

**Post-delivery transfers of crab IFQ and rockfish CQ
North Pacific Fishery Management Council
June 2006**

At its February 2006 meeting, in response to public testimony, the Council requested staff to prepare a discussion paper concerning a potential amendment to the crab rationalization program that would permit the transfer of IFQ to cover overages after the time of landing. The provision would be intended to reduce the potential for enforcement actions related to unintended overages, in the event the fisherman can acquire shares to cover the overage within a reasonable time. The Council also directed staff to include discussion of the application of an equivalent provision to the Central Gulf of Alaska rockfish pilot program. This paper responds to the Council request. The paper begins with a brief description of the rationale and use for post delivery transfers, including a brief discussion of the use of systems of post-delivery transfers in fisheries outside of the North Pacific. Since the underlying management programs in the Bering Sea and Aleutian Island crab fisheries and Central Gulf rockfish fisheries differ substantially, the discussion of the possible amendments is separated. For each fishery, the paper includes a discussion of pertinent issues, a draft purpose and need statement, and draft elements and options for Council consideration.

Background

In a share-based fishery, participants catch is limited by individual fishing quota (or IFQ) holdings. During the fishery, participants estimate catch attempting to limit catch to their available quota. Even if discards are permitted (such as the crab fisheries), overages occur at times due to errors in catch estimates. Precisely estimating catch onboard can be difficult (and costly) due to variation in size of crab or fish and sorting and measurement requirements. In fisheries in which discards are counted against quota (such as the rockfish fishery), the precise management is complicated by uncertainty of catch. Uncertainty is compounded by the binding, multispecies nature of the fishery and the allocations of rockfish, incidental catch species, and halibut prohibited species catch in that program.

In many share-based programs, some flexibility is built into the program structure to accommodate imprecision and uncertainty in catch. In the halibut and sablefish program, up to 10 percent of a person's annual IFQ allocation that is unharvested will be reissued in the following year. Conversely, overharvest of up to 10 percent of a person's allocation is permitted, with a deduction from the following year's allocation. These carryover provisions limit the need for precisely estimating or catching IFQ. No similar provisions exist for either underages or overages in the crab or rockfish fisheries.

Allowing post-delivery transfers in the crab and rockfish fisheries could mitigate potential overages, reducing enforcement costs and providing for more precise TAC management. Yet, some caution is warranted in the development of a system of post-delivery transfers. Too liberal reliance on post-delivery transfers could exacerbate overages. Similarly, an unconstrained system of post-delivery transfers could complicate management and oversight of share management and enforcement of overages that are not covered by a transfer. Appropriate limits (on both the magnitude and timing of transfers) could prevent unwarranted reliance on post-delivery transfers to cover reckless overages, minimize management, oversight, and enforcement complications, and prevent potential abuses.

Post-delivery transfer provisions have been used to mitigate potential overages in several share-based management programs outside of the U.S. In Nova Scotia, post-delivery transfers are generally permitted for up to 45 days after a landing has occurred. At the season's end, the transfer period is extended to 2 months.¹ Participants in British Columbia are permitted to cover overages with a post-delivery transfer for

¹ Nova Scotia uses share-based management programs for different gear types. Transfers across gear types are permitted only after the season closing. The rationale for permitting these cross-gear transfers is to prevent potential

30 days after the landing. In Iceland, fishermen are limited to 3 days after notice to cover an overage. Real-time monitoring, online catch accounting, and a system of electronic transfers make this brief period for post-delivery transfers possible. In New Zealand, post delivery transfers are permitted until the 15th day of the month following the landing. In addition, New Zealand's program includes a system of "deemed values," or scheduled charges for catch that is not covered by quota. These charges are refunded in the event a person receives a post-delivery transfer to cover the overage within 15 days of the season closing (see Sanchirico, et al., 2006). Each of these programs limits post-delivery transfers temporally, but does not limit the magnitude of transfers.

Post-delivery transfers in the crab fisheries

In establishing the rationalization program for the crab fisheries, the Council recommended that overages of less than 3 percent of a harvester's available quota would be confiscated without further penalty, while overages in excess of that amount would be subject to additional penalties. Since the Council does not have the authority to set penalties, these aspects of the original Council motion are considered recommendations concerning appropriate penalties.

Two possible (and opposite) effects of constraining harvest allocations could be mitigated by a post-delivery transfer provision. First, harvesters that underestimate their catch could cover any overage with a post-delivery transfer, reducing the potential for violations and TAC overages. Second, harvesters that are conservative in their estimates of catch to avoid overages may leave allocations unharvested for fear of exceeding their quota. Allowing post-delivery transfers (together with well-coordinated end of season trades among cooperatives and among individuals) could reduce the amount of unharvested allocations by allowing harvesters some latitude to address potential overages.

One consideration affecting the need for and scope of any post-delivery transfers is likely to be affected by the extent to which fishing has consolidated in cooperatives. Consolidating shares in cooperatives has limited the number of overages, since each cooperative oversees the harvest of a single annual allocation, based on the share holdings of its members. Instead of each harvester fishing to an individual allocation, groups of harvesters fish a single allocation. Typically, the last vessel fishing the cooperative's allocation is the only vessel in a cooperative that must face a potential regulatory overage.²

In the first year of the program, 16 overages occurred in all fisheries combined (see Table 1). Six of the overages exceeded 3 percent of the final trip's quota (the Council's suggested threshold for imposition of a penalty beyond confiscation). The total weight of overages in the two largest fisheries (the Bristol Bay red king crab and the Bering Sea *C. opilio* fishery) was less than 20,000 pounds (or less than 0.05 percent of the combined IFQ in the two fisheries).

TAC overruns and to reduce the incentive to discard.

² Any vessel in a cooperative may overharvest the cooperative's allocation to that vessel. This type of contractual overage would be addressed internally by the cooperative under the cooperative contract. A regulatory overage only occurs, if the total harvest of cooperative members exceeds the total allocation to the cooperative.

Table 1. Preliminary estimates of overages and landings by fishery (2005-2006 season).

Fishery	Number of participating vessels	Number of landings	Number of overages	Number of overages exceeding 3 percent	Weight of overages	Percent of landings with overage
Bristol Bay red king crab	89	255	8	4	10,912	3.1
Bering Sea <i>C. opilio</i>	78	301	6	*	8,294	2.0
Western Bering Sea <i>C. bairdi</i>	43	73	1	0	*	1.4
Eastern Aleutian Islands golden king crab	7	32	0	0	0	0.0
Western Aleutian Islands golden king crab	3	42	1	*	*	2.4

Source: NMFS RAM IFQ database, crab fishing year 2005-2006.

* withheld for confidentiality.

In the first year of the program, a much larger shares of the crab TACs were left unharvested than were overharvested through overages (see Table 2).³ Under the current rules governing use and transfer of IFQ, harvesters appear to be conservatively estimating catch to avoid potential overages.⁴ A few factors likely affected the extent to which allocations remained unharvested in the various fisheries. Many participants are reported to have inadvertently left *C. bairdi* quota unharvested, believing that the fishery closure coincided with the closure of the *C. opilio* fishery (which closed 45 days later). The Aleutian Islands golden king crab fisheries tend to have lower catch rates than the other fisheries. Given these low catch rates, it is possible that sweep up trips to catch relatively small amounts of remaining quota are not cost effective. Lastly, it is not surprising that the least amount of unharvested quota is in the Bristol Bay red king crab fishery, which has the highest value crab. The total amount of remaining IFQ in the fishery is less than a full trip for any of the approximately 90 vessels that participated in the fishery.

Table 2. Landed pounds, IFQ allocations, and unharvested IFQ by fishery (2005-2006 season).

Fishery	Landed pounds	IFQ allocation	Unharvested IFQ	Percent of IFQ unharvested	Unharvested IFQ per landing	Unharvested IFQ per participating vessel
Bristol Bay red king crab	16,472,400	16,496,103	23,703	0.1	93	266
Bering Sea <i>C. opilio</i>	33,248,009	33,472,454	224,445	0.7	746	2,878
Western Bering Sea <i>C. bairdi</i>	791,025	1,457,995	666,970	45.7	9,137	15,511
Eastern Aleutian Islands golden king crab	2,569,209	2,669,970	100,761	3.8	3,149	14,394
Western Aleutian Islands golden king crab	2,382,468	2,430,006	47,538	2.0	1,132	15,846

Source: NMFS RAM IFQ database, crab fishing year 2005-2006.

Draft purpose and need statement

To develop an appropriate provision for post-delivery transfers, the Council should be guided by a purpose and need statement. The following draft purpose and need statement could be considered by the Council:

Under the crab rationalization program, harvesters receive annual allocations of individual fishing quota that provide an exclusive privilege to harvest a specific number of pounds of crab from a fishery. Any harvest in excess of an individual fishing quota allocation is a regulatory violation punishable by confiscation of crab or other penalties. Precisely estimating of catch at sea during the fishery is difficult and costly due to variation in size of crab, and sorting and measurement requirements. Overages can result from inadvertent mistakes by participants attempting to accurately estimate catch. A provision allowing for post-delivery transfer of

³ Note that 'landed pounds' includes amounts landed as overages.

⁴ Under the regulations governing the harvest of allocations, any overage is considered a violation. Harvesters' conservative approach to estimate quota usage may be a result of these overages constituting a violation.

individual fishing quota to cover overages could reduce the number of inadvertent violations, allowing for more complete harvest of allocations, and reduce enforcement costs without increasing the risk of overharvest of allocations.

Alternative, elements, and options for consideration

This section briefly reviews some considerations and elements and options and that could be used to define alternatives for analysis. The section begins by summarizing three possible approaches to the development of a post-delivery transfer provision. These different approaches could be used by the Council to develop three distinct alternatives. The section goes on to discuss specific provisions that could be used to construct the different alternatives. The section concludes by developing three possible alternatives that could be considered by the Council for analysis. The alternatives are constructed to allow specific options to be substituted, as deemed appropriate by the Council.

Approaches to developing alternatives

Generally, the use of post-delivery transfers would be intended to allow harvesters flexibility to cover overages (or possibly coordinate share usage). A liberal approach to post-delivery transfers would allow any number of post-delivery transfers at the election of a participant. No limit on the magnitude of transfers would be applied. Two limitations could be considered. First, persons without unused IFQ could be prohibited from fishing to prevent possible excessive overages. So, a person that had an overage would be required to cover that overage with a post-delivery transfer and acquire additional IFQ prior to beginning a new trip.⁵ Second, all post-delivery transfers would need to be completed by a date certain after the end of the season to allow managers to finalize all share use accounting. This approach might be favoured for its simplicity and its relatively low administrative burden. Whether the approach increases the risk of overages is not clear. Since a harvester is not limited in the ability to cover an overage with a post-delivery transfer, it is possible that a harvester could fish well beyond its share holdings in hopes of covering the overage with a later transfer. On the other hand, since overages that are not covered would be subject to a penalty and would likely increase with the magnitude of the overage, harvesters may still have a significant incentive to avoid overages that they are not certain that they can cover.

A second (and opposite) approach would be to allow very limited post-delivery transfers to limit the potential of harvesters to have overages that cannot be covered with a post-delivery transfer. A system of very constrained transfers might be used to minimize any potential incentive for harvesters to exceed their quota holdings to ensure that overages simply arise from errors in catch estimates, rather than intentionally exceeding quota holdings. This more limited system of transfers might limit the number of overages for which participants seek post-delivery transfers. Yet, it is possible that more uncovered overages could arise under a system of more limited post-delivery transfers. In other words, it is possible that the constraints on the use of post-delivery transfers could limit the effectiveness of the provision for covering overages to an extent that more overages remain at the end of the season. In addition, imposing additional constraints on the use of the post-delivery transfers would increase administrative and enforcement costs related to those constraints.

A third approach could be to choose a system of moderate constraints, which could be intended to balance participants interest in making reasonable use of post-delivery transfers to cover overages against the need to limit any incentive to fish in excess of quota holdings. In developing such an approach, the potential for any limits on the use of transfers to add to administrative and enforcement burdens should also be considered relative to the benefits to participants and risks of abuse that are likely to arise under the system.

⁵ NMFS Enforcement has cautioned that such a requirement could create enforcement complications. For example, would a harvester who chooses to leave fishing pots on the grounds, while making a delivery during which a transfer will be processed be found in violation.

Purpose of post-delivery transfers

As a starting point, the provision would generally define whether post-delivery transfer can be used for purposes other than to cover an overage. Post-delivery transfer could be used to coordinate share usage other than overages. For example, a shareholder may wish to use A shares for a landing, saving its B shares for later use. Allowing a transfer for purposes other than overages could severely complicate administration of the overages. In such circumstances, the landing would initially be charged to one shareholding, after which the harvester would request a transfer to cover a portion of the landing. Administrators would need to revalidate the shares initially used, then charge the landing to the shares received on transfer after the landing. Depending on the scope of the purpose and need statement, the use of post-delivery transfers for purposes other than covering overages may be eliminated at this time. Possible provisions for consideration include:

Possible options

Post-delivery transfers would be allowed exclusively to cover an overage.

Post-delivery transfers are allowed for any purpose.

Shares used for post-delivery transfers

Since several types of shares are currently allocated in the crab fisheries, the Council could consider whether any restrictions (beyond the existing use provisions) should limit the use of shares for post-delivery transfers. Using B shares for post-delivery transfers would be the simplest to administer. These shares are not limited by the requirement for matching individual processing quota (or IPQ). The use of A shares for post-delivery transfers could be more complicated, since those shares require matching IPQ from the processor. Whether a harvester is permitted to cover an overage with an A share post-delivery transfer should depend on whether matching IPQ are held and committed for the landing. If IPQ are committed simultaneously with the transfer, the administration of the transfer and its application to the landing should be relatively straightforward. In the absence of an IPQ commitment, the use of A shares to cover an overage would diminish the IPQ allocations to all processors.

In addition, it should be considered that circumstances may arise when a harvester is able to cover an overage with Class A IFQ, but cannot do so unless a processor is also able to take a post-delivery transfer of IPQ. Whether post-delivery transfers of IPQ should be permitted might be a consideration to accommodate this situation. Allowing post-delivery IPQ transfers could assist harvesters who wish to reserve B shares for other uses.⁶

A few possible, additional concerns should be assessed, if the post-delivery transfer of C shares (captain and crew shares) to cover an overage is to be considered. C shares are intended to provide additional negotiating leverage to active captains and crew, who hold the shares. If C shares are to be included in this action, the Council should consider the degree to which their use for post-delivery transfers could affect the negotiating leverage derived from the shares. Most C shares holders have elected to join cooperatives. As a consequence, the use of C shares is governed by cooperative agreements and private contracts among the cooperative members. Given that these shares are subject to private, cooperative arrangements, it is difficult to know the terms of their current use and how it might differ from use outside of cooperatives. If C shares are pooled with other shares in a cooperative, their use likely matches that of B shares (which they currently resemble in the absence of IPQ matching requirements). Alternatively, the relatively small, flexible C share allocations could be set aside for use to cover overages. If needed, C

⁶ If transfers are used only for overages, an IPQ overage would be required for a processor to engage in a post-delivery transfer of IPQ. The complexity of substituting a harvester's A shares for B shares for a completed delivery to allow for an IPQ transfer in the absence of an overage would likely be administratively infeasible.

share values could increase by being put to this use. If the first year trend of few overages is maintained, it is possible that reserving C shares to cover overages could reduce their use (and value).

The Council could also consider whether the post-deliver transfer provision should be extended to catcher processor shares. Although catcher processors weight all of their catch prior to processing, some overages have been reported in the first two years of the program. If appropriately limited, allowing post-delivery transfers could mitigate against these potential overages by catcher processors. In addition, catcher processor shares could be used by the catcher vessel fleet to cover overages and to limit discards that might occur to prevent an overage.

Possible options

Post-delivery transfers of the following shares are permitted:

Option 1: B share IFQ

Option 2: A share IFQ (provided a processor simultaneously commits matching IPQ)

Option 3: C share IFQ

Option 4: catcher processor IFQ

Option 5: IPQ

Limits on the magnitude of a post-delivery transfer

It is possible that allowing post-delivery transfers could lead some fishermen to unreasonable rely on the provision, leading to excessive overages that they are unable to cover through post-delivery transfers. To prevent potential unreasonable reliance on post-delivery transfers, the Council could limit the magnitude of permitted transfers. One (or both) of two approaches to limiting transfers could be considered. Transfers could either be limited to less than a fix amount of pounds or less than a certain percentage of the IFQ used on a trip. Imposing a percentage limit could be appropriate for ensuring that a person did not have an excessive overage, given the available IFQ for the trip. In the first year of the program, fewer than 7 of the 16 overages exceeded 3 percent of the IFQ used on the trip. Imposing a limit as a fixed amount of pounds would ensure that an overage does not exceed a specific magnitude, regardless of the IFQ used on the trip. In the first year of the program, overages averaged less than 2,000 pounds in the two fisheries for which data could be released. If the Council wishes to limit both the overall magnitude of any overage and the potential for a single overage to be excessive given the size of the trip, both of these limitations could be incorporated into a single provision.

In considering whether to include a provision limiting the magnitude of post-delivery transfers, the Council should consider whether harvesters are likely to harvest crab without a relatively high certainty of being able to cover the catch with IFQ. Overharvests are likely to leave a harvester with a choice of either paying the market price for a post-delivery transfer or accepting enforcement consequences. If enforcement consequences are punitive, harvesters may be unlikely to engage in fishing that cannot be covered with a post-delivery transfer.

Possible options

Each post-delivery transfer shall be limited to:

Option 1: a. 5 percent

b. 10 percent

c. 15 percent

of the IFQ used on the trip.

Option 2. a. 5,000 pounds of IFQ (or IPQ).

b. 10,000 pounds of IFQ (or IPQ).

c. 15,000 pounds of IFQ (or IPQ).

(both options could be selected)

Limits on the number of post-delivery transfers

Although not an extraordinary administrative burden, it is possible that excessive use of post-delivery transfers could increase administrative costs associated with allowing these transfers. To prevent this potential excessive burden, an IFQ holder could be limited in the number of post-delivery transfers that it would be permitted to receive (or number of overages that may be covered by post-delivery transfers) in a single fishery. If post-delivery transfers are exclusively to cover overages, each IFQ holder might be assumed to make a single 'last trip'. Under this assumption, it might seem appropriate to limit each IFQ holder to covering a single overage with post-delivery transfers in each fishery. Some IFQ holders, however, may make a sweep up trip combining remaining shares of several IFQ holders. Allowing for a second post-delivery transfer for these trips could improve participants' abilities to harvest their allocations without risk of excessive administrative costs.

The potential for a vessel to have overages in two different regions should also be considered, if the number of post-delivery transfers is to be limited. Balancing accounts for each of two regions could require allowing at least one post-delivery transfer in each region in a fishery.

Under the current rule, it is prohibited for a person to harvest crab in excess of IFQ holdings (see 50 CFR §680.7(e)(2)). If post-delivery transfers are authorized, this provision will need to be revised to accommodate a person covering an overage as permitted by this action. Alternatively, a person (including a cooperative) could be prohibited from beginning a fishing trip, if the person does not hold unused IFQ. This provision could be used to prevent a person from relying exclusively on post-delivery transfers to support a fishing trip. Such a provision might not be necessary, if it is believed that enforcement penalties would be adequate to prevent persons from harvesting crab that they do not have a high degree of certainty of being able to cover with a post-delivery transfer.

Possible options

For each species, an IFQ (or IPQ) holder is limited to receiving:

Option 1. post-delivery transfers to cover one overage

Option 2. post-delivery transfers to cover two overages

Option 3. post-delivery transfers to cover three overages

Option: No person shall be permitted to begin a fishing trip, unless the person holds unused IFQ.

Limits on the time to undertake a post-delivery transfer

An effective and efficient system of post-delivery transfers should allow a harvester a reasonable period of time to cover an overage with transfer. The time period should be long enough to allow the harvester to find a seller, but short enough so that administrators can finalize records for purposes of documenting catch and share usage in the fishery. A time period that is too short may circumvent the purpose of the provision by not accommodating search time needed to find a seller of shares and complete the transaction (including obtaining notarized signatures as are currently required). A period that is too long could add to administrative burdens and also induce lax reliance on the provision that could lead more uncovered overages. An appropriate period for post-delivery transfers could adopt a time limit that balances these competing considerations.

Since share accounting is not finalized until the end of a fishing season, an alternative approach is to allow post-delivery transfers at any time until a few weeks after the season ends. Allowing this longer window to cover an overage could simplify share use accounting arising from allowing post delivery transfers. If the Council elects to consider this longer window, the analysis will need to consider the potential effects of such a provision on share prices and on enforcement, which could be simplified by reducing the number of enforcement actions. In extending the time to cover an overage to the end of a season, the Council should consider the length of the current crab seasons and the timing of fishing.

Particularly in the fisheries that currently have extended seasons, a harvester may complete fishing well before the season's end. If an overage does not need to be covered until after the end of the season, some participants could neglect covering an overage believing the extended period of time would allow adequate time to do so.

Possible options

Option 1. Post-delivery transfers will be permitted after a landing for a catcher vessel (or weekending date for a catcher processor) for a period of:

Suboption a. 1 week

Suboption b. 15 days

Suboption c. 30 days

Option 2. A post-delivery transfer will be permitted after the season closure of the fishery for a period of:

Suboption a. 15 days

Suboption b. 30 days

Possible alternatives

Below are possible alternatives that the Council could consider for analysis of post-delivery transfers in the crab fisheries. After the alternatives, a table summarizes the differences between the various suggested alternatives (see Table 3).

Alternative 1 – Status Quo (no post-delivery transfers)

Alternative 2 – Unlimited post-delivery transfers

Purpose of post-delivery transfers

Post-delivery transfers would be allowed exclusively to cover overages.

Shares used for post-delivery transfers

Post-delivery transfers of the following shares are permitted:

B share IFQ

A share IFQ (provided a processor simultaneously commits matching IPQ)

C share IFQ

catcher processor IFQ

IPQ

Limits on the magnitude of a post-delivery transfer

None

Limits on the number of post-delivery transfers

None

Limits on the time to undertake a post-delivery transfer

A post-delivery transfer will be permitted after a landing for a catcher vessel (or weekending date for a catcher processor) for a period of 30 days.

Alternative 3 – Moderate limited post-delivery transfers

Purpose of post-delivery transfers

Post-delivery transfers would be allowed exclusively to cover overages.

Shares used for post-delivery transfers

Post-delivery transfers of the following shares are permitted:

B share IFQ

A share IFQ (provided a processor simultaneously commits matching IPQ)
C share IFQ
catcher processor IFQ
IPQ

Limits on the magnitude of a post-delivery transfer

Each post-delivery transfer shall be limited to 10,000 pounds of IFQ (or IPQ).

Limits on the number of post-delivery transfers

Possible options

For each species, an IFQ (or IPQ) holder is limited to receiving post-delivery transfers to cover two overages.

No person shall be permitted to begin a fishing trip, unless the person holds unused IFQ.

Limits on the time to undertake a post-delivery transfer

Post-delivery transfers will be permitted after a landing for a catcher vessel (or weekend date for a catcher processor) for a period of 15 days.

Alternative 4 – Strictly limited post-delivery transfers

Purpose of post-delivery transfers

Post-delivery transfers would be allowed exclusively to cover an overage.

Shares used for post-delivery transfers

Post-delivery transfers of the following shares are permitted:

B share IFQ

A share IFQ (provided a processor simultaneously commits matching IPQ)

C share IFQ

catcher processor IFQ

IPQ

Limits on the magnitude of a post-delivery transfer

Each post-delivery transfer shall be limited to the lesser of 10 percent of the IFQ used on the trip and 10,000 pounds of IFQ (or 10,000 pounds of IPQ).

Limits on the number of post-delivery transfers

For each species, an IFQ (or IPQ) holder is limited to receiving post-delivery transfers to cover one overage.

No person shall be permitted to begin a fishing trip, unless the person holds unused IFQ.

Limits on the time to undertake a post-delivery transfer

Post-delivery transfers will be permitted after a landing for a catcher vessel (or weekend date for a catcher processor) for a period of 1 week.

Table 3. Summary of suggested crab post-delivery transfer alternatives.

Element	Alternative 1 (status quo)	Alternative 2 (unlimited)	Alternative 3 (moderately limited)	Alternative 4 (strictly limited)
Purpose	No post-delivery transfers permitted	Only for overages	Only for overages	Only for overages
Maximum amount of transfer		none	10,000 pounds	Lesser of 10 percent of trip and 10,000 pounds
Maximum number of transfers		none	two per species	one per species
Time limit		Prior to 30 days of landing	Within 15 days of landing	Within 1 week of landing

Post-delivery transfers in the Central Gulf rockfish fishery

The motivations for allowing post-delivery transfers in the Central Gulf rockfish program are largely the same as those for allowing these transfers in the crab fisheries. The crab and rockfish programs differ in many respects. Several crab species are allocated in the crab program, but most are harvested in a single-species directed fishery. The rockfish fishery is a multispecies fishery with three rockfish species allocations, four secondary, non-rockfish species allocations, and halibut PSC allocations are made in the rockfish program. The crab program is an IFQ program, under which participants can choose to co-op, fishing a cooperative allocation made up of all member individual allocations pooled. The share-based portion of the rockfish fishery is exclusively cooperative management, with all shares allocated as cooperative quota (CQ). In the crab program, 90 percent of the catcher vessel owner IFQ are issued as ‘A shares,’ which must be matched with IPQ. In the rockfish program, all catcher vessel cooperatives are required to associate with a specific processor, who must consent to any transfer of cooperative quota. In the crab fishery, discards are permitted and not counted against an allocation.⁷ All catch, whether retained or discarded, is counted against the harvester’s allocation in the rockfish program, with harvesters required to cease fishing when any of the allocations is fully harvested. These fishery and program differences create different dynamics, which could influence the effectiveness of post-delivery transfer provisions.

Draft purpose and need statement

The following draft purpose and need statement could be considered by the Council for developing a post-delivery transfer provision for the Central Gulf of Alaska rockfish fishery:

Participants in the Central Gulf of Alaska rockfish fishery pilot program are permitted to join cooperatives, which receive annual allocations of cooperative quota, which provide exclusive privileges to catch specific numbers of pounds of Pacific ocean perch, northern rockfish, pelagic shelf rockfish, Pacific cod, sablefish, thornyhead rockfish, shortraker rockfish, roughey rockfish, and halibut prohibited species catch. Any harvest in excess of a cooperative quota allocation is a regulatory violation punishable by confiscation of catch and other penalties. Since all catch is counted against cooperative quota, the uncertainty of catch quantities and composition creates potential for unintended overages. A provision allowing for post-delivery transfer of cooperative quota to cover overages could reduce the number of inadvertent violations, allowing for more

⁷ Discard mortality is accounted for in the aggregate as a part of the TAC setting process in the crab fisheries.

complete harvest of allocations, and reduce enforcement costs without increasing the risk of overharvest of allocations.

Alternatives, elements and options for consideration

This section reviews some considerations and elements and options relevant to the development of alternatives for post-delivery transfers in the rockfish fisheries. As in the crab fishery discussion, elements and options for consideration are set out first. The section goes on to develop three possible alternatives – one with few limits on post-delivery transfers, one with moderate constraints, and a third that is very constrained. The alternatives are constructed to allow specific options to be substituted, as deemed appropriate by the Council.

General provision

Unlike the crab program, which drives distributional impacts through different share types, the rockfish program uses only two share types (catcher vessel and catcher processor) for its allocations. As a consequence, participants would have a very limited need to use post-delivery transfers to coordinate usage of the shares. So, the sole purpose for allowing post-delivery transfers would be to cover overages. No optional provisions are necessary.

Possible options

Post-delivery transfers would be allowed exclusively to cover an overage.

Shares used for post-delivery transfers

The rationale for post-deliver transfers to cover overages applies to both catcher vessel and catcher processor shares. Extending a post-delivery transfer provision would both allow catcher processors to mitigate against potential overages and could allow the catcher vessel fleet to cover overages with transfers from the catcher processor sector, in the event that catcher vessel shares are more costly or not available. This provision would not change the current limits on share usage, which prevent catcher vessel shares from being transferred to the catcher processor sector.

Possible options

Post-delivery transfers of the following shares are permitted:

Option 1: catcher vessel CQ

Option 2: catcher processor CQ

Limits on the magnitude of a post-delivery transfer

It is possible that allowing post-delivery transfers could lead some fishermen to unreasonable rely on the provision, leading to excessive overages that they are unable to cover through post-delivery transfers. To prevent potential unreasonable reliance on post-delivery transfers, the Council could limit the magnitude of permitted transfers.

As suggested for the crab fishery, one (or both) of two approaches to limiting transfers could be considered. Transfers could either be limited to less than a fix amount of pounds or less than a certain percentage of the CQ used on a trip. Imposing a percentage limit could be appropriate for ensuring that a person did not have an excessive overage, given the available CQ for the trip. In imposing a percentage limit, the Council could consider that applying the limit either on a species basis (limiting the transfer of a single species to a percentage of that species CQ used on the trip) or on an aggregate basis (limiting the transfer of all CQ to cover an overage to a percentage of all CQ used on the trip).

Some participants in the fishery might favour high transfer limits to allow a cooperative to cover a tow that is composed primarily of an unexpected species (approximately 50,000). Some stakeholders might oppose allowing large transfers for fear that they could lead to less care in targeting and more flagrant

overages. Allowing a transfer to cover such an overage could mitigate any impact of the tow on the stock, since the catch would be counted against available quota in the fishery. Furthermore, in the long run, prices of quota for less available species are likely to rise to a level that creates a disincentive for poor targeting practices.

Depending on conservation concerns and potential mitigating impacts of the transfers, the Council could distinguish transfer limits on secondary species from transfer limits on primary rockfish. The conservation benefits of limiting transfers are not immediately obvious, particularly with respect to secondary species. For example, some stakeholders may advocate tight limits on post-delivery transfers of a secondary species to prevent flagrant overages. The limit, however, could have the effect of translating a single cooperative's overage into a TAC overage for the species, if another cooperative would have been willing to transfer a portion of its CQ of the species and forgo its catch.

Similarly, the Council could consider limiting post-delivery transfers of halibut PSC to limit potential flagrant overages. This limit should be adequate to allow for inadvertent overages, but not so liberal as to support careless fishing practices.

In considering whether to include a provision limiting the magnitude of post-delivery transfers, the Council should consider whether harvesters are likely to overharvest their CQ holdings without a relatively high certainty of being able to cover the catch with a post-delivery transfer of CQ. Share pricing for post-delivery transfers could be a reasonable disincentive for overages that might threaten the TAC, (without direct limits on post-delivery transfers). Overharvests are likely to leave a harvester with a choice of either paying the market price for a post-delivery transfer of CQ or accepting enforcement consequences. If enforcement consequences are punitive, harvesters may be unlikely to engage in fishing that cannot be covered with a post-delivery transfer.

Possible options

A post-delivery transfer of primary and secondary species shall be limited to:

Option 1: a. 15 percent

B .20 percent

c. 25 percent

of the CQ used on the trip

Suboption 1. on a species basis

Suboption 2. on an aggregate basis (i.e., CQ of all species)

Option 2. a. 5 metric tons of CQ

b. 10 metric tons of CQ

c. 25 metric tons of CQ

Suboption 1: on an aggregate basis

Suboption 2. on a species basis

(both options could be selected)

A post-delivery transfer of halibut PSC shall be limited to:

Option 1. 3,000 pounds

Option 2. 5,000 pounds

Option 3. 7,000 pounds

Limits on the number of post-delivery transfers

Limits on the number of post-delivery transfers could be used to contain administrative costs associated with allowing these transfers. To prevent this potential excessive burden, the Council could limit the number of post-delivery transfers that a cooperative could receive. Two factors could be considered by

the Council in assessing these limits. First, under the rockfish program rules, no more than 5 cooperatives can form in the catcher vessel sector and no more than 7 cooperatives can form in the catcher processor sector. In the first year, 5 catcher vessel cooperatives and 2 catcher processor cooperatives are participating in the program. Given that the fishery is likely to have relatively few cooperatives, the potential burden of allowing multiple post-delivery transfers is limited. A second factor to consider is the potential importance and benefit of multiple transfers. With as many as 7 allocated species, it is possible that participants may need multiple post-delivery transfers to cover overages. Unlike the crab program (which generally has single species allocations) in the multispecies rockfish program, it is possible that a cooperative may have an overage of a species on a trip with substantial remaining quota for other species. Allowing these cooperatives to continue fishing after covering the overage (possibly making several additional trips) might be reasonable provided that the cooperative has or acquires quota to cover its catch.⁸

Possible options

For each species, a cooperative is limited to covering:

Option 1. one overage with post-delivery transfers

Option 2. three overages with post-delivery transfers

Option 3. five overages with post-delivery transfer

Option 4. unlimited post-delivery transfers

Limits on the time to undertake a post-delivery transfer

An effective and efficient system of post-delivery transfers should allow time for a cooperative to find a seller, but keep the time period short enough so that administrators can finalize records for purposes of documenting catch and share usage in the fishery. In the rockfish fishery, the need for processor consent to a transfer suggests a longer period. Although processor involvement could complicate negotiations, processor associations should be well-defined in advance of the season, possibly streamlining the negotiation. In addition, the small fishery with relatively few cooperatives should reduce search time. Participating cooperatives are currently working to develop inter-cooperative arrangements for quota management that could be used to manage post-delivery transfers, further reducing negotiation time. The details of share pricing arrangements could change throughout the season as catch rates and available quota changes. These variations suggest that a reasonable negotiating period will be needed to complete post-delivery transactions. In addition, the current requirement for notarized signatures on any transfer should be considered in establishing the time limit for transfers.

Alternatively, the Council could consider allowing post-delivery transfers until some fixed point in time after the season closes, when all share accounting would be finalized. Allowing this extended time period could provide greater flexibility to participants to cover overages with a post-delivery transfer. If considered by the Council, analysis of this provision would need to assess potential affects on share prices, program administration, share use accounting, and enforcement.

Possible options

Option 1. Post-delivery transfers will be permitted after a landing for a catcher vessel (or weekend date for a catcher processor) for a period of:

Suboption a. 1 week

Suboption b. 15 days

Suboption c. 30 days

⁸ In the event the Council elects to allow a cooperative to receive multiple post-delivery transfers, the current regulation requires that the cooperative have quota of all species prior to beginning a new fishing trip. No minimum quota holdings are specified for beginning a new trip. If the Council wishes to change this requirement, it should include such a provision in its motion.

Option 2. A post-delivery transfer will be permitted after the season closure of the fishery for a period of:
Suboption a. 1 week
Suboption b. 15 weeks
Suboption c. 30 days

Possible alternatives

Below are possible alternatives that the Council could consider for analysis of post-delivery transfers in the rockfish fisheries. After the alternatives, a table summarizes the differences between the various suggested alternatives (see Table 4).

Alternative 1 – Status Quo (no post-delivery transfers)

Alternative 2 – Unlimited post-delivery transfers

Purpose of post-delivery transfers

Post-delivery transfers would be allowed exclusively to cover an overages.

Shares used for post-delivery transfers

Post-delivery transfers of the following shares are permitted:

catcher vessel CQ

catcher processor CQ

Limits on the magnitude of a post-delivery transfer

None

Limits on the number of post-delivery transfers

None

No cooperative shall be permitted to begin a fishing trip, unless the cooperative holds unused CQ (not an option).

Limits on the time to undertake a post-delivery transfer

A post-delivery transfer will be permitted after a landing for a catcher vessel (or weekending date for a catcher processor) for a period of 30 days.

Alternative 3 – Moderate limited post-delivery transfers

Purpose of post-delivery transfers

Post-delivery transfers would be allowed exclusively to cover overages.

Shares used for post-delivery transfers

Post-delivery transfers of the following shares are permitted:

catcher vessel CQ

catcher processor CQ

Limits on the magnitude of a post-delivery transfer

A post-delivery transfer of primary and secondary species shall be limited to 25 metric tons of CQ on a species basis.

A post-delivery transfer of halibut PSC shall be limited to 5,000 pounds.

Limits on the number of post-delivery transfers

For each species, a cooperative is limited to covering five overages with post-delivery transfer.

No cooperative shall be permitted to begin a fishing trip, unless the cooperative holds unused CQ for all allocated species (not an option).

Limits on the time to undertake a post-delivery transfer

Post –delivery transfers will be permitted after a landing for a catcher vessel (or weekending date for a catcher processor) for a period of 15 days.

Alternative 4 – Strictly limited post-delivery transfers

Purpose of post-delivery transfers

Post-delivery transfers would be allowed exclusively to cover an overage.

Shares used for post-delivery transfers

Post-delivery transfers of the following shares are permitted:

catcher vessel CQ

catcher processor CQ

Limits on the magnitude of a post-delivery transfer

A post-delivery transfer of primary and secondary species shall be limited to 25 percent of the CQ used on the trip on an aggregate basis (i.e., CQ of all species) or 10 metric tons of CQ on an aggregate basis (i.e., CQ of all species).

A post-delivery transfer of halibut PSC shall be limited to 3,000 pounds.

Limits on the number of post-delivery transfers

For each species, an IFQ holder is limited to receiving post-delivery transfers to cover one overage.

No cooperative shall be permitted to begin a fishing trip, unless the cooperative holds unused CQ for all allocated species (not an option).

Limits on the time to undertake a post-delivery transfer

Post –delivery transfers will be permitted after a landing for a catcher vessel (or weekending date for a catcher processor) for a period of 1 week.

Table 4. Summary of suggested rockfish post-delivery transfer alternatives.

Element	Alternative 1 (status quo)	Alternative 2 (unlimited)	Alternative 3 (moderately limited)	Alternative 4 (strictly limited)
Purpose	No post-delivery transfers permitted	Only for overages	Only for overages	Only for overages
Maximum amount of transfer - primary and secondary species		none	25 metric tons	Lesser of 25 percent of trip and 10 metric tons all species combined
Maximum amount of transfer - halibut PSC		none	5,000 pounds	3,000 pounds
Maximum number of transfers		none	five per species	one per species
Time limit		Within 30 days of landing	Within 15 days of landing	Within 1 week of landing

Conclusion

Participants in both the Bering Sea and Aleutian Island crab fisheries or in the Central Gulf of Alaska rockfish fisheries have suggested that a provision for post-delivery transfer of quota to cover overages could simplify catch management, prevent inadvertent overages, and reduce discards. If the Council wishes to consider adoption of provisions for post-delivery transfers to cover overages in those crab or rockfish fisheries, it could develop purpose and need statements and elements, options, and alternatives, and task staff to begin an analysis at this time.