



Fishery Disaster FAQs

Overall Fishery Disaster Determination Process

1. Who makes a fishery disaster determination?

- Determinations are made by the Secretary of Commerce (Secretary) through NOAA Fisheries, which also administers assistance if funds are provided by Congress.

2. What is the general process for fishery disaster determinations?

- An eligible entity requests a fishery disaster determination from the Secretary.
- NOAA Fisheries conducts an evaluation of the information provided by the requester.
- The Secretary makes a determination based on the evaluation and notifies the requester of the determination.
- Congress may appropriate funds for fishery disaster relief.
- If Congress appropriates funds, NOAA Fisheries works with the affected entities to distribute the funds consistent with the statutory requirements and conditions of the appropriation.

Laws and Authorities Covering Fishery Disaster Assistance

3. What is a fishery disaster?

- A fishery disaster refers to a commercial fishery failure, a catastrophic regional fishery disaster, significant harm incurred, or a serious disruption affecting future production due to a fishery resource disaster arising from natural, undetermined, or in certain circumstances man-made causes.

4. What laws govern fishery disasters?

- Two statutes, the Magnuson-Stevens Fishery Conservation and Management Act (MSA) and the Interjurisdictional Fisheries Act (IFA), provide the authority and requirements for fishery disaster determinations.
- NOAA Fisheries published its [fishery disaster policy guidance](#) on June 16, 2011. It provides the parameters for evaluating requests for fisheries disaster relief under the provision of Sections 312(a) and 315 of the MSA and Sections 308(b) and 308(d) of the IFA.
- Fishery disaster requests are evaluated similarly under both statutes, although there are some differences in what the two statutes authorize.
 - Under MSA Sections 312(a) and 315, the Secretary of Commerce (Secretary) may provide disaster assistance for assessing the economic and social effects of a commercial fishery failure, for activities to restore the fishery or prevent a similar failure in the future, and for assisting fishing communities.
 - MSA Section 315 also authorizes the Secretary to establish a regional economic transition program to provide disaster relief assistance to fishermen, charter fishing operations, United States

processors, and owners of related fishery infrastructure affected by a catastrophic regional fishery disaster, and allows the Secretary to waive the non-federal matching requirements if warranted. In order to receive assistance under Section 315 of the MSA, a positive MSA 312(a) or IFA 308(d) determination is also needed.

- Under IFA Section 308(b), the Secretary may provide disaster assistance to restore the fishery affected by the disaster.
- Under IFA Section 308(d), the Secretary may provide disaster assistance to persons and projects to alleviate harm incurred as a result of a fishery resource disaster.

5. What are the differences between a disaster determination under the Magnuson-Stevens Fishery Conservation and Management Act (MSA) and one under the Interjurisdictional Fisheries Act (IFA)?

- Under MSA Section 312(a) the Secretary determines whether there is a commercial fishery failure due to a fishery resource disaster. The cause for the fishery resource disaster must be natural, undetermined, or a man-made cause beyond the control of fishery managers to mitigate through conservation and management measures, including regulatory restrictions (including those imposed as a result of judicial action) imposed to protect human health or the marine environment.
- MSA Section 315, covering a catastrophic regional fishery disaster, authorizes the Secretary to establish a regional economic transition program to provide disaster relief assistance to fishermen, charter fishing operations, United States processors, and owners of related fishery infrastructure affected by a catastrophic regional fishery disaster. MSA Section 315 also allows the Secretary to waive the non-federal matching requirements if warranted.
- Under IFA Section 308(b) the Secretary is authorized to provide grants or cooperative agreements to states determined to have been affected by a commercial fishery failure or serious disruption affecting future production due to a fishery resource disaster arising from natural or undetermined causes.
- IFA Section 308(d) enables the Secretary to help persons engaged in commercial fisheries by initiating projects or other measures to alleviate harm determined by the Secretary to have been incurred as a direct result of a fishery resource disaster arising from a hurricane or other natural disaster.

6. What happens when a Federal Emergency Management (FEMA) disaster declaration occurs for the same disaster in which the Secretary of Commerce has determined that a fishery disaster has occurred?

- A FEMA disaster declaration activates an array of federal programs designed to assist in the immediate response and recovery efforts after a major disaster, and may include individual assistance, public assistance, and hazard mitigation assistance. A Department of Commerce fishery disaster determination is more limited in scope. It focuses primarily on assessing the economic and social effects of a commercial fishery failure, restoring the resource affected by a disaster, or initiating projects or other measures to alleviate harm which may have been incurred as a direct result of a fishery resource disaster arising from a natural disaster, such as a hurricane.

7. Can state managed fisheries qualify for, or be included in, a fishery disaster determination?

- Yes, state managed fisheries may, and have been, included in fishery disaster determinations.

8. Have there been instances when people who rely on fish or other seafood for subsistence have been helped by funds directed toward a commercial fishery disaster area?

- Yes, in some circumstances, people who rely on fish or other seafood for subsistence (subsistence users) may be included as part of the commercial fishery. If these subsistence fisheries have commercial components (e.g., selling, bartering, and trading), they may have economic activity that is accounted for as part of a commercial fishery. For example, in past Yukon River disasters, some of these individuals and groups were included as part of the commercial fishery in the determination and received disaster assistance.

- Subsistence users may be eligible to receive assistance, if Congress appropriates funds, under MSA Section 312 if they are part of the affected fishing community. If a fishery disaster exists, the harm to subsistence users can be evaluated along with the remainder of the fishing community for assistance purposes.
- Subsistence users may also be eligible for assistance under MSA Section 315, which explicitly allows for other parts of the fishing community beyond commercial fisheries (i.e., fishermen, charter fishing operators, processors, and owners of related fishery infrastructure) to receive assistance if a catastrophic regional fishery disaster is determined by the Secretary.

9. Under the current fisheries disaster laws, are recreational fishermen eligible to receive disaster assistance?

- Recreational fishermen may be eligible to receive assistance, if Congress appropriates funds, under MSA Section 312 if they are part of the affected fishing community. If a fishery disaster exists, the harm to the recreational fishery can be evaluated along with the remainder of the fishing community for assistance purposes.
- MSA Section 315 explicitly allows for other parts of the fishing community beyond commercial fisheries (i.e., fishermen, charter fishing operators, processors, and owners of related fishery infrastructure) to receive assistance, if a catastrophic regional fishery disaster is determined by the Secretary.

10. Under the Magnuson-Stevens Fishery Conservation and Management Act (MSA) Section 315, charter fishing vessels are included, yet the policy does not mention charter fishing. How are charter fishing vessel operations included in this process?

- MSA Section 315 explicitly allows for other parts of the fishing community beyond commercial fisheries (i.e., fishermen, charter fishing operators, processors, and owners of related fishery infrastructure) to be part of a regional economic transition program and receive assistance if a catastrophic regional fishery disaster is determined by the Secretary and Congress appropriates funds.

Process to Request Fishery Disaster Assistance

11. Who can request a fishery disaster?

- Under both statutes, a request for a fishery disaster determination is made to the Secretary by the state governor or by an elected or duly appointed representative of an affected fishing community.
- The Secretary may also initiate a review at his or her own discretion.

12. How do you request a fishery disaster?

- A letter from a governor or an elected or politically-appointed representative of the affected fishing community (e.g., mayor, city manager, county executive) to the Secretary of Commerce requesting fisheries disaster assistance will begin the disaster evaluation process. The request letter should include a clear description of the affected fishery(s), including identification of all fish stocks, whether the fishery is federal, non-federal, or both, and the geographical boundaries of the fishery. The letter should also include information on causes and impacts needed to support a finding of a commercial fishery failure, harm incurred, or serious disruption of future production. NOAA Fisheries may request additional information from the requester to aid in the review.

Requirements for a Fishery Disaster Determination

13. What requirements must be met for the Secretary of Commerce to make a positive determination?

- There must be a commercial fishery failure, serious disruption to that commercial fishery, or harm incurred.
- The failure must be due to a fishery resource disaster as defined by the MSA and/or the IFA.
- The cause for the fishery resource disaster must be an allowable cause under the MSA or IFA.

14. What is a commercial fishery failure?

- A commercial fishery failure occurs when commerce in or revenues from commerce in the fishery materially decreases or is markedly weakened due to a fishery resource disaster, such that those engaged in the fishery suffer severe economic hardship.

15. What kind of information might be considered when determining whether there was a commercial fishery failure?

- Fishery characteristics (e.g., size and value; number of participants; environmental, economic and sociocultural behaviors; whether jobs are full- or part-time; and landings data).
- Economic impact demonstrated by percent decline in landings, revenues, or net revenues by vessel category, port, etc. This should represent the portion of the affected fishery resource as compared to the commercial fishery as a whole. The information provided should present a comparison of current data in relationship to a previous (preferably a 3-5 year) time period.
- Number of participants involved by vessel category, port, etc.
- Length of time the resource (or access to it) will be restricted.
- Documented decline in or access to the resource.
- Other relevant information.

16. What is a fishery resource disaster?

- A fishery resource disaster is a sudden, unexpected, large decrease in fish stock biomass or other change that results in significant loss of access to the fishery resource, which could include loss of fishing vessels and gear, for a substantial period of time.

17. What is an allowable cause for a fishery resource disaster?

- Under MSA Section 312(a), allowable causes are natural causes, undetermined causes, or man-made causes beyond the control of fishery managers to mitigate through conservation and management measures. Regulatory or judicial actions do not constitute "man-made" causes, except where imposed to protect human health or the marine environment.
- Under IFA Section 308(b), the allowable causes are natural or undetermined causes.
- Under IFA Section 308(d), the Secretary must determine that harm was incurred as a direct result of a fishery resource disaster arising from a hurricane or other natural disaster.

18. Can fishery management regulations or overfishing be an allowable cause for a fishery disaster?

- No. Fishery management regulations are considered "man-made" causes that are within the control of fishery managers to mitigate through conservation and management measures.
- Overfishing is considered to be within the control of fishery managers to mitigate through conservation and management measures, and in general will not be an allowable cause for a fishery disaster. However, the fact that overfishing is occurring does not preclude a determination that a fishery disaster occurred, if other factors are more central to the disaster.

19. Can other regulations be the cause of a fishery resource disaster?

- Regulatory restrictions, including those imposed as a result of judicial action, to protect human health or the marine environment may be allowable man-made causes. Causes determined under this category apply only to MSA Section 312(a) and not to IFA Sections 308(b) and 308(d). Executive or judicial actions that provide for environmental and/or resource conservation, including fishery regulations, are not allowable causes, except where imposed to protect human health or the marine environment.

20. Is an oil spill an allowable cause of a fishery resource disaster?

- An oil spill is an allowable cause of a fishery resource disaster. Allowable man-made causes are due to some human event or activity (e.g., oil spill) that could not have been prevented or addressed by fishery management measures and that are otherwise beyond the control of fishery managers to mitigate through conservation and management measures.

21. Would floods qualify under the Interjurisdictional Fisheries Act and what would need to happen for this to be considered?

- Floods can be an allowable cause. The determination must conclude that the fishery resource disaster and economic impacts were caused by the flooding and that the flooding was due to natural causes.

22. Why has it sometimes taken the Secretary of Commerce so long to make a determination?

- NOAA Fisheries is committed to working quickly with the requestors for fishery disaster assistance to evaluate their claims in a timely manner.
- The primary reason for delays in responding to fishery disaster determination requests is the need to obtain additional information from the requestor needed to evaluate the request. NOAA Fisheries works closely with the requestor to obtain all the data necessary to conduct the assessment and is committed to working quickly to evaluate requests in a timely manner.

Process for Providing Disaster Assistance Following Appropriation of Funds

23. When will I receive assistance after a disaster has been determined?

- There is no standing fund for disasters. To provide assistance, Congress must appropriate funding to help those affected by the disaster.
- Once Congress appropriates funds, the recipient(s) of the funding, in partnership with NOAA Fisheries, develops a spending plan based on high priority needs in the community and it submits the plan to NOAA Fisheries.

24. What information is required to determine the fishing communities' needs and how to direct funds after Congress appropriates funds?

- Disaster funding is distributed to eligible entities through the federal grant process. Often a state agency or interstate commission works on behalf of the requester (e.g., governor) to develop and submit a spending plan and grant proposal to NOAA Fisheries for release of funding.
- To develop the spending plan the requester works with the affected parties and NOAA Fisheries to determine funding priorities consistent with the MSA and IFA and any direction provided by the appropriation.
- Once the requester has completed their spending plan, they submit it along with a grant proposal. NOAA Fisheries reviews the materials to determine if they are consistent with the statutory requirements, fulfill any conditions of the appropriation made by Congress, and meet federal grant requirements.

25. What expenditures are eligible under a disaster assistance grant?

- MSA 312(a)(2) allows for disaster funds to be used for assessing the economic and social effects of the commercial fishery failure and for activities that restore the fishery or prevent a similar failure in the future and to assist a fishing community affected by such failure. Additionally, any such activity may not expand the size or scope of the commercial fishery failure in that fishery or into other fisheries or other geographic regions. Further, MSA 312(a)(3) states that the federal share of the cost of any activity shall not exceed 75 percent of the cost of that activity.
- MSA 315(b) allows for funding or other economic assistance for meeting infrastructure needs, financial assistance and job training for fishermen, funding to fishermen who are willing to scrap a fishing vessel and permanently surrender permits, and other activities authorized under MSA 312(a) and IFA 308(d).
- IFA 308(b) authorizes the Secretary to use funds to restore the fishery affected by the failure or to prevent a similar failure in the future. Funds may not be used to assist the charter fishery. As with MSA 312(a), the funds can only cover 75 percent of the cost of the activity.
- IFA 308(d) enables the Secretary to help persons engaged in the commercial fishery through projects that alleviate the harm suffered from the fishery resource disaster.

26. If Congress does not appropriate funds, what are the other means by which fishing communities can get money for assistance? What role does the Small Business Administration have related to this policy?

- If the Secretary has determined there is a fishery resource disaster, then small fishing-related businesses may qualify for certain Small Business Administration loans, which can, in certain cases, help address economic injury and physical damage.
- [Other sources](#) of assistance are available to fishing communities from other federal agencies who do not require a disaster determination. These include:
 - Economic Development Administration Public Works and Economic Adjustment Programs.
 - Department of Labor Economic Dislocation and Worker Adjustment Assistance Act and Farm Credit System.
 - Federal Emergency Management Agency programs that implement The Stafford Act.
- The Department of Labor has a website, [DisasterAssistance.gov](https://www.dhs.gov/disaster-assistance), which includes information on the disaster assistance available from 15 federal agencies.

27. What are some common types of federal assistance that help an area affected by a commercial fishery disaster through NOAA Fisheries?

- The most common types of federal assistance are grants or cooperative agreements that distribute funds to the states, and sometimes to other entities/governments (e.g., tribes or native communities). The authority the disaster determination was made under and the language of the appropriating legislation determine how the funds are applied.