attorney or law firm, or other entity that receives a subgrant for the sole purpose of funding private attorney involvement activities (PAI) pursuant to 45 CFR part 1614.

(2) *In-kind subgrants.* The prohibitions and requirements set forth

in 45 CFR part 1610 apply *only* to the subgranted property or services acquired in whole or in part with LSC funds when the subrecipient is a bar association, *pro bono* program, private attorney or law firm, or other entity that receives a subgrant for the sole purpose of:

(i) Conducting private attorney involvement activities (PAI) pursuant to 45 CFR part 1614; or

(ii) Providing legal information or legal assistance on a *pro bono* or reduced fee basis to individuals who have been screened and found eligible to receive legal assistance from an LSC recipient.

(3) *Treatment of non-LSC funds.* Any funds or property or services acquired in whole or in part with LSC funds and used by a recipient as payment for a PAI subgrant are deemed LSC funds for purposes of this paragraph (d).

(4) *Recordkeeping exception.* The recordkeeping requirement in paragraph (c) of this section does not apply to private attorneys providing legal assistance on a *pro bono* or reduced fee basis.

**§ 1627.6 Transfers to other recipients.**

(a) The requirements of this part apply to all subgrants from one recipient to another recipient.

(b) The subrecipient must audit any funds or property or services acquired in whole or in part with LSC funds provided by the recipient under a subgrant in its annual audit and supply a copy of this audit to the recipient. The recipient must either submit the relevant part of this audit with its next annual audit or, if an audit has been recently submitted, submit it as an addendum to that recently submitted audit.

(c) In addition to the provisions of § 1627.4(c)(3), LSC may hold the recipient responsible for any disallowed expenditures of subgrant funds. Thus, LSC may recover all of the disallowed costs from either the recipient or the subrecipient or may divide the recovery between the two. LSC's total recovery may not exceed the amount of expenditures disallowed.

**§ 1627.7 Recipient policies, procedures and recordkeeping.**

Each recipient must adopt written policies and procedures to guide its staff in complying with this part and must maintain records sufficient to document the recipient's compliance with this part.

**PART 1630—COST STANDARDS AND PROCEDURES**

■ 11. In newly transferred and redesignated § 1630.16, revise the section heading to read as follows:

**§ 1630.16 Tax sheltered annuities, retirement accounts, and pensions.**

\* \* \* \* \*  
Dated: February 6, 2017.

**Stefanie K. Davis,**

*Assistant General Counsel.*

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**DEPARTMENT OF THE INTERIOR**

**Fish and Wildlife Service**

**50 CFR Part 17**

[Docket No. FWS-R3-ES-2015-0112; 4500030113]

**RIN 1018-BB66**

**Endangered and Threatened Wildlife and Plants; Endangered Species Status for Rusty Patched Bumble Bee**

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

**ACTION:** Final rule; delay of effective date.

**SUMMARY:** In accordance with a January 20, 2017, memo from the White House, we, the U.S. Fish and Wildlife Service, are delaying the effective date of a rule we published on January 11, 2017.

**DATES:** The effective date of the rule that published on January 11, 2017, at 82 FR 3186, is delayed from February 10, 2017, to March 21, 2017.

**FOR FURTHER INFORMATION CONTACT:** Peter Fasbender, Field Supervisor, U.S. Fish and Wildlife Service, Twin Cities Ecological Services Field Office, 4101 American Blvd. E., Bloomington, MN 55425; by telephone 952-252-0092, extension 210. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Relay Service at 800-877-8339.

**SUPPLEMENTARY INFORMATION:** On January 11, 2017, we published a rule to list the rusty patched bumble bee (*Bombus affinis*), a species that occurs in the eastern and Midwestern United States and Ontario, Canada, as an endangered species under the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*). The rule was to be effective on February 10, 2017.

On January 20, 2017, the White House issued a memo instructing Federal

agencies to temporarily postpone the effective date for 60 days after January 20, 2017, of any regulations that have published in the **Federal Register** but not yet taken effect, for the purpose of “reviewing questions of fact, law, and policy they raise.” We are, therefore, delaying the effective date of our rule published on January 11, 2017, at 82 FR 3186 (see **DATES**, above).

#### Administrative Procedure Act

To the extent that 5 U.S.C. 553 applies to this action, it is exempt from notice and comment because it constitutes a rule of procedure under 5 U.S.C. 553(b)(A). Alternatively, our implementation of this action without opportunity for public comment, effective immediately upon publication in the **Federal Register**, is based on the good cause exceptions in 5 U.S.C. 553(b)(B) and 553(d)(3). Pursuant to 5 U.S.C. 553(b)(B), we have determined that good cause exists to forgo the requirement to provide prior notice and an opportunity for public comment thereon for this rule as such procedures would be impracticable, unnecessary, and contrary to the public interest. We are temporarily postponing for 60 days after January 20, 2017, the effective date of this regulation pursuant to the previously noted memorandum from the White House. As a result, seeking public comment on this delay is unnecessary and contrary to the public interest. For these same reasons, we find good cause to waive the 30-day delay in effective date provided for in 5 U.S.C. 553(d).

**Authority:** 16 U.S.C. 1361–1407; 1531–1544; and 4201–4245, unless otherwise noted.

Dated: February 7, 2017.

**James W. Kurth,**

*Acting Director, U.S. Fish and Wildlife Service.*

[FR Doc. 2017–02865 Filed 2–9–17; 8:45 am]

**BILLING CODE 4333–15–P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 217

[Docket No. 160405311–6999–02]

RIN 0648–BF95

#### Taking and Importing Marine Mammals; Taking Marine Mammals Incidental to Rehabilitation of the Jetty System at the Mouth of the Columbia River: Jetty A, North Jetty, and South Jetty, in Washington and Oregon

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Final rule.

**SUMMARY:** NMFS, upon request of the U.S. Army Corps of Engineers (Corps), hereby issues a regulation to govern the unintentional taking of marine mammals incidental to the rehabilitation of the Jetty System at the Mouth of the Columbia River (MCR), over the course of five years. This regulation, which allows for the issuance of a Letter of Authorization (LOA) for the incidental take of marine mammals during the described activities and specified timeframes, prescribes the permissible methods of taking and other means of effecting the least practicable adverse impact on marine mammal species or stocks and their habitat, as well as requirements pertaining to the monitoring and reporting of such taking. **DATES:** Effective May 1, 2017, through April 30, 2022.

**ADDRESSES:** An electronic copy of the application, containing a list of references used in this document, and the associated Environmental Assessment (EA) and Finding of No Significant Impact (FONSI) may be obtained by telephoning the contact listed below (see **FOR FURTHER INFORMATION CONTACT**), or visiting the internet at: <http://www.nmfs.noaa.gov/pr/permits/incidental.htm>.

**FOR FURTHER INFORMATION CONTACT:** Rob Pauline, Office of Protected Resources, NMFS, (301) 427–8401.

#### SUPPLEMENTARY INFORMATION:

#### Executive Summary

This regulation, issued under the Marine Mammal Protection Act (MMPA) (16 U.S.C. 1361 *et seq.*), establishes a framework for authorizing the take of marine mammals incidental to the Corps’ rehabilitation of the Jetty System, including Jetty A, North Jetty and South Jetty at the Mouth of the

Columbia River in Washington and Oregon.

#### *Purpose and Need for This Regulatory Action*

NMFS received an application from the Corps requesting five-year regulations and authorization to take multiple species of marine mammals. We anticipate take to occur in the vicinity of the MCR Jetty System by Level B harassment incidental to the use of vibratory pile driving and pedestrian surveys of the jetties. This regulation is valid for five years from the date of issuance. Please see “Background” later in this document for definitions of harassment.

Section 101(a)(5)(A) of the MMPA (16 U.S.C. 1361 *et seq.*) directs the Secretary of Commerce to allow, upon request, the incidental, but not intentional taking of small numbers of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if, after notice and public comment, the agency makes certain findings and issues regulations. This regulation contains mitigation, monitoring, and reporting requirements.

#### *Legal Authority for the Regulatory Action*

Section 101(a)(5)(A) of the MMPA and the implementing regulations at 50 CFR part 216, subpart I provide the legal basis for issuing the five-year regulations and any subsequent Letters of Authorization.

#### *Summary of Major Provisions Within the Final Regulation*

The following provides a summary of some of the major provisions within this regulation for the MCR Jetty System rehabilitation project. We have determined that the Corps’ adherence to the mitigation, monitoring, and reporting measures listed later in this regulation would achieve the least practicable adverse impact on the affected marine mammals. They include:

- Establishment and monitoring of shutdown zones to reduce likelihood of injury to marine mammals;
- Establishment and monitoring of Level B harassment zones or zones of influence (ZOI) to record instances of behavioral harassment;
- Implementation of hydroacoustic monitoring plan to ensure that shutdown zones and ZOIs have been delineated appropriately; and
- Shutdown between May 1 and July 1 when killer whales are sighted within the ZOIs to avoid take of Southern Resident killer whales which are listed