

Council. If a CQE fails to provide a completed annual report to NMFS for each community that it represents, then that CQE would be deemed ineligible to use the IFQ resulting from that QS on behalf of that community until a complete annual report is received. Before becoming a Final Agency Action, any such determination by NMFS may be appealed through the administrative appeals process described under the IFQ Program (50 CFR 679.43).

Each non-profit entity applying to become a CQE would have to provide NMFS with the following:

- (1) Its articles of incorporation as a non-profit entity under the laws of the State;
- (2) A statement designating the community, or communities, represented by that CQE;
- (3) Management organization;
- (4) A detailed statement describing the procedures that will be used to determine the distribution of IFQ to residents of each community represented by that CQE; and
- (5) A statement of support and accountability of the non-profit entity to that community from a governing body representing each community represented by the CQE.

During Council deliberations, the State noted that it would like to have an opportunity to provide NMFS with comments on applications by non-profit entities seeking to become CQEs. NMFS will provide the State with a copy of the applications. The State will have a period of 30 days to provide comments to NMFS after they are received. NMFS will consider these comments before certifying a non-profit entity as a CQE. This opportunity for comment does not diminish the authority of NMFS to administer these regulations and certify CQEs, but does provide an opportunity for the State to provide comments on the applications. NMFS will review all applications for completeness. Those applications that are not complete would be returned to the applicant for revision. This proposed action does not establish a limit on the amount of time that a non-profit would have to correct deficiencies in an application.

To minimize potential conflicts that may exist among non-profit entities seeking qualification as a CQE, NMFS would not consider a recommendation from a community governing body supporting more than one non-profit entity to hold QS on behalf of that community. The specific community governing body that would be relied on to make a recommendation would recommend a non-profit entity would vary depending on the governance structure of the particular community.

The Council intended that any CQE establish that it is accountable to the community that it would seek to represent. By establishing a requirement that a specific governing body within a community provide a recommendation supporting a CQE, this proposed rule would establish a clear link between the governing body that represents that community and the CQE. Allowing multiple non-profits to apply as CQEs for a singly community would require additional review by NMFS to ensure accountability. Additionally, it would be difficult to establish specific criteria that would establish a clear accountability or lack of accountability. The Council did not intend that this proposed action would serve the interests of a small number of individuals within a given community who may choose to form a corporate entity to narrowly represent their interests. The specific linkage to specific recognized governing bodies within a community minimized the need for additional administrative oversight to ensure accountability to a community and provides a clear nexus between the CQE and the community members it is intended to represent by holding QS on behalf of that community.

*Communities incorporated as municipalities.* For a community that is incorporated as a municipality under State statutes, the City Council would recommend the non-profit entity to serve as the CQE.

*Communities represented by tribal governments.* For those communities that are not incorporated as municipalities but that are represented by a tribal government recognized by the Secretary of the Interior, the tribal governing body would recommend the non-profit entity to serve as the CQE.

*Communities represented by a non-profit association.* For those communities that are not incorporated as a municipality, and that are not represented by a tribal government, the community non-profit association that has an established relationship as the governmental body recognized by the State for purposes of governmental functions would recommend the non-profit entity to serve as the CQE for that community.

*Communities without governing bodies.* Those communities that are not incorporated as a municipality, or represented by a tribal government recognized by the Bureau of Indian Affairs, and that do not have a community non-profit association recognized by the State for purposes of governmental functions, would not be eligible to recommend a non-profit entity to hold QS on its behalf until a

representative governing entity was formed (e.g., the community incorporated as a municipality, was represented by a tribal government recognized by the Bureau of Indian Affairs, or a community non-profit association was formed and recognized by the Alaska Department of Community and Economic Development). NMFS would consult with the State to determine if a community non-profit association is formed, and that it adequately represents the interests of the community before that community non-profit association could recommend a CQE to hold QS on behalf of that community.

This requirement would ensure that any communities that do not have a governmental structure form such a structure prior to being allowed to recommend a specific non-profit entity as a CQE. This requirement is expected to affect only two of the 42 eligible communities recommended by the Council: Halibut Cove and Meyers Chuck. Neither of these communities possess any of the governmental bodies described above. These communities could establish community non-profit associations and have those entities reviewed by the State prior to recommending a CQE. This requirement is determined to be adequate to ensure that any non-profit designated as a CQE for these communities represents the interests of the residents of those communities. The public is encouraged to comment on this particular aspect of this proposed rule.

Establishing that only one CQE to represent the interests in a given community would reduce potential conflicts and reduce administrative burdens. This requirement would not undermine a community's ability to access QS and would ensure that an entity seeking authorization to hold QS on behalf of a community is reviewed by the appropriate governing body within that community before it is certified by NMFS. The definition for "eligible community" is revised by redesignating the existing paragraph as paragraph (1) for purposes of the CDQ Program and by adding a new paragraph (2) for purposes of the IFQ Program.

(a) Annual Report.

NMFS would require each CQE to submit an annual report by January 31 to NMFS and to the governing body for each community represented by the CQE, detailing the use of QS and IFQ by the CQE and community residents during the previous year's fishing season. That annual report would