

and LPTV stations are required to transmit only the test script.

(2) Required Weekly Tests:

(i) EAS Header Codes and EOM Codes:

(A) Effective January 1, 1997, AM, FM and TV stations must conduct tests of the EAS header and EOM codes at least once a week at random days and times.

(B) Effective December 31, 1998, cable systems with 10,000 or more subscribers per headend must conduct tests of the EAS header and EOM codes at least once a week at random days and times on all programmed channels:

(C) Effective October 1, 2002, cable systems serving fewer than 5,000 subscribers per headend must conduct tests of the EAS header and EOM codes at least once a week at random days and times on at least one programmed channel.

(D) Effective October 1, 2002, the following cable systems and wireless cable systems must conduct tests of the EAS header and EOM codes at least once a week at random days and times on all programmed channels:

(1) Cable systems serving 5,000 or more, but less than 10,000 subscribers per headend; and,

(2) Wireless cable systems with 5,000 or more subscribers.

(E) Effective October 1, 2002, the following cable systems and wireless cable systems must conduct tests of the EAS header and EOM codes at least once a week at random days and times on at least one programmed channel:

(1) Cable systems with fewer than 5,000 subscribers per headend; and,

(2) Wireless cable systems with fewer than 5,000 subscribers.

(ii) Class D non-commercial educational FM and LPTV stations are not required to transmit this test but must log receipt.

(iii) The EAS weekly test is not required during the week that a monthly test is conducted.

(iv) TV stations, cable television systems and wireless cable systems are not required to transmit a video message when transmitting the required weekly test.

(3) Periodic National Tests. National Primary (NP) sources shall participate in tests as appropriate. The FCC may request a report of these tests.

(4) EAS activations and special tests. The EAS may be activated for emergencies or special tests at the State or Local Area level by a broadcast station, cable system or wireless cable system instead of the monthly or weekly tests required by this section. To substitute for a monthly test, activation must include transmission of the EAS header codes, Attention Signal,

emergency message and EOM code and comply with the visual message requirements in § 11.51. To substitute for the weekly test of the EAS header codes and EOM codes in paragraph (2)(i) of this section, activation must include transmission of the EAS header and EOM codes. Television stations and cable systems and wireless cable systems shall comply with the aural and visual message requirements in § 11.51. Special EAS tests at the State and Local Area levels may be conducted on daily basis following procedures in State and Local Area EAS plans.

(b) Entries shall be made in broadcast station and cable system and wireless cable system records as specified in § 11.54(b)(12).

§ 11.62 [Removed]

16. Remove § 11.62.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Docket No. 010712174-2072-02; I.D. 062701D]

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

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

ACTION: Final rule; solicitation for demonstration project proposals.

SUMMARY: NMFS issues this final rule to publish definitions, developed with the Council, for certain terms appearing in the criteria used to determine which western Pacific communities may participate in western Pacific community development programs and western Pacific demonstration projects (Projects). NMFS also publishes criteria developed by the Council to determine which western Pacific communities will be eligible to participate in western Pacific community development programs and Projects under the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). Finally, NMFS and the Council solicit pre-application proposals for Projects from communities in the western Pacific region to foster and promote the involvement of such

communities in Projects related to western Pacific fisheries.

DATES: This final rule is effective May 16, 2002. Proposals for Projects must be received by 5 p.m. Hawaii Standard Time on June 17, 2002.

ADDRESSES: Proposals should be sent to: Western Pacific Demonstration Projects, Pacific Islands Area Office, National Marine Fisheries Service, 1601 Kapiolani Boulevard, Suite 1110, Honolulu, Hawaii 96814. Proposals should include a cover letter signed by a responsible party representing the respective western Pacific community.

FOR FURTHER INFORMATION CONTACT: Kelvin Char (NMFS), phone 808-973-2937, e-mail Kelvin.Char@noaa.gov; or Charles Ka'ai'ai (Council), 808-522-8220 or by e-mail at Charles.Kaaiiai@noaa.gov.

SUPPLEMENTARY INFORMATION:

Electronic Access

This **Federal Register** document is available through the NMFS Pacific Island Area Office (PIAO) Home Page at: <http://swr.nmfs.noaa.gov/piao/index.htm>, the Council's Home Page at: <http://www.wpcouncil.org>, and the Grants information page at: <http://www.rdc.noaa.gov/grants>.

I. Background

This final rule publishes eligibility criteria that will be used for both Community Development Programs and submission of Project proposals. This document solicits Project proposals only. The solicitation of Community Development Plans will be a separate announcement in accordance with a program to be developed by the Council.

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 of Commerce (Secretary) may establish western Pacific community development programs for any fishery under the authority of the Council to provide access to such fishery for western Pacific communities. Section 305(i)(2)(B) specifies that 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. For purposes of eligibility to receive a Project grant, only, a Project proposal submitted under section 305 note of the Magnuson-Stevens Act (Section 111(b) of the Sustainable Fisheries Act, Pub. L. 104-297) will be deemed to be a Community Development Plan.

Section 305(i)(2)(D) of the Magnuson-Stevens Act 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, Pub. L. 104-297) western Pacific communities eligible to participate in western Pacific community development programs are eligible to apply for and receive grants for related Projects. Such communities must submit a proposal to NMFS for Projects that 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 may 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 Project.

The Council developed criteria, which were approved by NMFS, to determine which communities are eligible to participate in western Pacific community development programs. NMFS and the Council also developed definitions for certain terms used in the criteria for community development programs and Projects. Both the criteria and definitions were published for comment in a proposed rule at 66 FR 39131 (July 27, 2001).

A proposal for a Project must be submitted by a responsible party representing non-transient people descended from the aboriginal people indigenous to the area. A responsible party must be an organization of indigenous peoples or organization representing indigenous peoples including but not limited to Institutions of Higher Education, non-profit organizations, commercial

organizations, state, local or indigenous community governments. The responsible party must reside in the Western Pacific Regional Fishery Management Area. The request must address the requirements of section 305 (i)(2)(B) outlined in section I. Background.

II. Comments and Responses

NMFS received one letter containing five comments on the proposed rule for the western Pacific community development program and Projects eligibility criteria and definitions (66 FR 39131, July 27, 2001).

Comment 1: The traditional indigenous fishing practices of ancient Hawaiian people utilized both paddle and sail canoes, navigation by stars, woven fishing lines and hooks made out of marine mammal bones. Based on the qualification criteria "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" please clarify if the use of modern marine boats, fishing equipment and electronic technology would qualify under the eligibility criteria.

Response: Yes, modern equipment such as motors, manufactured boats, steel hooks or compasses can be used as long as they foster and promote traditional indigenous fishing practices.

Comment 2: The traditional indigenous fishing practices of ancient Hawaiian people did not utilize ice to prolong the shelf life of hooked fish. Would the construction of a modern ice manufacturing plant to provide ice to indigenous fishermen qualify under the eligibility criteria?

Response: Yes, construction of facilities that enhance traditional indigenous fishing practices would qualify, provided the proposed facility, its siting, and its construction meet all the requirements and conditions set out by other Federal or state laws and regulations.

Comment 3: Did the aboriginal indigenous people conduct "commercial fishing" as defined in today's society?

Response: We cannot answer this question, which is why the criterion states "commercial or subsistence". Historically communities that fished were probably either doing so for commercial purposes or subsistence, therefore, this criterion will probably not exclude any traditional fishing communities.

Comment 4: Would a modern fishing business owned by indigenous

aboriginal people qualify to participate in the Community Development Program?

Response: A modern fishing business owned by people descended from the aboriginal people indigenous to the area and employing traditional fishing methods would be eligible to participate in a Community Development Program provided it meets all of the eligibility criteria.

Comment 5: Does the definition of "community" (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) mean that all facets of accomplishing the traditional fishing must be conducted solely by indigenous aboriginal people? For example, can non-aboriginal people be used to provide services necessary to maintain the aboriginal fishing?

Response: A community may consist of people from different ancestries, however, the responsible party for a Community Development Program or grant recipient for a Project must represent non-transient people descended from the aboriginal people indigenous to the area. Anyone can provide services to maintain a Project.

III. Definitions and Eligibility Criteria

A. Definitions

The following definitions developed by NMFS and the Council will apply to terms used in the eligibility criteria recommended by the Council and to the terms used in requirements found at section 305(i)(2)(B) of the Magnuson-Stevens Act.

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