

Dated: December 13, 2011.

**Paul Piquado,**

*Assistant Secretary for Import Administration.*

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## DEPARTMENT OF COMMERCE

### National Institute of Standards and Technology

[Docket Number: 111208744-1741-01]

#### Alternative Personnel Management System (APMS) at the National Institute of Standards and Technology

**AGENCY:** National Institute of Standards and Technology, Department of Commerce.

**ACTION:** Notice.

**SUMMARY:** This notice informs the public that the National Institute of Standards and Technology (NIST) is extending for six (6) months beginning on January 5, 2012, its APMS direct-hire authority pilot. NIST will continue piloting direct-hire authority under Title 5, CFR, Part 337, Subpart B for all positions within NIST in the Scientific and Engineering (ZP) career path at the Pay Band III and above, for Nuclear Reactor Operator positions in the Scientific and Engineering (ZT) career path at Pay Band III and above, and for all occupations for which there is a special rate under the General Schedule pay system.

**DATES:** This notice is effective on December 20, 2011.

**FOR FURTHER INFORMATION CONTACT:** Janet Hoffman at the National Institute of Standards and Technology, (301) 975-3185; or Valerie Smith at the U.S. Department of Commerce, (202) 482-0272.

#### SUPPLEMENTARY INFORMATION:

##### Background

In accordance with Public Law 99-574, the NIST Authorization Act for 1987, the Office of Personnel Management (OPM) approved a demonstration project plan, "Alternative Personnel Management System (APMS) at the National Institute of Standards and Technology (NIST)," and published the plan in the **Federal Register** on October 2, 1987. 52 FR 37082. The project plan has been modified twice to clarify certain NIST authorities (54 FR 21331 of May 17, 1989, and 55 FR 39220 of Sept. 25, 1990). The project plan and subsequent amendments were consolidated in the final APMS plan, which became

permanent on October 21, 1997, 62 FR 54604. NIST amended the plan on May 6, 2005, 70 FR 23996, which became permanent on June 6, 2005. NIST amended the plan again on July 15, 2008, 73 FR 40502, and that amendment became permanent on October 1, 2008.

On December 3, 2010, the Department of Commerce approved NIST's request to pilot direct-hire under Title 5, CFR, Part 337, Subpart B, for a period of one year for all positions within the Scientific and Engineering (ZP) career path at the Pay Band III and above, for Nuclear Reactor Operator positions in the Scientific and Engineering Technician (ZT) career path at Pay Band III and above, and for all occupations for which there is a special rate under the General Schedule (GS) pay system.

NIST received approval to gather data on the impact of direct-hire authority on preference eligibles, as well as information supporting the finding of a severe shortage of candidates for the positions covered under the direct-hire authority. On January 5, 2011, NIST published a **Federal Register** notice implementing the direct-hire pilot for a period of one year.

The APMS plan provides for modifications to be made as experience is gained, results are analyzed, and conclusions are reached on how the system is working. This notice formally modifies the APMS plan to align direct-hire procedures with OPM's direct-hire authority on a pilot basis for an additional six months. During this extended pilot period, NIST will be submitting a request to the Department of Commerce to implement direct-hire authority under Title 5, CFR, Part 337, Subpart B, on a permanent basis. The request will include a statistical analysis determining the impact of direct-hire authority on preference eligibles as well as a justification supporting the finding of a severe shortage of candidates in the covered positions. If additional time is required to complete review of NIST's request, the pilot may be extended for an additional six (6) months.

Dated: December 15, 2011.

**Kevin Kimball,**  
*Chief of Staff.*

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##### I. Executive Summary

The National Institute of Standards and Technology's (NIST) Alternative Personnel Management System (APMS) is designed to (1) improve hiring and allow NIST to compete more effectively for high-quality researchers through

direct hiring, selective use of higher entry salaries, and selective use of recruiting allowances; (2) motivate and retain staff through higher pay potential, pay-for-performance, more responsive personnel systems, and selective use of retention allowances; (3) strengthen the manager's role in personnel management through delegation of personnel authorities; and (4) increase the efficiency of personnel systems through installation of a simpler and more flexible classification system based on pay banding through reduction of guidelines, steps, and paperwork in classification, hiring, and other personnel systems, and through automation.

Since implementing the APMS in 1987, according to findings in the Office of Personnel Management's "Summative Evaluation Report National Institute of Standards and Technology Demonstration Project: 1988-1995," NIST has accomplished the following: NIST is more competitive for talent; NIST retained more top performers than a comparison group; and NIST managers reported significantly more authority to make decisions concerning employee pay. This modification builds on this success by extending the pilot on direct-hire authority under Title 5, CFR, Part 337, Subpart B, for a period of six (6) additional months.

This amendment modifies the October 21, 1997 **Federal Register** notice. Specifically, it enables NIST to hire, after public notice is given, any qualified applicant without regard to 5 U.S.C. 3309-3318, 5 CFR part 211, or 5 CFR part 337, subpart A for an additional period of six (6) months.

During this extended pilot period, NIST will be submitting a request to the Department of Commerce to implement direct-hire authority under Title 5, CFR, Part 337, Subpart B, on a permanent basis. The request will include a statistical analysis determining the impact of direct-hire authority on preference eligibles as well as a justification supporting the finding of a severe shortage of candidates in the covered positions. If additional time is required to complete review of NIST's request, the pilot may be extended for an additional six (6) months.

NIST will continually monitor the effectiveness of this amendment.

##### II. Basis for APMS Plan Modification

Section 3304 (c) of title 5, United States Code, provides agencies with the authority to appoint candidates directly to jobs for which OPM determines that there is a severe shortage of candidates or a critical hiring need.

In 1987 with the approval of the NIST APMS (52 FR 37082), and in 1997 when the APMS plan was modified (62 FR 54604), OPM concurred that all occupations in the ZP career path at the band III and above constitute a shortage category; Nuclear Reactor Operator positions in the ZT Career Path at the Pay Band III and above constitute a shortage category; and all occupations for which there is a special rate under the General Schedule pay system constitute a shortage category.

OPM's direct-hire authority enables agencies to hire, after public notice is given, any qualified application without regard to 5 U.S.C. 3309-3318, 5 CFR part 211, or 5 CFR part 337, subpart A. NIST's APMS allows the NIST Director to modify procedures if no new waiver from law or regulation is added. Given this modification is in accordance with existing law and regulation, the NIST Director is authorized to make the changes described in this notice. The modification to our final **Federal Register** Notice, dated October 21, 1997, with respect to our Staffing authorities is provided below.

### III. Changes in the APMS Plan

The APMS at the NIST, published in the **Federal Register** October 21, 1997 (62 FR 54604) is amended as follows:

1. The subsection titled: "Direct Examination and Hiring" is deleted.
2. The subsection titled "Direct Hire: Critical Shortage Highly Qualified Candidates" is deleted.
3. The information under the subsection titled: "NIST Applicant Supply File" is replaced with: NIST advertises the availability of job opportunities in Direct-Hire occupations by posting on the OPM USAJOBS Web site. NIST will follow internal Direct Hire procedures for accepting applications.
4. The subsection titled: "Referral Procedures for Direct Examination and Hiring and Agency Based Staffing Authorities" is deleted.
5. A new subsection titled: "Referral Procedures for Direct-Hire" is added and the information under this subsection is as follows: After public notice is given, a qualified candidate may be referred without regard to 5 U.S.C. 3309-3318, 5 CFR part 211, or 5 CFR part 337, subpart A.
6. The subsection titled: "Direct Referral" is deleted.
7. The subsection titled: "Rating and Ranking" is deleted.

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

RIN 0648-XA873

#### Endangered Species; File No. 15566

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

**ACTION:** Notice; receipt of application for a permit modification.

**SUMMARY:** Notice is hereby given that South Carolina Department of Natural Resources, Marine Resources Division, Charleston, SC 29422-2559 [Responsible Party: Mike Arendt], has requested a modification to scientific research Permit No. 15566.

**DATES:** Written, telefaxed, or email comments must be received on or before January 19, 2012.

**ADDRESSES:** The modification request and related documents are available for review by selecting "Records Open for Public Comment" from the Features box on the Applications and Permits for Protected Species (APPS) home page, <https://apps.nmfs.noaa.gov/>, and then selecting File No. 15566 from the list of available applications. These documents are also available upon written request or by appointment in the following offices:

Permits and Conservation Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910; phone (301) 427-8401; fax (301) 713-0376; and Southeast Region, NMFS, 263 13th Ave. South, St. Petersburg, FL 33701; phone (727) 824-5312; fax (727) 824-5309.

Written comments on this application should be submitted to the Chief, Permits and Conservation Division:

- By email to [NMFS.Pr1Comments@noaa.gov](mailto:NMFS.Pr1Comments@noaa.gov) (include the File No. in the subject line of the email),
- By facsimile to (301) 713-0376, or
- At the above address.

Those individuals requesting a public hearing should submit a written request to the Chief, Permits and Conservation Division at the address listed above. The request should set forth the specific reasons why a hearing on this application would be appropriate.

**FOR FURTHER INFORMATION CONTACT:** Kristy Beard or Amy Hapeman, (301) 427-8401.

**SUPPLEMENTARY INFORMATION:** The subject modification to Permit No. 15566, issued on April 8, 2011 (76 FR

22877), is requested under the authority of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*) and the regulations governing the taking, importing, and exporting of endangered and threatened species (50 CFR 222-226).

Permit No. 15566 authorizes capture by trawl up to 345 loggerhead (*Caretta caretta*), 29 Kemp's ridley (*Lepidochelys kempii*), 9 green (*Chelonia mydas*), 1 leatherback (*Dermochelys coriacea*), and 1 hawksbill (*Eretmochelys imbricata*) sea turtle in order to assess temporal change in catch rates, size distributions, sex and genetic ratios, and health of sea turtles. Captures occur annually in coastal waters between Winyah Bay, SC and St. Augustine, FL. Turtles may be handled, blood sampled, measured, flipper and passive integrated transponder (PIT) tagged, photographed, and released. A subsample of animals are subject to barnacle, keratin, fecal, and tissue sampling, cloacal swabs, and attachment of satellite and/or VHF transmitters. Up to five loggerhead, one Kemp's ridley, one green, one leatherback, and one hawksbill sea turtle could be accidentally killed over the life of the permit. The permit holder requests authorization to increase the number of authorized Kemp's ridleys from 29 to 79 turtles annually. The 50 additional sea turtles would be captured, handled, blood sampled, measured, flipper and PIT tagged, photographed, and released. No other changes would be made to the permit. The purpose of the proposed research remains the same.

Dated: December 14, 2011.

**P. Michael Payne,**

Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2011-32543 Filed 12-19-11; 8:45 am]

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

RIN 0648-XA874

#### Marine Mammals; File No. 15240

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

**ACTION:** Notice; receipt of application.

**SUMMARY:** Notice is hereby given that the NMFS Pacific Islands Fisheries Science Center (PIFSC), 2570 Dole Street, Honolulu, Hawaii 96822 (Responsible Party: Frank A. Parrish,