

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 (OPM'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 implementing direct-hire authority under 5 U.S.C. 3304(a)(3) on a permanent basis.

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 on a permanent basis.

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 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:* "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. 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.

4. *The subsection titled:* "NIST Applicant Supply File" is deleted.

5. *The subsection titled:* "Referral Procedures for Direct Examination and Hiring and Agency Based Staffing Authorities" is deleted. The information under this subsection titled: "1. Direct Referral" and "2. Rating and Ranking" is also deleted.

6. *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.

NIST intends to publish a consolidated plan that reflects all amendments to the APMS in FY13. [FR Doc. 2012–19812 Filed 8–10–12; 8:45 am]

BILLING CODE 3510–13–P

## DEPARTMENT OF COMMERCE

### National Institute of Standards and Technology

### National Institute of Standards and Technology Performance Review Board Membership

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

**ACTION:** Notice.

**SUMMARY:** This notice lists the membership of the National Institute of Standards and Technology Performance Review Board (NIST PRB) and supersedes the list published on September 9, 2011.

**DATES:** The changes to the NIST PRB membership list announced in this notice are effective on August 13, 2012.

**FOR FURTHER INFORMATION CONTACT:** Didi Hanlein at the National Institute of Standards and Technology, (301) 975–3000 or by email at [desiree.hanlein@nist.gov](mailto:desiree.hanlein@nist.gov).

**SUPPLEMENTARY INFORMATION:** The National Institute of Standards and Technology Performance Review Board (NIST PRB or Board) reviews performance appraisals, agreements, and recommended actions pertaining to employees in the Senior Executive Service and ST–3104 employees. The Board makes recommendations to the appropriate appointing authority concerning such matters so as to ensure the fair and equitable treatment of these individuals.

This notice lists the membership of the NIST PRB and supersedes the list published in the **Federal Register** on September 9, 2011 (76 FR 55880).

### NIST PRB Members

Delwin Brockett (C), Chief Information Officer, National Institute of Standards & Technology, Gaithersburg, MD 20899, Appointment Expires: 12/31/13.  
Robert Dimeo (C), Director, NIST Center for Neutron Research, National Institute of Standards & Technology, Gaithersburg, MD 20899, Appointment Expires: 12/31/12.  
Stella Fiotes (C) (alternate), Chief Facilities Management Officer, National Institute of Standards & Technology, Gaithersburg, MD 20899, Appointment Expires: 12/31/12.

Ellen Herbst (C), Senior Advisor for Policy and Program Integration, Office of the Deputy Secretary, Department of Commerce, Washington, DC 20230, Appointment Expires: 12/31/2012.

Anna M. Gomez (NC), Deputy Assistant Secretary for Communication and Information, National Telecommunications & Information Administration, Department of Commerce, Washington, DC 20230, Appointment Expires: 12/31/2014.

Sivaraj Shyam-Sunder (C) (alternate), Director, Engineering Laboratory, National Institute of Standards & Technology, Gaithersburg, MD 20899, Appointment Expires: 12/31/12.

Dated: August 8, 2012.

**David Robinson,**

Associate Director for Management Resources.

[FR Doc. 2012-19803 Filed 8-10-12; 8:45 am]

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**DEPARTMENT OF COMMERCE**

**National Institute of Standards and Technology**

**Prospective Grant of Exclusive Patent License**

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

**ACTION:** Notice of prospective grant of exclusive patent license.

**SUMMARY:** This is a notice in accordance with 35 U.S.C. 209(e) and 37 CFR 404.7(a)(1)(i) that the National Institute of Standards and Technology (“NIST”), U.S. Department of Commerce, is contemplating the grant of an exclusive license in the United States of America, its territories, possessions and commonwealths, to NIST’s interest in the invention embodied in Provisional Application for Patent Application No. 61,638,362 titled “Flow Cytometer Systems and Associated Methods,” NIST Docket No. 11-010 to the Regents of the University of Colorado, having a place of business at 1800 Grant Street, 8th Floor, Denver, CO 80203. The grant of the license would be for all fields of use.

**FOR FURTHER INFORMATION CONTACT:** Cathy Cohn, National Institute of Standards and Technology, Technology Partnerships Office, 100 Bureau Drive, Stop 2200, Gaithersburg, MD 20899, (301) 975-6691, fax: (301) 975-3482, or email: [ccohn@nist.gov](mailto:ccohn@nist.gov).

**SUPPLEMENTARY INFORMATION:** The prospective exclusive license will be royalty bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.7. The prospective

exclusive license may be granted unless, within fifteen days from the date of this published Notice, NIST receives written evidence and argument which establish that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR 404.7.

Provisional Application for Patent Application No. 61,638,362 is co-owned by the U.S. government, as represented by the Secretary of Commerce and the Regents of the University of Colorado. The invention is a flow cytometer system for algal cells which includes a flow cell having an interrogation region, a long wavelength illuminator for illuminating algal cells entering the interrogation region, and a short wavelength illuminator for exciting fluorescence within the algal cells. The system also includes one or more photodetectors for measuring the fluorescence, and a data acquisition system that detects the illuminated algal cells in the interrogation region. The data acquisition system controls the illuminators to provide specific conditions for stimulating the fluorescence, and acquires data from the one or more photodetectors to provide information of the algal cells.

Dated: August 8, 2012.

**Willie E. May,**

Associate Director for Laboratory Programs.

[FR Doc. 2012-19805 Filed 8-10-12; 8:45 am]

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**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**RIN 0648-XC136**

**Marine Mammals; File No. 17152**

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

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

**SUMMARY:** Notice is hereby given that PRBO Conservation Science, 3820 Cypress Drive, #11, Petaluma, California 94954 (Responsible Party: Russ Bradley), has applied in due form for a permit to conduct research on pinnipeds in California.

**DATES:** Written, telefaxed, or email comments must be received on or before September 12, 2012.

**ADDRESSES:** The application and related documents are 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

Southwest Region, NMFS, 501 West Ocean Blvd., Suite 4200, Long Beach, CA 90802-4213; phone (562) 980-4001; fax (562) 980-4018.

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.Pr1Comments@noaa.gov](mailto:NMFS.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:** Amy Sloan or Tammy Adams, (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).

The applicant requests a five-year permit to study and monitor population trends, health, and ecology of pinnipeds in California, specifically at the Farallon Islands, Point Reyes Peninsula, Año Nuevo, San Francisco Bay, and in Sonoma County near the Russian River. Up to 325 harbor seals (*Phoca vitulina richardii*) will be captured, sedated, sampled, marked, and instrumented annually; up to 5,500 harbor seals will be incidentally harassed annually during captures and ground surveys/photo-identification. Ten unintentional mortalities of harbor seals are requested over the duration of the permit. Each year, up to 2,500 northern elephant seals (*Mirounga angustirostris*) will be handled for marking without capture; up to 100 elephant seals will be handled for swab sampling without capture; up to 150 elephant seals will be captured, marked, weighed, and sampled (swabs and blood); and up to 1,000 elephant seals may be incidentally harassed during captures and ground monitoring/photo-identification. Researchers will also conduct ground surveys and photo-identification of and may harass 2,000 California sea lions (*Zalophus californianus*) and 75 northern fur seals (*Callorhinus ursinus*) annually. Steller sea lions (*Eumetopias jubatus*) will be monitored but will not be harassed.