

NMFS-certified observers would be required on all trips into Closed Area I. These observers would document the catch of all species, interactions between the net and the bottom, and any incidental take of marine mammals and protected species. After any sampling requested by an observer, all multispecies would be required to be discarded.

An EA was prepared to analyze the impacts of the experimental fishery on the human environment. The EA has preliminarily concluded that the activities that would be conducted under the EFP are consistent with the goals and objectives of the Multispecies FMP, and are consistent with the HMS FMP. The EA also considers the impacts of the EFP activities on EFH and protected species.

EFPs would be issued to the five participating vessels to exempt them from the restrictions of Closed Area I of the Multispecies FMP.

Regulations under the Magnuson-Stevens Fishery Conservation and Management Act require publication of this notification to provide interested parties the opportunity to comment on applications for proposed EFPs. Based on the outcome of this EFP, this action may lead to future rulemaking.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: July 23, 2001.

Dean Swanson,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.
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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Docket No. 010712174-1174-01; I.D. 062701D]

RIN 0648-AP36

Eligibility Criteria and Definitions for the Western Pacific Community Development Program and Western Pacific Demonstration Projects

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

ACTION: Proposed rule; Request for comments.

SUMMARY: NMFS proposes criteria developed by the Council to determine

what communities will be eligible to participate in western Pacific community development programs to be established by the Council and the Secretary of Commerce (Secretary) for fisheries under the Council's jurisdiction in order to promote access to such fisheries by western Pacific communities and to apply for and receive grants for related demonstration projects. NMFS also proposes definitions, developed with the Council, for certain terms appearing in section 305(i)(2) of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), the section authorizing the Council and the Secretary to establish such programs, and in the criteria developed by the Council. NMFS is proposing these criteria and definitions so that it may have the benefit of public comment before deciding whether to approve the criteria and adopt the definitions. The intent of this proposal is to implement section 305(i)(2) so that appropriate programs may be established in the future.

DATES: Comments on this proposed rule must be received before 5 p.m. Eastern Daylight Savings Time on August 27, 2001. Faxed comments received before the deadline will be accepted provided the signed original is received for the record by September 5, 2001.

ADDRESSES: Written comments on this proposed rule must be sent to Robert Ziobro, Western Pacific Project - F, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910, or faxed to 301-713-2258. Comments will not be accepted if submitted via e-mail or Internet.

FOR FURTHER INFORMATION CONTACT: Robert C. Ziobro at 301-713-2239 or by facsimile at 301-713-2258.

SUPPLEMENTARY INFORMATION:

Electronic Access

This **Federal Register** document is available through the NMFS Pacific Island Area Office Home Page at: <http://swr.nmfs.noaa.gov/piao/index.htm> and the Western Pacific Council Home Page at: <http://www.wpcouncil.org>.

I. Background

Under the authority of section 305(i)(2) of the Magnuson-Stevens Act, 16 U.S.C. 1855(i)(2), the Council and the Secretary may establish western Pacific community development programs for any fishery under the authority of the Council in order to provide access to such fishery for western Pacific communities. Section 305(i)(2)(B) specifies that in order to be eligible to participate in western Pacific

community development programs, a community must:

1. Be located within the Western Pacific Regional Fishery Management Area;

2. Meet criteria developed by the Council, approved by the Secretary and published in the **Federal Register**;

3. Consist of community residents who are descended from the aboriginal people indigenous to the area who conducted commercial or subsistence fishing using traditional fishing practices in the waters of the Western Pacific region;

4. Not have previously developed harvesting or processing capability sufficient to support substantial participation in fisheries in the Western Pacific Regional Fishery Management Area; and

5. Develop and submit a Community Development Plan to the Council and the Secretary.

Section 305(i)(2)(D) defines the Western Pacific Regional Fishery Management Area as the area under the jurisdiction of the Council or an island within such area.

Under section 305 note of the Magnuson-Stevens Act (Section 111(b) of the Sustainable Fisheries Act, Public Law 104-297) western Pacific communities eligible to participate in western Pacific community development programs are eligible to apply for and receive grants for related demonstration projects. To be eligible for funding, a project must foster and promote the use of traditional indigenous fishing practices of western Pacific communities found on American Samoa, Guam, Hawaii or the Northern Mariana Islands. A project must also identify and apply traditional indigenous fishing practices, develop or enhance western Pacific community-based fishing opportunities, and involve research, community education, or the acquisition of materials and equipment necessary to carry out any such demonstration project.

NMFS is developing the grants application process by which communities may apply for grants to fund projects. This process will be announced in a subsequent **Federal Register** document; that notification will also solicit proposals for project grants.

The Council has developed criteria to determine what communities are eligible to participate in western Pacific community development programs and NMFS and the Council have developed definitions for certain terms appearing in section 305(i)(2) of the Magnuson-Stevens Act and the criteria.

II. Eligibility Criteria and Proposed Definitions

A. Eligibility Criteria

The following criteria have been recommended by the Council. They incorporate all of the eligibility criteria set forth in section 305(i)(2)(B).

1. Be located in American Samoa, the Northern Mariana Islands, Guam or Hawaii (Western Pacific Area);

2. Consist of community residents descended from aboriginal people indigenous to the western Pacific area who conducted commercial or subsistence fishing using traditional fishing practices in the waters of the western Pacific;

3. Consist of community residents who reside in their ancestral homeland;

4. Have knowledge of customary practices relevant to fisheries of the western Pacific;

5. Have a traditional dependence on fisheries of the western Pacific;

6. Experience economic or other barriers that have prevented full participation in the western Pacific fisheries and, in recent years, have not had harvesting, processing or marketing capability sufficient to support substantial participation in fisheries in the area; and

7. Develop and submit a Community Development Plan to the Western Pacific Council and the National Marine Fisheries Service.

Because the Council's recommended criteria incorporate all of the criteria specified in section 205(i)(2)(B) any community meeting the Council's

recommended criteria would be eligible would be eligible to participate in a western Pacific community development program.

B. Definitions

For purposes of section 305(i)(2) of the Magnuson-Stevens Act and the Council's recommended eligibility criteria, the following definitions developed by NMFS and the Council would apply:

Community means a population of non-transient people descended from the aboriginal people indigenous to the area who share a common history based on social, cultural and economic interactions and a functional relationship sustained by participation in fishing and fishing related activities.

Economic barriers means barriers which add to the difficulty and cost of participation in a fishery by descendants of the aboriginal people of each area. They include, but are not limited to, the degradation of marine habitat, localized depletion of harvested stocks, and loss of access to long-fished grounds because of closure and/or lack of access to capital and expertise to compete for marine resources.

Subsistence fishing means harvesting of marine resources for personal, family or community use or for gifts of food to extended family members and friends that perpetuate community relationships and identities.

Traditional fishing practices and traditional indigenous fishing practices means methods of fishing and fishery utilization developed from aboriginal

customary and traditional uses and practices that can be conducted within existing regulations.

The cultural and social framework relevant to the fishery means, for each community, the accumulation and perpetuation of ancestral knowledge and participation that have resulted from historical dependence on marine resources as a principal source of food for the aboriginal people indigenous to the area.

Classification

This proposed rule has been determined to be not significant for purposes of Executive Order 12866.

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that this proposed rule, if adopted, will not have a significant economic impact on a substantial number of small entities. The proposed action is anticipated to lead to economic and social benefits for qualifying communities. The proposed action will allow the distribution of funds through direct grants to eligible communities to establish demonstration projects. It is anticipated that the economic and social benefits of approved projects will outweigh their associated costs.

Dated: July 24, 2001.

William T. Hogarth,
Acting, Assistant Administrator for Fisheries,
National Marine Fisheries Service.

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