

## § 270.6

the Council. If a referendum fails to result in establishment of a Council, NMFS will immediately recover all expenses incurred for conducting the referendum from the bond or security posted by applicants. In either case, such expenses will not include salaries of government employees or other administrative overhead, but will be limited to those additional direct costs incurred in connection with conducting the referendum.

(d) No less than 30 days prior to holding a referendum, NMFS will:

(1) Publish in the FEDERAL REGISTER the text of the proposed charter and the most complete list available of sector participants eligible to vote in the referendum; and

(2) Provide for public comment, including the opportunity for a public meeting.

### § 270.6 Sector participants eligible to vote.

(a) Any participant who meets the minimum requirements as measured by income, volume of sales or other relevant factors specified in the approved charter may vote in a referendum.

(b) Only one vote may be cast by each participant who is eligible to vote, regardless of the number of individuals that make up such "participant" and how many sectors the participant is engaged in. The vote may be made by any responsible officer, owner, or employee representing a participant.

### § 270.7 Results of referendum.

(a) *Favorable vote to establish a Council.* NMFS will, by order of publication in the FEDERAL REGISTER, establish the Council and approve an acceptable proposed charter, if the referendum votes which are cast in favor of the proposed charter constitute a majority of the sector participants voting in each and every sector. Further, according to the best available data, the majority must collectively account for, in the 12-month period immediately preceding the month in which the proposed charter was filed, at least 66 percent of the value of the fish and fish products described in the proposed charter handled during such period in each sector by those who meet the eligibility require-

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ments to vote in the referendum as defined by the applicants.

(b) *Unfavorable vote to establish a Council.* If a referendum fails to pass in any sector of the proposed Council, NMFS will not establish the Council or approve the proposed charter. NMFS will immediately recover the cost of conducting the referendum according to § 270.5(c).

(c) *Notification of referendum results.* NMFS will notify the applicants of the results of the referendum and publish the results of the referendum in the FEDERAL REGISTER.

### § 270.8 Nomination and appointment of Council members.

(a) Within 30 days after a Council is established, NMFS will solicit nominations for Council members from the sectors represented on the Council in accordance with the approved charter. If the harvesters and receivers represented on the Council are engaged in business in two or more states, but within the geographic area of the Council, the nominations made under this section must, to the extent practicable, result in equitable representation for those states. Nominees must be knowledgeable and experienced with regard to the activities of, or have been actively engaged in the business of, the sector that such person will represent on the Council. Therefore, a resume will be required for each nominee.

(b) In accordance with 16 U.S.C. 4009(f), NMFS will, within 60 days after the end of the 30-day period, appoint the members of the Council from among the nominees.

### § 270.9 Terms, vacancies, and removal of Council members.

(a) A Council term is for 3 years, except for initial appointments to a newly established Council where:

(1) Half of the Council member terms will be 2 years; and

(2) Half of the Council member terms will be 3 years.

(b) A vacancy on a Council will be filled, within 60 days after the vacancy occurs, in the same manner in which the original appointment was made. A member appointed to fill a vacancy occurring before the expiration of the