

that we would otherwise ordinarily make under the statute.

### Implementation

The methodological change detailed above will be applied to future administrative NME proceedings involving merchandise from the PRC and Vietnam initiated after publication of this notice.

Dated: June 12, 2012.

**Paul Piquado,**

*Assistant Secretary for Import Administration.*

[FR Doc. 2012-14964 Filed 6-18-12; 8:45 am]

**BILLING CODE 3510-DS-P**

## DEPARTMENT OF COMMERCE

### National Institute of Standards and Technology

[Docket Number 120531129-2129-01]

#### 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 of Modifications with Request for Comment.

**SUMMARY:** This notice changes the National Institute of Standards and Technology's (NIST) Alternative Personnel Management System (APMS) published October 21, 1997 (62 FR 54604, 54606), May 6, 2005 (70 FR 23996), July 15, 2008 (73 FR 40500), and July 21, 2009 (74 FR 35841 and 74 FR 35843) to (1) eliminate the required bonus for employees at the cap of their pay band who are appraised at the top two rating levels, and (2) solidify the three-year probationary period, a hallmark of the original NIST demonstration project and later APMS.

**DATES:** This notice is effective on June 19, 2012. Comments will be accepted until 5:00 p.m. Eastern Time on July 19, 2012.

**ADDRESSES:** Send or deliver comments to Amy K. Cubert, Supervisory Human Resources Specialist, National Institute of Standards and Technology, Building 101, Room A-123, 100 Bureau Drive Mail Stop 1720, Gaithersburg, MD 20899-1720, Fax: (301) 948-6107 or email comments to [ppschanges@nist.gov](mailto:ppschanges@nist.gov).

**FOR FURTHER INFORMATION CONTACT:** For questions or comments, please contact Amy K. Cubert at the National Institute of Standards and Technology, (301) 975-3006.

**SUPPLEMENTARY INFORMATION:**

### Background

In accordance with Public Law 99-574, the National Bureau of Standards Authorization Act for fiscal year 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 published demonstration project plan was 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 three subsequent amendments to the final APMS plan: One on May 6, 2005 (70 FR 23996), which became effective upon publication in the **Federal Register**; one on July 15, 2008 (73 FR 40500), which became effective on October 1, 2008; and one on July 21, 2009 (74 FR 35841), which became effective upon publication in the **Federal Register**. NIST also published a correction on July 21, 2009 (74 FR 35843), which became effective upon publication in the **Federal Register**.

The final APMS plan, as amended, 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 (1) eliminate the mandatory minimum bonus for pay-capped employees receiving either a *Superior Contributor* or *Exceptional Contributor* rating of record, and (2) to solidify the three-year probationary period, a feature of the original demonstration project and subsequent Alternative Personnel Management System, for employees in the Scientific and Engineering career path hired into the Excepted and Competitive Service. Comments will be considered and any changes deemed necessary will be made.

Dated: June 13, 2012.

**David Robinson,**

*Associate Director for Management Resources.*

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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, a pay-for-performance system, 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 (52 FR 37082, October 2, 1987). Since implementing the APMS, NIST is more competitive for talent, and NIST managers report significantly more authority to make decisions concerning employee pay.

This amendment seeks to better ensure fiscal responsibility and budget accountability within the pay-for-performance component of the APMS. It also seeks to ensure that management has the ability to adequately evaluate its scientific and engineering professional employees for research results, which may take longer than one year.

NIST's APMS performance rating system is a pay-for-performance system in which eligible employees may receive pay increases and bonuses based on performance. Pay increases are based on an annually determined percentage of the mid-point salary for each pay band in a career path and linked directly to the top four performance ratings. One of the characteristics of the NIST APMS performance management system is a required bonus for high-performing employees who cannot receive a pay increase because they are at the top of their pay band. Specifically, salary-capped employees receiving a *Superior Contributor* or *Exceptional Contributor* rating must receive a bonus at least equivalent to the salary increase that they would have received if their salaries were not capped.

Another feature of NIST's APMS is an extended probationary period of up to three years for employees in the Scientific and Engineering career path (classified as "ZP"). The extended probationary period was an original component of the NIST Demonstration Project and later in the APMS. The purpose of the extended probationary period was to allow more time to assess scientific and engineering professionals because research results can often be

difficult to evaluate in one year. Since the finalizing of the NIST APMS in 1997, the United States Court of Appeals for the Federal Circuit decided two cases, *Van Wersch v. Department of Health & Human Services*, 197 F.3d 1144 (Fed. Cir. 1999), and *McCormick v. Department of the Air Force*, 307 F.3d 1339 (Fed. Cir. 2002), which affected NIST's ability to fully utilize its extended probationary period.

This amendment modifies the APMS Plan, which was last amended in July 2009. Specifically, NIST will eliminate the mandatory minimum bonus for employees who are appraised at the top two rating levels, "Superior Contributor" and "Exceptional Contributor." It will also identify waiver language needed to retain the original system feature of an extended probationary period of up to three years for employees in the Scientific and Engineering career path hired into the Excepted and Competitive Service. NIST will continually monitor the effectiveness of this amendment.

## II. Basis for APMS Plan Modification

### A. Performance Bonuses

The need to modify the current NIST APMS Pay for Performance System (PPS) surfaced in early 2011 after the implementation of a two-year pay freeze for Federal employees and the budget crisis that was resolved to narrowly avert a government shutdown. These actions reinforced the uncertainty of the budget for NIST, and, without additional funding for bonuses and pay increases, NIST realized that measures had to be taken to ensure fiscal responsibility in the application of its PPS.

Subsequently, in June 2011, the Office of Management and Budget (OMB) and the Office of Personnel Management (OPM) issued a memorandum titled "Guidance on Awards for Fiscal Years 2011 and 2012,"<sup>1</sup> implementing budgetary limits on monetary awards, which had a significant impact on NIST's PPS. In response to these limitations, in August 2011, the Performance Management Board (PMB), responsible for governing and overseeing NIST's APMS, decided to exercise its authority and approved an exception to normal procedures that suspended the mandatory minimum bonus for pay-capped employees who received Exceptional Contributor and Superior Contributor ratings in Fiscal Year 2011. As a result, all performance bonuses in FY11 were granted on a discretionary basis, subject to

management controls to ensure that higher-rated employees in the same career path and pay band received commensurate bonuses.

In an effort to more closely align NIST's APMS performance system with the Administration's focus on fiscal responsibility and careful management of all resources, NIST is amending the provisions of the APMS to remove the requirement that a salary-capped employee with an Exceptional Contributor or Superior Contributor rating must receive a bonus at least equivalent to the salary increase that would have been received if the employee's salary were not capped.

### B. Three-Year Probationary Period

Since its inception in 1987, NIST has had a provision, first in its OPM-approved Demonstration Project and later in its approved APMS, for an extended probationary period of up to three years for employees in the Scientific and Engineering career path (ZP). Appropriate waivers of laws, rules, and regulations were made at the time. Since then, the Federal Circuit issued two decisions (noted above) that affected NIST's ability to fully exercise the extended probationary period. This notice amends the APMS by identifying the appropriate waivers to permit NIST to apply an extended probationary period of up to three years to employees in the Scientific and Engineering career path.

## III. Changes in the APMS Plan

The APMS at NIST, published in the **Federal Register** on October 21, 1997 (62 FR 54604), May 6, 2005 (70 FR 23996), July 15, 2008 (73 FR 40500), and July 21, 2009 (74 FR 35841 and 74 FR 35843), is amended as follows:

1. Performance Bonuses: The subsection titled "Performance Bonuses" (70 FR 23996, 23999, May 6, 2005) is deleted in its entirety and replaced with the following:

#### *"Performance Bonuses"*

Bonuses are the only cash awards linked to the NIST APMS pay-for-performance system. They are awarded at the end of the performance rating period and may be granted in conjunction with performance pay increases. A pay pool manager may award a bonus to any employee with a performance rating of Contributor or higher. A pay pool manager is a line manager who manages his or her organization's pay increase and bonus fund and has final decision authority over the performance ratings and bonuses of subordinate employees."

2. Authorities and Waiver of Laws and Regulations Required: The subsection titled "Authorities and Waiver of Laws and Regulations Required" (62 FR 54604, 54613, October 21, 1997) is deleted in its entirety and replaced with the following:

"Authorities and Waiver of Laws and Regulations Required" Public Law 99-574 gave the National Institute of Standards and Technology (NIST) the authority to experiment with several specific personnel system innovations which are otherwise prohibited by law and regulations. In addition to the authorities granted by the original NIST project legislation, the following waivers of law and regulation are included:

#### *Title 5, U.S. Code*

- Section 5304, Locality-based comparability payments.
- Section 5333, Minimum rate for new appointments.
- Section 5753-5754, except that relocation bonuses under section 5753 continue to apply.
- Subchapter VI of Chapter 53 Grade and Pay Retention, (To the extent necessary to allow the following modifications: (1) Pay retention does not apply to reductions in pay caused solely by geographic movement; and (2) pay retention does not apply to conversions to the General Schedule as long as the employee's total rate of pay is not reduced).
- Section 7501(1), Adverse actions. (waiving the language "or who has completed 1 year of current continuous employment in the same or similar positions under other than a temporary appointment limited to 1 year or less;" waived only for positions in the Scientific and Engineering Career path).
- Sections 7511(a)(1)(ii), 7511(a)(1)(B), 7511(a)(1)(C)(ii), Adverse actions (waived only for positions in the Scientific and Engineering Career path).
- Section 7512(4), Adverse actions, (To the extent necessary to allow the following modifications: (1) Exclude reductions in pay that are solely due to recomputation upon geographic movement; and (2) exclude conversions to the General Schedule that do not result in a reduction in the employee's total rate of pay).

#### *Title 5, Code of Federal Regulations*

- Sections 315.801, Probationary period; when required, (waived only for positions in the Scientific and Engineering Career path).
- Section 315.802, Length of probationary period, (waived only for positions in the Scientific and Engineering Career path).

<sup>1</sup> <http://www.chcoc.gov/transmittals/TransmittalDetails.aspx?TransmittalID=3997>.

- Section 315.803(b), Agency action during probationary period (general) (waived only for positions in the Scientific and Engineering Career path).

- Section 315.805, Termination of probationers for conditions arising before appointment (waived only for positions in the Scientific and Engineering Career path).

- Section 315.806, Appeal rights to the Merit Systems Protection Board (waived only for employees in the Scientific and Engineering Career path serving a probationary or trial period).

- Section 351.401, Determining Retention Standing.

- Section 351.402, Competitive area in RIF.

- Section 351.403, Competitive level in RIF.

- Sections 351.504(a) and (d), Credit for Performance.

- Section 351.701, Assignment involving displacement.

- Section 531.203, Minimum rate for new appointments.

- Part 575, Subpart A Recruitment Bonuses.

- Part 575, Subpart C Retention Allowances.

- Sections 752.401(c)(2), 752.401(c)(3), 752.401(c)(5), Coverage (waived only for positions in the Scientific and Engineering Career path). Department Administrative Orders.

- Section 202–302, Employment in the Excepted Service (waived to the extent inconsistent with the APMS).

- Section 202–315, Probationary and Trial Periods (waived to the extent inconsistent with the APMS).

[FR Doc. 2012–14918 Filed 6–18–12; 8:45 am]

**BILLING CODE 3510–13–P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### Proposed Information Collection; Comment Request; Western and Central Pacific Fisheries Convention Vessel Information Family of Forms

**AGENCY:** National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Notice.

**SUMMARY:** The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995.

**DATES:** Written comments must be submitted on or before August 20, 2012.

**ADDRESSES:** Direct all written comments to Jennifer Jessup, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6616, 14th and Constitution Avenue NW., Washington, DC 20230 (or via the Internet at [Jjessup@doc.gov](mailto:Jjessup@doc.gov)).

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information or copies of the information collection instrument and instructions should be directed to Tom Graham, 808–944–2219 or [Tom.Graham@noaa.gov](mailto:Tom.Graham@noaa.gov)

#### SUPPLEMENTARY INFORMATION:

##### I. Abstract

This request is for an extension of a currently approved information collection.

National Marine Fisheries Service (NMFS) has issued regulations under authority of the Western and Central Pacific Fisheries Convention Implementation Act (WCPFCIA; 16 U.S.C. 6901 *et seq.*) to carry out the obligations of the United States under the Convention on the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean (Convention), including implementing the decisions of the Commission for the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean (Commission). The regulations include requirements for the owners or operators of U.S. vessels to: (1) Apply for and obtain a WCPFC Area Endorsement if the vessel is used for fishing for highly migratory species on the high seas in the Convention Area (50 CFR 300.212), and (2) complete and submit a Foreign Exclusive Economic Zone (EEZ) Form if the vessel is used for fishing for highly migratory species in the Convention Area in areas under the jurisdiction of any nation other than the United States (50 CFR 300.213).

The application for WCPFC Area Endorsements calls for specified information about the vessel and its operator that is not already collected via the application for high seas fishing permits issued under 50 CFR 300.13. The Foreign EEZ Form calls for specified information about the vessel, its owners and operators and any fishing authorizations issued by other nations.

This information collected under the two requirements is used by NOAA, the U.S. Coast Guard, and the Commission to monitor the size and composition of the HMS fleets in the Convention Area for compliance-related and scientific purposes.

##### II. Method of Collection

Respondents must submit some of the information by mail or in person via paper forms, and have a choice of submitting some of the information electronically, by mail, or in person.

##### III. Data

*OMB Control Number:* 0648–0595.

*Form Number:* None.

*Type of Review:* Regular submission (extension of a currently approved information collection).

*Affected Public:* Business or other for-profit organizations; individuals or households.

*Estimated Number of Respondents:* 63.

*Estimated Time per Response:* WCPFC Area Endorsement Application, 60 minutes; Foreign EEZ Form, 90 minutes.

*Estimated Total Annual Burden Hours:* 69.

*Estimated Total Annual Cost to Public:* \$63 in recordkeeping/reporting costs.

##### IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: June 14, 2012.

**Gwellnar Banks,**

*Management Analyst, Office of the Chief Information Officer.*

[FR Doc. 2012–14852 Filed 6–18–12; 8:45 am]

**BILLING CODE 3510–22–P**