



# Commercial Fishery Disaster Assistance

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## Summary

Disaster relief may be provided by the federal government to assist the fishing industry when it is affected by a commercial fishery failure. A commercial fishery failure can be declared when fishermen endure economic hardships resulting from fish population declines or other disruptions to the fishery. The Department of Commerce can provide disaster assistance under Sections 308(b) and 308(d) of the Interjurisdictional Fisheries Act (16 U.S.C. §4107), as amended, and Sections 312(a) and 315 of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C §§1861a and 1864). The National Marine Fisheries Service plays a central role in determining whether a commercial fishery failure has occurred and in allocating federal funding to states and affected fishing communities. Congress plays a pivotal role by appropriating funds and providing oversight of the process. States also play a role by initiating requests, providing information, and planning for the use of funds.

Oceanic conditions, climate, and weather events can impact fishery resources and/or commercial infrastructure such as boats, shoreside processing, and ports. Since 1994, federal commercial fishery failure determinations have been made on 42 occasions, and nearly \$840 million in federal funding has been appropriated specifically for fishery disaster relief. Funds have been allocated to fisheries of the North Pacific, Pacific Northwest, Gulf of Mexico, and the East Coast. The most recent fishery failures have been declared for the Northeast multispecies fishery, Mississippi Sound fisheries, and certain Alaska Chinook salmon fisheries.

Direct federal financial assistance has been provided to fishermen and fishing communities in the form of grants, job retraining, employment, and low interest loans. Assistance has also included fishery data collection, resource restoration, research, and fishing capacity reduction programs to prevent or lessen the effects of future disruptions to fisheries. However, critics contend that disaster assistance programs often fall short of expectations because sometimes funds are not disbursed in a timely manner, ambiguities complicate the definition of a fishery failure, relief may not be integrated with long-term fishery management objectives, and funds may not reach the people who are in the greatest need of assistance.

During the 112<sup>th</sup> Congress, marginal changes to fisheries disaster determinations and disaster assistance were proposed in several bills. H.R. 1646 and H.R. 6350 would have amended the Magnuson-Stevens Fishery Conservation and Management Act to require the Secretary of Commerce to make a fishery disaster determination within 60 days after receiving a request. An amendment to S. 3240, the Agriculture Reform, Food, and Jobs Act of 2012, would have made commercial fishermen eligible for disaster loans that are available to farmers. Continued congressional interest in fishery disaster assistance during the 113<sup>th</sup> Congress may stem from the need to address funding for recently declared fisheries disasters and to improve the process for declaring fisheries disasters and providing assistance to the fishing industry.

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## Introduction

Disaster relief may be provided by the federal government to assist the fishing industry when it is affected by a commercial fishery failure. A commercial fishery failure can be declared when fishermen endure economic hardships resulting from fish population declines or other disruptions to the fishery. The Department of Commerce can provide disaster assistance under Sections 308(b) and 308(d) of the Interjurisdictional Fisheries Act (IFA; 16 U.S.C. §4107), as amended, and Sections 312(a) and 315 of the Magnuson-Stevens Fishery Conservation and Management Act (MSFCMA; 16 U.S.C §1861). The National Marine Fisheries Service (NMFS) plays a central role in determining whether a commercial fishery failure has occurred and in allocating federal funds to states and affected fishing communities. Congress plays a pivotal role by appropriating funds and providing oversight of the process. States also play a role by initiating requests, providing information, and planning for the use of funds.

Oceanic conditions, climate, and weather events can impact fishery resources and/or commercial infrastructure such as boats, shoreside processing, and ports. Since 1994, federal commercial fishery failure determinations have been made on 42 occasions, and nearly \$840 million in federal funding has been appropriated specifically for fishery disaster relief.<sup>1</sup> Funds have been allocated to fisheries of the North Pacific, Pacific Northwest, Gulf of Mexico, and the East Coast. Fisheries with multiple commercial fishery failure determinations include the West Coast salmon troll fishery, Puget Sound sockeye salmon fishery, the Northeast multispecies fishery, Gulf fisheries following hurricanes, New England shellfish fisheries, Alaska salmon fisheries, and the Bering Sea snow crab fishery.

Direct financial assistance has been provided to fishermen and fishing communities in the form of grants, job retraining, employment, and low interest loans. Assistance has also included fishery data collection, resource restoration, research, and fishing capacity reduction programs to prevent or lessen the effects of future disruptions to fisheries.

Congress plays a pivotal role by appropriating funds for disaster relief and providing oversight of the process. Critics contend that disaster assistance programs often fall short of expectations because sometimes funds are not disbursed in a timely manner, ambiguities complicate the definition of a fishery failure, relief may not be integrated with long-term fishery management objectives, and funds may not reach the people who are in the greatest need of assistance.

During the 112<sup>th</sup> Congress, marginal changes to fisheries disaster determinations and disaster assistance were proposed in several bills. H.R. 1646 and H.R. 6350 would have amended the Magnuson-Stevens Fishery Conservation and Management Act to require the Secretary of Commerce to make a fishery disaster determination within 60 days after receiving a request. An amendment to S. 3240, the Agriculture Reform, Food, and Jobs Act of 2012, would have made commercial fishermen eligible for disaster loans that are available to farmers.

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<sup>1</sup> The number of determinations includes extensions to previous determinations for the same fishery. Funding used to support specific fisheries without a disaster determination under the MSFCMA or the IFA have not been included in this total.

## Program Requirements and Procedures

The Department of Commerce can provide disaster assistance under either the MSFCMA or the IFA.<sup>2</sup> Differences exist under each law with regard to the allowable causes of a commercial fishery failure, and the use of funds (see **Table 1**). Several recent fishery failures have been declared under both laws, providing program managers greater latitude in matching relief with the needs of recipients.

**Table 1. Fishery Failure Causes, Types of Assistance, and Use of Funds**

Section	Commercial Fishery Failure Causes	Types of Assistance and Use
Section 312(a) of MSFCMA	Fishery resource disaster as a result of— (1) natural causes (2) man-made causes beyond the control of fishery managers to mitigate through conservation and management measures, including regulatory restrictions imposed to protect human health or the marine environment (3) undetermined causes	(1) assessment of the social and economic effects of the failure (2) assistance to the community and fishermen (3) projects to restore the fishery or prevent reoccurrence of a similar failure (4) federal share of assistance cannot be greater than 75%
Section 308(b) of IFA	Fishery resource disaster arising from— (1) natural causes (2) undetermined causes	(1) restore a fishery affected by a fishery failure (2) prevent a future fishery failure (3) federal share of funding is limited to 75% of costs
Section 308(d) of IFA	Fishery resource disaster arising from— (1) natural disasters such as a hurricane or other natural disaster	(1) direct assistance to fishermen (2) indirect assistance through state agencies, local government, and nonprofit organizations (3) no limit on the federal share of costs
Section 315 of MSFCMA	Regional fishery disaster— (1) results in economic losses to the coastal or fishing communities (2) affects more than one state or a major fishery managed by a Council or interstate fishery commission (3) is determined by the Secretary to be a commercial fishery failure under §312(a) of MSFCMA or fishery resource disaster under §308(d) of IFA	(1) activities authorized under either MSFCMA or IFA (2) the Secretary may waive matching requirements if no reasonable means are available for meeting the match and the probable benefit of federal financing outweighs the public interest in imposing the match

### MSFCMA

In 1996, MSFCMA was amended to include a new section focusing on transition to sustainable fisheries. This section includes Subsection 312(a), which provides fishery disaster relief when commercial fishery failures occur, especially for those fisheries in need of stock rebuilding. Under Section 312(a), the process is started at the discretion of the Secretary of Commerce, at the request of the governor of an affected state, or at the request of a fishing community representative. The Secretary determines whether a commercial fishery failure has occurred depending on three factors. First, there must be a fishery resource disaster resulting from a

<sup>2</sup> See the National Oceanic and Atmospheric Administration, Fishery Disaster Assistance website at <http://www.nmfs.noaa.gov/sfa/sf3/disaster.htm>.

decrease in fish population biomass or the loss of fishing vessels, gear, or related infrastructure. Second, the cause of the fishery resource disaster must be one of the following:

- natural causes;
- man-made causes beyond the control of fishery managers to mitigate through conservation and management measures, including regulatory restrictions imposed to protect human health or the marine environment; or
- undetermined causes.

Finally, there must be an economic impact resulting from the commercial fishery disaster.

Requests for a commercial fishery failure determination usually contain information describing how the fishery has been harmed. Although guidelines for handling requests are not codified, the Secretary typically directs the appropriate Regional Administrator for NMFS to collect and analyze information such as fishery characteristics, the biological magnitude of the disaster, and the relationship between underlying causes and the alleged fishery disaster. Information may include estimates of mortality, decreases in stock size, changes to habitat, and other factors describing effects on the fishery. Depending on the circumstances, the analysis is usually conducted in consultation with the state(s) and should consider supporting information and data that the state(s) provide. The cause of the disaster must also be determined to assess eligibility under different sections of the MSFCMA and the IFA. According to NOAA, a reasonably predictable, foreseeable, and recurrent fishery resource cycle of variations in species distribution or stock abundance does not constitute a fishery resource disaster.<sup>3</sup>

Once it is concluded that a fishery resource disaster has occurred, economic data are reviewed to determine whether a commercial fishery failure exists. The final decision depends on whether a significant number of people engaged in the fishery have suffered severe economic hardship as a result of the fishery resource disaster. NMFS policy guidance provides the following thresholds based on the loss of annual revenue compared to average annual revenue over the most recent five-year period.

- Revenue losses greater than 80% will result in the determination of a commercial fishery failure.
- Revenue losses between 35% and 80% will be evaluated further.
- Revenue losses less than 35% will not be eligible for determination of a commercial fishery failure, except where the Secretary determines there are special and unique circumstances that may justify considering and using a lower threshold in making the determination.<sup>4</sup>

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<sup>3</sup> Department of Commerce, National Oceanic and Atmospheric Administration, National Marine Fisheries Service, *National Marine Fisheries Service Sustainable Fisheries Disaster Assistance*, Policy Guidance for Disaster Assistance Under Magnuson-Stevens Act 312(a) and Interjurisdictional Fisheries Act 308(b) and 308(d), June 16, 2011, [http://www.nmfs.noaa.gov/sfa/sf3/disaster\\_policy2011.pdf](http://www.nmfs.noaa.gov/sfa/sf3/disaster_policy2011.pdf). Hereinafter cited as NMFS Disaster Policy Guidance.

<sup>4</sup> NMFS Disaster Policy Guidance.

Once it is determined that a commercial fishery failure exists, Congress may use the authorization in the MSFCMA to appropriate funds for financial assistance to harvesters and other affected parties.

After funds are appropriated, the affected state, community, or group must develop a spending plan that is evaluated by NMFS regional offices. Funding under the MSFCMA may be used to address a broad variety of needs including assessment of the social and economic effects of the failure, assistance to the community, and projects to restore the fishery or prevent reoccurrence of a similar failure. Before releasing funds, the Secretary must also determine that activities would not expand the size and scope of the failure in that fishery, other fisheries, or affect fisheries in other geographic regions. The federal share of assistance carried out under Section 312(a) of the MSFCMA cannot be greater than 75% of the cost of relief activities, while the other 25% is usually provided by the state or other local entity.

## **IFA**

The IFA was enacted in 1986 to distribute federal funds to states for developing interstate fishery research programs. Under IFA, funds are authorized to provide assistance for a commercial fishery failure in Section 308(b) or for harm to the fishery according to Section 308(d). Under Section 308(b), the causes of a commercial fishery failure or serious disruption to future production due to a fishery resource disaster include natural and undetermined causes. In Section 308(d), fishery resource disasters are referred to as natural disasters. The definition of a fishery resource disaster appears to be broader under the MSFCMA because human-related causes are also included. Otherwise, the process of collecting information and determining whether a commercial fishery failure has occurred under Section 308(b) of the IFA is similar to requirements of the MSFCMA. Instead of assessing the occurrence of a commercial fishery failure, Section 308(d) of the IFA requires demonstration of harm. Harm is defined as uninsured damage to fishing vessels, fishing gear, processing facilities, marketability, habitat, or infrastructure. The same thresholds used for MSFCMA fisheries failure determinations are used for IFA determinations.<sup>5</sup>

IFA funding under Section 308(b) may be used by states alone or by the Secretary in cooperation with the states. Funding may be provided for any purpose the Secretary determines as appropriate to restore a fishery affected by a commercial fishery failure or to prevent a future fishery failure. Under Section 308(b), funds may not be used to charter fishing vessels, and the federal share of activity funding is limited to 75% of costs. Funding under Section 308(d) of IFA may be used to provide direct assistance to fishermen or to provide assistance indirectly through state agencies, local government, and nonprofit organizations. In contrast to the MSFCMA and Section 308(b) of IFA, there is no limit on the federal share of costs under Section 308(d). Section 308(d) also outlines the conditions under which funding may be used for other activities such as fishing capacity reduction programs. These programs include fishing vessel buybacks, gear reduction, or fishing permit retirement. Funding under both MSFCMA and IFA has usually been appropriated by Congress in supplementals as needs arise, rather than in anticipation of future needs.

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<sup>5</sup> NMFS Disaster Policy Guidance.

## MSFCMA Regional Coastal Disaster Assistance

In 2006, MSFCMA was amended by adding Section 315—the Regional Coastal Disaster Assistance, Transition, and Recovery Program. When a catastrophic regional fishery disaster occurs, the Secretary may establish a regional program to provide immediate disaster assistance to fishermen, charter fishing operators, U.S. fish processors, and owners of related fishery infrastructure. A catastrophic regional fishery disaster is defined as a natural disaster, such as a hurricane or tsunami, or a regulatory closure to protect human health or the marine environment. A catastrophic regional fishery disaster is an event that:

- results in economic losses to the coastal or fishing communities;
- affects more than one state or a major fishery managed by a Council<sup>6</sup> or interstate fishery commission<sup>7</sup>; and
- is determined by the Secretary to be a commercial fishery failure under Section 312(a) of MSFCMA or as a fishery resource disaster under Section 308(d) of IFA of 1986.

Within two months after a catastrophic regional fishery disaster, the Secretary is required to provide the governor of each participating state with a comprehensive economic and socioeconomic evaluation of the region's fisheries. The evaluation would assess the current and future economic viability of affected fisheries including the economic impact of foreign fish imports and direct, indirect, or environmental impacts of the disaster on the fishery and coastal communities. Subject to the availability of appropriations, the program would provide funds for infrastructure needs, job training assistance, fishing capacity reduction, and for other activities authorized under either MSFCMA or IFA. Under the Regional Coastal Disaster Assistance, Transition, and Recovery Program, the Secretary may waive the matching requirements if no reasonable means are available for meeting the match, and the probable benefit of 100% federal financing outweighs the public interest in imposing the match.

## Other Potential Sources of Assistance

When businesses suffer economic injuries from a disaster, the Small Business Administration (SBA) may also determine whether a disaster declaration is warranted.<sup>8</sup> For example, when red tide required closure of the Maine shellfish fishery in 2005, SBA evaluated the impact on small businesses and determined a disaster declaration was justified. The declaration makes affected businesses eligible for Economic Injury Disaster Loans.<sup>9</sup> The purpose of the loan program is to provide working capital at low interest rates to assist recovery of businesses harmed by a disaster.

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<sup>6</sup> Eight regional Fishery Management Councils are created by the Magnuson-Stevens Fishery Conservation and Management Act. Council members are appointed by the Secretary of Commerce from lists of candidates knowledgeable of fishery resources, provided by state governors. The councils prepare fishery management plans (FMPs) for those fisheries that occur primarily within the federal waters of the Exclusive Economic Zone (3-200 nautical miles from shore). Links to Council websites [http://www.nmfs.noaa.gov/ole/fishery\\_mgmt.html](http://www.nmfs.noaa.gov/ole/fishery_mgmt.html).

<sup>7</sup> The three interstate fisheries commissions include the Atlantic States Marine Fisheries Commission, <http://www.asmfc.org/>; the Gulf States Marine Fisheries Commission, <http://www.gsmfc.org/#:links@1>; and the Pacific States Marine Fisheries Commission, <http://www.psmfc.org/>.

<sup>8</sup> For SBA purposes, disasters may also be declared by the President, state governor, Secretary of Agriculture, or Secretary of Commerce.

<sup>9</sup> CRS Report RL33243, *Small Business Administration: A Primer on Programs*, by Robert Jay Dilger and Sean Lowry.



The Economic Development Administration (EDA) provides community grants and revolving loan funds to help distressed communities.<sup>10</sup> EDA has assisted fishing communities through its Public Works Program by funding port and harbor improvements. EDA's Economic Adjustment Program helps communities adjust to economic disruptions through support of business development, planning, and market research. Industries that have been adversely affected by increased imports of similar or competitive goods can seek technical assistance under EDA's Trade Adjustment Assistance Program.

## Commercial Fishery Failure Determinations

Since 1994, the Secretary of Commerce has made 30 commercial fishery failure determinations and extended fishery failure determinations on 12 occasions. During this period, Congress has appropriated approximately \$840 million for fishery disaster relief. Funds for disaster assistance have been used for a wide variety of purposes, and may include direct assistance to fishermen such as:

- compensation;
- community grants;
- training;
- loans and debt refinancing; and
- employment on fishery related projects.

Other forms of indirect fishery-related assistance have included fishing capacity reduction (vessel, permit, and gear buybacks), formation of a fisheries research trust, economic planning grants, and research grants. **Table 2** summarizes assistance funding and activities that have been provided for various fisheries disasters.

Fishery failures are diverse with respect to their causes and scope. Most declarations have resulted from natural events such as hurricanes, floods, changes in ocean conditions, or algal blooms such as red tide. In coastal areas hurricanes may damage fishing industry infrastructure such as vessels, docks, fish houses, and related businesses. Even if the resource remains abundant, harvesting, processing, and transport to markets may not be possible until repairs are undertaken and basic services are restored. In addition to the costs of repairs and the replacement of equipment and gear, lost fishing time also can be costly. In addition to damaged infrastructure, hurricanes may damage natural resources such as oyster beds by depositing silt and debris. Algal blooms such as red tide are another type of natural event that can render seafood toxic and result in fishery closures. Under these conditions, fishermen may be completely shut down for months until toxin levels in shellfish decline to acceptable levels.

Declines in fishery resource abundance may result from several factors, such as natural environmental variations, human effects on the environment (e.g., pollution), and overfishing. Salmon fisheries are sensitive to natural changes in oceanic conditions. Salmon abundance has also been affected where dams, irrigation, grazing, mining, and forestry practices have degraded salmon habitat, in the Pacific Northwest. Overfishing by itself may not be used to qualify for a

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<sup>10</sup> For information on EDA programs, see <http://www.eda.gov/AboutEDA/Programs.xml>.

fishery failure determination because it is usually within the control of fishery managers.<sup>11</sup> However, a fishery failure caused by natural or undetermined causes, criteria that may be considered by the Secretary of Commerce, may be exacerbated by overfishing. In these cases assistance may include efforts to rationalize (decrease) fishing capacity. Overfishing has also contributed to fish population declines in several resource disaster cases such as the New England multispecies fishery and the Pacific groundfish fishery. In these cases, fish abundance decreased significantly and stock rebuilding has required substantial decreases in harvest.

**Table 2. Federal Assistance Provided for Commercial Fishery Resource Disasters**

<p><b>New England Multispecies</b>  <b>1994—\$30 million</b> Fishing industry grants (for training, new business opportunities, aquaculture, marketing, and bycatch reduction), buyback programs, refinancing, and family assistance centers.  <b>1995—\$25 million</b> Vessel buyback program and health insurance for fishermen.  <b>1999—\$5 million</b> Compensation to fishermen for lost fishing time.  <b>2000—\$10 million</b> Fishing permit buyback program.  <b>2002—\$15 million</b> Compensation to fishermen affected by restrictive regulations.  <b>2008—\$13.4 million</b> (Disaster not declared.) Compensation to fishermen affected by restrictive regulations and a health insurance program.  <b>2012—</b>A commercial fisheries failure determination was made in 2012, but as of December 2012 funding had not been provided by Congress.</p>
<p><b>Pacific Northwest Salmon</b>  <b>1994—\$12 million</b> Fishing permit buyback, habitat restoration jobs, and data collection jobs.  <b>1995—\$13 million</b> Continued funding from 1994 for similar programs.  <b>1998—\$3.5 million</b> Buyback program.  <b>2007—\$60.4 million</b> (Klamath River-related) Direct payments to fishermen for business expenses.  <b>2008—\$170 million</b> (Sacramento River-related) Assistance included direct payments to commercial and recreational charter fishermen.  <b>2009—</b>Remainder of \$170 released for direct payments to fishermen and related businesses.          (The commercial fishery failure that began in 2008 continued in 2010, but no additional funding has been provided.)</p>
<p><b>Gulf of Mexico Hurricanes</b>  <b>1995—\$15 million</b> (Hurricanes and tropical storms 1992-1995) Research and habitat restoration (inshore license buyback TX and cooperative research LA).  <b>2006—\$128 million</b> Restoration of oyster beds and shrimp grounds, reseeding oyster reefs, and cooperative research and monitoring.  <b>2007—\$110 million</b> Assistance to Gulf fishermen and related businesses and for general support of the industry such as bycatch reduction compliance, product marketing, and seafood testing.  <b>2008—\$47 million</b> Restoration of oyster reefs, removal of storm debris, and rebuilding of processing houses, docks, ice houses, and other fishery related infrastructure.</p>
<p><b>Alaska Salmon</b>  <b>1998—\$7 million</b> (Bristol Bay/Kuskokwim River) Loan program, and grants for economic planning fisheries research, education, and training.  <b>1999—\$50 million</b> (Bristol Bay/Kuskokwim River/Yukon River) Assistance to affected families, direct loans, and community development activities.  <b>2000—\$15 million</b> (Norton Sound/Kuskokwim/Yukon River) Economic development and loans.  <b>2001—\$7.5 million</b> (Norton Sound/Kuskokwim/Yukon River) Economic development and loans.  <b>2012—</b>A commercial fishery failure determination was made in 2012 for Chinook salmon fisheries in three Alaska regions, but as of December 2012 funding had not been provided by Congress.</p>
<p><b>Gulf of Mexico Flooding</b>  <b>1997—\$3.5 million</b> Research and data collection.  <b>2012—</b>A commercial fishery failure determination was made for Mississippi oyster and blue crab fisheries in 2012, but as of December 2012 no funding had been provided by Congress.</p>

<sup>11</sup>NMFS Disaster Policy Guidance.

<p><b>Florida Trap Fishery</b>  <b>2000—\$ 4.8 million</b> Buyback of trap certificates, retrieval of lost traps and debris, and research on the trap reduction program.</p>
<p><b>North Carolina Fisheries</b>  <b>2000—\$6 million</b> Economic relief to seafood dealers, charter and head boats and commercial fishing piers and funding of research and oyster habitat enhancement.</p>
<p><b>Long Island Sound Lobster Fishery</b>  <b>2000—\$14.2 million</b> Economic compensation to fishermen, trap tag buyback, job training, small business development, interest subsidy loans, and research on causes of the disaster.</p>
<p><b>West Coast Groundfish Fisheries</b>  <b>2000—\$5 million</b> Direct aid to fishermen, and to resource dependent communities.</p>
<p><b>Bering Sea Alaska Snow Crab</b>  <b>2000—\$10 million</b> Community and economic development, Bering Sea ecosystem research, and cooperative research.  <b>2001 through 2008</b>—Commercial fishery failure determinations were continued through 2008, but as of December 2012 additional funding had not been provided by Congress.</p>
<p><b>Georgia Blue Crab</b>  <b>2003</b>—Determination made in 2003, but funding was not provided.</p>
<p><b>Red Tide (New England)</b>  <b>2006—\$5 million</b> Direct aid to the fishing industry and monitoring to improve management of future outbreaks (research and monitoring).  <b>2008—up to \$5 million</b> Direct assistance to the fishing industry and for biotoxin monitoring and research.  <b>2010</b>—A commercial fishery failure determination was made for the shellfish fishery in Maine, but as of December 2012 additional funding had not been provided by Congress.</p>
<p><b>Chesapeake Bay Blue Crab (Maryland and Virginia)</b>  <b>2008—\$30 million</b> Habitat improvement, employing watermen, industry projects, buyback, research, and monitoring.</p>
<p><b>Fraser River/Lummi Indian Fishery (Sockeye salmon)</b>  <b>2002</b>—Declaration was made in 2002, but funds were not appropriated.  <b>2008—\$2 million</b> Relief was provided for tribal and non-tribal fishermen  <b>2011</b>—A commercial fishery failure determination was made for the Fraser River sockeye fishery in 2009, but as of December 2012 additional funding had not been provided by Congress.</p>
<p><b>Yukon River Alaska</b>  <b>2010—\$5 million</b> Assistance to fishermen and communities.</p>
<p><b>Gulf of Mexico Oil Spill</b>  <b>2010—\$28 million</b> Strategic marketing plan and a health safety assurance program for Gulf of Mexico seafood (\$15 million). The remaining \$13 million will to be released only if resources provided under other authorities are insufficient.</p>
<p><b>American Samoa Tsunami (2009)</b>  <b>2012</b>—A commercial fishery failure determination was made in 2012 for the bottomfish fishery, but as of December 2012 funding had not been provided by Congress.</p>
<p><b>Mid-Atlantic Sandy (New York and New Jersey)</b>  <b>2012</b>—A commercial fishery failure determination was made in 2012, but as of December 2012 funding had not been provided by Congress.</p>

**Source:** Adapted from the National Oceanic and Atmospheric Administration, Office of Sustainable Fisheries, Fishery Disaster Assistance, <http://www.nmfs.noaa.gov/sfa/sf3/disaster.htm>.

## State Role

States are frequently an active partner throughout the process, from requesting the Secretary of Commerce to declare a fishery failure and providing related data to disbursing relief to fishermen and related businesses. The disaster request typically includes a spending plan that addresses the causes of the disaster. Relief funding is often provided directly to states, or in cases of regional disasters through regional commissions such as the Pacific States Marine Fisheries Commission. For example, in 2007, distribution of Oregon salmon troll fishery relief was planned and coordinated by the state's department of agriculture in cooperation with related agencies and nonprofit organizations such as the Oregon Salmon Commission. In addition to matching funds, state government may also provide funding when federal funds are not available, although historically such funding has been limited.

## Fishing Capacity Reduction Programs

Many U.S. fisheries are overcapitalized—investments in fishing capacity are greater than that needed to harvest the fishery resource on a sustainable basis. When fishery resources decline precipitously, as in the case of a fishery failure, effects on the fishing industry are likely to be greater when there is excess fishing capacity operating in the fishery. First, when excess fishing capacity exists, overfishing often occurs and management goals are likely to involve rebuilding of fish populations. During rebuilding, the fishery is likely to be highly regulated with relatively low allowable harvests. Second, since many fisheries are already overcapitalized and fully exploited, there are few alternative fishing opportunities. Finally, the financial effects of any fishery failure are likely to be greater when there is overcapacity because of the larger number and/or size of vessels and associated crew participating in the fishery.

Fishing capacity reduction, often referred to as buyback programs, has been a prominent feature of several disaster relief programs.<sup>12</sup> Capacity reduction is usually accomplished through the direct purchase and permanent retirement of fishing vessels, gear, and/or fishing permits.<sup>13</sup> Programs may be funded by the federal government, by fishermen who remain in the fishery, or by a combination of both. The general objectives of buyback programs are to provide immediate relief to fishermen, decrease the level of fishing effort to improve the profitability of the remaining fishing fleet, and conserve the resource. The effectiveness of buyback programs in reducing fishing capacity depends on whether the remaining fishermen have the incentive to continue investing in boats and gear. Often there is also “latent” fishing effort—boats and gear with permits to fish that are inactive or only marginally utilized in the fishery. The exit of some vessels may encourage this latent fishing effort (vessels) to re-enter the fishery, resulting in little or no net reduction in fishing capacity. Furthermore, the first to accept buybacks may be the least efficient vessels in the fleet. This results in fleet reductions that are relatively modest yet expensive because only the oldest and least efficient units are taken out of production.

Although capacity reduction programs attempt to provide long-term benefits to those who decide to remain in the fishery, poorly crafted programs may result in little or no benefit at the expense of taxpayers. Although capacity reduction can be a means to ease financial hardship caused by a

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<sup>12</sup> Capacity reduction is referred to in Section 312(b) of the MSFCMA and Section 308(d) of the IFA.

<sup>13</sup> See CRS Report 97-441, *Commercial Fishing: Economic Aid and Capacity Reduction*, by Andrew G. Read and Eugene H. Buck.

fishing disaster, lasting benefits may depend on better recognition of the motivations of vessel owners and fishermen.

## Recent Actions by Congress and NOAA

Congress has proposed some marginal changes to fisheries disaster determinations and disaster assistance. For several disaster requests, it has taken two to three years for the Secretary of Commerce to make a decision. In the 112<sup>th</sup> Congress, H.R. 1646 and H.R. 6350 would have amended the MSFCMA to require the Secretary of Commerce to make a fishery disaster determination within 60 days after receiving a request. Also during the 112<sup>th</sup> Congress, the Senate approved an amendment to S. 3240, the Agriculture Reform, Food, and Jobs Act of 2012, which would have made commercial fishermen eligible for emergency loans that are currently available to farmers. Emergency loans assist farmers who have suffered physical or production losses in areas declared by the President as disaster areas.<sup>14</sup>

On June 16, 2011, the National Oceanic and Atmospheric Administration released its revised policy guidance to clarify and interpret the fishery disaster assistance provisions of the Magnuson-Stevens Fishery Conservation and Management Act and the Interjurisdictional Fisheries Act.<sup>15</sup> The policy guidance updates procedures guidance with information on evaluating requests for fishery disaster determinations. One of the main changes to the guidance is the inclusion of specific revenue decrease thresholds for determining whether a commercial fishery failure has occurred.<sup>16</sup> Although the thresholds provide more specific guidance, unless the revenue decline is greater than 80%, the Secretary retains a large degree of discretion in deciding whether a commercial fishery failure has occurred.

Previously, NMFS proposed regulations for fishery disaster provisions of the MSFCMA and the IFA.<sup>17</sup> The regulations would have provided guidance for processing fishery failure requests, but at this time, according to NMFS, it is not planning to develop a final rule in this area.<sup>18</sup>

## Selected Fisheries Summaries

The following selected summaries provide general examples of fishery disaster requests and determinations. They include New England multispecies, West Coast troll salmon (Sacramento and Klamath Rivers), New England shellfish, and Gulf of Mexico fisheries.

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<sup>14</sup> Farm Service Agency, *Fact Sheet*, United States Department of Agriculture, Farm Loans, [http://www.fsa.usda.gov/Internet/FSA\\_File/loans11.pdf](http://www.fsa.usda.gov/Internet/FSA_File/loans11.pdf).

<sup>15</sup> Department of Commerce, National Oceanic and Atmospheric Administration, National Marine Fisheries Service, *National Marine Fisheries Service Sustainable Fisheries Disaster Assistance*, Policy Guidance for Disaster Assistance Under Magnuson-Stevens Act 312(a) and Interjurisdictional Fisheries Act 308(b) and 308(d), June 16, 2011, [http://www.nmfs.noaa.gov/sfa/sf3/disaster\\_policy2011.pdf](http://www.nmfs.noaa.gov/sfa/sf3/disaster_policy2011.pdf).

<sup>16</sup> NMFS Disaster Policy Guidance.

<sup>17</sup> National Oceanic and Atmospheric Administration, "Magnuson-Stevens Act Provisions; Interjurisdictional Fisheries Act; Disaster Assistance Programs; Fisheries Assistance Programs," 74 *Federal Register* 2467-2478, January 15, 2009.

<sup>18</sup> Email from Stephanie Hunt, Congressional Affairs Specialist, NOAA, October 12, 2011.

## **New England Multispecies Fishery**

The governors of Massachusetts and Rhode Island, in 2007, and the governor of Maine, in 2008, requested that the Secretary of Commerce declare a commercial fishery failure for the Northeast Multispecies (groundfish) fishery. They cited economic hardships endured by New England fishermen because of restrictive fishery regulations for groundfish species such as cod. The National Marine Fisheries Service responded that revenue declines were not sufficient to warrant a commercial fishery failure. NMFS cited population increases in 14 of 18 groundfish stocks in the most recent stock assessment and total fishery revenue increases for some ports during the previous year. Industry representatives responded that a disaster was declared 13 years ago when fish landings were more than twice as high as in 2007. The actual biological and economic impacts cited by NMFS and industry sources differ depending on the time period used, species considered, and fishing port.

On December 4, 2007, the Senate agreed to S.Res. 376, expressing the sense of the Senate that the Secretary of Commerce should declare a commercial fishery failure for the Northeast multispecies fishery in Massachusetts, Maine, New Hampshire, and Rhode Island under the MSFCMA. The Secretary did not change his decision. However, the Consolidated Appropriations Act, 2008 (P.L. 110-161) included \$13.4 million in the NOAA budget for the Massachusetts groundfish fishery. The funding was provided to lessen the economic impacts associated with New England Fishery Management Council's Framework 42 of Amendment 13 to the Multispecies Fishery Management Plan.<sup>19</sup> In August 2008, Massachusetts Governor Patrick announced the disbursement of \$11.3 million to Massachusetts fishermen and fishing businesses, \$750,000 for crew members, \$630,000 for a health insurance program for crew members, and \$700,000 to cover administrative fees. Concerns were raised because fishermen in New Hampshire, Maine, and Rhode Island who faced similar economic hardships were not eligible for relief.

In 2012, the governors of Northeastern coastal states<sup>20</sup> requested a commercial fishery failure determination for the Northeast multispecies groundfish fishery. Although strict stock rebuilding programs have been put in place, most of the major stocks under the fishery management plan have not responded. Estimates of annual catch limit reductions for the next fishing year<sup>21</sup> include Gulf of Maine cod (70%), Georges Bank cod (72%), Gulf of Maine haddock (73%), Georges Bank yellowtail flounder (51%), Cape Cod/Gulf of Maine yellowtail flounder (45%), and American plaice (69%).<sup>22</sup> Many in the fishing industry predict these reductions will result in further contraction of the fishing fleet and the loss of jobs. On September 13, 2012, the acting Secretary of Commerce declared a commercial fishery failure for the 2013 fishing season. Assistance to the fishing industry will depend on appropriation of funds by Congress.

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<sup>19</sup> The primary purpose of Framework 42 of Amendment 13 to the Multispecies Fishery Management Plan was to establish a biennial adjustment process to review the fishery periodically and recommend changes to management measures necessary to end overfishing and rebuild stocks.

<sup>20</sup> States include New York, Connecticut, Rhode Island, Massachusetts, New Hampshire, and Maine.

<sup>21</sup> The next fishing year will begin May 1, 2013.

<sup>22</sup> Janice M. Plante, "Groundfish: Foreboding cuts on 2013 horizon," *Commercial Fishing News*, September 2012.

## **West Coast Salmon Ocean Troll Fishery (Klamath)**

On July 6, 2006, a fishery failure was declared for the West Coast ocean troll salmon fishery. Chinook salmon stocks that spawn in California and Oregon rivers intermingle in the ocean and are harvested together off the coasts of these states. Klamath River fall Chinook salmon is a key stock with respect to both landings and regulation of the fishery.<sup>23</sup>

The ocean troll salmon fishing season between Cape Falcon, Oregon, and Point Sur, California, was strictly limited during the 2006 season.<sup>24</sup> From 2001 to 2005, drought conditions in the upper Klamath Basin resulted in very low flow conditions in the Klamath River and its tributaries. Low flows likely contributed to substantial mortality of juvenile and adult Chinook salmon by creating an environment in which they become more susceptible to endemic diseases. In 2004 and 2005, returns of Klamath River fall Chinook fell below 35,000, the regulatory floor set for any one year, and in 2006, the run size was projected to be approximately 25,000. As a result of the anticipated low level of returning fish, the Pacific Fishery Management Council (PFMC) recommended, and NOAA issued, a Temporary Rule for Emergency Action to strictly curtail the troll salmon fishery off Oregon and California from May 1, 2006, to August 31, 2006. Although a complete closure of the fishery was avoided, landings decreased in 2006 by 81% when compared to the average of the preceding five years.

The governors of Oregon and California requested action based on the 2006 forecast of Klamath River fall Chinook salmon returns and the actions taken in the spring of 2006 by the PFMC and NMFS. Since the PFMC developed the 2006 season regulations in the spring of 2006, the likely effects of the curtailed fishery were anticipated before the actual losses were realized. Fishermen and others associated with the fishing industry were concerned that aid to fishing communities might be delayed. On July 6, 2006, the Secretary of Commerce declared a commercial fishery failure under Section 308(b) of the IFA, and on August 10, 2006, under Section 312(a) of the MSFCMA. Fishing industry concerns increased during the fall of 2006 and spring of 2007 when no federal funding was provided. In May 2007, the U.S. Troop Readiness, Veterans' Care, Katrina Recovery, and Iraq Accountability Appropriations Act, 2007 (P.L. 110-28), allocated \$60.4 million to the NOAA "Operations, Research, and Facilities" account to be distributed among eligible recipients affected by the commercial fishery failure. Assistance was distributed by the Pacific States Marine Fisheries Commission to Oregon and California fishermen and Indian tribes that rely on salmon. Oregon salmon troll fishery landings and revenue improved only slightly during the 2007 season. Although returns to the Klamath improved in subsequent years, since 2008 the ocean troll fishery has been limited by low Chinook salmon returns to the Sacramento River.

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<sup>23</sup> The conservation objectives under the Pacific Fishery Management Council's (PFMC) Pacific Coast Salmon Fishery Management Plan require returns of 33-34% of potential adult natural spawners and no fewer than 35,000 naturally spawning adults to the Klamath River. When the stock is projected to fall below this level, PFMC is required to recommend a closure of the salmon fisheries within its jurisdiction that harvest Klamath River fall Chinook salmon.

<sup>24</sup> From 2001 to 2005, the dressed weight of Oregon and California troll salmon landings averaged 8.025 million pounds, but in 2006 landings dropped to 1.529 million pounds. For West coast troll salmon fishery statistics, see <http://www.pcouncil.org/salmon/salbluebook/salbluebook.html>.

## **West Coast Salmon Ocean Troll Fishery (Sacramento)**

On April 10, 2008, the Pacific Fishery Management Council adopted a complete closure of commercial and sport fisheries off California and most of Oregon in response to the collapse of the Sacramento River fall Chinook salmon run. The minimum conservation goal for Sacramento fall Chinook is 122,000 to 180,000 spawning salmon,<sup>25</sup> while as recently as 2002, 769,868 adults returned to spawn.<sup>26</sup> Even with ocean fishery closures, the 2008 returns of Sacramento fall Chinook were projected to be 59,000 fish and actual returns totaled 64,456 fish.<sup>27</sup> In March 2009, NMFS released a report on the causes of the decline of Sacramento fall Chinook. The report identified unfavorable ocean conditions as the primary factor that led to poor survival of juvenile salmon when they entered the ocean in 2005 and 2006. It also found that the stock was more susceptible to poor ocean conditions because of habitat degradation in the freshwater portion of its range.

On May 1, 2008, in response to requests by the governors of California, Oregon, and Washington, the Secretary of Commerce declared a commercial fishery failure for the West Coast salmon troll fishery. Congress provided \$170 million in disaster funds in the Food, Conservation, and Energy Act of 2008 (P.L. 110-246) for commercial and recreational members of fishing communities who were affected by the fishery failure. In September 2008, \$100 million was released to the Pacific States Marine Fishery Commission for distribution to commercial fishermen, processors, charter boat operators, recreational guides, and other businesses dependent on fishing. The declaration also allowed the SBA to make economic injury loans available to businesses affected by the fishery failure. On April 30, 2009, the Secretary of Commerce notified the governors of California and Oregon that the fishery failure would continue in 2009. Returns of Sacramento fall Chinook salmon remained below levels required for a fishery and the 2009 commercial salmon troll fishery was closed for most of Oregon and all of California. The ocean recreational fisheries were also limited in both states, especially California. The extension of the disaster declaration ensured release of the remaining unspent funds from the original \$170 million.

In 2010, revenue from commercial salmon landings in California remained significantly lower than the 2003-2005 average. On September 2, 2010, the Secretary of Commerce continued the fishery failure for California and Oregon commercial salmon fisheries under Section 308(d) of the IFA and 312(a) of the MSFCMA. The availability of SBA economic injury loans was continued, but additional disaster relief was not appropriated by Congress. In 2011, PFMC reported a total of nearly 121,742 fall Chinook salmon returned to the Sacramento River, which was slightly below the low end of the spawning objective of 122,000.

## **New England Red Tide**

Red tide has been a reoccurring problem for shellfish fisheries in Northern New England. Blooms of the algae *Alexandrium fundyense*, commonly referred to as red tide, produce a toxin that is ingested and concentrated by shellfish such as clams, mussels, and oysters. When the concentration of the algae is high, shellfish beds must be closed because shellfish become toxic to

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<sup>25</sup> The number of salmon needed to return to the river to sustain this salmon population.

<sup>26</sup> For Pacific salmon fishery management information, see <http://www.pcouncil.org/>.

<sup>27</sup> Pacific Fishery Management Council, *Stock Assessment and Fishery Evaluation (SAFE) Documents: Review of the 2009 Ocean Salmon Fisheries*, Portland, OR, February 2010, pp. 193-194, <http://www.pcouncil.org/salmon/stock-assessment-and-fishery-evaluation-safe-documents/review-of-2009-ocean-salmon-fisheries/>.



humans and can cause paralytic shellfish poisoning (PSP).<sup>28</sup> In 2005, shellfish beds were closed from Canada to Martha's Vineyard. On June 23, 2005, NOAA announced a commercial fishery failure determination for the region's shellfish fishery. In 2006, \$5 million was appropriated in an emergency spending bill (P.L. 109-234) to assist fishermen who were affected by the red tide bloom.

During 2008, red tide was also widespread in ocean waters off New England. On November 14, 2008, the Secretary of Commerce determined a commercial fishery failure had occurred because the bloom triggered closures of shellfish fisheries. A total of up to \$5 million was provided to assist the fishing industry and for research and monitoring red tide events. On December 22, 2010, the Secretary of Commerce determined that red tide caused another fishery failure in the Maine shellfish fishery during the 2009 season, but funding has not been appropriated for this event.

### **Gulf of Mexico Fisheries (Hurricanes Katrina and Rita)**

In the wake of Hurricanes Katrina and Rita, Gulf of Mexico harvesting and shoreside fishery infrastructure were damaged or in some cases completely destroyed. On September 9, 2005, Commerce Secretary Gutierrez announced a formal determination of a fishery failure in the Gulf of Mexico resulting from the effects of Hurricane Katrina. On October 4, 2005, Secretary Gutierrez announced a formal determination of an additional fishery failure in Louisiana and Texas due to the effects of Hurricane Rita.

The immediate effects of the fishery failure were difficult to discern because of the broad geographic area affected by the hurricanes and the substantial damage to infrastructure such as ports, processing, and general access to markets. In 2004, Gulf of Mexico annual landings of major fisheries including shrimp, finfish, and oysters totaled 1.476 billion pounds with a dockside value of \$669 million.<sup>29</sup> In the areas initially affected by Katrina there were 15 major fishing ports, 177 seafood processing facilities, 1,816 federally permitted fishing vessels, and more than 13,000 state-permitted fishing vessels.<sup>30</sup> Private recreational fishing boats, charter boats, and related infrastructure were also extensively damaged.

In July 2007 NMFS released *Report to Congress on the Impacts of Hurricanes Katrina, Rita, and Wilma on Alabama, Louisiana, Florida, Mississippi, and Texas Fisheries*.<sup>31</sup> This report described fishery conditions before and after the 2005 hurricane season and also described other factors that affect the fishing industry such as rising costs and seafood imports. A second report, *Economic Damages to Infrastructure Incurred by Louisiana Fishing Industries Due to Hurricanes Katrina and Rita in 2005*, was also released in July 2007. This report estimated fisheries losses of \$582 million in Louisiana and \$988 million for the entire Gulf of Mexico.<sup>32</sup> Both reports stressed that

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<sup>28</sup> In extreme cases PSP can be fatal to humans, while PSP has also been implicated in the mortality of certain species of marine mammals.

<sup>29</sup> U.S. Dept. of Commerce, National Marine Fisheries Service, *Fisheries of the United States, 2005*, Current Fishery Statistics No. 2005 (Washington, DC: February 2007), p. 6.

<sup>30</sup> For more background information on initial damages and recovery, see CRS Report RS22241, *Hurricanes Katrina and Rita: Fishing and Aquaculture Industries - Damage and Recovery*, by Eugene H. Buck.

<sup>31</sup> The report is available at [http://www.nmfs.noaa.gov/msa2007/docs/Fisheries\\_Report\\_Final.pdf](http://www.nmfs.noaa.gov/msa2007/docs/Fisheries_Report_Final.pdf).

<sup>32</sup> R. H. Caffey et al., "Economic Damages to Infrastructure Incurred by Louisiana Fishing Industries Due to Hurricanes Katrina and Rita in 2005," Report to the U.S. Department of Commerce National Oceanic and Atmospheric (continued...)

estimates should be conditioned on data and methods used in each state, factors influencing fisheries, and uncertainties related to the rate of recovery from storm damage.

On June 15, 2006, the Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Hurricane Recovery, 2006, (P.L. 109-234) was enacted. It allocated \$128 million to the National Oceanic and Atmospheric Administration (NOAA) “Operations, Research, and Facilities” account for expenses related to Hurricane Katrina.<sup>33</sup> On May 25, 2007, The U.S. Troop Readiness, Veterans’ Care, Katrina Recovery, and Iraq Accountability Appropriations Act, 2007, (P.L. 110-28) was enacted. Additional funding was allocated to the NOAA “Operations, Research, and Facilities” account totaling \$110 million for impacts of Hurricanes Katrina and Rita on the shrimp and fishing industries. The Gulf States Marine Fisheries Commission, through a cooperative agreement with NOAA, administered and coordinated funding of recovery programs through grant agreements with each of the Gulf states. Funds appropriated in 2006 were used to restore damaged oyster beds, to remove debris, to restore fishery habitat, and to support cooperative research. Funds appropriated in 2007 were used to assist individual commercial fishermen, other fishing industry businesses, and resource management agencies to promote Gulf fishery products.

## Potential Issues for Congress

Commercial fisheries are strongly influenced by environmental conditions that may affect industry infrastructure or the abundance and distribution of the fishery resource. These changes often take place suddenly with little or no warning as in the case of hurricanes, oil spills, and harmful algal blooms. For example, significant portions of federal and state waters in the Gulf of Mexico were closed within the first month of the Deepwater Horizon oil spill. Disaster relief programs may help save businesses that have been harmed by these events and can address severe economic fluctuations by providing assistance until conditions return to “normal.” Several concerns have emerged that relate to the nature of commercial fisheries and disaster relief programs, including (1) timing relief to meet crucial needs, (2) relating disaster relief to long-term fisheries management, (3) defining a fishery failure, and (4) determining the beneficiaries of relief.

### Timing of Relief

The timeliness of disaster relief is a concern because relief funds are seldom appropriated in anticipation of disasters. First, information regarding the scope of the disaster usually needs to be compiled by the fishing industry, state and local governments, and NMFS. Difficulties in concluding this task can be compounded by the lack of data and readily available economic studies. In cases such as Hurricane Katrina, it was immediately clear that a disaster had occurred, and the Secretary made a determination within two weeks of the landfall of Hurricane Katrina. Although the full dimensions of the disaster and the level and scope of resource needs remained uncertain for months after the disaster, many have asserted that some basic aid should have been

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Administration (July 2007), pp. 86-88.

<sup>33</sup> The measure included \$90 million plus a \$38 million transfer from the United States Department of Agriculture that was to be used for improving oyster grounds.

provided to members of the fishing industry immediately after the disaster. In some cases such as the Long Island, New York, hard shell clam fishery, Northern Mariana Islands fisheries following a super typhoon, and the Florida shark fishery it took two to three years for the Secretary to make a determination. All three requests for a commercial fishery failure determination were denied by the Secretary of Commerce. The responses from the National Marine Fisheries Service to the state requests did not provide explanations for the delays in making these determinations.

For the West Coast troll salmon fishery in 2006, immediate questions revolved around whether a resource disaster would occur. Background information, fishery landings, and economic data were needed for the Secretary to make a determination. Managers and participants were aware of the impending fishery closure before regulations were adopted because the poor condition of the Klamath River Chinook salmon stock was well documented. Even after regulations were adopted, some questioned whether a fishery failure could be declared before the season started and the fishing industry had actually been harmed.

After a fishery failure is declared, funding is dependent on appropriations by Congress. Given the timing of appropriations bills and congressional schedules, it can be difficult to appropriate funding in a timely manner. Hurricane Katrina and Hurricane Rita fishery disaster funding was appropriated in June 2006, more than nine months after the Gulf fishery failure was declared in September 2005. Many in the industry asserted that the greatest need occurred immediately after the hurricanes, when infrastructure, vessels, gear, and markets were lost to fishermen and other industry participants. The West Coast troll salmon fishery was declared a fishery failure in the summer of 2006, but funding was not appropriated until May 2007.

In the short term, many fishing industry participants believe that the most pressing concern should involve getting relief to those individuals and businesses most directly and immediately affected by the fishery failure. For these needs, some have advocated establishing a disaster fund with funding appropriated in advance that could provide assistance on short notice. For example, the Robert T. Stafford Disaster Relief and Emergency Assistance Act (P.L. 93-288) provides disaster assistance to state and local governments. The funds are provided by FEMA in various forms through its Disaster Relief Fund (DRF). The DRF is funded through regular appropriations acts using a formula that includes several factors including historical disaster costs.<sup>34</sup>

### **Long-Term Management Approaches**

Often direct or indirect assistance to the fishing industry is part of a relief program. Some have criticized federal assistance because it can delay the inevitable readjustment that may be needed for fisheries with excess harvesting capacity. Critics argue that climatic and/or environmental conditions are often blamed for fish population declines caused by overfishing and vice-versa. Most fish populations vary over time, and frequently it is difficult to determine the relative importance of the factors that cause these variations.

Features of several programs such as buybacks and training for fishermen in other vocations focus on concerns related to the need for readjustments in fishing fleet size. Yet, when relief is provided, even when it includes a buyback program, greater numbers of fishermen and effort usually remain in the fishery than might be sustainable in the long run. Many fisheries managers

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<sup>34</sup> CRS Report R42352, *An Examination of Federal Disaster Relief Under the Budget Control Act*, by Bruce R. Lindsay, William L. Painter, and Francis X. McCarthy.

agree that relief such as vessel buybacks needs to be more closely integrated with ongoing fisheries management objectives. Other types of assistance that may provide long-term fishery benefits include habitat restoration and enhancement, marketing and promotion programs, and cooperative research.

## Defining Fishery Failures

The general causes of fishery resource disasters that result in designation of a commercial fishery failure are defined by the MSFCMA and IFA. However, specific characteristics of a fishery resource disaster such as scale, timing, and extent are not defined in statute. Since there is no set definition of a fishery failure or fishery resource disaster, the Secretary of Commerce has a large degree of discretion when determining whether a fishery failure has occurred. The NMFS fishery disaster policy guidance identifies percentage revenue decrease thresholds for determining whether a commercial fishery failure has occurred. However, unless the revenue decline is greater than 80%, the determination of a commercial fishery failure would still be evaluated on a case-by-case basis.

## Who Benefits?

Who benefits from disaster funding is a recurring point of contention. Participants such as fishermen and fish processors may be widely dispersed and difficult to locate. Although it is often possible to contact vessel and processing plant owners, industry-related labor such as crew members and fish processing employees may be difficult to track. In some fisheries, crew members are temporary laborers that follow fishing opportunities.<sup>35</sup> Because of the transient nature of employment in the fishing industry and seasonal movement of fishing vessels among regions, labor statistics regarding the employment of fishermen are either difficult to obtain or may not exist. Similar problems may occur in related fishery processing and distribution sectors. Some have voiced the need for better labor statistics that can assist in targeting disaster relief and in forecasting impacts of fisheries failures.

Economic effects of fishery disasters on the local community and region are also difficult to quantify. Services directly related to fishing such as boat repairs, dock services, and fishing equipment suppliers, as well as other businesses indirectly related to fishing, are likely to be harmed by losses in the fish harvesting and processing sectors. Although general regional impacts can be estimated using economic models, it is often difficult to identify the level of impacts on these businesses because of their dispersed nature and their indirect relationship to fishing. Many have claimed that a broader understanding of these community impacts is needed. Some also argue for more deliberate and long-term data collection and planning to link community concerns with marine fisheries management.

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<sup>35</sup> CRS Report RS21312, *How Many Commercial Fishermen?*, by Eugene H. Buck

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