



Greater Atlantic Region Bulletin

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Northeast Groundfish Sector Fishermen

Update to Fishing Year 2013 Carryover Accounting in Response to Court Ruling

Proposed revision from previously announced measures

We plan to revise our approach on fishing year (FY) 2013 carryover accounting. The revised approach would differ from our April 16, 2014, announcement in response to the U.S. District Court ruling in *Conservation Law Foundation v. Pritzker, et al.* Our revised approach would use a second tier of catch evaluation at the sector level before imposing accountability for carryover use. This approach would still ensure overall fishery accountability is maintained, but would minimize the disruption to sectors that may have used or planned on using carryover before the Court decision.

Here is how the revised carryover accounting and accountability would work for fishing year 2013 *only*.

Step 1: Has the total fishery level annual catch limit (ACL) been exceeded?

- No--There is no repayment of used carryover required. Other components of the fishery underutilized their available catch limits sufficient to offset any carryover used.
- Yes--Proceed to step 2.

Step 2: Has the sector sub-ACL (i.e., sum total of all sector annual catch entitlement (ACE)) been exceeded?

- No--There is no repayment of used carryover required. Even though the total fishery-level ACL was exceeded, sectors collectively did not exceed their sub-ACL. While some sectors may have used carryover, other sectors did not or underutilized available ACE by enough to offset the carryover used resulting in total catch less than the sub-ACL.
- Yes—Proceed to step 3.

Step 3: After FY 2013 catch reconciliation with NMFS has occurred, determine which sectors used carryover ACE that must be repaid.

- **Step 3a:** Subtract the *de minimis* carryover amount from the carryover ACE balance for applicable sectors.
 - *De minimis* is calculated as 1 percent of the FY 2014 sector sub-ACL subdivided to the sectors according to their percent sector contribution per stock.
- **Step 3b:** Reduce the applicable sector's FY 2014 ACE equal to the remaining amount of carryover catch used in FY 2013 (pound-for-pound payback of carryover used less *de minimis*).

For small entity compliance guides, this bulletin complies with section 212 of the Small Business Regulatory Enforcement and Fairness Act of 1996. This notice is authorized by the Regional Administrator of the National Marine Fisheries Service, Greater Atlantic Region.

Our last bulletin provided a simplified example for the accounting system. For comparison purposes, we've updated the example to illustrate how carryover would be accounted for under the revised approach as follows:

- The 2013 ACE for Sector Alpha is 100 metric tons (mt).
- The available 2012 carryover for Sector Alpha is 10 metric tons.
- If the fishing year 2013 final Sector Alpha total catch is less than or equal to the 2013 ACE (i.e., 100 mt), there would be no carryover related accountability payback under any circumstances, even if the total fishery ACL and sector sub-ACL for the stock is exceeded (because ACE has not been exceeded).
- If Sector Alpha caught the full ACE (100 mt) and caught any additional fish based on its 10 mt carryover, and both the total fishery ACL and sector sub-ACL is exceeded, the sector's 2014 ACE for that stock will be reduced. The reduction will be the amount of carryover used after the *de minimis* amount has been removed (i.e., carryover used minus *de minimis* equals repayment accountability measure).

We recently modified weekly sector ACE reports so sector managers can better track carryover catch used as well as their applicable *de minimis* carryover allowance per stock. This information, paired with the initial FY 2013 catch information for sectors, can be used for a preliminary determination of which sectors may have used carryover and which stocks may be at or near the total ACL or sector sub-ACL. Given that many sectors had expected to use carryover without penalty of repayment in FY 2013, this revised approach should help mitigate the need to secure ACE leases or trades during catch reconciliation for some sectors with known carryover use. It may not be possible to fully mitigate potential payback accountability for some stocks.

We previously relayed that the total ACL for Gulf of Maine haddock has been exceeded for FY 2013. The latest sector catch monitoring report with data through April 30, 2014, indicates that 92.3 percent of the sector ACE has been used for Gulf of Maine haddock. If this information remains unchanged in the coming weeks, sectors *would not* be required to repay any Gulf of Maine haddock carryover used because the second tier criteria of exceeding the sector sub-ACL would not be met. This same report indicates that sectors have used 99.4 percent of American plaice ACE and 105.8 percent of the FY 2013 witch flounder ACE.

We will be discussing this revised approach with sector managers as quickly as possible.

We also intend to work with the New England Fishery Management Council to address any changes that may be needed to how carryover is implemented for FY 2014 to ensure consistency with the Court's decision.