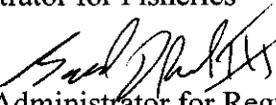


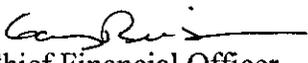
APR 24 2007



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
Silver Spring, MD 20910

MEMORANDUM FOR: William T. Hogarth, Ph.D.
Assistant Administrator for Fisheries

THROUGH: Samuel D. Rauch 
Deputy Assistant Administrator for Regulatory Programs

FROM: Gary Reisner 
Director and Chief Financial Officer
Office of Management and Budget

SUBJECT: Policy Directive – Fisheries Disaster Assistance

I recommend you approve and sign the attached Policy Directive governing the procedure to be followed when evaluating disaster assistance requests and administering fishery disaster assistance.

Background

The Department of Commerce can provide disaster assistance under either Sections 312(a) or 315 of the Magnuson-Stevens Fishery Conservation and Management Act (MSA) (16 U.S.C. § 1861), as amended, or Sections 308(b) or 308(d) of the Interjurisdictional Fisheries Act (IFA) (16 U.S.C. § 4107). However, no established process or formal guidelines currently define how requests for a fishery failure determination are to be handled by the National Marine Fisheries Service (NMFS). The purpose of this policy directive is to establish a standardized approach for NMFS when administering disaster assistance pursuant to MSA 312(a) and IFA 308(b) and 308(d). If any specific procedures related to MSA 315 are required, they will be addressed in a future revision.

Summary of Disaster Assistance Policy and Procedural Directives

NMFS is authorized to determine whether a fishery disaster, affecting a commercial fishery, has occurred as outlined in the MSA or IFA and will use the attached policy and procedures to make the determination and provide assistance. Determinations of whether or not a fishery disaster has occurred shall be made in response to requests for disaster assistance that are received from the governor of an affected state, an official of the affected fishing community, or at the discretion of the Secretary of Commerce.

The attached procedures document provides details on the background, purpose, authority, and definitions related to disaster assistance, as well as a standardized process to follow for disaster determinations. The document also outlines the tasks that need to be conducted by NMFS when evaluating a spending plan for the affected state or community.



Resolution of Comments Received on Draft Policy

- **Comments Received** – We received a total of over 82 comments from the Alaska Region, NE Science Center, NE Region, NW Region, Pacific Islands Region, SE Region and the SW Region, as well as representatives of the NMFS Office of Management and Budget, General Counsel, Office of Sustainable Fisheries, and the Office of Policy. All comments contained excellent feedback and positive suggestions for further enhancing the disaster procedures document.
- **Changes to Document in Response to Comments** – Some of the more significant changes incorporated into the document: (1) clarified the role of the regional office versus the science center when “conducting a scientific review”; (2) mentioned MSA 303(c)(3) which prohibits the Secretary from establishing a limited access system without prior approval of the Council; (3) an example was provided to illustrate how a biological disaster event (such as a disease) could be categorized as a man-made disaster under MSA; (4) defined a “sponsor” with reference to cost share; and (5) clarified that Congressional appropriations are a pre-requisite for the Secretary to make disaster funds available to the affected states.
- **Sections** – New sections were added to define local economy, specify appropriate assistance, specify relief under MSA 312(a), IFA 308(b) and IFA 308(d), incorporate Disaster Assistance Monitoring and Evaluation, define harm per provisions provided in 50 CFR 253.23(2), and added an easy reference chart for major elements of a fishery disaster authorization. The background section was revised to incorporate disaster provisions of the Magnuson-Stevens Re-Authorization Act.
- **Reviewers** – A revised draft that incorporated these changes was reviewed at the December Leadership Council meeting and this final document was formally cleared by Sustainable Fisheries, General Counsel, and Management and Budget.

RECOMMENDATION

I recommend that you approve and sign the attached Policy Directive governing the procedure to be followed when evaluating and administering fishery disaster assistance.

I concur *J. R. Reynolds* 4/24/07 Date

I do not concur _____ Date

Attachments