

III. Changes to the APMS Plan

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 piloting direct-hire authority for the General Engineering, 801 series and General Physical Science, 1301 series under 5 U.S.C. 3304(a)(3) for a period of twelve (12) 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 a period of twelve (12) months. During this pilot period, NIST will gather data on the impact of direct-hire authority on preference eligibles. NIST will also include data from the previous pilot's expiration date of June 5, 2012. If additional time is required to complete a review of the data, 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(a)(3) 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.

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.

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 Pay 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.

III. Changes in the APMS Plan

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

1. The information under the subsection titled: "Direct Hire: Critical Shortage Occupations" is replaced with:

NIST uses direct-hire procedures for categories of occupations which require skills that are in short supply. All Nuclear Reactor Operator positions at the Pay Band III and above in the ZT Career Path constitute a shortage category, and all occupations at the Pay Band III and above in the ZP Career Path constitute a shortage category except for the Information Technology Management, 2210 series; the General Engineering, 801 series; and the General Physical Science, 1301 series. NIST will pilot direct-hire procedures for the General Engineering, 801 series and the General Physical Science, 1301 series for a period of twelve (12) months. Any positions in these categories may be filled through direct-hire procedures in accordance with 5 U.S.C. 3304(a)(3). 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.

NIST intends to publish a consolidated plan that reflects all amendments to the APMS in FY13.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XC184

Marine Mammals; File No. 17403

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

ACTION: Notice; receipt of application.

SUMMARY: Notice is hereby given that Robert Pilley, Leighside, Bridge Road, Leighwoods, Bristol, BS8 3PB, United Kingdom, has applied in due form for a permit to conduct commercial/educational photography on bottlenose dolphins (*Tursiops truncatus*).

DATES: Written, telefaxed, or email comments must be received on or before September 24, 2012.

ADDRESSES: The application and related documents are available for review 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 Avenue South, Saint 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, at the address listed above. Comments may also be submitted by facsimile to (301) 713–0376, or by email to [NMFS](mailto:Pr1Comments@noaa.gov). *Pr1Comments@noaa.gov*. Please include the File No. in the subject line of the email comment.

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: Colette Cairns or Carrie Hubbard, (301) 427–8401.

SUPPLEMENTARY INFORMATION: The subject permit is requested under the authority of the Marine Mammal Protection Act of 1972, as amended (MMPA; 16 U.S.C. 1361 *et seq.*) and the regulations governing the taking and importing of marine mammals (50 CFR part 216). Section 104(c)(6) provides for photography for educational or commercial purposes involving non-endangered and non-threatened marine mammals in the wild.

Mr. Pilley requests a five-year photography permit to film bottlenose dolphin strand-feeding events in the estuaries and creeks of Bull Creek and around Hilton Head, South Carolina, and mud-plume feeding events in the waters of the Florida Keys. Filmmakers plan to use three filming platforms: a static, remotely-operated camera placed on the mudflats, a radio-controlled camera helicopter, and a radio-controlled camera boat. For both locations combined, up to 196 dolphins annually may be approached and filmed. Filming would occur over 14 days in each location. Footage would be used in two wildlife education documentaries: "Earthflight 3D", and "Dolphins-Spy in the Pod", both for the British Broadcasting Corporation and Discovery Channel.

In compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), an initial determination has been made that the activity proposed is categorically excluded from the requirement to prepare an environmental assessment or environmental impact statement.

Concurrent with the publication of this notice in the **Federal Register**, NMFS is forwarding copies of the application to the Marine Mammal Commission and its Committee of Scientific Advisors.

Dated: August 21, 2012.

Tammy C. Adams,

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

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648-XC171

Endangered and Threatened Species; Take of Anadromous Fish

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

ACTION: Receipt of application for scientific research and enhancement.

SUMMARY: Notice is hereby given that NMFS has received one scientific research and enhancement permit application request relating to anadromous species listed under the Endangered Species Act (ESA). The proposed research activities are intended to increase knowledge of the species and to help guide management

and conservation efforts. The application and related documents may be viewed online at: https://apps.nmfs.noaa.gov/preview/preview_open_for_comment.cfm. These documents are also available upon written request or by appointment by contacting NMFS by phone (916) 930-3607 or fax (916) 930-3629.

DATES: Written comments on the permit applications must be received at the appropriate address or fax number (see **ADDRESSES**) no later than 5 p.m. Pacific standard time on September 24, 2012.

ADDRESSES: Written comments on either application should be submitted to the Protected Resources Division, NMFS, 650 Capitol Mall, Room 5-100, Sacramento, CA 95814. Comments may also be submitted via fax to (916) 930-3629 or by email to FRNpermits.SR@noaa.gov.

FOR FURTHER INFORMATION CONTACT:

Amanda Cranford, Sacramento, California, ph.: 916-930-3706, email: Amanda.Cranford@noaa.gov.

SUPPLEMENTARY INFORMATION:

Species Covered in This Notice

This notice is relevant to federally threatened California Central Valley (CCV) steelhead (*Oncorhynchus mykiss*), threatened Central Valley (CV) spring-run Chinook salmon (*O. tshawytscha*), endangered Sacramento River (SR) winter-run Chinook salmon (*O. tshawytscha*), and threatened southern distinct population segment of North American (sDPS) green sturgeon (*Acipenser medirostris*).

Authority

Scientific research permits are issued in accordance with section 10(a)(1)(A) of the ESA of 1973 (16 U.S.C. 1531-1543) and regulations governing listed fish and wildlife permits (50 CFR parts 222-226). NMFS issues permits based on findings that such permits: (1) Are applied for in good faith; (2) if granted and exercised, would not operate to the disadvantage of the listed species which are the subject of the permits; and (3) are consistent with the purposes and policies set forth in section 2 of the ESA. The authority to take listed species is subject to conditions set forth in the permits.

Anyone requesting a hearing on the application listed in this notice should set out the specific reasons why a hearing on the application(s) would be appropriate (see **ADDRESSES**). Such hearings are held at the discretion of the Assistant Administrator for Fisheries, NMFS.

Application Received

Permit 17077

The University of California, Davis is requesting a 4-year scientific research and enhancement permit to take adult and juvenile CCV steelhead, SR winter-run Chinook salmon, CV spring-run Chinook salmon, and sDPS green sturgeon associated with research activities in the Cache Slough Complex, Sherman Lake, and Suisun Marsh in the San Francisco estuary, California. In the studies described below, researchers do not expect to kill any listed fish but a small number, up to 20 percent (equivalent to one fish), may die as an unintended result of the research activities.

The Sacramento-San Joaquin Delta is dominated by deep-water aquatic habitats that tend to support invasive fishes such as largemouth bass and not native species. Relatively little shallow water and marsh (SWM) habitat remains, although it dominated the Delta before the 1850s. In other estuaries, such areas are critical for fish reproduction, fish rearing, and fish foraging. However, in the San Francisco Estuary (SFE), there are limited data on fish usage of such habitat, in part because of the difficulty in effectively sampling SWM regions. The purpose of this project is to develop better understanding of how physical habitat, flow and other factors interact to maintain assemblages of native and non-native aquatic species in the upper SFE.

The project will span three distinct regions across the SFE: (1) The Cache-Lindsay Slough complex, (2) the Sherman Lake complex and (3) Suisun Marsh. The survey methods will be the same for each of these regions, and will include otter trawling, beach seining and electrofishing. Water quality and habitat data will be collected concurrently.

The project specifically targets splittail and other native minnow populations. Some incidental take of ESA listed salmonids and sDPS green sturgeon may be expected. All sampled fish will be placed in a bucket of aerated, ambient water, examined for responsiveness and returned to the water as soon as possible with minimal handling that will include species identification and length estimates.

Dated: August 21, 2012.

Dwayne Meadows,

Acting Chief, Endangered Species Division, Office of Protected Resources, National Marine Fisheries Service.

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