

**Discussion Paper:  
Allocation Review Triggers**  
June 2017<sup>1</sup>

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**1 Introduction**

In July 2016, NMFS issued a Fisheries Allocation Policy Directive 01-119 (further revised on 2/17), and two associated Procedural Directives. Collectively, these directives are intended to provide guidance to the Councils on reviewing fisheries allocations. The directives describe a mechanism to ensure fisheries allocations are periodically evaluated. The policy and directives establish three steps in an allocation review process, with the first step occurring if a review trigger is met. Categories of triggers that can be used by a council to initiate an allocation review: public interest, time, or indicators. The councils are required to identify one or more triggers for each fishery with an allocation that meets the definition contained in the revised policy directive by August 2019.

This discussion paper was developed to address the new requirements for triggering an allocation review. Potential trigger approaches for Council consideration are discussed.

**2 Background on the Allocation Policy**

Allocation is defined by NOAA Fisheries as “a direct and deliberate distribution of the opportunity to participate in a fishery among identifiable, discrete user groups or individuals.” Allocation of fishery resources is challenging because of the economic value, history, and tradition associated with access to fishery resources and the perceptions of fairness that arise with allocation decisions. Allocation can be across jurisdictions (international, state, regional, etc.), across sectors (commercial, recreational, tribal, research, etc.), and within sectors (individual fishermen, gear types, etc.).

In 2010, NOAA committed to review the allocation process as part of the Recreational Saltwater Fisheries Action Agenda. A report was commissioned to compile fishery allocation issues for all types of fishery allocations (Lapointe, 2012). The report summarized input from discussions with a wide range of stakeholders and suggested five steps NOAA Fisheries could take to address allocation issues: 1) increase stakeholder engagement in allocation decisions, 2) increase biological and social science research and

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<sup>1</sup> Draft prepared by David Witherell (Council staff), with input from Rachel Baker and Glenn Merrill (NMFS AKRO staff) and Jon McCracken, (Council staff).

data, 3) periodically review allocation decisions, 4) compile a list of past allocation decisions, and 5) create a list of factors to guide allocation decisions.

In July 2016, NOAA Fisheries created an Allocation Policy (Policy Directive 01-119) to provide a mechanism to ensure fisheries allocations are periodically evaluated to remain relevant to current conditions. Allocation review mechanisms provide a transparent process for adequate reviews of allocations to ensure that U.S. fisheries are managed to achieve National Standard 1 (prevent overfishing and achieve optimum yield). The MSA defines optimum yield as “the amount of fish which (A) will provide the greatest overall benefit to the Nation, particularly with respect to food production and recreational opportunities...” The Policy defines roles and responsibilities for NOAA Fisheries and the eight regional fishery management councils in reviewing allocations.

The Allocation Policy includes two procedural directives that provide more details on implementing the policy. The first procedural directive was developed by a Council Coordination Committee and it outlines three categories of triggers that can be used by a council to initiate an allocation review: public interest, time, or indicators. Each council will identify by August 2019 (or as soon as practicable) one or more triggers for each fishery with an allocation. The second procedural directive was developed by NOAA Fisheries, and it outlines recommended practices and factors to consider when reviewing and updating allocations. The policy and complementary procedural directives provide guidance for the periodic assessment of fishery allocations among users. They also help improve understanding of the process behind such allocation decisions. Collectively, these directives are incorporated into the Fisheries Allocation Review Policy.

## 2.1 Allocations Review Process

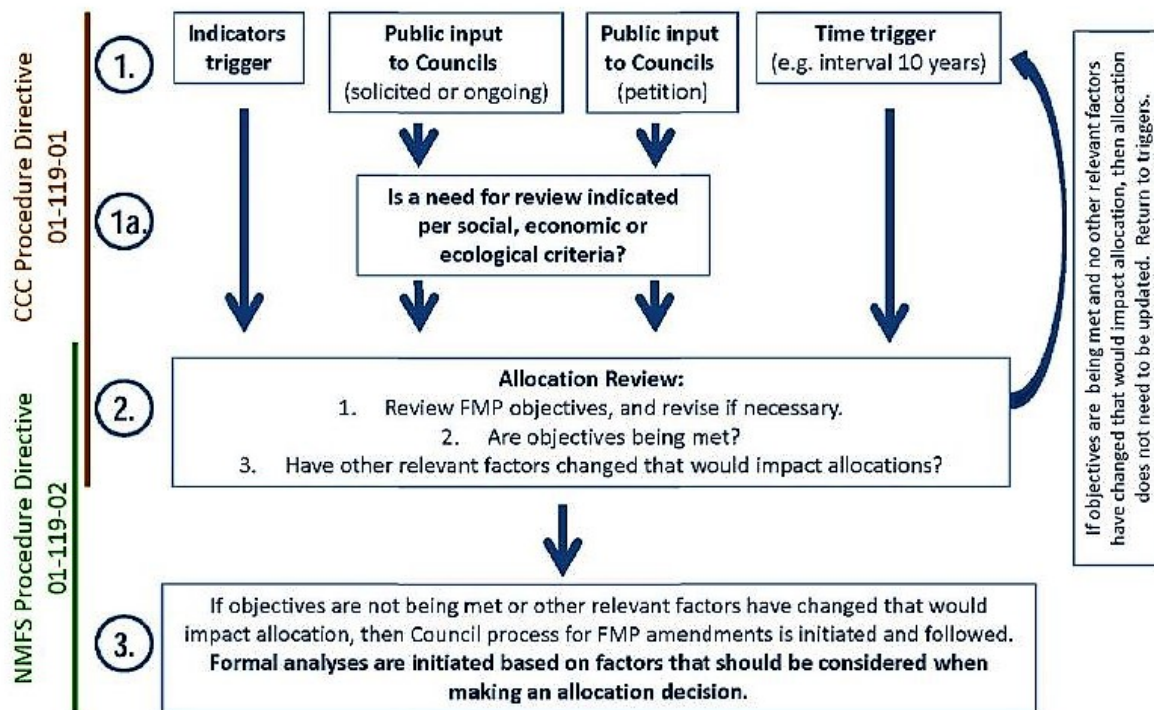
The three-step allocation review process is described as follows by the Fisheries Allocation Review Policy.

**Step One:** A trigger is met. There are three main categories of triggers: public input, time, or indicator based. For example, a significant change in landings (e.g., an increase/decrease greater than one to two standard deviations within a three-year timeframe, etc.) may be identified as an indicator based trigger for initiating a review of an allocation decision. Triggers are discussed in more detail in the CCC trigger document (Procedural Directive 01-119-01). If the trigger is indicator-based, or time-based, then proceed immediately to step 2: fisheries allocation review. If the trigger is based on public input to the Councils, then a check for changes in social, ecological, or economic criteria is required (step 1a in Figure 1) to ensure assessment of the fisheries allocation is an appropriate use of Council resources. At this stage, in depth analyses are not required.

**Step Two:** Fisheries Allocation Review. Councils should complete a review of the fisheries allocation in question. This review will assist the Councils in determining whether or not the development and evaluation of allocation options is warranted, and is not, in and of itself, a trigger to initiate an FMP amendment (or framework adjustment, if appropriate) to consider alternative allocations. This step is discussed in more detail in the CCC triggers document (Procedural Directive 01-119-01) and overlaps with the NMFS fisheries allocation factors document (Procedural Directive 01-119-02). The review should consider the FMP objectives along with other relevant factors that have changed and may be important to the fisheries allocation. Relevant factors are described in the NMFS fisheries allocation factors document (Procedural Directive 01-119-02). At this stage, in depth analyses are not required; however, to ensure transparency, a clear articulation of how the objectives are or are not being met, and a clear rationale on relevant factors considered should be included in the record. This fisheries allocation review informs whether or not a consideration of new allocation alternatives is warranted.

**Step Three:** Evaluation of Fisheries Allocation Options for an FMP amendment. Based on step two, if a Council decides that development of allocation options is warranted, a Council will proceed with formal analyses, and follow its amendment process for identifying alternatives, soliciting public input, etc. If the Council determines that the FMP objectives are not up-to-date, then the Council should discuss, evaluate, and if necessary, revise the objectives. During the identification of alternatives, Councils should consider the factors in the Procedural Directive 01-119-02. All of the factors do not need to be analyzed for each fisheries allocation decision. If a factor is not relevant for a given decision, no formal analysis for that factor is needed; however, the record should clearly document the rationale for that determination.

## Steps in Adaptive Management of Allocations



### 2.2 Allocations Review Triggers

The Council is responsible for developing the allocation review triggers. The policy directive identifies three types of allocation review triggers: 1) public interest-based triggers; 2) time-based triggers; and 2) indicator-based triggers. The following discussion about the different types of triggers is contained in the policy directive, and excerpted here as follows:

#### Public interest-based criteria

If a council develops effective indicator or time-based allocation review mechanisms, then a public-interest review trigger mechanism may not be necessary. However, if those review mechanisms are not

established, or if they are not responsive to changing conditions within a fishery, then a public-interest review mechanism could be used to trigger an allocation review.

The U.S. regional fishery management council system is transparent and open to public input throughout the process. Councils implement extensive work plans throughout the year, and manage some regulatory initiatives, including plan amendments, over the span of several years. Managing to meet the councils' statutory requirements and other competing priorities requires effective planning, which typically includes an annual priority-setting process. Ideally, public input on the need to review a specific fishery allocation would feed into this process to enable an orderly consideration of the question, in the context of competing priorities and organizational resources.

This guidance addresses the solicitation or consideration of statements of public interest at three different levels within the regional fishery management council process:

1. Ongoing public input on fishery performance
2. Solicitation of public comment regarding allocation review
3. Formal initiatives

Ongoing public input on fishery performance - As noted above, the council process is open, transparent, and offers frequent opportunities for public comment and input. This dynamic establishes a feedback loop between the council and the public in regard to both the specific issues under the council's consideration and broader indicators of fishery performance. Given the extent to which the impacts of allocation decisions are associated by the public (both through direct observation and perception) with fishery performance, public interest in allocation review is likely to be expressed at many points within the council process and in reference to a variety of fisheries management issues.

This feedback loop of ongoing public comment is a valuable opportunity for the public to express interest in allocation review, and for the council to gauge how effectively allocation objectives are being met. It also serves as an opportunity for the council to understand and evaluate the extent to which allocation lies at the root of fisheries management challenges, and the need to initiate allocation review may be indicated through this process.

Solicitation of public comment regarding allocation review - Councils may choose to engage in allocation review "scoping discussions" with stakeholders and other interested parties. Unlike the collection of feedback through ongoing public comment described above, this process is deliberate and specifically targets public input on the need for allocation review. Councils rely on outreach and information-gathering mechanisms to achieve public input including the solicitation of written comments, scoping discussion at council meetings, and port meetings and other community engagement strategies.

One of the benefits of this approach to consideration of triggering allocation review is that it is focused directly on the allocation and the necessity for potential review rather than on the secondary and tertiary impacts of the allocation. An additional benefit to this strategy is the council's ability to dictate a schedule. While more demanding of time and resources than identification of allocation review triggers in the course of ongoing public comment, the process for soliciting, receiving, and considering public input can be designed by the council and scheduled in a manner that does not conflict with other council initiatives and priorities.

When considering the solicitation of public input regarding allocation review, councils should be aware of, and sensitive to, the expectations among stakeholders that could develop as a result of the council indicating interest. The council should carefully consider its ability (resources and capacity) and

willingness to follow through with an allocation review if warranted before reaching out to the community for focused input.

Formal petition mechanism - The first two approaches to gathering, evaluating, and responding to public input are already possible within the current regional fishery management council system. In both cases, the decision to initiate the review would rest with the council. A stronger public interest review mechanism could include a provision for a stakeholder request or petition requesting review, together with a requirement for a Council to initiate an allocation review within a reasonable period of time. Such a provision would have more potential to impose a cost on a council's established work plan and priorities but would provide another mechanism to ensure that allocations receive due consideration in response to public concern. If such a mechanism is established, it may be appropriate to incorporate indicator-based criteria to establish a minimum threshold for initiating review.

Any petition-based review process should establish requirements that identify specific conditions or outcomes upon which such requests may be based. In addition, councils should include establishment of guidelines for petitions. While a council has discretion to determine whether or not to move forward with an allocation review as per the requirements it establishes under a petition-based process, it should at least respond to the *request* for a review under this process. This response could be as simple as a letter to the petitioner(s), explaining the council's rationale for its decision (e.g., petition did not meet conditions for consideration, lack of standing by petitioners, etc).

### **Time-based criteria**

Establishment of a time-based trigger has figured prominently in recent discussions regarding allocation review, including provisions for periodic allocation review in several MSA re-authorization drafts. In several respects, periodic allocation review on a set schedule is the most simple and straightforward criterion for triggering an allocation review; the approach is unambiguous and less vulnerable to political and council dynamics. That said, the attributes of simplicity and the mandate of a strict schedule render time-based criteria less sensitive to other council priorities and the availability of time and resources to conduct an allocation review.

Time-based triggers for initiating allocation review might be most suitable for those fisheries or FMPs where the conflict among sectors or stakeholder groups make the decision to simply initiate a review so contentious that use of alternative criteria is infeasible. In such a situation, a fixed schedule ensures that periodic reviews occur regardless of political dynamics or specific fishery outcomes. Given the inflexible nature of time-based triggers, however, it is recommended that they be used only in those situations where the benefit of certainty outweighs the costs of inflexibility. The inflexible nature of time-based triggers can impact both the work and effectiveness of the council as well as the outcomes of the allocation process itself. As noted above, fixed, time-based triggers for review may conflict with other council priorities. To the extent that those priorities include consideration of actions to mitigate significant social, economic, or conservation concerns, adherence to a fixed review schedule may prevent a council from achieving significant and beneficial management outcomes while achieving at best marginal improvements through allocation review. Given the fact that there is potentially no relationship between the pace at which fishery performance evolves and a fixed schedule for allocation review, use of such a trigger creates the potential of a significant expenditure of council time and resources with little need for review or likely improvement in fishery performance.

Time-based triggers for review may impede stability in subject fisheries. To the extent that reviews are conducted on a regularly scheduled basis, there is an incentive for sectors receiving allocations to continuously employ operational and political tactics to improve their allocation at the next review. The assurance of a "new" allocation review may as well encourage speculative entry into subject fisheries.

When considering the adoption of a time-based review trigger, care should be taken to identify if and to what extent the process is likely to be manipulated or “gamed”, and measures to minimize that activity should be considered.

The selection of review intervals using time-based triggers should be informed by fishery characteristics, data availability, and council resources. Newly developed or rapidly changing fisheries may warrant more frequent review, while established fisheries with stable participation and performance can likely be reviewed less frequently. Whether following an initial allocation or a re-allocation, the timing of further review should accommodate the collection and analysis of a data series from which meaningful and accurate review and analysis can be achieved. The five-year initial review and subsequent reviews every (up to) seven years of limited access privilege programs (LAPPs) as required under Section 303A of the MSA may indicate a desirable minimum interval between reviews. Similarly, the 10-year durability of LAPP permits may suggest a maximum interval for time-based review triggers.

### **Indicator-based criteria**

The MSA requires that fisheries be managed for Optimum Yield (OY), which is Maximum Sustainable Yield (MSY) as reduced by relevant social, economic and ecological factors. In defining OY, the NS1 guidance provides that these factors should be “quantified and reviewed in historical, short term and long term contexts.” Furthermore, it recommends that each FMP should contain a mechanism for periodic review of the OY specification, in order to respond to changing conditions in the fishery. In establishing indicator-based metrics for review of allocations – whether among sectors (e.g., commercial, recreational, for-hire, gear, international, etc.), within a sector (e.g., among catch share recipients), or for purposes such as bycatch accounting – it is logical to apply similar parameters to an allocation review as to an OY review, particularly if the goals and objectives of an FMP specifically address these items. In support of such an approach, the NS4 guidance states that allocation decisions should be “rationally” linked to attaining OY, and/or to the objectives of an FMP. It follows that selection of indicator-based criteria to trigger an allocation review should inherently be linked to those same objectives. In the interest of public transparency and clarity, councils may even consider establishing an objective that is specific to allocation within an FMP.

A time component is inherent in any indicator-based criteria for review of allocations, whether explicitly included (e.g., achieving a desired economic efficiency within XX years) or not. Evaluating a criterion used in establishing an allocation, particularly if it requires the addition of ensuing years of data to a quantitative analysis, indirectly applies a timeframe for review.

There are several categories of indicator-based criteria to consider as triggers for initiating review of allocations, all stemming from the definition of OY: social, economic and ecological. Ideally, the rationale for an initial allocation decision would consider a mix of criteria from all categories, although data limitations may preclude quantitative consideration. This could impact the ability to set an objective, specific review trigger for a particular criterion.

It follows that use of several criteria, either singly or in combination, and across multiple categories, may be optimal when using indicator-based criteria as a trigger for an allocation review. For example, a council may select one social, one ecological and one economic criterion as indicators, and define the “trigger” for review as any two of the three criteria meeting predetermined limits. This clearly defines the minimum threshold to trigger an allocation review. Taking this example to Step 2 (as per Table 1), consideration of allocation alternatives may occur if the selected indicators meet established limits within a particular timeframe, effectively combining indicator- and time-based triggers in order to ensure an adaptive management approach. As noted above, it may be difficult to set measurable values as triggers for indicator-based criteria, and use of quantitative thresholds is likely to be more the exception than the

norm. In such cases, qualitative triggers should be considered to ensure that FMP goals and objectives are addressed.

In selecting indicator-based criteria, it is important to recognize there are factors that are not in and of themselves measurable metrics for a particular criterion or set of criteria; however, they may impact selected criteria and thus influence the “triggering” of a review. These factors may include acquisition of new data, natural disasters, etc. that are not necessarily measurable on their own, but can impact measurable criteria from any of the three categories.

Finally, while there is overlap in the discussion of indicator-based criteria in this document with the NMFS guidance document, the purpose of the two documents is different. The latter document refers to the indicators below as “factors” (in addition to many others) to be considered by councils in the context of establishing initial allocations, or if a re-allocation action is undertaken. The CCC document discusses their use as one of three possible types of triggers for an allocation review. While some overlap is inevitable, the context in which that overlap occurs is important.

Economic Criteria - While the quality and quantity of fisheries economic information has improved over the years, there may be instances in which a disparity exists in the available data for one or more industry sectors, user groups or communities impacted by an allocation decision. This should be explicitly noted and accounted for should quantitative economic criteria be selected by councils as a trigger for allocation review. Because economic outcomes are often closely tied to social outcomes, links between economic and social triggers should also be acknowledged (Jepson and Colburn 2013).

The NS5 regulations prohibit the establishment of allocations for economic purposes alone, however, economic efficiency “shall” be considered where practicable. Multiple economic tools are available to assist in establishing indicator-based triggers for review: cost-benefit analysis, economic impact analysis, and economic efficiency (Edwards 1990; Plummer et al. 2012). However, public understanding of the differences between and proper use of these tools is often limited. Whatever the economic triggers for allocation review, it will be of utmost important to explain the tool(s) used in plain language that stakeholders can understand. Although not all sectors of the public may agree with the criteria or trigger value, public understanding of the tool is critical to its acceptance as a means of informing both an initial allocation decision and its subsequent review. Failure to achieve a desired economic efficiency within a particular timeframe, and unanticipated or greater than anticipated/analyzed costs (e.g., outside of a certain error level) are examples of triggers for initiating a review of allocation decisions.

Social Criteria - As noted above, social and economic impacts are often linked, and changes in social criteria may lead to changes in economic criteria and vice versa. National Standard 8 requires that management measures account for social and economic impacts to communities, as well as provide for “sustained participation.” This is defined in the NS8 guidelines as “continued access” to the resource, depending on resource condition.

A number of studies and technical memoranda have been published detailing the development and measurement of social metrics such as community resilience, vulnerability and well-being. Jepson and Colburn (2013) describe categories of indices - - social, gentrification, fishing dependence-- that can be used to estimate social impacts of management decisions at the community level. Councils may choose to select several indices among the above categories or an entire category of indices as indicator-based criteria to trigger an allocation review. The methods used in Jepson and Colburn provide a quantifiable means of tracking the potential social impacts of an allocation decision. As alluded to earlier, setting a minimum threshold (e.g., a 0.5 standard deviation change in a social index score, etc.) or a timeframe (e.g., every three or five years) for undertaking a review of selected criteria will ensure that a fishery is not in a constant state of “allocation flux,” again illustrating the inter-relationship of the various

criteria discussed in this document. While councils may lack a quantitative means of developing social criteria, use of public-interest based criteria may provide a means for doing so (e.g., public input regarding loss of processing capacity or tackle shops in a community), or for establishing qualitative criteria. Finally, for many communities, social change can be closely linked to ecological change (i.e. a sudden harvest moratorium as a result of a stock assessment; Jepson and Colburn 2013). While ecological criteria for allocation review are addressed in the following section, this relationship is worth noting as it further demonstrates that the categories of indicator-based criteria do not exist independent of one another.

Ecological Criteria - Ecological criteria may be considered some of the most self-evident criteria for triggering an allocation review. Changes in fishery status resulting from a stock assessment, undocumented sources of mortality (fishing or otherwise), increases in discards, changes in species distribution and food web dynamics are all examples of factors that may influence an allocation review. However, as noted previously, not all of these factors are necessarily measurable, indicator-based metrics that the councils have any control over. Measurable criteria that could be considered are failure to end overfishing within a specified timeframe, failure to achieve or rebuild to a certain level of abundance, a significant increase in discard mortality from a particular sector, significant changes in landings (e.g., an increase/decrease greater than one to two standard deviations within a three-year timeframe, etc.). As with social metrics, public interest based criteria may at least provide a means of establishing qualitative ecological criteria (e.g., anecdotal evidence of changes in distribution, discards, size of fish, etc.).



### 3 Description of the Problem

The Councils are responsible for determining what triggers are applicable for each of their fishery management plans (FMPs) that contain a fisheries allocation, including allocations across jurisdictions (e.g., state, regional), across sectors (e.g., commercial, recreational, tribal, research), and within sectors (e.g., individual fishermen, gear types). These triggers should be identified within three years (or as soon as practicable) from the finalization of this policy. When identifying triggers, if the trigger is indicator based, councils must also clarify their process for periodically determining if a trigger has been met. The process could be part of already existing analysis which resides in annual or periodic reports (i.e., 5/7 year catch share reviews, stock assessments, economics of the US). Councils will determine the appropriate method to identify triggers, such as a policy document or an FMP amendment.

The Council will need to identify appropriate review triggers for each of the fishery allocations subject to the policy prior to August 2019. There are two components of this: 1) identifying the fisheries allocations, and 2) identifying appropriate triggers.

#### 3.1 Allocations Subject to the Policy

The first step is to determine which of our fisheries allocations that would be subject to the policy directive. An exhaustive list of our fisheries programs was developed by staff and provided to the Council in October 2016. It was noted that some of these fisheries allocation reviews can be, or were, subsumed within recent or ongoing 5/7 year LAPP program reviews as required by the MSA (for example the recently completed reviews of the Amendment 80 program, BSAI crab program review, and halibut/sablefish IFQ program), or the more general CSP reviews (see 4/13/17 NMFS Catch Share Policy Procedural Instructions 01-121-010). At the time the list was prepared, it was not clear if allocations specified by Congress in statute would be subject to the same degree of review requirements (i.e., CDQ program, BSAI pollock) since they are under the purview of Congress and the Council's cannot modify some aspects of these allocations.

In February 2017, the Fisheries Allocation Review Policy was revised slightly, including clarification of the definition of fisheries allocation, as shown in the adjacent text box.

The NMFS Alaska Regional Office and NMFS Headquarters staff reviewed the allocation policy, and stated that the following North Pacific fishery management programs

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*Fisheries Allocation (or “allocation” or “assignment” of fishing privileges) is defined by NMFS as a “direct and deliberate distribution of the opportunity to participate in a fishery among identifiable, discrete user groups or individuals.” 50 CFR 600.10; see also National Standard 4 Guidelines, 50 CFR 600.325(c)(1) (further describing the scope of this definition and providing examples of allocations of fishing privileges under National Standard 4). The scope of allocations covered by this Policy is narrower than the scope of allocations under the National Standard 4 guidelines. This Policy covers only allocations that distribute specific quantities to identifiable, discrete user groups or individuals. This is true regardless of how the discrete user groups or individuals are managed under the FMP.*

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would be subject to the review requirements:

Allocations established by Congress:

- American Fisheries Act -- LAPP
- Aleutian Islands pollock – LAPP
- BSAI Crab Rationalization -- LAPP
- Community Development Quota

Allocations established by the North Pacific Fishery Management Council:

- Amendment 80 -- LAPP
- Halibut and sablefish IFQ (*excluding the Community Quota Entity [CQE] component because the "opportunity to participate in a fishery" was not distributed by the Council/NMFS; the entities must purchase quota share/IFQ*) -- LAPP
- Central Gulf of Alaska Rockfish Program -- LAPP
- Pacific cod sector allocations in the Gulf of Alaska and the Bering Sea and Aleutian Islands
- Halibut catch sharing plan for commercial and charter sectors in Southeast and Southcentral Alaska

NMFS staff noted that the depth of the review for the allocations established by Congress may be minimal given the lack of specific authority to change some, or potentially all, aspects of the allocations, it could still be worthwhile for the Council and the public to assess any impacts related to the allocations. These discussions could identify non-statutory changes for improving the program that the Council or its stakeholders would want to pursue.

NMFS staff noted that with respect to the LAPP programs, the Council could choose to use the MSA-required 5/7 year review requirement as the trigger for the review of the allocations of those programs. In that case, the allocation review would be subsumed in those 5/7 year reviews. If the Council chooses a different trigger, then the allocation review would not be subsumed within the 5/7 year review. For efficiency, it would likely make sense for the Council to use the MSA-required 5/7 year review as the basis for the allocation review for LAPPs unless it can identify some other clear policy objective.

### **3.2 Determination of Review Triggers**

The allocation review policy directive does provide the Councils considerable flexibility on determining when such reviews would occur, and allows us three years to identify the ‘triggers’ which would be used to determine when a review should occur. It is also important to note that when a review is ‘triggered’, that initiates a process to make a preliminary assessment of the program against the overall program goals and objectives – the fisheries allocation review – to determine whether a formal evaluation of alternatives (FMP or regulatory amendment) is warranted. The fisheries allocation review is not, in and of itself, an implicit trigger to consider new alternatives.

The important part of all this for the Council’s near-term consideration is identification of the triggers which would initiate a fisheries allocation review. While the Council technically has three years to identify such triggers, it is not imperative that it waits that long to do so.

## 4 Discussion

### 4.1 Allocations Needing Review Triggers

Before jumping into a discussion of the types of triggers that might be considered, it is useful to consider the program reviews and the public process the Council already uses and evaluate how these reviews meet the requirements of the new policy. Under the Fisheries Allocation Review Policy, there are three basic components to the review (see prior figure):

1. Review Objectives, and revise as necessary.
2. Are Objectives being met?
3. Have other relevant factors changed that would impact allocations?

Of the 10 fishery allocations apparently subject to policy directive, six are limited access privilege programs that already undergo periodic (5/7 year) reviews. These program reviews provide an in-depth and comprehensive analysis of how each program is meeting the objectives identified in development and implementation of the program, including the allocation objectives. In cases when the Council finds that the program is not adequately meeting its objectives, it has initiated changes to the program. For the most part, these LAPP reviews go a long way to meeting the letter and intent of the Fisheries Allocation Review Policy in that the LAPP reviews examine if objectives are being met (component 2), and examine the relevant factors that could impact the allocation (component 3).

The periodic LAPP reviews may not entirely meet component 1 of the Policy, however, because most LAPP reviews to date have not explicitly included a re-evaluation and updating of the management goals and objectives to ensure they are relevant to current conditions and needs. Nevertheless, desired changes to our existing LAPP programs, including those changes that are responsive to the performance of the LAPP and new or modified objectives have been reflected in amendments made to the programs since initial implementation. Those amendments have been described in all of our LAPP reviews. The Council could easily highlight these modifications to management goals and objectives more explicitly in future LAPP reviews.

Allocation	Established by	LAPP ?	Program Review
American Fisheries Act	Congress	Yes	2017
Aleutian Islands Pollock	Congress	Yes	2017
BSAI Crab Rationalization	Congress	Yes	2016
Community Development Quota	Congress	NA	
Amendment 80	Council	Yes	2015
Halibut / Sablefish IFQ	Council	Yes	2016
Central Gulf of Alaska Rockfish	Council	Yes	2017
GOA Pacific Cod Sector Allocation	Council	No	
BSAI Pacific Cod Sector Allocation	Council	No	
Halibut Catch Sharing Plan	Council	No	

The AI pollock LAPP was discussed in the review of the AFA pollock LAPP, noting that there has not been directed pollock fishing in the AI associated with this allocation to date. Since implementation of the AI pollock LAPP in 2005 (Amendment 82), NMFS has reallocated the projected unused amounts of the Aleut Corporation pollock directed fishing allowance from the Aleutian Islands subarea to the Bering Sea subarea.

It is not clear how the Fisheries Allocation Review policy would apply to the CDQ Program, as the allocations are set forth in statute, and the authority to revise the allocation rests with Congress, and not the Councils. Additionally, the MSA vests allocation review and adjustment of entity allocations within the CDQ program to the State of Alaska<sup>2</sup>. As such, a review of the allocations under the CDQ program would be very cursory because the Council is not authorized to make any changes to the allocations.

Assuming that the current LAPP review process, as revised to highlight the ongoing review of management goals and objectives (component 1), will be deemed sufficient to meet the allocation review policy, the discussion of triggers is applicable only to non-LAPP allocations. **The programs that the Council may wish to focus on are the GOA and BSAI Pacific Cod Allocations and the Halibut Catch Sharing Plan, and the Council would thus need to determine appropriate triggers for periodically reviewing the allocations under these programs.** Although one could argue that the Halibut Catch Sharing Plan does not technically fall under the purview of the Allocation Policy -- the Councils are responsible for determining triggers applicable to FMPs that contain an allocation (yet there is no halibut FMP) – it seems logical to apply the review policy to this allocation as well.

#### 4.2 Review Triggers

The following table provides a summary comparison of the different types of triggers. Discussion of each type of trigger, as it could be used for NPFMC allocation reviews, is discussed in the following sections.

Trigger Criteria	Description	PROs	CONs
<b>Public Interest-based</b>	Allows the public to request reviews through: 1) ongoing input, 2) solicitation by Council for input, or 3) by formal petition.	Most responsive to perceived or slight changes in fishery performance. Council can determine a schedule for solicitation of input.	Sets up public expectations. Vulnerable to political or council dynamics (reviews might never happen, or occur frequently causing fishery instability and increased staff workload).
<b>Time-based</b>	Requires periodic allocation review; Directive suggests every 7-10 years.	Simple and unambiguous. Not vulnerable to political or council dynamics.	Not sensitive to competing Council priorities for staff time and meeting agendas.
<b>Indicator-based</b>	Requires an allocation review when indicator thresholds are met. Indicator criteria can be a mix of economic, social, or environmental criteria or data.	Reviews are not conducted until thresholds are hit.	Relatively complicated to develop indicators and thresholds. Requires continual monitoring of quantitative and qualitative thresholds.

<sup>2</sup> The MSA requires a time-based criteria review (in 2012 and every 10 years thereafter), and the review requirements for adjusting allocations among CDQ groups appear to meet the spirit of the NMFS allocation review policy.

#### 4.2.1 Public Interest

The Council regularly receives testimony from fishery participants on how the fishery is working, and whether or not the public thinks regulatory changes are needed. This is very useful in that it provides continual feedback on how an allocation is working to achieve its objectives. This occurs with respect to the LAPP programs and other allocations as well. For example, the BSAI Pacific cod allocations have been reviewed and revised several times since implementation as a result of public interest in re-evaluating the allocations. For other programs, such as the Halibut Catch Sharing Plan, members of the public have testified and requested that the allocation be reconsidered since implementation, but the Council has not initiated a separate, formal review of the allocation<sup>3</sup>.

Should the Council wish to develop allocation review triggers primarily based on public-interest criteria, it would need to determine the approach to take: ongoing input on fishery performance, special solicitation of public comment, or a formal petition mechanism. An ongoing input approach is basically what the Council has now, whereby the public can propose an allocation review during staff tasking at any council meeting. A special solicitation approach would alert the public that the Council is specifically putting on meeting agenda an opportunity for the public to provide comments on whether or not to review an allocation. A formal petition approach would require the public to meet guidelines for petitions, established by the Council. Of these approaches, a special solicitation on a periodic basis (say, every 7-10 years) may make the most sense for the NPFMC, as it focuses public comment on possible allocation review at a particular meeting, rather than coming in at any time. One possible drawback of solicitation is that it sets up expectations the public may have relative to initiating an allocation review.

There are some drawbacks to the public interest criteria, however. Under any approach based on public interest criteria, the Policy appears to require the Council to initiate Step 1a the allocation review process when the public interest criteria are triggered. This suggests that each time a request for a review is made by the public, the Council must proceed to Step 1a of the process. Step 1a is essentially the preparation of a discussion paper that evaluates changes in social, ecological, or economic criteria to evaluate if a comprehensive review is warranted. For at least some allocation programs, there is some possibility that the Council could be overwhelmed with frequent public requests to initiate an allocation review, and thus creating an endless do-loop of Step 1a discussion papers. While a petition approach might reduce the number of requests somewhat, it is not clear at this time if the Council could create a public interest criteria that isn't triggered every time the public requests an allocation review. To address this concern, the Council may wish to carefully craft a policy for public interest criteria if that is the direction that it wishes to take.

Rather than use a public interest criteria directly, another possibility is to simply use the current ongoing public interest as an auxiliary approach to a time-based approach. Under this option, the public has the ongoing opportunity to inform the council when changes occur in the fishery. The Council could then decide if it wishes to complete an allocation review prior to a time-based trigger deadline for a periodic review.

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<sup>3</sup> The Council did, however, recently recommend an action to authorize a recreational quota entity to purchase commercial quota share to be used in the charter sector. In recommending the components of this action, the Council carefully considered the allocation of halibut between the commercial and charter sectors and recommended limits on quota share purchase by the recreational quota entity to balance the needs of the two sectors. One could argue that the Council's analysis of this action met the review allocation requirements.

#### 4.2.2 Time

A time-base trigger is the most straightforward approach to meet the objective of the Fisheries Allocation Policy, which is “to ensure fisheries allocations are periodically evaluated to remain relevant to current conditions.” A review of the allocation is guaranteed, and on an established frequency.

The MSA requires that LAPP programs receive comprehensive program reviews. While these reviews meet most of the letter and intent of the policy, a slight tweaking of the reviews would help to clarify how our reviews meet all the required components of the allocation reviews. This can be done by including a section that explicitly re-evaluates and considers updating of the management goals and objectives to ensure they are relevant to current conditions and needs.

The other three programs (BSAI and GOA Pacific cod allocations, and Halibut Catch Sharing Plan) are contentious allocations, and a time-based criteria could be the most direct option given the uncertainty of a public input approach and the enormous task of developing and monitoring an indicator approach.

#### 4.2.3 Indicators

Of the three options for triggers, setting indicators is by far the most difficult. To determine appropriate qualitative or quantitative thresholds for use as triggers would require a very thorough analysis of the information available, and likely be a larger undertaking than the allocation review itself. Such an analysis would require evaluation of indicators that could be considered for triggers. The Council would then be required to make *a priori* decisions about the factors or indicators most important to be used, and threshold levels that would trigger an allocation review. Once a threshold is met, the frequency of the reviews, and decision to actually initiate a review, would be out of the Council’s hands.

The procedural directives note that indicators of performance and change could include: trends in catch, status of fishery resources, changes in species distribution, and quality of information available. Other factors to be considered when reviewing allocation decisions include:

- Ecological Measures – ecological impacts on target species, non-target species, protected species, habitat, ecological communities
- Economic Factors - economic efficiency estimating net economic benefits, and economic impact using input-output models of sales, income and employment
- Social Factors – fair and equitable measures including well-being, environmental justice impacts, fishing community impacts including current and future dependence, community vulnerability and adaptive capacity.

Should the Council decide to develop an -indicator based approach, an examination of these factors and performance indicators as possible triggers would be the next step for each allocation. This would be a very large tasking assignment for staff, and similar in scope to a full-blown program evaluation.

### 4.3 Findings

The following is a summary of findings based on this discussion paper. The Council may wish to act on these findings to determine the allocation review policy for each fishery.

- There are 10 allocations that appear to meet the Fishery Allocation Review Policy definition, including all LAPP programs, the GOA Pacific cod sector allocation, the BSAI Pacific cod sector allocation, and the Halibut Catch Sharing Plan. These allocations were recommended by NMFS AKRO and HQ staff, and drawn from the possible universe of all NPFMC allocations.
- The Community Development Quota allocation will not be subject to periodic allocation reviews, as this allocation is outside of the Councils' authority to change, and is exempt from LAPP/CSP reviews.
- All future LAPP reviews could explicitly include a section that evaluates the management goals and objectives to ensure they are relevant to current conditions and needs with respect to the allocation. This will ensure that all components of the required reviews are met, and thus the LAPP reviews will meet the allocation review policy.
- A time-based criteria for the remaining non-LAPP allocations (GOA and BSAI Pacific Cod Allocations and the Halibut Catch Sharing Plan), is the most straightforward way to ensure periodic reviews. A 10-year review frequency is suggested, as these are established fisheries with relatively stable performance. The depth of the analytical reviews can be scaled to the need for the review and likely improvement in fishery performance. Additionally, it is worth noting that:
  - The Council has an adaptive, open and transparent process that provides the public opportunities for input. As such, the public can suggest an allocation be reviewed prior to the established frequency for review. The Council could then determine if it wishes to pursue an out-of-cycle allocation review, or some intermediate step in the review process (e.g., step 1a).
  - After the first full allocation review of the GOA and BSAI Pacific Cod Allocations and the Halibut Catch Sharing Plan, the Council would be in a better position to further evaluate potential use and development of performance criteria for future allocation reviews.
- Public interest-based criteria for triggers could also be a viable approach, at least for the Pacific cod sector allocations, as history shows the NPFMC process has been dynamic and responsive to changing conditions in the fishery. For example, the BSAI cod allocations have been revisited in Amendments 24, 46, 64, 77, and 85. If the Council wishes to establish a public interest trigger for these fisheries, staff could come back at a future meeting with additional justification and draft policy language for discussion.

A summary of these findings is shown in the table below.

Allocation	Primary Trigger Criteria	Frequency
American Fisheries Act	Time-based	every 7 years (LAPP)
Aleutian Islands Pollock	Time-based	every 7 years (LAPP)
BSAI Crab Rationalization	Time-based	every 7 years (LAPP)
Community Development Quota	NA	
Amendment 80	Time-based	every 7 years (LAPP)
Halibut / Sablefish IFQ	Time-based	every 7 years (LAPP)
Central Gulf of Alaska Rockfish	Time-based	every 7 years (LAPP)
GOA Pacific Cod Sector Allocation	Time-based?	every 10 years?
BSAI Pacific Cod Sector Allocation	Time-based?	every 10 years?
Halibut Catch Sharing Plan	Time-based	every 10 years

Should the Council adopt the time-based criteria for all 3 non-LAPP allocations, the next step in the process would be to establish a schedule for reviews. The BSAI Pacific cod allocations is nearing its 10-year implementation anniversary, and may be the next logical choice for allocation review.

Allocation	Last Review	Next Scheduled Review
American Fisheries Act	2017	2024
Aleutian Islands Pollock	2017	2024
BSAI Crab Rationalization	2016	2023
Community Development Quota	2012 (State)	2022
Amendment 80	2015	2022
Halibut / Sablefish IFQ	2016	2023
Central Gulf of Alaska Rockfish	2017	2024
GOA Pacific Cod Sector Allocation	Am 83 Implemented in 2012	?
BSAI Pacific Cod Sector Allocation	Am 85 Implemented in 2008	2018?
Halibut Catch Sharing Plan	Implemented in 2014	?

Should the Council wish to explore public interest-based triggers more in depth for specific fisheries, then the Council may wish to request a follow up discussion paper that further fleshes out some of these issues.



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