

## 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 September 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 published an amendment on May 6, 2005 (70 FR 23996), which became permanent on June 6, 2005.

The 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. During this pilot period, NIST will be gathering data on the impact of direct-hire authority on veterans preference eligibles as well as information supporting whether or not there is a severe shortage of candidates for the positions covered under the direct-hire authority. Veterans preference is the preferential treatment given to qualified veterans of the United States armed forces under Federal law.

Dated: December 28, 2010.

**Charles H. Romine,**

*Acting Associate Director for Laboratory Programs.*

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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, according to findings in the Office of Personnel Management's "Summative Evaluation Report National Institute of Standards and Technology Demonstration Project: 1988-1995," NIST 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 under 5 CFR part 337, subpart B, for a period of one-year.

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 one-year. During the one-year pilot period, NIST will gather data on the impact of direct-hire authority on preference eligibles as well as information supporting whether or not there is a severe shortage of candidates for the positions covered under the direct-hire authority.

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 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 would 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 Institute of Standards and Technology

#### National Conference on Weights and Measures 2011 Interim Meeting

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

**ACTION:** Notice.

**SUMMARY:** The National Conference on Weights and Measures (NCWM) 2011 Interim Meeting will be held January 23 to 26, 2011. Publication of this notice on the NCWM's behalf is undertaken as a public service. The meetings are open to the public but a paid registration is required. Please see registration information in the **SUPPLEMENTARY INFORMATION** section below.

**DATES:** The meeting will be held on January 23 to 26, 2011.

**ADDRESSES:** The meeting will be held at the Fairmont Dallas, 1717 North Akard Street, Dallas, Texas 75201.

**FOR FURTHER INFORMATION CONTACT:**

Carol Hockert, Chief, NIST, Weights and Measures Division, 100 Bureau Drive, Stop 2600, Gaithersburg, MD 20899–2600 or by telephone (301) 975–5507 or by e-mail at [Carol.Hockert@nist.gov](mailto:Carol.Hockert@nist.gov).

**SUPPLEMENTARY INFORMATION:** The NCWM is an organization of weights and measures officials of the states, counties, and cities of the United States, Federal agencies, and private sector representatives. These meetings bring together government officials and representatives of business, industry, trade associations, and consumer organizations on subjects related to the field of weights and measures technology, administration and enforcement. NIST participates to promote uniformity among the states in laws, regulations, methods, and testing equipment that comprise the regulatory control of commercial weighing and measuring devices and other trade and commerce issues. To register to attend the meeting, please see NCWM Publication 15 “Interim Meeting Agenda” which contains meeting agendas, registration forms and hotel reservation information at <http://www.ncwm.net> or <http://www.nist.gov/owm> on the Internet.

The following are brief descriptions of some of the significant agenda items that will be considered along with other issues at the NCWM Interim Meeting. Comments will be taken on these and other issues during several public comment sessions. At this stage, the items are proposals. This meeting also includes work sessions in which the Committees may also accept comments and where they will finalize recommendations for NCWM consideration and possible adoption at its 2011 Annual Meeting to be held at the Holiday Inn Downtown at the Park 200 South Pattee Street, Missoula, Montana 59802, on July 17 to 21, 2011. The Committees may withdraw or carry over items that need additional development.

The Specifications and Tolerances Committee (S&T Committee) will consider proposed amendments to NIST Handbook 44, “Specifications, Tolerances, and other Technical Requirements for Weighing and Measuring Devices (NIST Handbook 44).” Those items address weighing and measuring devices used in commercial applications, that is, devices that are used to buy from or sell to the public

or used for determining the quantity of product sold among businesses.

Issues on the agenda of the NCWM Laws and Regulations Committee (L&R Committee) relate to proposals to amend NIST Handbook 130, “Uniform Laws and Regulations in the area of legal metrology and engine fuel quality” and NIST Handbook 133 “Checking the Net Contents of Packaged Goods.”

**NCWM Specifications and Tolerances Committee**

The following item is a proposal to amend NIST Handbook 44:

*General Code*

The S&T Committee will consider Item 310–3 G–A.6. Nonretroactive Requirements (Remanufactured Equipment). The purpose of this proposal is to clarify the intent of the position issued by the NCWM in 2001 regarding the application of nonretroactive requirements to devices which have been determined to have been “remanufactured.” The item under consideration includes a proposed to amend subparagraphs (a) and (b) of NIST Handbook 44’s General Code paragraph G–A.6. Nonretroactive Requirements to read as follows: G–A.6. Nonretroactive Requirements.— “Nonretroactive” requirements are enforceable after the effective date for (a) Devices manufactured and remanufactured within a state after the effective date; (b) both new, and used, and remanufactured devices brought into a state after the effective date; and (c) devices used in noncommercial applications which are placed into commercial use after the effective date. Nonretroactive requirements are not enforceable with respect to devices that are in commercial service in the state as of the effective date or to new equipment in the stock of a manufacturer or a dealer in the state as of the effective date. [Nonretroactive requirements are printed (in NIST Handbook 44) in italic type.]

*Special Meeting Announcement:* A Task Group on Retail Motor Fuel Dispenser (RMFD) Price Posting and Computer Capability will meet from 1:30 to 4 p.m. on January 23, 2011 to develop criteria for possible inclusion in the Liquid Measuring Device Code (LMD) related to price posting and computing capability on RMFDs to reflect current market practices in posting fuel prices.

*NCWM Laws and Regulations Committee*

The following items are proposals to amend NIST Handbook 130 or NIST Handbook 133:

*Method of Sale of Commodities Regulation*

Item 232–1. Polyethylene Products, Method of Sale Regulation Section 2.13.4. “Declaration of Weight.”—The L&R Committee will consider a proposal to revise the density value used to calculate the net weights on some packages of polyethylene products. The intent of the proposal is to recognize heavier density plastics are being used in the production of some sheeting and bag products. (See also related Item 260–2 under NIST Handbook 133, Chapter 4.7. Polyethylene Sheeting-Test Procedure—Footnote to Step 3 in the complete agenda of the L&R Committee in NCWM Publication 15).

Item 232–2. Proposed Method of Sale Regulation for Packages of Printer Ink and Toner Cartridges—The L&R Committee will consider a proposed method of sale regulation to clarify the labeling requirements for packaged inkjet and toner cartridges to ensure that consumers are informed about the net quantity of contents of these products so value comparisons can be made.

*Special Meeting Announcements*

The Task Group on Printer Ink and Toner Cartridges will meet on January 23, 2011, from 1:30 to 4 p.m.

The Fuel and Lubricants Subcommittee will meet on January 23, 2011, from 1:30 to 4 p.m. to consider proposals related to requirements of a wide variety of engine fuels.

*NIST Handbook 133*

Items 260–1 & 260–3. Guidance on Allowing for Moisture Loss and Other Revisions & Moisture Allowance for Pasta Products—The L&R Committee will consider a proposal to clarify the handbook’s guidance on making allowances for moisture loss that occurs in some packaged goods. The L&R Committee will also consider a proposal to adopt a specific 3% moisture allowance for macaroni, noodle, and like products (pasta products).

Item 260–4. Seed Count for Agricultural Seeds—The L&R Committee will consider a proposal that the NCWM reconsider a method of sale and test procedures for use with packaged agricultural seed (specifically corn seed, soybean seed, field bean seed, and wheat seed) sold by “count” adopted at the 2010 NCWM Annual Meeting.

Dated: December 29, 2010.

**Charles H. Romine,**  
*Acting Associate Director for Laboratory Programs.*

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