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GENERAL NOTICE

NOTICE 473 OF 2013

DEPARTMENT OF AGRICULTURE, FORESTRY AND FISHERIES

INVITATION TO COMMENT ON THE DRAFT REVISED SECTOR SPECIFIC FISHERIES POLICIES ON THE ALLOCATION AND MANAGEMENT OF FISHING RIGHTS: MAY 2013

The Department of Agriculture, Forestry and Fisheries hereby publishes for comment the DRAFT REVISED SECTOR SPECIFIC POLICIES ON THE ALLOCATION AND MANAGEMENT OF FISHING RIGHTS: MAY 2013. Interested and affected parties are invited to submit written comments on the Draft Revised Sector Specific Policies on the Allocation and Management of Fishing Rights: May 2013 in the manner provided for in this Notice.

The Draft Revised Sector Specific Policies applies to the following fishing sectors:

- Kwazulu-Natal Prawn Trawl
- Squid
- Tuna Pole
- Shark Demersal
- Oysters
- White Mussels
- Traditional Linefish
- Hake Handline

Interested parties may submit written comments to the Department by no later than **16h00 on 31 May 2013** by post, by hand, e-mail or telefax transmission. Please note that comments received after the closing date may be disregarded.

<u>Per Telefax</u> Fax Number (021) 4215151 DDG: Fisheries Attention: R Scott Fishery (specify which fishery): Comment	<u>Per Post</u> DDG: Fisheries Attention: R Scott Private Bag X2 Roggebaai Cape Town 8001 Fishery (specify which fishery): Comment	<u>Per E-mail</u> Fishingrights@daff.gov.za v.za DDG: Fisheries Attention: R Scott Fishery (Specify which fishery): Comment	<u>Per Hand</u> DDG: Fisheries Attention: R Scott Foretrust Building, Martin Ham- schlag Way, Cape Town Fishery (Specify which fishery):Comment
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The draft policies are also available on the Department's website www.daff.gov.za



**DEPARTMENT OF AGRICULTURE, FORESTRY AND FISHERIES
BRANCH FISHERIES MANAGEMENT**

**DRAFT REVISED POLICY FOR THE ALLOCATION AND MANAGEMENT OF
FISHING RIGHTS IN THE TRADITIONAL LINEFISH FISHERY: 2013**

**THIS POLICY MUST BE READ WITH THE DRAFT REVISED GENERAL POLICY ON THE
ALLOCATION AND MANAGEMENT OF FISHING RIGHTS: 2013**

(available at www.daff.gov.za)

**This document is also available in Afrikaans, isiXhosa and isiZulu
Hierdie document is ook in Afrikaans, isiXhosa, en isiZulu beskikbaar
Lencwadi iyafumeneka nangolwimi lwesiBhulu, lwesiXhosa nolwesiZulu
Lencwadi iyatholakala nangolwimi lwesiBhulu, lwesiXhosa nolwesiZulu**

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1 Introduction

This policy on the allocation and management of fishing rights in the Traditional Linefish sector is issued by the Minister of Agriculture, Forestry and Fisheries ("the Minister") and shall be referred to as "**Traditional Linefish Policy: 2013**". The Traditional Linefish Policy: 2013 shall be read together with the General Policy. The Minister intends delegating her section 18 powers to allocate commercial fishing rights in terms of section 79 of the Marine Living Resources Act 18 of 1998 ("the MLRA") to an official of the Department.

This policy sets out objectives and the criteria, which will guide the evaluation and allocation of commercial fishing rights in the traditional line fish fishery sector.

2 Profile of the Fishery

2.1 Description of the fishery

Line fishing includes various line fishing methods applied worldwide. These methods utilised are long-lining and simpler methods such as hand held lines or rod and reel with baited hooks. Long-lining employs capital intensive operations which involve larger vessels and sophisticated technology. Long lining operations target high value species mainly offshore and in the high seas. Targeted species include tuna, swordfish, patagonian toothfish and hake.

Fishing with simple lines (hand held or on rod) with baited hooks is one of the traditional methods applied in the fishery. These methods have changed little over centuries and are common type of harvesting in remote areas. These methods are typical of inshore linefishing and are referred to as traditional, making a distinct identification from other linefishing methods. This distinction has led to the origin of the Traditional Linefish fishing sector ("the fishery"), and to further distinguish between line fishing and long lining, line fishers are restricted to a maximum of 10 hooks per line

2.2 History of the fishery

The origin of boat based line fishery is traced back to fishing activities of the European seafarers in the 1500s. In 1652 restrictions were imposed in the fishery by the Dutch following their colonisation of the Cape. Despite the abundance of fish the imposed restriction resulted in slow development of the fishery. In 1795 the British captured the Cape colony from the Dutch and lifted all restrictions. Subsequently boat based linefishing became a thriving industry in the mid-1800s operating from row and sail boats. The next spurt in the growth of the fishery occurred after the Second World War when both fishing effort and line fish catches increased substantially as a result of the simultaneous introduction of motorised vessels, the construction of small boat harbours along the coast and the availability of echo-sounding technology.

First attempts to manage the commercial the fishery dates back to 1940. Notable was the introduction of a management framework in 1985 following a decrease in catch trends during the latter half of the 20th century and an increase in fishing effort. Restrictions and controls included in the 1985 management framework were commercial fishing licenses (fulltime-A category and part-time-B category) and revised minimum size limits equaled to size at maturity. The management framework also provided for a division of the species into categories based on apparent exploitation vulnerability (i.e. more vulnerable reef species and more resilient shoaling species). Bag limits and closed seasons for some species were introduced and the effort was maintained at the 1985 levels.

Despite the imposed restrictions catch rates of many species have continued to decline, stock assessments indicated that so-called more resilient species were severely over-exploited. Research surveys reveal that the regulations have failed to provide substantial measure of resource protection. It is argued that either the restrictions themselves were not limiting or they may have been poorly enforced. As a result of declining stocks and the increasing claim for access in the fishery a substantial revision of the management procedure became necessary to prevent possible stock collapse. A new fishery management protocol was then introduced.

In response to the reported status of Traditional Linefish stocks, and the proposed management protocol, the Minister declared an emergency in the fishery and effort was reduced by 70% to the current 455 vessels and 3450 crew achieved at the Long Term Right Allocation and Management Process of 2005/2006 (LTRAMP 2005). Effective enforcement and monitoring became a necessity in order to restore diminishing fish stocks.

2.3 Resource users today

The South African line fishery is a multi-user, multi-species fishery consisting of approximately 200 species of which 95 contribute significantly to commercial and recreational catches. The user groups may be broadly divided into recreational, commercial and subsistence components.

The commercial fishery is a boat-based activity and owing to the large number of users, launch sites, species targeted and the operational range, the line fishery is managed in terms of a total applied effort ("TAE"), bag limits for species, closed areas, limitations of the gear used and restraints on the trade of collapsed and over-exploited species. The commercial fishery currently consists of an approved TAE of 455 vessels and 3 450 crew. These vessels range between 4.5m and 15m in length. The crew use hand line or rod-and-reel to target approximately 200 species of marine fish of which 50 species may be regarded as economically important. Target species include resident reef-fish, coastal migrants and nomadic species. Annual catches prior to the

reduction of the commercial effort were estimated at 16 000 tons for the traditional commercial line fishery. Almost all of the traditional line fish catch is consumed locally. There is recent evidence of exports of some prime species notable yellowtail.

Approximately **82%** of the right holders partake (Right Holders issued with fishing permits) in the fishery in any given year (fishing season) and **6%** of the allocated rights were never activated (Right Holders not issued with fishing permits).

2.4 The Biological Status of the Traditional Linefish Fishery

Stock assessments conducted since the mid-1980s have revealed that with the exception of fast growing species, such as snoek and yellowtail, most commercially exploited traditional line fishes have been depleted to dangerously low levels. As a result productivity and hence annual catch are much lower than they could be; with obvious ramifications for job creation, tourism and conservation. Apart from these losses, the risk of stock collapse and commercial extinction, as has occurred for seventy-four, is extremely high. Responding to the poor status of most traditional line fish resources, the Minister declared an environmental emergency in the traditional line fishery in December 2000. In terms of the emergency, the Minister determined that no more than 3450 persons may fish commercially for traditional line fish. The TAE allocated to the traditional commercial line fishery is an attempt to stabilise the declining trends in the fishery and then to re-build over-exploited species. Given their long life span and complex life histories and continuing fishing pressures, it is unlikely that significant positive changes will occur within a decade. During the World Summit on Sustainable Development ("WSSD"), countries undertook to maintain or rebuild fish stocks to levels that can produce the maximum sustainable yields. The goal is to be achieved on an urgent basis for depleted stocks, and if possible, by not later than 2015.

3 The 2005/2006 Long Term Rights Allocation Process

Commercial fishing rights for the traditional line fishery were allocated for the second time in 2005/2006. The 2005/2006 rights allocation process was categorised as a Long Term Rights allocation with rights duration of eight years. The very first time rights allocation in the fishery was in July 2003 with rights granted to a total of 346 vessels with a total effort of 2048 crew and was regarded as medium-term allocation. The long term right allocation differed from the medium term as rights were allocated to persons rather than to vessels. Traditional Linefish Right Holders are restricted to use of one vessel and a determined maximum number of crew.

4 Objectives of allocating Traditional Line Fish Rights

The over-all objectives of allocating long term fishing rights in the traditional line fish sector are to:

- 4.1 Promote the participation of black traditional line fishers;
- 4.2 To encourage participation of current active long term fishing rights' Right Holders;

- 4.3 To secure jobs and create platform for more job creation;
- 4.4 Promote adherence to fair labour practices;
- 4.5 To promote food security and poverty elevation;
- 4.6 Allocate commercial rights to traditional line fishers reliant on traditional line fishing for their main source of income;
- 4.7 To value tradition and historical participation in the fishery;
- 4.8 Endeavour to allocate a fair proportion of rights to applicants based at fishing harbours that are historically associated with traditional line fish catches;
- 4.9 Support the management of effort in order to facilitate the recovery of over-exploited and collapsed fish stocks;
- 4.10 Lay the foundations for the management of this fishery on a regional basis; and
- 4.11 Ensure substantially higher levels of compliance by fishers.

5 Empowerment of Line Fish Crew

The Department will require all fishing crew who are intending to work on traditional line fish boats to register with the Department on the Crew Register. All line fish right holders will be required to select their crewmembers from among those who are listed on the Crew Register. The Department will only register persons on the crew list if they have successfully undertaken a SAMSA safety training course, demonstrate a reliance on traditional line fishing and are able to demonstrate some form of historical involvement in traditional line fishing. Crew will be registered free of charge and the registration process will commence in the last quarter of 2005. Everyone that qualifies will be registered. There will be no maximum number of crew to be registered on the list. Registered crew may only fish from vessels authorised to catch traditional line fish, but Registered crew will not be limited to work on any particular line fishing vessel or area. Persons registered on the Crew List may also crew on vessels in other fisheries.

6 Allocation of Rights

6.1 Duration of Right

Having regard to the biological status of line fish stocks, the need to encourage higher levels of compliance and adherence to fisheries laws and the need to affirm line fishers from traditional line fish villages along the entire coast, the need to further promote equal and fair access to the resources commercial rights will be allocated for a period of **seven** years (1 January 2014 to 31 December 2020). Each right holder will be tested against predetermined performance criteria.

6.2 Form of right holder

6.1.1 Section 18 of the MLRA provides that only South African persons may hold fishing rights.

6.1.2 The following South African persons will be considered:

- (a) a company;
- (b) a close corporation;
- (c) a trust;
- (d) a co-operative established in terms of the Small-Scale fisheries policy; and
- (e) an Individual who is a South African citizen as described in the constitution.

6.3 New Entrants

The traditional line fishery is oversubscribed. It is estimated that the ratio of oversubscription (fishers:TAE) may be as high as 2:1. In addition, the traditional line fishery remains in a state of environmental emergency. The Minister set the TAE at 3450 crew and 455 vessels and no additional rights or exemptions will be granted in this fishery. Current right holders and exemption holders may be replaced, especially if they do not rely on line fishing for their main source of income, have not fished in accordance with the permit conditions or have failed to transform their businesses as undertaken in their applications for fishing rights or exemptions. These right holders and exemption holders may be replaced with traditional line fishers who demonstrate, including those who were unsuccessful in applying for a long term right in 2005/2006.

7 Evaluation Criteria

All applications for line fish rights will be screened in terms of a set of "exclusionary criteria". All applicants will thereafter be separately scored in terms of a set of weighted "comparative balancing criteria". A cut-off will then be determined in order to select the successful applicants and effort will be allocated to each successful applicant in the manner set in the exclusion criteria.

7.1 Exclusionary Criteria

Apart from the criteria described in Annexure A pertaining to the lodgement of the applications and material defects, the delegated authority will exclude applicants that fail to meet the following requirements:

- (a) **Compliance:** Applicants that have been convicted of a serious infringement of the MLRA, the regulations, permit conditions or other serious fishery related offences will not be allocated a traditional line fish right. This does not include the payment of an admission of guilt fine. If the applicant was a member of a close corporation or a shareholder of a company that held a fishing right, then the applicant will not be granted a right if the right holder (the close corporation or company) or one of its members, directors or its controlling shareholder was convicted of a serious infringement of the MLRA, the regulations, permit conditions or other serious fishery related offences during the medium-term right period. Rights will also not be allocated to an applicant if the applicant

has had any fishing right cancelled or revoked in terms of the MLRA, or assets seized under the Prevention of Organised Crime Act 121 of 1998 or the MLRA. If the applicant was a member of a close corporation or a shareholder of a company that held a medium term right, the applicant will not be granted a right if the medium term right holder (the close corporation or company) or one of its members, directors or controlling shareholder had a right cancelled or revoked in terms of the MLRA, or had assets seized under the Prevention of Organised Crime Act. Decisions may be reserved on applications if there is a pending criminal investigation, or section 28 proceedings, which may affect the outcome the application.

- (b) Paper Quota Applicants: In the fishing rights allocation process, the delegated authority will exclude new entrant applicants who appear to be paper quota risks. For this purpose, the delegated authority will consider an applicant to be a "paper quota risk" if that applicant appears to have no serious intention to share the risk of fully participating in the sector, especially if a danger exists that an applicant has not applied in order to enter the industry but to gain some financial benefit without direct involvement in the main activities associated with exploiting any right that may be granted. In determining whether a new entrant applicant poses such a paper quota risk, the applicant's assets and access to capital and its financial and business planning and commitments should be considered. The delegated authority will also exclude as "paper quota risk" applicants considered to be fronts" for other beneficiaries. Fronting occurs when, in order to circumvent a policy objective, an application is made through another individual. An example is an application made by an ostensibly transformed individual with the intention that the main benefits will flow to an untransformed entity or individuals that are not black persons. Large groups of identical, or very similar applications, that are sponsored by consultants or commercial fishing companies and other entities, will be excluded as fronts (paper quotas) regardless of the merits of individual applications.
- (c) A household (comprising parents and children) may not be granted more than one right so as to avoid fronting and to broaden access to the traditional line fish resource. Applicants may be required to disclose their relationship to applicants in the line fish sector or other commercial fisheries. If more than one member of a household applies for a right, all the applications from that household may be excluded, unless the applicants clearly and convincingly demonstrate that they have established separate small commercial operations.
- (d) Non-utilisation: The delegated authority may refuse to re-allocate a right if a right holder applicant failed to fully utilise the right and that no valid reasons are provided for non utilisation.

- (e) Personal involvement in harvesting of the resource: Applicants will be required to demonstrate that, during the fishing season, they are personally involved in traditional line fishing, in that they are active the fishing and business operations. Only applicants incapable of participating due to a permanent physical disability will be exempt from this requirement. Regard will be given to women applicants who may not be personally involved in the harvesting of the resource but are solely or directly depended in the fishery for their livelihoods.
- (f) Vessel access: Applicants will have to demonstrate that they have access to a suitable line fish vessel although consideration will be given to the manner in which the applicant intends to harvest the resource, which shall include committed of support from government agencies and other interested parties.

7.2 Balancing Criteria

Applicants will be evaluated in terms of balancing criteria which will be weighted in order to assess the strength of each application.

- (a) Transformation: To improve the transformation profile of the traditional line fish sector, black applicants will be positively scored. Gender may be used as a tie-breaking factor, i.e. where more than one applicant scores the same, a female applicant will be preferred over a male applicant.

Applicants will also be assessed on –

- (i) The percentage of black persons and women involved in the management of the applicant's enterprise and employed by the applicant;
 - (ii) Whether the applicant complies with skills development laws (if applicable) and whether the applicant has invested in the training and development of crew;
 - (iii) Whether the applicant regularly shared profit with crew;
 - (iv) Affirmative procurement; and
 - (v) Corporate social investment.
- (b) Investment in the Fishery: Investment in vessels and equipment will be recognised, as long as the investment demonstrates a real commitment to participate in the fishery. The delegated authority should also consider whether the applicant has invested in fish processing initiatives or intend investing in any line fish processing initiatives to add further value to traditional line fish caught.
 - (c) Deck Boats: Applicants resident along the west and south east coasts who intend to use traditional wooden deck boats (provided they are approximately 10m or less) may be

- rewarded, provided that the applicant is able to demonstrate that the vessel has a good performance history in the traditional line fishery.
- (d) Fishing Performance: Right holder applicants will be assessed having regard to their traditional line fishing performance and record during the rights allocation period. New entrant applicants will be assessed having regard to whether they have the ability, knowledge and skills to participate in the traditional line fish sector.
 - (e) Job creation: Right-holder applicants who can demonstrate that they have provided temporary or permanent employment during the right period, will be rewarded, especially those that have provided employees with
 - (i) Full time secure employment;
 - (ii) Medical and pension benefits;
 - (iii) Safe working conditions;
 - (iv) Any other employment benefits.
 - (f) Traditional Fishing Communities: A number of traditional fishing villages along South Africa's coast have historically been centres of traditional line fishing. The delegated authority may positively score applicants that have been resident in a traditional line fishing village for at least the past 10 years and who intend to fish from a local harbour or slipway only.
 - (g) Historical involvement: All applicants will be rewarded for demonstrating historical involvement in the traditional line fishing industry, such as being a skipper or a crew member in the fishery.
 - (h) Reliance on line fishing: The delegated authority should prefer applicants who rely on traditional line fishing for a significant proportion of their gross annual income. Applicants who derive income from sources outside the fishing industry may be negatively scored. New entrant applicants will be required to demonstrate their historical dependency on the traditional line fishery for their livelihood.

7.3 Effort Allocations

The delegated authority will allocate rights to a maximum of 450 vessels capable of carrying a maximum of 3450 crew, divided between the regions in the manner set out below. The number of vessels allocated to each regional management area has been determined after consideration was given to the number of active vessels in each region over the past five years and the fishing effort levels that can be sustained in each region.

Regional Management Areas	Vessel Effort
Port Nolloth to Cape Infanta	295
Cape Infanta to Port St Johns	103

Kwazulu-Natal 52

Each successful applicant will be granted the right to use one vessel only in case of individual applicants. Multiple vessels will be allocated to legal entities who apply to participate in the fishery. The number of crew that may fish from any vessel will be restricted to the number determined by the Department but not exceeding the safety approved SAMSA crew limitation appearing on the safety.

7.4 Suitable Vessels

A suitable vessel in the traditional line fishery is a vessel that:

- (a) is either a skiboat or traditional wooden deck boat of approximately 10m or less. Preference will be given to vessel currently operating in the fishery. The vessel must be certified by SAMSA as being safe for fishing; and is geared for hand line fishing.

The Department may require each vessel holder to invest in an acceptable vessel monitoring system ("VMS") after the allocation of fishing rights. Regard will be had to the cost of the VMS system before imposing the requirement. The Department shall incur the cost of the VMS when is deemed unaffordable by the Right Holders.

7.5 Multi-sector Involvement

Applicants in the traditional Linefish fishery may apply for access to other fisheries which may include the tuna and squid hake handline sectors during the 2013 Rights Allocation process.

Right holders in the traditional line fishery may hold the following rights, in addition to their line fish right:

- (a) Right holders permanently resident between Port Nolloth and Gansbaai may hold west coast rocklobster fishing rights (near shore only), provided that the person does not hold an abalone right as well;
- (b) Right holders permanently resident between Cape Infanta and Port St Johns may hold hake handline fishing rights; and
- (c) Right holders permanently resident in KwaZulu-Natal may hold net fish rights (such as shove nets etc), including sardine beach seine rights.

The provisions of Government Notice 4727 of 29 December 2000, in so far as it prohibits the holder of a commercial traditional line fishing right from holding any other commercial fishing right, are hereby amended and the holder of a traditional line fish right is authorized to hold the following fishing rights only:

- West coast rock lobster (near shore);
- Hake handline; and
- KwaZulu-Natal Beach seine nets (including shove nets).

Traditional line fishing right holders who are also allocated West coast rock lobster (near shore) fishing rights will not be permitted to carry any gear for the harvesting of lobster while traditional line fishing.

Right holders will not be permitted to fish hake handline and traditional line fish on the same trip (they may not exercise both permits). However such right holders will be allocated the same number of crew for hake handline and line fish.

7.6 Regional management

The Department will continue to manage this fishery on a regional basis, prohibiting the movement of vessels from one region to the next and regulating the use of vessels within the regions. More particularly, should an applicant be successful in its application, the right holder will then be restricted to a particular region. An applicant allocated a right on one region may not migrate to another region without prior written approval from the Department, this migration shall be regarded as transfer of a fishing right in terms of section 21 of the MLRA. The delegated authority will allocate traditional line fish rights in the following three management regions:

- **ZONE A:** Port Nolloth to Cape Infanta;
- **ZONE B:** Cape Infanta to Port St Johns; and
- **ZONE C:** KwaZulu-Natal

8 Application Fees and Levies

The application fee for this fishery have been determined having regard to:

- 8.1 The cost of the entire rights allocation process, including consultation, receipting, evaluation of applications, verification, appeals and reviews; and
- 8.2 The value of the fish being allocated over the duration of the right.

The annual levies payable with effect from 1 January 2015 will be determined through the Department fees review process which includes draft publication for comments. The levies payable will be utilised by the Department for mitigating the annual costs of management, compliance and research.

9 Management Measures

The management measures discussed below reflect a number of the Department's principal post right allocation management intentions for this fishery.

9.1 Ecosystem Approach to Fisheries Management

This fishery will be managed in accordance with the ecosystem approach to fisheries ("EAF"). An ecosystem approach to fisheries management is an holistic and integrated policy which recognises that fishing and various land based activities impacts on the

broader marine environment. The EAF will be detailed further in the Fishery Management Manual for the traditional line fishery. South Africa remains committed to the target date of 2010 for the implementation of an EAF in the commercial fisheries.

15.2 Marine Protected Areas

Marine protected areas are closed for fishing unless permitted so by responsible authority in writing.

15.4 Vehicle use in the Coastal Zone

Right-holders in the traditional line fishery must apply to the Deputy Director-General of Oceans and Coasts: Department of Environmental Affairs for a permit to use a vehicle in the coastal zone if required to launch a vessel outside of a licensed boat launching site.

The fee to apply for a permit to use a vehicle in the coastal zone is currently set at R500 (five hundred rand).

10 Performance Measuring

The Department will institute formal performance measuring exercises for the duration of the commercial fishing rights. Although the Department will finalise the precise criteria against which right holders will be measured after the allocation of commercial fishing rights, and after consulting right holders, the following broad performance-related criteria may be used:

- 10.1 crew empowerment;
- 10.2 investment in processing and value adding to line fish stocks;
- 10.3 job creation; and
- 10.4 compliance with applicable laws and regulations.

The purpose of performance measuring will be to ensure that the objectives of the fishery are being met and that management methodologies and procedures remain current and suitable for the fishery.

11 Provisional lists

Before the delegated authority makes final decisions on the successful applicants, he or she should issue a provisional list of successful applicants. The provisional list will be circulated to each fishing area. Interested and affected parties in these areas may then be invited to comment on the list and, in particular, inform the delegated authority if any persons who historically fished for traditional line fish in the area have been excluded from the provisional list or whether any person included on the provisional list is not reliant on the traditional line fish resource.

12 Observer and Monitoring Programme

The Department's current monitoring programme will be expanded to this fishery. Right holders will be required to bear the costs of a land-based observer monitoring programme.

13 Permit Conditions

Permit conditions for this fishery will be issued annually. Permit conditions may be amended at any time during the fishing season. Right Holders or recognised industrial bodies and interest groups will be consulted when deemed necessary.



DEPARTMENT OF AGRICULTURE, FORESTRY AND FISHERIES

BRANCH: FISHERIES MANAGEMENT

**DRAFT REVISED POLICY FOR THE ALLOCATION AND MANAGEMENT OF
FISHING RIGHTS IN THE SQUID FISHERY: 2013**

**THIS POLICY MUST BE READ WITH THE DRAFT REVISED GENERAL POLICY ON
THE ALLOCATION AND MANAGEMENT OF FISHING RIGHTS: 2013**

(available at www.daff.gov.za)

This document is also available in Afrikaans, isiXhosa and isiZulu

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1 Introduction

This policy on the allocation and management of fishing rights in the Squid sector is issued by the Minister of Agriculture, Forestry and Fisheries ("the Minister") and shall be referred to as "**Squid Policy: 2013**". The Squid Policy: 2013 shall be read together with the General Policy. The Minister intend to delegate her section 18 powers to allocate commercial fishing rights in terms of section 79 of the Marine Living Resources Act 18 of 1998 ("the MLRA") to an official of the Department.

This policy sets out objectives and the criteria, which will guide the evaluation and allocation of commercial fishing rights in the squid fishery sector.

2 Profile of the Fishery

2.1 Description of the fishery

The squid fishery is a capital intensive fishery where investment in vessels and fish processing establishment plants its key for survival. The fishery is boat based and it predominately operates in the Eastern Part of the country with most catches in the area between Plettenberg Bay and Port Alfred. Vessels operating in the fishery include 7 men ski boats to 26 men modern vessels (most cases in excess of 19 meters in length). The fishery is export driven as the bulk if not all catches is exported to the international market, mainly Europe and Asia

2.2 History of the fishery

Chokka squid (hereafter referred to as "squid") has been used as bait by linefishers for many years. The species is also landed as by-catch in the demersal trawl fisheries. In the 1960s and 1970s, the squid resource was heavily exploited by foreign fleets. During this period, squid was caught predominantly by trawlers from the Far East. Foreign activity was phased out in the late 1970's and early 1980's following South Africa's declaration of an Exclusive Economic Zone ("EEZ"). However, squid and other cephalopods, including a number of species of squid and octopus, continued to be taken by South African trawlers. The chokka by-catch in the demersal fishery fluctuates between 200 tons and 600 tons annually. A dedicated jig fishery for chokka was initiated in 1984. The jigs are operated by handlines, making this a particularly labour-intensive fishery. The jig fishery registered its highest catch of approximately 12000 tons in 2003/2004. Average catches in the 1990's amounted to between 6 000 and 6 500 tons per annum. Squid is frozen at sea, usually in 10 kilogram blocks. It is generally landed at harbours between Plettenberg Bay and Port Alfred and exported whole to Europe. Between 1986 and 1988 a licensing system was introduced with a view to limiting the number of vessels participating in the fishery. The fishery is currently regulated in terms of a total applied effort ("TAE"). The squid fleet is divided into vessel categories and the maximum crew complement for the vessels in each category is fixed. Since 1988, the fishery has been closed once a year for four weeks in an attempt to counter the effects of "creeping effort". Increases in vessel efficiency and catch technology have led to increases in fishing efficiency. The chokka squid fishery provides employment for approximately 3 000 people, including land-based personnel (approximately 2 400 sea-going). The landed catch is worth more than R180 million per year.

The current allocation of effort in the squid fishery is set at maximum 136 vessels which has been translated to 121 rights allocated in 2005/6. Following transfer and consolidation of fishing rights the number of right holders have decreased from the original 121. Some small operators has been bought out by the more economically and capitally established companies resulting in the control of the industry lying in the hands of a few operators who present themselves as transformed. The industry has in recent years gain popularity that relates to fronting. This has not been quantified or qualified but the Department has been served with petitions and complaints from those who have been defrauded during the 2005/6 Rights allocation process.

2.3 Resource users today

Currently rights are allocated to 121 companies mainly based in the Eastern Cape. Fishing occurs mainly in the inshore waters between Plettenberg bay and Port Alfred. Limited recreational catches for squid are permitted where permit holders are restricted to 20 fish per person per day. No upper catch limit is set for commercial fishing.

2.4 The Biological Status of Squid Fishery

The squid fishery targets chokka squid (*Loligo vulgaris reynaudii*), the most abundant squid in South Africa's coastal waters. Chokka squid is found between Namibia in the west and the Wild Coast in the east. Like all squid, they complete their lifecycle within two years. Sexual maturity is attained one year after hatching. Maximum length is 46 centimetres (male) and 28 centimetres (female). Chokka squid spawn on the seabed, usually in inshore areas, but sometimes in deep water on the Agulhas Bank. Spawning occurs year round, but is most prolific in the summer months. Chokka squid prey on crustaceans and fish. The abundance of chokka squid fluctuates substantially. The effects of fluctuations in predation, prey availability and the physical environment are more acutely felt by squid because their short life span offers little inter-annual continuity. Presently, chokka squid abundance is at near-record levels, but experience suggests that substantial declines can be expected.

3 The 2005/6 long term rights allocation process

During the long term rights allocation process, 121 commercial squid fishing enterprises were granted rights authorising them to use more than 2 422 crew to fish for squid on 136 vessels. Allocation records show that:

- 3.1 the total black share holding in the fishery was 35% black at allocation and has
- 3.2 increased as findings from the 2009 review process to 48%

4 Over-arching fishery objectives

The over-arching objectives of allocating long-term fishing rights in this fishery are to:

- 4.1 Notably improve the transformation profile of this fishery;
- 4.4 Affirm applicants who live in, or whose place of registered business, is the Eastern Cape;
- 4.5 Promote further investment in vessels (to modernise or replace ageing vessels) and infrastructure and to promote job creation;

- 4.6 Allocate rights to applicants who predominantly rely on squid for their income;
- 4.7 Support the economic viability of the fishery;
- 4.8 Ensure the environmental sustainability of the fishery.

5 Allocation of Rights

5.1 Duration of Right

Having regard to the biological status of line fish stocks, the need to encourage higher levels of compliance and adherence to fisheries laws and the need to affirm fishers from squid fish villages along the entire coast, the need to further promote equal and fair access to the resources commercial rights will be allocated for a period of **seven** years (1 January 2014 to 31 December 2020). Each right holder will be tested against predetermined performance criteria.

5.2 Form of right holder

6.1.1 Section 18 of the MLRA provides that only South African persons may hold fishing rights.

6.1.2 The following South African persons will be considered:

- (a) a company;
- (b) a close corporation;
- (c) a trust;
- (d) a co-operative established in terms of the Small-Scale fisheries policy; and
- (e) an Individual who is a South African citizen as described in the constitution.

5.3 New entrants

Although the squid fishery is currently optimally exploited and there is no room for *additional* participants, new entrant applicants will be considered, *amongst others*, and may be preferred over existing right-holders if their inclusion will assist in the transformation of the squid fishery.

6 Empowerment of squid fishers

The Department will require all fishing crew who are intending to work on squid boats to register on a Crew Register. Squid right holders will be required to select their crew members from among those who are listed on the Crew Register. The Department will only register persons on the crew register if they have successfully completed a SAMSA safety training course, demonstrate some reliance on squid fishing and historical involvement in squid fishing. Crew will be registered free of charge and the registration process will commence in the last quarter of 2005. Registered crew may only fish from vessels authorised to catch squid. This does not mean that persons registered on the Crew List may not crew on vessels in other fisheries.

7 Evaluation criteria

Applications will be screened in terms of a set of "*exclusionary criteria*". New entrant applicants and right-holder applicants will then be separately assessed in terms of a set of weighted "*comparative balancing*"

criteria". A cut-off score or rank will then be determined in order to select the successful applicants. A proportion of the TAE will then be allocated to each successful applicant in terms of a set of "*quantum criteria*".

7.1 Exclusionary criteria

Apart from the criteria described in the General Policy pertaining to the lodgment of applications and material defects, the delegated authority will exclude applicants that fail to meet the following requirements:

- (a) **Form of the applicant:** Applications will only be considered from entities incorporated in terms of the Close Corporations Act 69 of 1984 and the Companies Act 71 of 1973. Natural persons (i.e. individuals or sole proprietors) will not be granted rights. Current natural person right holders must apply in the form of a close corporation or company and will be treated as fishing right allocation right holder applicants provided that they comply with the guidelines set out in the General Policy.
- (b) **Compliance:** If an applicant, or its members, directors or controlling shareholder has been convicted of a serious infringement of the MLRA, the regulations, permit conditions or other serious fishery related offences during the medium-term right period, the applicant will not be allocated a squid fishing right. This does not include the payment of an admission of guilt fine. Rights will also not be allocated to an applicant if the applicant, or its members, directors or controlling shareholders, has had any fishing right cancelled or revoked in terms of the MLRA, or assets seized under the Prevention of Organised Crime Act 121 of 1998 or the MLRA. Decisions may be reserved on applications if an applicant (or its members, directors or controlling shareholders) is being investigated for a breach of the MLRA. Right-holders are required to pay a levy on targeted fish landed. Right-holders that have underreported catches to avoid the payment of levies will be excluded. Right-holders that have not paid levies will be penalised in the comparative balancing process as set out below. Should such an applicant nevertheless qualify for a right, a fishing permit will not be issued until the outstanding monies have been paid to the Department.
- (c) **Paper quotas:** Paper quotas as defined in the General policy will be excluded.
- (d) **Access to a suitable vessel:** Applicants will have to demonstrate a right of access to a suitable vessel (*see paragraph 9 below*).
- (e) **Non-utilisation:** The delegated authority may refuse to re-allocate a right if a right holder applicant failed to fully utilise its medium-term commercial squid fishing right between 2002 and 2004.

7.2 Comparative balancing criteria

Right-holder applicants and potential new entrants will be evaluated in terms of the following balancing criteria, which will be weighted to assess the strength of each application. The criteria stated below must

be read with the corresponding criteria in the General Policy for further detail. This applies in particular to the “*transformation*” criterion.

(a) Transformation

The fishing right allocation records suggest that this fishery is comparatively less transformed than other fisheries. Applicants will be assessed on

- (i) The percentage black and women ownership and black and women representation at top salary, board of directors and senior official and management levels;
- (ii) Whether employees (other than top salary earners) benefit from an employee share scheme;
- (iii) Affirmative procurement;
- (iv) Compliance with the Employment Equity Act 55 of 1998 and the representivity of blacks and women at the various levels of employment. The delegated authority may also have regard to the wage differentials between the highest and lowest paid employees;
- (v) Compliance with legislation on skills development and the amounts spent on the training of blacks and participation in learnership programmes;
- (vi) Enterprise development; and
- (v) Corporate social investment.

(b) Investment in the fishery

As far as right-holder applicants are concerned, the delegated authority will consider:

- (i) Investments in suitable vessels and other fixed assets. In respect of vessels, investment in the form of shareholding will also be considered. Right-holder applicants will not be rewarded for having concluded vessel purchase agreements;
- (ii) Investments in processing and marketing infrastructure. The delegated authority may reward right holder applicants that have invested in squid processing and marketing. As far as new entrant applicants are concerned, the delegated authority will consider investments made in other sectors in the form of vessels and fixed assets, marketing and processing.

(c) Performance

Right-holder applicants will be assessed by having regard to their squid fishing performance over the medium-term period (2002 to 2004). All new entrant applicants will be required to demonstrate that they have the capacity knowledge and skill to participate in the squid fishery.

(d) Reliance on squid

The delegated authority will positively score applicants who rely on squid fishing for a significant proportion of their gross annual income.

(e) Local economic development

Investment in South Africa's smaller coastal towns should be promoted. The delegated authority may reward those applicants that have invested in smaller coastal towns outside of the large metropolitan areas of Port Elizabeth and Cape Town. Squid right holders that have invested in facilities in Cape Town and Port Elizabeth will not be negatively scored.

(f) Jobs

Job creation and increases in jobs as a result of the allocation of fishing right allocation fishing rights will be rewarded, and in particular, applicants that have provided their employees with

- (i) Full time employment;
- (ii) Medical aid and pension; and
- (iii) Safe working conditions.

(g) Non-payment of fish levies

Right holder applicants will be penalised if their levies payable to the Department are outstanding for a period longer than 60 days at the date of application.

(h) Compliance

If the applicant, its members or its directors or controlling shareholders have been convicted of a minor infringement of the MLRA, the regulations, permit conditions or other fishery related offences, during the medium-term right period, or paid admission of guilt fines for contraventions of the MLRA, its regulations or permit conditions, the applicant will be penalised.

7.3 Effort allocations

Following the public consultation process, and consultations with the registered industrial body for this fishery, it was decided that effort will be allocated in accordance with the following broad principles:

- (a) The number of persons on board a fishing vessel will be restricted to the maximum crew stipulations determined per vessel category (see below);
- (b) The number of vessels engaged in the industry should not exceed the current number of active squid vessels, being 138;
- (c) The vessels nominated by an applicant are consigned to a length category which determines the maximum number of persons per vessel. The categories and the maximums are set out in the table below (lengths refer to the registered lengths according to the SAMSA Safety Certificate for vessels in excess of 25 tons and the recorded length on the licence certificate for vessels under 25 tons. Where a conflict of

length does arise, the Department will allocate the vessel the shorter length). Note: The reference to "maximum persons per vessel" does not entitle the successful applicant to the maximum number of persons.

- (d) **Category of vessel** *Maximum persons per vessel*
- Ski boat or non freezer vessel 7 persons
 - Vessels up to 13 metres 12 persons
 - Vessels from 13 to 15 metres 16 persons
 - Vessels from 15 to 17 metres 20 persons
 - Vessels from 17 to 19 metres 22 persons
 - Vessels over 19 metres 26 persons
- (e) If a right-holder is allocated a number of persons that is different from the number of persons permitted in respect of the nominated vessel's SAMSA safety certificate, the right-holder will be given three months from the date of the issue of the permit to have the safety certificate for the vessel altered to ensure that the maximum number of persons permitted on the vessel is equal to the number of persons allocated to it.
- (f) If two or more right-holders are allocated rights in respect of the same vessel, the delegated authority will require the respective right holders to agree on the proportional allocation of crew on that vessel.

Before a final decision is made on the allocation of effort, the delegated authority must consult with successful applicants on the allocation of effort.

7.4 Suitable vessels

A suitable vessel in the squid fishery is a vessel that:

- (a) has a minimum SAMSA registered length of approximately eight metres. Smaller vessels may be considered on the basis of their squid fishing performance;
- (b) has a functioning vessel monitoring system;
- (c) is HACCP compliant; and
- (d) is equipped for squid fishing using the jigging method.

Vessels will be disqualified if the length had been artificially increased by the right-holder in an attempt to increase its crew complement.

7.5 Multi-sector involvement

Right-holders in the squid fishery are not precluded from holding commercial fishing rights in the Cluster A and Cluster B fisheries. Squid right-holders, including their controlling shareholders or members (in the

case of close corporations) and members of their executive management team will not be permitted to hold commercial fishing rights in the Cluster C and Cluster D fisheries and traditional line fish rights.

8 Application Fees and Levies

The application fee for this fishery will be determined having regard to:

- 8.1 The cost of the entire rights allocation process, including consultation, receipting, evaluation of applications, verification, appeals and reviews; and
- 8.2 The value of the fish being allocated over the duration of the right.

The annual levies payable with effect from 1 January 2014 will be determined after consultation with right holders. The levies payable will be utilised by the Department for mitigating the annual costs of management, compliance and research.

9 Management measures

The management measures discussed below reflect a number of the Department's principal post-right allocation management intentions for this fishery.

9.1 Ecosystem approach to fisheries management

This fishery will be managed in accordance with the ecosystem approach to fisheries ("EAF"). An ecosystem approach to fisheries management is a holistic and integrated policy which recognises that fishing and associated land-based activities impact on the broader marine environment. This part of the squid fishery policy does not attempt to provide a policy statement on EAF in the squid fishery. The EAF in the squid fishery will be detailed further in the Squid Fishery Management Manual. South Africa remains committed to the target date of 2010 for the implementation of an EAF in the commercial fisheries.

9.2 Monopolies

While the Department will encourage the consolidation of right-holders in this fishery, the Department is opposed to monopolies which may operate to the detriment of smaller right-holders.

9.3 Performance measuring

The Department will institute a number of formal performance measuring exercises for the duration of the commercial fishing rights. It is envisaged that the first performance measuring exercise will take place after a year, and thereafter every three years. Although the Department will finalise the precise criteria against which right-holders will be measured after consulting with right-holders, the following broad performance-related criteria may be used:

- 11.1 transformation;
- 11.2 investment in vessels and gear;
- 11.3 squid catching performance;

11.4 compliance with applicable laws and regulations.

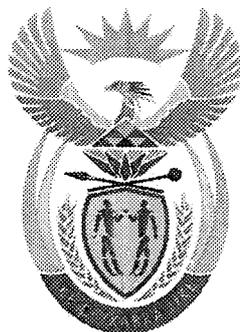
The purpose of performance measuring will be to ensure that the objectives of the fishery are being met and that management methodologies and procedures remain current and suitable for the fishery.

10 Observer programme

The Department's current observer programme will be expanded to include compliance observation. In addition, the Department will progressively increase the observer coverage of this fishery. Right-holders will be required to bear the costs of the observer programme.

11 Permit conditions

Permit conditions for this fishery will be issued annually. The permit conditions will be determined after consultation with right holders in this fishery and will be subject to revision as and when it may be necessary.



**DEPARTMENT OF AGRICULTURE FORESTRY AND FISHERIES
BRANCH FISHERIES MANAGEMENT**

**DRAFT REVISED POLICY FOR THE ALLOCATION AND MANAGEMENT OF
FISHING RIGHTS IN THE TUNA POLE AND LINE FISHERY: 2013**

**THIS POLICY MUST BE READ WITH THE DRAFT REVISED GENERAL
POLICY ON THE ALLOCATION AND MANAGEMENT OF FISHING RIGHTS:
2013 (available at www.daff.gov.za)**

This document is also available in Afrikaans, isiXhosa and isiZulu

Hierdie document is ook in Afrikaans, isiXhosa en isiZulu beskikbaar

Lencwadi iyafumaneka nangolwimi lwesiBhulu, lwesiXhosa nolwesiZulu

Lencwadi iyatholakala nangolwimi lwesiBhulu, lwesiXhosa nolwesiZulu

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1. Introduction

This policy on the allocation of fishing rights in the tuna pole and line fishery is issued by the Minister of Agriculture Forestry and Fisheries ("the Minister"). This policy must be read with the General Policy on the Allocation of Fishing Rights: 2013 ("the General Fisheries Policy").

The purpose of this policy is to set out the considerations that will apply to the allocation of tuna pole and line fishing rights. Many of these considerations are not new. They have been applied by the Department of Environmental Affairs and Tourism: Branch Marine and Coastal Management when allocating rights in the past for the tuna pole fishery. This policy documents these considerations, but includes a few changes and additions.

The Minister intends to delegate the section 18 power to allocate tuna pole rights in terms of section 79 of the Marine Living Resources Act 18 of 1998 ("the MLRA") to a senior official of the Department of Agriculture Forestry and Fisheries (hereafter referred to as the "Department"). This policy document will guide the delegated authority in taking decisions on applications in this fishery.

2. Biology and resource dynamics

Sub-adult (8-12 kg) albacore (*Thunnus alalunga*) is the main target of the tuna pole fishery. In recent years the fishing gear used by the tuna pole fishery has diversified to include rod and reel to target large (>50 kg) yellowfin tuna (*T. albacares*) off Cape Point. The diversification occurred to capitalise on increased abundance of yellowfin in some years, which assisted to supplement the income derived from albacore. Albacore prefers cool temperate water and is more abundant along the west coast of South Africa. In contrast, yellowfin prefers warmer water and is more abundant along the south and east coast of South Africa. Both tuna species have wide geographic distributions occurring in all the major ocean basins. They are also highly migratory fish, with the same stocks fished by many different fishing nations. Consequently, these stocks are managed globally by Regional Fisheries Management Organisations (RFMOs). These are inter-governmental bodies that are responsible for the management of these resources, including stock assessments, allocating country quotas, and adopting conservation and management measures. The RFMO responsible for the management of tuna and tuna-like species in the Atlantic Ocean is the International Commission for the Conservation of Atlantic Tunas (ICCAT) and its counterpart in

the Indian Ocean is the Indian Ocean Tuna Commission (IOTC). South Africa is a long-standing member of ICCAT and is in the process of acceding to the IOTC. The albacore currently fished by the fishery is considered to be part of the southern Atlantic albacore stock, which is managed by ICCAT and South Africa's yellowfin catches is thought to be derived from the Indian Ocean stock. The latter is a hypothesis that is currently being investigated by the Department.

Southern Atlantic albacore spawn in the western Atlantic and migrations follow the South Atlantic gyre. During the summer months (October to May) the sub-adult and juvenile component of the resource form surface schools which migrate north along the west coast of South Africa. Impacts of other countries fishing activities and environmental conditions such as food availability, ocean fronts and weather are thought to play a large role in determining the abundance of the migrating schools in South Africa's coastal waters. Yellowfin, in contrast, spawn in tropical waters of both the Atlantic and the Indian Ocean. It is hypothesized that some of the large adult yellowfin in the Indian Ocean use the Mozambique and Agulhas currents to undertake extensive migrations to feeding areas off Cape Point. Like albacore the abundance of the resource in South African waters is highly variable and is thought to be influenced by environmental conditions and fishing pressure on the high seas and in coastal waters of East African countries.

Due to the seasonal nature of the fishery the current tuna pole fishery has been granted additional access to other species, including snoek (unlimited), yellowtail (bag limit of 10 per person per trip), oceanic squid (unlimited), dorado (unlimited) and angel fish (unlimited) during the long-term rights allocation in 2005.

3. Profile of the Fishery

The tuna pole fishery was established in 1979 due to a large run of yellowfin, which resulted in approximately 5,000 t landed in that year. When the yellowfin failed to appear the following year the fishery started targeting albacore. The tuna pole fishery uses poling gear to target schooling juvenile albacore in the southeast Atlantic, largely for export to canning markets. Yellowfin in recent years have been increasingly targeted with rod and reel. Yellowfin are largely exported to fresh tuna markets, with limited quantities sold on the domestic market. Other tuna species landed include bigeye and skipjack, but these species make up about one percent of the annual catch.

right holder

South Africa's catches of albacore has declined over the last two decades, from about 8 000 t p.a. in the 1990s to approximately 3 000 t p.a. in recent years. One of the main reasons for this decrease occurred when Namibia declared its independence and consequently access to one of the main fishing areas, namely Tripp Seamount, was no longer available to South African vessels. The removal of this fishing ground also reduced incentives for vessels to search for albacore along the west coast of South Africa. Rising fuel costs also served to constrain fishing activities to fishing grounds which are close to the major tuna pole fishing harbours of Hout Bay and Cape Town. In the last decade an increasing number of fishers have diversified their fishing operations to target yellowfin as well to supplement the revenue derived from reduced catches of albacore. Consequently, yellowfin catches have increased and fluctuates between 500 – 1 000 t p.a.

Both the IOTC and ICCAT have expressed concerns regarding the stock status of albacore and yellowfin in the Atlantic and Indian oceans respectively. According to the recent ICCAT stock assessment for south Atlantic albacore it indicates that the resource is over-exploited and undergoing overfishing. In order to rebuild the southern Atlantic albacore stock ICCAT has reduced the Total Allowable Catch, and in so doing has allocated a combined quota of 10 000 t for South Africa and Namibia to manage. Despite declines in albacore catches, South Africa remains the second largest producer of albacore in the South Atlantic Ocean. Other important fishing countries for albacore in the South Atlantic Ocean are Taiwan, Namibia, Brazil and Japan. Currently, South Africa is not limited to a yellowfin tuna quota in the Atlantic or Indian Ocean.

Over the years, two types of vessels have emerged in this fishery ranging from 10-28 m overall length (LOA), and ranging from R2-15 million in value. The first are large vessels (> 20 m) with onboard freezers, capable of spending 30 days at sea with a crew of 20 or more. The second type are smaller ice vessels that spend approximately 3 – 10 days at sea and carry less than 20 crew. Many of the vessels currently utilised are old, with an average age of approximately 30 years. Hence, the allocation policy would need to provide a conducive environment for the investment into new vessels taking into account the capital intensiveness of the fishery and the need to retain skilled crew. Some vessels of less than 10 m in length were allowed into the fishery as they had some tuna performance in the medium term rights allocation period. However, these vessels are

not deemed to be suitable for this fishery given the distances of the tuna fishing grounds from shore, the safety aspects and the limited tuna performance and job creation that these vessel types can provide.

4. The long-term rights allocation period

In 2005, the Department allocated 191 commercial tuna pole fishing rights, thereby authorising 198 vessels and more than 2 600 crew to target tuna using the pole method. Of the rights allocated, 54.06 % were allocated to blacks or black-owned and controlled entities. In terms of female shareholding, 29.19 % of rights were allocated to females or female-owned and controlled entities. Long-term rights were only awarded to legal entities, i.e. rights in this sector was not allocated to individuals. This sector is operated by entities that can be described as SMMEs. A significant number of right holders have performed poorly during this period with some right holders not applying for permits in some years. Furthermore, the Department is aware that a number of rights have been transferred in this sector either legally or illegally. Fronting is also an issue, which is of concern to the Department.

5. Over-arching sectoral objectives

The objectives of allocating fishing rights in the tuna pole and line fishery are to:

- Promote meaningful transformation of the fishery by mitigating against 'fronting' and 'paper quotas';
- Promote economic viability through a multi-sector approach;
- Improve the quality of jobs through the promotion of permanent employment and allocation of a minimum of 70% of the rights to SMMEs;
- Provide an environment to encourage investment in new vessels;
- Provide fishing access to tuna for small-scale fishing communities;
- Improve South Africa's tuna catch performance;
- Ensure environmental sustainability of the fishery;
- Promote youth development;
- Improve RFMO engagement;

- Expand tuna fishing to non-traditional tuna fishing areas of the Eastern Cape, Northern Cape and KwaZulu-Natal.

6. Vision for the Tuna Pole and Line Sector

The Department envisages to award fishing rights for a maximum of 200 suitable tuna vessels in the tuna pole and line sector. Rights will be awarded to South African legal entities from around the South African coastal areas, with the main concentration in the Western Cape. Current right holders which failed to effectively utilise their right or which have transferred their right during the long-term rights period shall not be eligible for a new right. New entrants shall be considered particularly from small-scale fishing communities and areas outside of the traditional tuna fishing areas. Applicants would be allowed to apply with single or multiple vessels depending on the nature of access and investment in the vessels. All successful applicants shareholders shall be required to meet with the Department so that all shareholders can be verified before the right is awarded. This is considered an important step to mitigate against fronting and to promote meaningful transformation in the sector. The main target species shall be albacore and yellowfin, but the sector will also be allowed to target bigeye, skipjack and bonito. Other secondary species allowed would include snoek, greater amberjack, five fingers, angel fish, oceanic squid, and yellowtail (bag limit of 10 per person per trip inside the EEZ, but unlimited on the high seas). Access to southern bluefin may be considered should South Africa accede to the Conservation of Southern Bluefin Tuna and receive a larger country allocation. It is the Department's intention for the tuna vessels to be allowed access to fish for live bait. Moreover, it is the Department's intention to promote multi-sector involvement in the following compatible sectors namely: hake handline, squid, west coast rock lobster (offshore), hake longline, and swordfish longline. This multi-sector approach will be subject to applicants applying for rights in this sector, and in assessing the applications the Department would need to consider the area in which the applicant resides, and the availability of resources in the compatible sectors. In taking this approach the Department may allocate fewer rights overall so as to ensure that each right holder has meaningful access to resources so as to promote development and to create meaningful employment. This sector shall not be deemed suitable for the awarding of rights to recreational charter boat operators.

7. Duration of Rights

Having regard to –

- the long-term investment in new vessels right holder,

rights will be allocated for a period of fifteen years (01 February 2014 to 31 January 2029). The Department will regularly evaluate right holders against predetermined performance criteria (**see Paragraph 14 below**).

8. New entrants

Many existing right holders in the sector are under-performing, and there is room for a number of additional participants, particularly when considering small-scale fishing communities and applicants that would want to explore tuna fishing outside the traditional fishing grounds along the west coast of South Africa. Furthermore, the transformation profile of the fishery is lower than many other sectors and fronting appears to be a challenge. Therefore, it is accordingly anticipated that a number of new entrants will be allocated rights in the fishery.

9. Evaluation criteria

Applications will be screened in terms of a set of “*exclusionary criteria*”. New entrant applicants and previous right holder applicants will then be assessed in terms of a set of weighted “*comparative balancing criteria*”. A cut-off score or rank will be determined in order to select the successful applicants. A proportion of the TAE will be allocated to each successful applicant in terms of a set of “*quantum criteria*”.

9.1 *Exclusionary criteria*

Apart from the criteria described in the General Policy pertaining to the lodgement of applications and material defects, the Department will exclude applicants that fail to meet

the following requirements:

- (a) **Form of the applicant:** Applications will only be considered from South African-owned entities incorporated in terms of the Close Corporations Act 69 of 1984 and the Companies Act 61 of 1973 (i.e. companies, closed corporations, PTY (LTD) and co-operatives). Natural persons (i.e. individuals or sole proprietors) will not be granted rights.
- (b) **Compliance:** Applicants, including their members, directors or controlling shareholders, that have been convicted of a serious transgression of the MLRA (without the option of the payment of a fine) will be excluded. Applicants, including their members, directors or controlling shareholders that have had any fishing right cancelled or revoked in terms of the MLRA will also be excluded. In addition, those right holders that failed to provide notification regarding change of ownership will also be excluded. Right holders who also regularly fail to submit their catch returns or which have misreported their catches will be excluded.

Minor breaches of the MLRA will adversely affect the evaluation of applications, as set out below.
- (c) **Paper quotas:** Paper quotas, as defined in the General Policy, will be excluded.
- (d) **Access to a suitable vessel:** Applicants will have to demonstrate a right of access to a suitable vessel (*see paragraph 10 below*).
- (e) **Non-utilisation:** Right holders that failed to effectively utilise their long-term commercial tuna pole right between 2007-2012 will not be re-allocated a tuna pole and line right.
- (f) **Reporting ability:** Due to the many reporting obligations that South Africa has to adhere to in terms of its engagement with tuna RFMOs it is imperative that all applicants demonstrate that they have permanent access to their own e-mail facility. This is the only efficient manner in which to obtain information from right

holders, which would need to be compiled and submitted to the tuna RFMOs on a regular basis. As such the Department may verify the functioning of the e-mails as part of the application process.

9.2 ***Balancing criteria***

Although the following criteria will generally be applied to right holder applicants and new entrant applicants, the weighting that will be applied to each category will differ. The criteria stated below must be read with the corresponding criteria in the General Policy for further detail. This applies in particular to the “*transformation*” criterion.

(a) **Transformation**

In the long-term rights application process 54.06% of right holders in this fishery were black-owned and 29.19% of right holders in this fishery were female-owned entities. It is the Department’s intention to allocate rights that would improve upon the current transformation profile in this sector.

Accordingly, applicants will be assessed and scored on –

- The percentage black and women ownership and black and women representation at top salary, board of directors and senior official and management levels;
- Whether employees (other than top salary earners) benefit from an employee share scheme;
- Affirmative procurement;
- Compliance with the Employment Equity Act 55 of 1998 and the representivity of blacks and women at the various levels of employment below senior official and management level. The Department may also have regard to the wage differentials between the highest and lowest paid employees;
- Compliance with legislation on skills development and the amounts spent on the training of blacks and youth, and participation in learnership programmes; and

- Corporate social investment.

(b) Investment in the fishery

Applicants will be evaluated by having regard to investments made in the tuna pole fishery.

As far as right holder applicants are concerned, the Department will specifically consider:

- Investments in suitable vessels and other fixed assets. In respect of vessels, applicants will be rewarded for ownership and meaningful part-ownership of a vessel. Charter and catching agreements shall not be considered as having invested in the fishery.
- Investments in processing and marketing infrastructure. In this regard, the Department will reward right holder applicants that have invested in tuna processing and marketing initiatives. Right holders that have acquired rights through section 21 process shall not be considered as having invested in the fishery.

As far as new entrant applicants are concerned, the Department will consider what investments have been committed to in the form of vessels, provided that the vessel nominated is longer than 10 metres. New entrant applicants must also show whether they have invested in any processing and marketing initiatives, or whether they have access to marketing facilities.

(c) Fishing performance

Right holder applicants will be assessed by having regard to their South African tuna catch performance over the long-term period (2007-2012). In particular, right holder applicants that targeted traditional linefish stocks over tuna or which

predominantly fished in Namibia will be penalized.

Right holders which legitimately acquired rights during the long-term period through a section 21 application process shall only be able to claim the fishing performance of the entity from the time the section 21 application was lodged to the Department.

Vessel owners which were not right holders, but which is now applying for a right may not claim the performance of the right holder it was fishing for during the long-term period, and would be considered as a new entrant. New entrant applicants will be assessed by having regard to whether they have the ability, knowledge and skills to target tuna.

(d) Reliance on tuna

The Department will prefer applicants who rely on tuna pole fishing for a significant proportion of their gross annual income. Applicants or their controlling shareholders who derive any income from sources outside of the fishing industry will be penalised.

(e) Value-adding and enterprise development

The Department may have regard to enterprise development and the manner in which tunas harvested by right holders have been processed and marketed.

New entrant applicants will be required to demonstrate how they intend to market tuna. They will be scored on their fishing plans in particular.

(f) Local economic development

The Department will prefer those applicants that elect to land their catches and have them processed in centres outside of the large metropolitan areas such as

Cape Town.

The Department will favourably consider those right holder applicants that undertake to invest in and land their catches at smaller fishing harbours, such as Lamberts Bay.

(g) Jobs

The tuna pole fishery is a labour intensive fishery, employing about 2 700 crew. Although the Department recognises the seasonal nature of the tuna pole and line fishery, it does encourage the provision of permanent jobs or greater levels of job security.

Job creation and increases in jobs as a result of the allocation of long-term fishing rights will be rewarded, and in particular, applicants that have provided their employees with –

- Full time employment;
- Medical aid and pension; and
- Safe working conditions.
- Establishment of Employee Trusts as a shareholding entity of the right holder.

(h) Non-payment of fish levies

The Department requires every right holder to pay a levy on the targeted fish landed. A number of right holders have either not paid their levies owed to the Department or have under-reported catches to, *inter alia*, avoid the payment of levies.

In the latter case, right holders that have been found to have under-reported catches will not be allocated a fishing right, or if allocated, the right will be revoked. In the former case (non-payment of levies owed to the Department), right holder

applicants will be penalised. However, should right holder applicants still qualify for a right, a fishing permit will not be issued until the total amount of levies payable (plus interest) has been paid to the Department.

(i) Compliance

Right holders, including their members, directors or controlling shareholders, who are being investigated for breaches of the MLRA may not be allocated a tuna pole fishing right until the outcome of the investigation is known.

Minor infringements of the MLRA, including its regulations, by the applicant, its directors or controlling shareholders, will be negatively scored.

9.3 Effort allocations

The Department will allocate fishing rights for a maximum of 200 vessels. Applicants may nominate one or multiple vessels. Applicants that nominate multiple vessels must either own the vessels or own substantial equity in the vessels.

10. Suitable vessels

A suitable vessel in the tuna pole and line fishery is a vessel that:

- has a minimum SAMSA overall length (LOA) of approximately 10 metres. Smaller vessels shall not be considered even if they have been used to catch tuna in the past;
- is certified by SAMSA to have a minimum operational range of 40 nautical miles (Category B vessel);
- has a functioning vessel monitoring system; and
- is equipped with freezer or ice facilities.
- Is a commercial tuna vessel as opposed to a luxury yacht, recreational vessel or recreational charter vessel.

In order to verify if the vessel meets the suitable vessel criteria applicants would need to submit

photos of the vessel as well as copies of the SAMSA registration certificate.

11. Multi-sector involvement

Right holders in the tuna pole fishery (including their controlling shareholders and members of their executive management team) will not be precluded from holding commercial fishing rights in other fishing sectors. However, the Department encourages right holders to apply for rights in compatible fishing sectors such as hake handline, hake longline, swordfish longline, west coast rock lobster (offshore), and squid so as to improve the economic viability of the combined fishing operations and to promote the creation of permanent jobs.

12. Application fees and levies

The application fee for this fishery will be determined having regard to:

- The cost of the entire rights allocation process, including consultation, receipting, evaluation of applications, verification, appeals and reviews;
- The value of the fish being allocated over the duration of the right, and;
- Affordability.

The annual levies payable with effect from 01 February 2014 will be determined after consultation with right holders. The levies payable will be utilised by the Department for mitigating the annual costs of management, compliance and research.

13. Management measures

The management measures discussed below reflect a number of the Department's principal post-right allocation management intentions for this fishery.

13.1 *Ecosystem approach to fisheries management*

This fishery will be managed in accordance with the ecosystem approach to fisheries ("EAF"). An ecosystem approach to fisheries management is a holistic approach that

maintains or improves the health of an ecosystem and balances the diverse societal needs and values. This approach also defines the ecosystem in its broadest sense and includes ecological, social, economic and governance systems.

13.2 Consolidation of participants

Subsequent to the allocation of the eight-year commercial fishing rights in the tuna pole fishery, the Department will facilitate the consolidation of the right holders active in the fishery. Right holders may consolidate their respective business operations –

- ※ Where right holders share the same shareholders, offices or management team; or
- ※ Where smaller right holders opt to consolidate their business operations so as to further increase the transformation profile of this fishery.

Consolidation of right holders is, however, subject to the Department's approach to monopolies (**see paragraph 13.4 below**). In addition, consolidation will not be supported by the Department where it could result in the reduction of the transformation profile of the tuna pole and line fishery.

13.3 Vessels, fishing effort and quotas

The Department envisages to award rights for a maximum of 200 vessels. The Department may however award less than this in order to implement a multi-sector approach and thereby improve the economic viability of overall fishing operations. Quota limitations may be imposed in future should RFMOs indicate further declines in tuna resources and should South Africa receive reduced country allocations.

13.4 Monopolies

While the Department will encourage the consolidation of right holders in this fishery, the Department is opposed to monopolies which may operate to the detriment of smaller right holders.

14. Performance measuring

The Department will institute a number of performance measuring exercises for the duration of the fishing rights. It is envisaged that performance measuring exercises will take place every three years.

Although the Department will finalise the precise criteria against which right holders will be measured after consulting with right holders, the following broad performance-related criteria may be used:

- transformation;
- investment in new vessels and gear;
- job creation;
- youth development
- catch performance;
- compliance with applicable laws and regulations.

The purpose of performance measuring will be to ensure that the objectives of the fishery are being met and that management methodologies and procedures remain current and suitable for the fishery.

15. Observer programme

The Department may consider expanding its onboard observer programme to include the tuna pole and line sector and the right holders may be required to bear the costs of the observer programme.

16. Permit conditions

Permit conditions for this fishery will be issued annually. The permit conditions will be determined after consultation with right holders in this fishery, but subject to the requirements of any applicable regional fishery management organisation and will be subject to revision as and when it may be necessary.



**DEPARTMENT OF AGRICULTURE, FORESTRY AND FISHERIES
BRANCH FISHERIES MANAGEMENT**

**DRAFT REVISED POLICY FOR THE ALLOCATION AND MANAGEMENT OF
FISHING RIGHTS IN THE DEMERSAL SHARK FISHERY: 2013**

**THIS POLICY MUST BE READ WITH THE DRAFT REVISED GENERAL
POLICY ON THE ALLOCATION AND MANAGEMENT OF FISHING RIGHTS:
2013 (available at www.daff.gov.za)**

This document is also available in Afrikaans, isiXhosa and isiZulu

Hierdie document is ook in Afrikaans, isiXhosa en isiZulu beskikbaar

Lencwadi iyafumaneka nangolwimi lwesiBhulu, lwesiXhosa nolwesiZulu

Lencwadi iyatholakala nangolwimi lwesiBhulu, lwesiXhosa nolwesiZulu

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1. Introduction

This policy on the allocation and management of fishing rights in the demersal shark fishery is issued by the Minister of Agriculture, Forestry and Fisheries ("the Minister"). This policy must be read with the General Policy on the Allocation and Management of Fishing Rights: 2013 ("the General Fisheries Policy").

The purpose of this policy is to set out the considerations that will apply to the allocation of demersal shark fishing rights. Many of these considerations are not new. They have been applied by the Department Agriculture, Forestry and Fisheries: Branch Fisheries Management ("the Department") when allocating rights in the past and to an extent this policy documents those considerations.

Certain post-rights allocation management policies are also presented in this policy.

The Minister has delegated the section 18 power to allocate demersal shark fishing rights in terms of section 79 of the Marine Living Resources Act 18 of 1998 ("the MLRA") to a senior official of the Department. This policy document will guide the delegated authority in taking decisions on applications in this fishery.

2. Profile of the fishery

After interest in the tuna longline fishery waned in the mid 1960's, fishers turned their attention to other more lucrative stocks. Fishers used longline gear to target hake and kingklip under the guise of shark permits. When the Department reduced the by-catch limits of hake and kingklip in the shark fishery fishing effort decreased exponentially. Prior to 1998 more than 30 permits were issued to target shark, but due to poor performance in the fishery the total applied effort ("TAE") was reduced to 23 permits in 1998. The TAE was further reduced for 2004 to 11 permits due to poor performance. Since 2005, Demersal Shark TAE was set at 6 vessels.

In the past shark longline fishery targets both pelagic sharks (blue and mako sharks) and demersal sharks (hound sharks, namely *Galeorhinus galeus* and *Mustelus mustelus*) by using either surface or bottom set gears respectively. In general the vessels targeting hound sharks are often smaller than those targeting pelagic sharks as the area of operation is restricted to coastal waters. As the gear used to target blue and mako sharks is similar to that used for targeting tunas and swordfish, a management decision was taken to remove pelagic shark fishing from the shark longline sector and manage it as part of the large pelagic sector from the start of 2006.

Many shark permit holders hold other permits in sectors such as demersal shark, hake longline and tuna pole. Consequently, the shark fishery is generally used to keep the vessels busy when not engaged in other sectors.

Sharks are generally long-lived species that display low fecundity, slow growth rates and late maturation, which makes them particularly susceptible to overexploitation. Further, sharks are apex predators and the removal of these species could drastically alter marine ecosystems. Shark recruitment is strongly associated with adult biomass. Accordingly, the more adults in a population the more productive the fishery.

The number of vessels active in the demersal fishery has fluctuated annually, with the number steadily increasing to 14 vessels in 1999. Only five vessels were active in 2003. As the fishery is seasonal (with the highest catch rates experienced in winter) it is difficult to assess yearly CPUE, which has fluctuated widely. Prior to 2001 catches of *G. galeus* averaged 34 MT per year, but since 2001 catches have declined to below 20 MT per year, with less than 3 MT landed in 2004 (the second lowest catch on record). In 2001-2002 a stock assessment indicated that the main targeted species *Galeorhinus galeus* was optimally exploited, despite only three longliners operating in 2001 and two in 2002. This result confirms that sharks cannot sustain large fisheries.

3. Over-arching fishery objectives

The over-arching objectives of allocating fishing rights in this fishery are to:

- Increase the transformation profile of this fishery;
- Permit only the targeting of demersal sharks (see further **Annexure A**). Pelagic sharks may not be targeted;
- Reduce the by-catches of hake and kingklip;
- Encourage local value adding to demersal sharks to increase the value of this fishery; and
- Ensure the environmental and economic sustainability of the fishery.

4. Duration of rights

Having regard to –

- the transformation profile of the fishery; and
- the present marginal state of this fishery,

the Department will allocate rights for a period of 7 years (01 January 2014 to 31 December 2020). The Department will regularly evaluate right holders against predetermined performance criteria (*see Paragraph 11 below*).

5. New entrants

New entrant applicants will be considered to replace those right holders who have failed to transform, who have failed to perform and/or who have not complied with the provisions of the MLRA.

The Department does not foresee authorising more than 6 vessels to target demersal sharks. Investigate the reasons why there is no fishing allowed North of East London to the Mozambique border.

6. Evaluation criteria

Applications will be screened in terms of a set of “*exclusionary criteria*”. New entrant applicants and right-holder applicants will then be separately assessed in terms of a set of weighted “*comparative balancing criteria*”. A cut-off score or rank will then be determined in order to select the successful applicants. A proportion of the TAE will then be allocated to each successful applicant in terms of a set of “*quantum criteria*”.

6.1 Exclusionary criteria

Apart from the criteria described in the General Policy pertaining to the lodgment of applications and material defects, the Department will exclude applicants that fail to meet the following requirements:

- (a) **Form of the applicant:** Applications will only be considered from entities incorporated in terms of the Close Corporations Act 69 of 1984, the Companies Act 71 of 1973 and those defined in the Act.
- (b) **Compliance:** Applicants, including their members, directors or controlling shareholders that have been convicted of a serious offence in terms of the MLRA (without the option of the payment of a fine) will not be allocated a demersal shark fishing right. Applicants, including their members, directors or controlling shareholders, that have had any fishing right cancelled or revoked in terms of the MLRA will also not be allocated a demersal shark fishing right. Other breaches of the MLRA will adversely affect the evaluation of applications, as specified below.
- (c) **Paper quotas:** Paper quotas as defined in the General Policy will be excluded.
- (d) **Access to a suitable vessel:** Applicants will have to demonstrate a right of access to a suitable vessel (*see paragraph 7 below*).
- (e) **Non-utilisation:** Right-holders that failed to utilise their demersal shark fishing right will not be re-allocated a fishing right.

6.2 Comparative balancing criteria

Although the following criteria will generally be applied to both right-holder applicants and new entrant applicants, the weighting that will be applied to each category will differ. The criteria stated below must be read with the corresponding criteria in the General Policy for further detail. This applies in particular to the “*transformation*” criterion.

(a) Transformation

Applicants will be assessed and scored on –

- The percentage black and women ownership and black and women representation at top salary, board of directors and senior official and management levels;
- Whether employees (other than top salary earners) benefit from an employee share scheme;
- Affirmative procurement;
- Compliance with the Employment Equity Act 55 of 1998 and the representivity of blacks and women at the various levels of employment below senior official and management level. The Department may also have regard to the wage structure of the applicant, between the highest and lowest paid employees;
- Compliance with legislation on skills development and the amounts spent on the training of blacks and participation in learnership programmes; and
- Corporate social investment.

(b) Investment in the fishery

As far as right-holder applicants are concerned, the Department will specifically consider:

- Investments in suitable vessels and other fixed assets. In respect of vessels, investment in the form of shareholding will be considered. Right-holder applicants will not be rewarded for having concluded vessel purchase agreements;
- Right-holder applicants will not be rewarded for having concluded purchase agreements, charter agreements or catching agreements.
- Investments in processing and marketing infrastructure. In this regard, the Department will reward right-holder applicants that have invested in demersal shark processing and marketing initiatives.

As far as new entrant applicants are concerned, the Department will consider what investments have been committed to in the form of vessels, processing and marketing infrastructure. In addition, new entrant applicants will have to demonstrate that they have the knowledge, skill and ability to participate in the demersal shark fishery.

(c) Performance

Right-holder applicants will be assessed by having regard to their demersal shark fishing performance including investment over the period (2006 to 2013).

New entrant applicants will be assessed by having regard to whether they have the ability, knowledge and skills to fish for demersal shark.

(d) Reliance on demersal shark

Preference will be given to applicants whose significant portion of gross annual income is derived from demersal shark longline and no new entrants will be considered to be reliant on demersal shark longline. Applicants or their controlling shareholders who derive any income from sources outside of the fishing industry

will be penalised.

(e) Local economic development

The Department will positively score those applicants that elect to land and process their catches the harbours outside metropolitan areas.

(f) Jobs

Job creation and increases in jobs as a result of the allocation of long term fishing rights will be rewarded, and in particular, applicants that have provided their employees with –

- Full time employment;
- Medical aid and pension; and
- Safe working conditions.

(g) Non-payment of fish levies

The Department requires every right-holder to pay a levy on the targeted fish landed. A number of right-holders have either not paid their levies or have under-reported catches to, *inter alia*, avoid the payment of levies. The former will be penalised in the comparative balancing process as set out below. The latter will be excluded. However, if any such applicant qualifies for a right, a fishing permit will not be issued until the total amount of outstanding levies (plus interest) has been paid to the Department.

(h) Compliance

Right-holders, including their members, directors or controlling shareholders, who are currently being investigated for breaches of the MLRA, whether criminal or

administrative, may not be allocated a demersal shark fishing right until the conclusion of the investigation.

Serious infringements of the MLRA, including its regulations, by the applicant, its directors or controlling shareholders will be negatively scored. To be aligned with the General Policy.

6.3 Effort allocations

The Department will allocate a maximum of six fishing rights authorising a maximum of 6 fishing vessels access to the fishery. Accordingly, each successful applicant will be entitled to use only one vessel.

7. Suitable vessels

A suitable vessel in the demersal shark fishery is a vessel that:

- has a minimum SAMSA registered length of approximately ten metres. Smaller vessels may be considered on the basis of their demersal shark fishing performance;
- has a functioning vessel monitoring system; and
- is geared for demersal shark longline fishing.

8. Multi-sector involvement

Right holders in the demersal shark fishery are not precluded or discouraged in the holding of rights in more than one fishery.

9. Application Fees and Levies

The application fee for this fishery will be determined having regard to:

- The cost of the entire rights allocation process, including consultation, receipting, evaluation of applications, verification, appeals and reviews; and
- The value of the fish being allocated over the duration of the right.

The annual levies payable with effect from 01 January 2014 will be determined after consultation with right holders. The levies payable will be utilised by the Department for covering the annual costs of management, compliance and research.

10. Management measures

The management measures discussed below reflect a number of the Department's principal post-right allocation management intentions for this fishery.

10.1 Ecosystem approach to fisheries management

This fishery will be managed in accordance with the ecosystem approach to fisheries ("EAF"). An ecosystem approach to fisheries management is a holistic and integrated policy which recognises that fishing and associated land-based activities impact on the broader marine environment. This part of the demersal shark fishery policy does not attempt to provide a policy statement on EAF in the demersal shark fishery.

10.2 By-catch mitigation

The by-catches of hake and kingklip in this sector are of concern. Current by-catch limits for these species will be retained and may be reduced further. By-catch limitations will also be introduced for *blue* and *mako sharks* to prevent the targeting of these species.

11. Performance measuring

The Department will institute a number of formal performance measuring exercises for the duration of the fishing rights. It is envisaged that the first performance measuring exercise will take place after a year, and thereafter every three years.

Although the Department will finalise the precise criteria against which right-holders will be measured after the allocation of fishing rights, and after consulting with right-holders, the following broad performance-related criteria may be used:

- transformation;
- by-catch mitigation;
- demersal shark catching performance; and
- compliance with applicable laws and regulations.

The purpose of performance measuring will be to ensure that the objectives of the fishery are being met and that management methodologies and procedures remain current and suitable for the fishery.

12. Observer programme

The Department's current observer programme will be expanded to include compliance observation. In addition, the Department will progressively increase the observer coverage of this fishery. Right-holders will be required to bear the costs of the observer programme.

13. Permit conditions

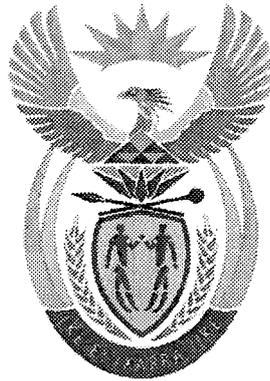
Permit conditions for this fishery will be reviewed annually. The permit conditions will be determined after consultation with right holders in this fishery and will be subject to revision as and when it may be necessary.

ANNEXURE A

Right Holders in the demersal longline shark fishery shall only be entitled to target sharks of the genus *Mustelus* and *Galeorhinus*.

Right holders may not harvest or land oceanic sharks, including *blue sharks*, *mako*, *hammerhead*, *oceanic whitetip* and *threshser* sharks. In addition, sharks on the protected species list, including *ragged tooth sharks* and *great whites* may not be harvested.

Notwithstanding the above, right holders shall not be permitted to target any species of shark in the waters adjacent to the Wild Coast and KwaZulu-Natal coastlines.



DEPARTMENT OF AGRICULTURE, FORESTRY AND FISHERIES

BRANCH FISHERIES MANAGEMENT

**DRAFT REVISED POLICY FOR THE ALLOCATION AND MANAGEMENT OF
FISHING RIGHTS IN THE OYSTER FISHERY: 2013**

**THIS POLICY MUST BE READ WITH THE DRAFT REVISED GENERAL
POLICY ON THE ALLOCATION AND MANAGEMENT OF FISHING RIGHTS:
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This document is also available in Afrikaans, isiXhosa and isiZulu

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Lencwadi iyafumaneka nangolwimi lwesiBhulu, lwesiXhosa nolwesiZulu

Lencwadi iyatholakala nangolwimi lwesiBhulu, lwesiXhosa nolwesiZulu

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1. Introduction

- 1.1. This policy on the allocation and management of fishing rights in the Oyster Fishery is issued by the Minister of Agriculture, Forestry and Fisheries ("the Minister"). This policy must be read with the General Policy on the Allocation and Management of Fishing Rights: 2013 ("the General Policy").
- 1.2. The purpose of this policy is to set out the considerations that will apply to the allocation of oyster harvesting rights. Many of these considerations are not new. They have been applied by the Department of Agriculture, Forestry and Fisheries: Branch Fisheries Management ("the Department") in the past when allocating rights and managing this fishery and to an extent this policy represents a codification of those considerations.
- 1.3. Certain post rights allocation management policy considerations are broadly elaborated on in this policy. An Oyster Fishery Management Plan will be finalised with all right holders during the course of 2014. This plan will stipulate in detail the management methodology and procedures for the fishery.
- 1.4. The Minister intends to delegate the section 18 power to allocate Oyster fishing rights in terms of section 79 of the Marine Living Resources Act 18 of 1998 ("the MLRA") to an official of the Department. This policy document will guide the delegated authority in taking decisions on applications in this fishery.

2. Biological Status of Oysters

- 2.1. The Cape Rock oyster, which is targeted in this fishery, has an extensive geographic distribution occurring on rocky reefs from Cape Agulhas to Mozambique. These oysters are found in the intertidal zone and up to about 6m water depths. The Cape Rock oyster is found naturally and is sold as "wild oysters" in South Africa restaurants. A cheaper oyster is the Pacific oyster which is imported and widely used in mariculture.
- 2.2. Oysters along the KwaZulu-Natal coast have been found to take 33 months (almost 3 years) to reach marketable size (60 mm Right Valve Length). Oysters are broadcast

spawners. Oysters along the KwaZulu-Natal coast spawn throughout the year with peaks during spring and summer.

- 2.3. Harvesting of oyster takes place during spring low tides and traditionally was restricted to the intertidal zone, however in recent years there has been a gradual expansion of harvesting depth towards the fringes of the subtidal zone. This is due to a decline in oyster density in the intertidal zone and a gradual increase in gear efficiency ("*creeping effort*"). Oysters are dislodged from rocks by means of a pointed steel crowbar or harvesting iron.

3. Sector Profile

- 3.1. The oyster fishery was previously managed as two separate fisheries related to their areas of operation, namely the KwaZulu-Natal coast and the Southern Cape coast. Since 2002 the oyster fishery has been managed as a single national fishery. Under the new management system, four oyster-harvesting areas are officially recognised, namely KZN North, KZN South, Port Elizabeth and the Southern Cape. Differences between the regulations and harvesting patterns in the regions continue to exist.
- 3.2. In KwaZulu-Natal (North and South coasts), the management approach previously adopted by the KwaZulu-Natal Provincial Government was retained. This entailed maintaining a system of effort limitations whereby the numbers of pickers are restricted and a daily bag limit of 190 oysters per picker per day is enforced. Moreover, the KZN North and South coasts are further sub-divided into four zones each, which are harvested on a rotational basis. This requires that zones remain fallow for at least three years at a time (the optimal length of time required for oyster recruits to reach marketable size) thereby allowing for recovery of the oyster stock. This system applies to all oyster fishing sectors.
- 3.3. The oyster fishery along the Southern Cape coast is not managed by means of rotational harvesting, but by means of limiting the number of pickers, with no daily bag limit. Furthermore, effort has been split across areas according to the extent of accessible oyster reef. In Port Elizabeth, no harvesting of the oyster beds is practised, and only washed-up oysters are being collected. The fishing season for the oyster fishery would

be determined by the department and currently the period for fishing season starts from the 1st of March until the end of February of the following year.

3.4. The Total Applied Effort ("TAE") for the oyster fishery is determined based on scientific recommendation. The TAE for the oyster fishery during the period between 2005 and 2013/2014 has been set at 145 pickers and apportioned as follows:

- (a) KZN North (25 pickers);
- (b) KZN South (15 pickers);
- (c) Southern Cape (102 pickers); and
- (d) Port Elizabeth (3) pickers.

3.5. The TAE along the southern Cape coast is further divided across zones, based on the extent of accessible oyster reef, and as follows:

- (a) Heidelberg ("Witsand"): 10 pickers;
- (b) Riversdale/Mossel Bay: 58 pickers; and
- (c) George/Knysna: 34 pickers.

3.6. However the fishing rights in the oyster fishery were valid for a period of three years from 2005 and extended for a maximum period of two years in terms of the MLRA. Subsequent to that the fishery was managed on exemptions. The TAE was never fully allocated and or utilized during the duration of the oyster rights and or exemptions. In 2005, rights to fish or harvest oyster were granted to 106 individual successful applicants. The split of the 106 right holders in relation to the TAE portions above mentioned was as follows:

- (a) KZN North: 23 right holders;
- (b) KZN South: 8 right holders;
- (c) Southern Cape: 71 right holders and
- (d) Port Elizabeth: 4 right holders.

3.7. The 71 right holders in the Southern Cape was further split as follows:

- (a) Heidelberg ("Witsands"): 9 right holders;
- (b) Riverside/Mossel Bay: 52 right holders and
- (c) George/Knysna: 10 right holders;

3.8. Black persons constituted 75% of the right holders and white person 25%. Off the 75% black persons, 50% was black male and 25% black female. Off the 25% white persons, 20% was white male and 5% was white female.

3.9. Oyster TAE for the fishing seasons during the duration of next rights to start in 2014 will be determined by the Department in terms of the MLRA.

4. Objectives

4.1. Read with the General Fisheries Policy, the purpose of this policy is to determine the criteria in terms of which oyster fishing rights will be allocated. The objectives of allocating fishing rights in this fishery are to:

- (a) Promote equitable (race, gender, disability) access to and benefits from, oyster fishery, taking into consideration the historical background of the fishers;
- (b) Allocate oyster rights in terms of the criteria for the allocation of oyster fishing rights;
- (c) Co-manage oyster fishery with other spheres of government and the fishing industry in a manner that recognizes government priorities, strategic objectives of the spheres of government, the interests of fishing industry and most importantly in a manner that would please, praise and glorify the one who provided and gave man the power to rule over the fish (including oysters), and
- (d) Ensure the long-term sustainable and balanced maximum benefit from social, economic, biological and environmental objectives that are related to the oyster fishery

5. Duration of Rights

5.1. Fishing or harvesting rights for oysters will be allocated for a period of 7 years (from 2014 until 2020).

5.2. The fishing or harvesting right for oysters shall automatically expire and be invalid should:

- (a) the right be cancelled or revoked in terms of Section 28 of the MLRA; and or
- (b) the duration of the right granted in terms of Section 18 of the MLRA expires.

6. New Entrants

- 6.1. Since the oyster rights that were allocated in 2005 had expired the Department intends to allocate the oyster rights during 2013 rights allocation process to successful applicants including new entrants who had not been granted oyster rights or exemption during the period between 2005 and 2012.

7. Evaluation criteria

Applications for oyster rights will be evaluated in terms of a number of exclusionary and balancing criteria.

7.1 Exclusionary Criteria

In addition to the exclusionary criteria stated in the General Fisheries Policy relating to improper lodgments and material defects, the following exclusionary criteria will be applied to both right holder applicants and new entrant applicants:

- (a) **Form of the Applicant**

Only South African natural persons (i.e. individuals) or legal entities may apply for fishing or harvesting rights for oysters. The delegated authority should not allocate fishing or harvesting rights for oysters to individual applicants who are listed as shareholders of the legal entity that also submitted an application for the fishing or harvesting right for the oysters; and to more than one legal entities with the same or similar shareholders.
- (b) **Applications from families**

In general, only one right will be allocated per family. Where more than one application is received from family members who live at the same address, then all the applications may be excluded. More than one right may be allocated per family where applicants

clearly and convincingly demonstrate that they have established separate small commercial operations.

(c) Compliance

Applicants that have been convicted of a serious transgression of the MLRA (leading, for example, to a sentence of imprisonment without the option of the payment of a fine) will not be allocated a right. Applicants that have had any fishing right cancelled or revoked in terms of the MLRA will also not be allocated a right. If the applicant was a member of a close corporation or a shareholder of a company that held a medium- or long term right, then the applicant will not be granted a right if the medium- or long term right holder or one of its members, directors or controlling shareholders was convicted of a serious transgression or had a right cancelled or revoked. Other breaches of the MLRA will adversely affect the evaluation of applications; will be negatively scored, as set out below.

(d) Paper Quotas

A paper quota as defined in the General Policy will be excluded. Large groups of identical or very similar applications that are sponsored by consultants or fishing companies and other entities will be excluded as fronts (paper quotas) regardless of the merits of individual applications.

(e) Non-utilisation of the resource

Those right holders that have failed to utilise their oyster right or exemptions between 2005 and 2012 will not be re-allocated a right.

(f) Personal Involvement

Applicants will have to be personally involved in the harvesting of oysters if they are not disabled.

(g) Multi-sector involvement

In general, it is not a policy objective to preclude or discourage the holding of rights in more than one fishery.

7.2 *Balancing Criteria*

Although the following criteria will generally be applied to both right holder applicants and new entrant applicants, the weighting that will be applied to each category will differ.

(a) Transformation

The Department will consider allocating rights to all citizens of South Africa taking into consideration the race, gender and disability.

(b) Investment in the Fishery

The Department will consider what investments, if any, applicants have made or planning to make in this sector, whether in the form of processing or in the form of marketing, locally and internationally.

(c) Harvesting Performance

Right holder applicants will be assessed having regard to their oyster harvesting performance and record during the 2005 rights allocation process.

New entrant applicants will be assessed having regard to their ability, knowledge and skills to harvest oysters.

(d) Reliance on Oysters

The Department will prefer applicants who rely on oyster harvesting for a significant proportion of their gross annual income. Applicants who derive any income from sources outside of the fishing industry may be penalised. Potential new entrants will be required to demonstrate their historical dependency on the oyster fishery for their livelihood.

(e) Local Economic Development

The Department will prefer to allocate rights to those applicants who live near the area where the oysters are harvested. In this regard, the Department will require the applicant to have lived in that area for a minimum period of four years.

- (f) Compliance
Minor infringements of the Marine Living Resources Act, including its Regulations, by the applicant will be negatively scored.

8. Harvesting Oysters

8.1. Right holders and pickers will be allowed to harvest oysters using:

- (a) wetsuits;
- (b) weight-belts;
- (c) masks; and
- (d) snorkels.

8.2. Right holders and pickers may not use:

- (a) fins;
- (b) artificial breathing apparatus; and
- (c) floating devices.

9. Application Fees

9.1. The fee payable on application for an oyster right is R100 (one hundred rand). This fee is non-refundable and must be paid in full.

9.2. The annual levies payable for the oyster fishery will be determined accordingly. The levies payable will be utilised by the Department for mitigating the annual costs of management, compliance and research.

10. Provisional Lists

10.1. Before the delegated authority makes a final decision on the allocation of oyster rights, he or she may issue a provisional list of successful applicants for each area for comment.

11. Permit Conditions

- 11.1. Permit conditions for this fishery will be issued annually. The permit conditions will be determined after consultation with right holders in this fishery and will be subject to revision as and when it may be necessary.

12. Performance measuring

- 12.1. The oyster fishery will be assessed continuously during the duration of the oyster rights. Right holders who are not complying with the MLRA, permit conditions and or guidelines will be dealt with accordingly.

13. Policy Review

- 13.1. The Department is committed to ongoing and continued review of the effectiveness of the Oyster Policy in addressing the socio-economic and economic needs of the fishing industry and affected fishing communities and the ecological sustainability of the resources.
- 13.2. Research and ongoing monitoring by both the Department and stakeholders will play an important role in identifying weaknesses and flaws in the policies and the implementation thereof.
- 13.3. The Department will put in place a monitoring and evaluation system to ensure that useful, reliable, and timely feedback on the effectiveness of the policies is provided to the Department and relevant stakeholders.



DEPARTMENT OF AGRICULTURE, FORESTRY AND FISHERIES
BRANCH FISHERIES MANAGEMENT

**DRAFT REVISED POLICY FOR THE ALLOCATION AND MANAGEMENT OF
FISHING RIGHTS IN THE WHITE MUSSEL FISHERY: 2013**

**THIS POLICY MUST BE READ WITH THE DRAFT REVISED GENERAL
POLICY ON THE ALLOCATION AND MANAGEMENT OF FISHING RIGHTS:
2013 (available at www.daff.gov.za)**

This document is also available in Afrikaans, isiXhosa and isiZulu
Hierdie document is ook in Afrikaans, isiXhosa en isiZulu beskikbaar
Lencwadi iyafumaneka nangolwimi lwesiBhulu, lwesiXhosa nolwesiZulu
Lencwadi iyatholakala nangolwimi lwesiBhulu, lwesiXhosa nolwesiZulu

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1. Introduction

- 1.1. This policy on the allocation and management of fishing rights in the white mussel sector is issued by the Minister of Agriculture, Forestry and Fisheries ("the Minister"). This policy must be read with the General Policy on the Allocation and Management of Fishing Rights: 2013 ("the General Policy").
- 1.2. The purpose of this policy is to set out the considerations that will apply to the allocation of white mussel sector rights. Many of these considerations are not new. They have been applied by the Department of Agriculture, Forestry and Fisheries: Branch Fisheries Management ("the Department") when allocating rights in the past and to an extent this policy documents these considerations.
- 1.3. Certain post-rights allocation management policies are also presented in this policy. A White mussel Sector Management Plan will be finalised with all right-holders during the course of 2014. This plan will stipulate in detail the management methodology and procedures for the fishery.
- 1.4. The Minister intends to delegate the section 18 power to allocate white mussel sector rights in terms of section 79 of the Marine Living Resources Act 18 of 1998 ("the MLRA") to an official of the Department. This policy document will guide the delegated authority in taking decisions on applications in this sector.

2. Biology and resource dynamics

- 2.1. White mussels (*Donax serra*) occur between northern Namibia and the Wild Coast. They are present in high numbers on the sandy beaches of the west and south coasts of South Africa. The zonal distribution of the mussel changes with the tidal cycle. On the west coast, juveniles are found high up on the beach, whereas adults are distributed around and below the mean spring low tide mark. On the east and south coasts, adults are found in the mid-tide region.
- 2.2. White mussels are dominant burrowers on sandy beaches, favouring temperate shores. They are bivalve molluscs that filter-feed and grow to a shell length of 60 millimetres in

about five years. The mussels migrate up and down the beach in response to tidal cycles, with juveniles migrating more frequently than the adults.

- 2.3. Harvesting of white mussels is limited to the west coast where white mussels are particularly abundant owing to the nutrient rich Benguela Current that washes these shores.

3. Sector profile

- 3.1. The harvesting of white mussels is limited to seven areas along the west coast. The sector started in the late 1960s but in 1966 it was negatively affected by a red tide that caused massive mortalities of white mussels. The recovery of the population took more than 10 years and led to a dramatic reduction in the catch per unit effort ("CPUE").
- 3.2. The total number of white mussels harvested per year has declined steadily since the 1980s. This has largely been as a result of the sector's lack of economic viability. Surveys conducted in 1988 and 1989 showed that the annual landings amounted to less than one percent of the standing biomass in the relevant areas. Preliminary results from surveys undertaken in 2003 and 2004 support these findings. The resource was therefore considered to be under-exploited.
- 3.3. The white mussel fishery is currently managed by means of Total Allowable Effort (TAE). The TAE during the period between 2005 and 2012 was seven right holders and 49 pickers. The seven right holders were each limited to utilize a maximum of seven pickers to harvest white mussels in one of the seven white mussel harvesting areas along the West Coast. At the present, the TAE is considered the most effecting management measure for the white mussel fishery.
- 3.4. Black persons constituted 86% of the right holders in the white mussel fishery and white person 14%. Off the 86% black persons, 43% was black male and 43% black female. Off the 14% white persons, 0% was white male and 14% was white female.
- 3.5. White mussel TAE for the fishing seasons during the duration of next rights to start in 2014 will be determined by the Department in terms of the MLRA.

4. Objectives

- 4.1. The over-arching objectives of allocating fishing rights in the white mussel fishery are to:
- (a) Promote equitable (race, gender, disability) access to and benefits from, white mussel fishery, taking into consideration the historical background of the fishers;
 - (b) Allocate white mussel rights in terms of the criteria for the allocation of white mussel fishing rights;
 - (c) Co-manage white mussel fishery with other spheres of government and the fishing industry in a manner that recognizes government priorities, strategic objectives of the spheres of government, the interests of fishing industry and most importantly in a manner that would please, praise and glorify the one who provided and gave man the power to rule over the fish (including white mussels), and
 - (d) Ensure the long-term sustainable and balanced maximum benefit from social, economic, biological and environmental objectives that are related to the white mussel fishery

5. Duration of rights

- 5.1. Fishing or harvesting rights for white mussels will be allocated for a period of 7 years (from 2014 until 2020)
- 5.2. The fishing or harvesting right for white mussels shall automatically expire and be invalid should:
- (a) the right be cancelled or revoked in terms of the MLRA; and or
 - (b) the duration of the right granted in terms of the MLRA expires.

6. New entrants

Since the white mussel rights that were allocated in 2005 had expired the Department intends to allocate the white mussel rights during 2013 rights allocation process to successful applicants including new entrants who had not been granted white mussel rights or exemption during the period between 2005 and 2012.

7. Evaluation criteria

Applications for fishing or harvesting rights for white mussels will be evaluated in terms of a number of exclusionary and balancing criteria. A cut-off score or rank will then be determined in order to select the successful applicants.

7.1 Exclusionary criteria

Apart from the criteria described in the General Policy pertaining to the lodgement of applications and material defects, the delegated authority will exclude applicants that fail to meet the following requirements:

(a) Form of the applicant

Only South African natural persons (i.e. individuals) or legal entities may apply for white mussel fishing or harvesting rights. The delegated authority should not allocate fishing or harvesting rights for white mussels to individual applicants who are listed as shareholders of the legal entity that also submitted an application for the fishing or harvesting right for the white mussels; and to more than one legal entities with the same or similar shareholders.

(b) Applications from families

In general, only one right will be allocated per household. Where more than one application is received from family members who live at the same address, then all the applications may be excluded. More than one right may be allocated per family if applicants clearly and convincingly demonstrate that they have established separate small operations.

(c) Compliance

Applicants that have been convicted of a serious transgression of the MLRA the regulations, permit conditions or other serious fishery related offences, will not be allocated a right. Applicants that have had a right cancelled or revoked in terms of the MLRA will also not be allocated a right. If the applicant was a member of a close corporation or a shareholder of a company that held a medium- or long term right, then

the applicant will not be granted a right if the medium- or long term right holder or one of its members, directors or controlling shareholders was convicted of a serious transgression or had a right cancelled or revoked. Other breaches of the MLRA will adversely affect applications, as set out below.

(d) Paper quotas

Paper quotas as defined in the General policy will be excluded. Large groups of identical or very similar applications that are sponsored by consultants or fishing companies and other entities will be excluded as fronts (paper quotas) regardless of the merits of individual applications.

(e) Non-utilisation

Those right-holders that have failed to utilise their white mussel right or exemptions between 2005 and 2012 will not be re-allocated a right.

(f) Personal Involvement

Applicants will be required to demonstrate that they will be personally involved in the harvesting of mussels if they are not disabled.

(g) Multi-sector involvement

In general, it is not a policy objective to preclude or discourage the holding of rights in more than one fishery.

7.2 Balancing criteria

Right-holder applicants and potential new entrants will be evaluated in terms of the following balancing criteria which will be weighted to assess the strength of each application:

(a) Transformation

In order to improve the transformation profile of the white mussel fishery, the Department will consider allocating rights to all citizens of South Africa taking into consideration the race, gender and disability.

- (b) Investment in the fishery
The delegated authority should consider what investments, if any, applicants have made or planning to make in the sector.
- (c) Harvesting performance
Right-holder applicants should be assessed by having regard to their performance in the white mussel sector over the period between 2005 and 2012.
- New entrant applicants should be assessed by having regard to their ability, knowledge and skills to harvest white mussels.
- (d) Reliance on white mussels
The delegated authority should prefer applicants who rely on mussel harvesting for a notable proportion of their gross annual income. Applicants who derive income from sources outside of the fishing industry may be negatively scored. Potential new entrants should be required to demonstrate their historical dependency on the white mussel sector for part of their livelihood.
- (e) Local economic development
The delegated authority should prefer those applicants who live near the area where the white mussels are harvested. In this regard, the delegated authority should require the applicant to have lived in that area for a minimum period of four years.
- (f) Compliance
Less than serious infringements of the MLRA, including its regulations, by the applicant, will be negatively scored.

8. Application fees

- 8.1. The fee payable on application for a white mussel right is R100 (one hundred rand). This fee is non-refundable and must be paid in full.

- 8.2. The annual levies payable for the white mussel fishery will be determined accordingly. The levies payable will be utilised by the Department for mitigating the annual costs of management, compliance and research.

9. Provisional lists

- 9.1. Before the delegated authority makes a final decision on the allocation of white mussel rights, he or she may issue a provisional list of successful applicants for each area for comment.

10. Permit Conditions

- 10.1. Permit conditions for this sector will be issued annually. The permit conditions will be determined after consultation with right holders in this fishery and will be subject to revision as and when it may be necessary.

11. Performance measuring

- 11.1. The white mussel fishery will be assessed continuously during the duration of the white mussel rights. Right holders who are not complying with the MLRA permit conditions and or guidelines will be dealt with accordingly.

12. Policy review

- 12.1. The Department is committed to ongoing and continued review of the effectiveness of the white mussel Policy in addressing the socio-economic and economic needs of the fishing industry and affected fishing communities and the ecological sustainability of the resources.
- 12.2. Research and ongoing monitoring by both the Department and stakeholders will play an important role in identifying weaknesses and flaws in the policies and the implementation thereof.

- 12.3. The Department will put in place a monitoring and evaluation system to ensure that useful, reliable, and timely feedback on the effectiveness of the policies is provided to the Department and relevant stakeholders.



**DEPARTMENT OF AGRICULTURE, FORESTRY AND FISHERIES
BRANCH FISHERIES MANAGEMENT**

**DRAFT REVISED POLICY FOR THE ALLOCATION AND MANAGEMENT OF
FISHING RIGHTS IN HAKE HANDLINE FISHERY: 2013**

**THIS POLICY MUST BE READ WITH THE DRAFT REVISED GENERAL
POLICY ON THE ALLOCATION AND MANAGEMENT OF FISHING RIGHTS:
2013 (available at www.daff.gov.za)**

This document is also available in Afrikaans, isiXhosa and isiZulu

Hierdie document is ook in Afrikaans, isiXhosa en isiZulu beskikbaar

Lencwadi iyafumaneka nangolwimi lwesiBhulu, lwesiXhosa nolwesiZulu

Lencwadi iyatholakala nangolwimi lwesiBhulu, lwesiXhosa nolwesiZulu

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1. Introduction

This policy on the allocation and management of fishing rights in the hake handline fishery is issued by the Minister of Agriculture, Forestry and Fisheries ("the Minister"). This policy must be read with the General Policy on the Allocation and Management of Fishing Rights: 2013 ("the General Policy").

The purpose of this policy is to set out the considerations that will apply to the allocation of hake handline fishing rights. Many of these considerations are not new. They have been applied by the Department of Agriculture, Forestry and Fisheries: Branch Fisheries Management ("the Department") when allocating rights in the past. This policy documents these considerations, but includes a few changes and additions.

Certain post-rights allocation management policies are also presented in this policy. Department intends to manage this fishery on a regional basis subsequent to the allocation of the fishing rights.

Section 18 has been delegated by the Minister to allocate hake handline fishing rights in terms of section 79 of the Marine Living Resources Act 18 of 1998 ("the MLRA") to a senior official of the Department. This policy document will guide the delegated authority in taking decisions on applications in this fishery.

2. Sector profile

The hake handline fishery developed along the southern Cape coast where, in the late 1980's, traditional linefishers began targeting hake as demand for prime quality ("PQ") hake increased on the international market.

Originally, hake handline fishers used deck boats that were capable of fishing overnight. As the fishery grew, some fishers started using skiboats, which can stay out at sea overnight, and can be winched up onto a trailer and be driven to areas closest to where the hakes are located. The deck boats were harbour bound. This introduction of skiboats significantly increased effort in the hake

handline fishery, particularly as use of these vessels allows hake handliners to follow the hake along the South African coastline.

During the 1980's and 1990's the fishery was not properly regulated or managed. The lack of a regulatory framework, coupled with increased demand for PQ hake in the late 1990's, resulted in a number of persons, including recreational and fishers operating in other fisheries, entering this fishery to take advantage of the high prices and catches rapidly escalated. During the late 1980's hake handline catches were estimated to be approximately 150 tons. By the 1990's this had increased to between 1 100 tons and 1 400 tons annually. By the year 2000, approximately 5000 tons were landed with catches peaking at an estimated 7300 tons in 2001. In 2013, the Total Allowable Catch (TAC) for hake handline fishery was set at 5193.697 tons which is 3% of the hake directed catches for 2013 fishing season.

In December 2000, the Minister announced a biological emergency in the traditional linefish fishery. The Minister also decided to split the management of the handline fisheries into three separate fisheries – the tuna pole, the hake handline and the traditional linefish fisheries. In that year, the Minister set a total applied effort ("TAE") for the fishery for the first time in the hake handline fishery. The TAE limited the number of crew and vessels that could target hake using a handline to 130 vessels and 785 crew. In addition, a precautionary maximum catch limit ("PMCL") of 5500 tons is set aside under the global hake total allowable catch.

The Department manages the hake longline fishery as part of a "*hake*" collective. In terms of the MLRA, a "*global*" total allowable catch ("TAC") for hake is set annually by the Minister of Agriculture, Forestry and Fisheries. The hake handline and longline fisheries share three (3) and seven (7) percent of the hake directed TAC respectively. The hake deep sea trawl and hake inshore trawl fisheries are allocated 84 and six (6) percent of the hake directed TAC respectively..

In the past when the markets were lucrative, the hake handline fishery operated out of small fishing harbours and slipways along the southern Cape and Eastern Cape coasts, as far north as Port Alfred. However, since 2006, the economic crisis in Europe has impacted heavily in this sector. As such, the area which the hake handline fishery operates is currently mainly between Knysna and

Still Bay. The handline fishery, like the hake long line fishery, lands PQ hake for export mainly to Europe. The fishery operates in inshore waters targeting shallow water hake, *Merluccius capensis*.

Hake stocks are currently managed in terms of a recovery strategy and the TAC for hake has improved in the past 3 years (2010-2012), indicating that the recovery strategy is starting to yield positive results.

3. The long -term rights allocation process

In 2005, the Department allocated 95 hake handline fishing rights. The rights authorised 95 vessels and 742 crew to target hake using the handline method. This was the second time that fishing rights were allocated in this fishery and the second time that the hake handline fishery was subjected to comprehensive regulation.

The objective of the long term allocation process was to allocate hake handline fishing rights to fishers who were reliant on the fishery for their livelihoods. Every effort was made to exclude recreational or part-time fishers who derived income from other fisheries, or who were employed in other sectors of the economy.

Since 2006, the activity in the hake handline fishery has decreased as a result of change in distribution of the resource, collapsed international markets and increase in fuel costs. The hake handline resource has moved to offshore, in areas which make it difficult for small boats to operate. All this has resulted in rights holders activating their annual catch permits and currently most rights holders do not utilize their rights.

The availability of the hake in the inshore areas where the hake handline boats operates is seasonal and for a short period in a year hence there is a need of additional resources with PMCL which will act as safety value for food security, subsequently creating sustainable jobs in this sector. The previous restrictions on other fish resources in the hake handline fishery are not suitable to resuscitate the hake handline fishery.

Most of the right-holders are individuals. Legal entities, such as close corporations and companies, make up a small percentage of the right-holders. Co-operatives can be accommodated in this fishery. All the right-holders in the fishery could be described as small- and medium-sized enterprises (“SMEs”).

4. Over-arching sectoral objectives

The over-arching objectives of allocating long-term fishing rights in this fishery are to:

- Significantly increase the transformation profile of the hake handline fishery;
- Allocate rights to hake handline fishers who rely on hake handline fishery for their livelihoods;
- Ensure that applicants based at fishing harbours that are historically associated with hake handline catches are allocated a fair proportion of the rights;
- Support the economic viability of the fishery; and
- Ensure the environmental sustainability of the fishery.
- Promote food security and socio-economic development through the sustainable utilization of hake resources.
- Promote transformation; broaden meaningful participation (increase participation, value-creation, linkage) and growth in the hake handline sector.
- Support and develop regulatory and management mechanisms aimed at promoting sustainable utilization/management of fisheries resources.
- Achieve the recognition, protection and support of Small-Scale Fishers.
- Achieve the incorporation of a community-based rights approach to the allocation of hake resources.
- This right can be utilized with other rights depending on the availability of the resource.

5. Duration of rights

Having regard to the transformation profile of the fishery, the Department intends to allocate fishing rights for a period of seven (7) years (01 January 2014 to 31 December 2020). The Department will regularly evaluate right holders against predetermined performance criteria (**see paragraph 12 below**).

6. New entrants

The hake handline fishery is currently not over-subscribed.. However, the transformation profile of this fishery, coupled with the fact that many hake handline fishers, particularly black skippers, did not have access to vessels and finance and apply for rights in 2005, means that fishing rights may instead be allocated to a substantial number of new entrant applicants, particularly black new entrants.

7. Evaluation criteria

Applications will be screened in terms of a set of "*exclusionary criteria*". Right-holder applicants and new entrant applicants will then be separately assessed in terms of a set of weighted "*comparative balancing criteria*". A cut-off score or rank will then be determined to select the successful applicants. A proportion of the TAE will be allocated to each successful applicant in terms of a set of "*quantum criteria*".

7.1 *Exclusionary criteria*

Apart from the criteria described in the General Policy pertaining to the lodgement of applications and material defects, the Department will exclude applicants that fail to meet the following requirements:

- (a) **Form of the applicant:** Applications will only be considered from entities

incorporated in terms of the Close Corporations Act of 1984, individuals (i.e. sole proprietors or natural persons), companies, trusts and co-operatives.

- (b) **Compliance:** Compliance with the provisions of the MLRA, including the provisions of its regulations is considered to be of paramount importance. Applicants, including their members that have been convicted of an offence in terms of the MLRA (without the option of the payment of a fine) will not be allocated a hake handline fishing right. Applicants, including their members that have had any fishing right cancelled or revoked in terms of the Marine Living Resources Act will also not be allocated a hake handline fishing right. Other breaches of the MLRA will negatively affect the evaluation of applications.
- (c) **Paper quotas:** Paper quotas as defined in the General Policy will be excluded. Large groups of identical or very similar applications that are sponsored by consultants or fishing companies and other entities, will be excluded as fronts for paper quotas, regardless of the merits of individual applications.
- (d) **Non-utilisation:** Those right-holders that failed to utilise their long-term hake handline fishing rights between will not be re-allocated a right.
- (e) **Personal involvement in harvesting of the resource:** Applicants will have to demonstrate that they (or a member of the close corporation or co-operatives) are involved on a full-time basis in the hake handline fishery. However, women will be allowed to nominate representatives they deemed would represent their interests. They will be required to demonstrate that they are active fishers and participate in the operation of the hake handline business.
- (f) **Vessel access:** Applicants will be required to demonstrate a right of access to a suitable vessel (*see paragraph 8 below*).

7.2 *Balancing criteria*

Right-holder applicants and potential new entrants will be evaluated in terms of the following balancing criteria, which will be weighted in order to assess the strength of each application:

(a) Transformation

Currently, only 30 percent of right-holders in this fishery are black-owned. An estimated 25 percent are black-managed.

Applicants that are individuals will be scored on whether or not they are black. Applicants that are close corporations, companies, trusts and co-operatives will be assessed and scored on –

- The percentage black and women representation at ownership and management levels (particularly with regard to skippers);
- Whether employees are members of the applicant and the extent of their benefits;
- Affirmative procurement;
- Compliance with the Employment Equity Act 55 of 1998, as well as legislation on skills development. Applicants that do not comply with these laws may be refused a fishing right; and
- Corporate social investment.
- The entities applying for fishing rights which have Holding companies must have a transformation profile which is similar or higher than them.

(b) Investment in the fishery

Applicants will be evaluated having regard to investments made in the hake handline fishery.

Right-holder applicants will be assessed as follows:

- Investment in vessels by 31 December 2012 will be recognised, as long as the investment demonstrates a real commitment to participate in the sector. Right-holder applicants will not be rewarded for having concluded charter agreements or catching or purchasing agreements
- The agreements for access to vessels, processing, and marketing should be limited to a maximum of year or one fishing season.
- Investment in marketing initiatives will be considered. The Department will have regard to whether the applicant is capable of marketing hake.

As far as new entrant applicants are concerned, the Department will consider what investments have been committed to in the form of vessels. In addition, new entrant applicants will have to show whether they have potential access to markets.

(c) Fishing performance

Right-holder applicants will be assessed by having regard to their performance in the hake handline fishery during the long-term rights allocation process. In particular, right-holder applicants that targeted traditional linefish stocks in preference to hake will be penalised.

New entrant applicants will be assessed by having regard to whether they have the ability, knowledge and skills to target hake by the handline method.

(d) Jobs

Right-holder applicants who can demonstrate that they have provided temporary or permanent employment during the long-term period, will be rewarded.

(e) Local economic development

Investment in a number of South Africa's smaller coastal towns is required for economic growth. The Department will accordingly prefer those applicants that elect to land their catches in the harbours along the Cape south coast and the Eastern Cape coast which have historically been associated with hake handline fishing.

(f) Historical involvement

Right-holder applicants and potential new entrants will be rewarded for historical involvement in the fishing industry. An example of historical involvement would be a skipper or a crewmember who has worked in the handline fishery in the past.

(g) Reliance on the resource

The Department will prefer applicants who rely on hake handline fishing for a significant proportion of their gross annual income. Applicants or their members who derive any income from sources outside of the fishing industry will be penalised. Potential new entrants will be required to demonstrate their historical dependency on the hake handline fishery for their livelihood.

(h) Compliance

Minor infringements of the MLRA, the Regulations and permit conditions will be negatively scored.

7.3 Empowerment of hake handline fishers

The Department will require all fishing crew who are intending to work on hake handline boats to register with the Department on its Hake Handline Crew List. Those applicants who are successful in applying for a hake handline fishing right will be required to select their crew members from among those who are listed on the Hake Handline Crew List. The Department will only register persons on the crew list if they have successfully undertaken a SAMSA safety training course, establish a reliance on hake handline fishing and are able to demonstrate some form of historical involvement in hake handline fishing.

Registration by crew on the Hake Handline Crew List will be free and will take place.. The hake handline crew registered on the crew list may only fish from vessels authorised to catch hake handline.

7.4 Effort allocations

The Department will allocate one vessel to each successful applicant and the equivalent crew as determined by the South African Maritime Authority ("SAMSA") to be safe for that vessel.

Further, although this fishery is managed in terms of a TAC (95 vessels and 742 crew), a precautionary maximum TAC of 5 500 tons is also used to manage this fishery. Records reveal that over the duration of the long-term period, this precautionary maximum catch limit was never reached. Accordingly, the Department may, in the future, allocate slightly more fishing rights, provided that once the fishery lands 5 500 tons, all hake handline fishing will be halted for that season.

8. Suitable vessels

A suitable vessel in the hake handline fishery is a vessel that:

- has a minimum SAMSA registered length of approximately **5 metres** and a maximum SAMSA registered length of approximately **24 metres**. Essentially, the Department will allocate rights to skiboats and deck boats;
- has a functioning vessel monitoring system; and
- is certified as being HACCP (“Hazard Analysis and Critical Control Point”) compliant.
- The Hake Handline vessels should not be used for recreational purposes.

9. Multi-sector involvement

Right holders in the hake handline fishery are not precluded or discouraged in the holding of rights in more than one fishery.

10. Application fees and levies

The application fee for this fishery will be determined having regard to:

- The cost of the entire rights allocation process, including consultation, receipting, evaluation of applications, verification, appeals and reviews; and
- The value of the fish being allocated over the duration of the right.

The annual levies payable with effect from 01 January 2014 will be determined after consultation with right holders. The levies payable will be utilised by the Department for mitigating the annual costs of management, compliance and research.

11. Management measures

The management measures discussed below reflect a number of the Department's principal post-right allocation management intentions for this fishery.

11.1 *Ecosystem approach to fisheries management*

This fishery will be managed in accordance with the ecosystem approach to fisheries ("EAF"). The EAF management is based on two main principles, i.e. maintaining and enhancing ecosystem health and balancing societal needs and values.

11.2 *Management on a regional basis*

The Department intends changing the management strategy of this fishery subsequent to the allocation of the fishing rights. It is the Department's intention to manage this fishery on a regional basis, restricting the movement of vessels within specific regions.

11.3 *Access to other fish stocks*

Hake handline fishers may be permitted to fish for other fish stocks depending on the availability and sustainability of the resources in that particular area. Hake handline fishers will, however, be allowed to target snoek should it become available.

12. Performance measuring

The Department will institute a number of formal performance measuring exercises for the duration of the fishing rights. It is envisaged that the first performance measuring exercise will take place after a year, and thereafter every three years.

Although the Department will finalise the precise criteria against which right-holders will be measured after the allocation of fishing rights, and after consulting with right-holders, the following broad performance-related criteria may be used:

- transformation;
- investment in vessels, marketing and gear;
- compliance with applicable laws and regulations.

The purpose of performance measuring will be to ensure that the objectives of the fishery are being met and that management methodologies and procedures remain current and suitable for the fishery.

13. Observer and monitoring programme

The Department's current monitoring programme may be expanded to this fishery. Right-holders will be required to bear the costs of the observer and monitoring programmes.

14. Provisional lists

Before the Department makes a final decision on who will be allocated rights to participate in the hake handline fishery, it will issue a provisional list of successful applicants. The provisional list will be circulated in each hake handline fishing area. Interested and affected parties in these areas may then inform the Department if any persons who historically fished for hake using the handline method have been excluded from the provisional list and whether any person included on the provisional list is not a traditional hake handline fisher.

15. Permit conditions

Permit conditions for this fishery will be issued annually. The permit conditions will be determined after consultation with right holders in this fishery and will be subject to revision as and when it may be necessary.



**DEPARTMENT OF AGRICULTURE, FORESTRY AND FISHERIES
BRANCH: FISHERIES MANAGEMENT**

**DRAFT REVISED POLICY FOR THE ALLOCATION AND MANAGEMENT
OF FISHING RIGHTS IN THE KZN PRAWN TRAWL FISHERY: 2013**

**THIS POLICY MUST BE READ WITH THE DRAFT REVISED GENERAL
POLICY ON THE ALLOCATION AND MANAGEMENT OF FISHING
RIGHTS: 2013 (available at www.daff.gov.za)**

**This document is also available in Afrikaans, isiXhosa and isiZulu
Hierdie document is ook in Afrikaans, isiXhosa en isiZulu beskikbaar
Lencwadi iyafumaneka nangolwimi lwesiBhulu, lwesiXhosa nolwesiZulu
Lencwadi iyatholakala nangolwimi lwesiBhulu, lwesiXhosa nolwesiZulu**

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1. Introduction

This policy on the allocation and management of fishing rights in the KwaZulu-Natal prawn trawl fishery (hereafter also the "KZN prawn trawl fishery") is issued by the Minister of Agriculture, Forestry and Fisheries ("the Minister"). This policy must be read with the General Policy: 2013 on the Allocation and Management of Fishing Rights: 2013 ("the General Fisheries Policy").

The purpose of this policy is to set out the considerations that will apply to the allocation and management of the KZN prawn trawl fishing rights. Many of these considerations are not new. They have been applied by the Minister and delegated authorities from the Department of Agriculture, Forestry and Fisheries: Branch Fisheries Management ("the Department") when allocating rights in the past and to an extent this policy documents those considerations.

Certain post-rights allocation management policies are also presented in this policy. A KZN Prawn Trawl Fishery Management Manual will be finalised with all right-holders during the course of 2015. This manual will stipulate in detail the management methodology and procedures for the fishery.

The Minister intends to delegate the section 18 power to allocate commercial KZN prawn trawl fishing rights in terms of section 79 of the Marine Living Resources Act 18 of 1998 ("the MLRA") to a senior official of the Department. This policy document will guide the delegated authority in taking decisions on applications in this fishery.

2. Biology and resource dynamics

White prawns (*Penaeus indicus*), brown prawns (*Metapenaeus monoceros*) and tiger prawns (*Penaeus monodon*) occur on the shallow water mud banks along the north east coast of KwaZulu-Natal. Bamboo prawns (*Penaeus japonicus*) are also occasionally trawled on the St Lucia grounds. These prawn species grow fast and have a life-span of approximately one year. Eggs are carried on the abdomen of females. Larvae hatch during the second half of the year, and are transported by currents into estuaries along the KZN coast, where they remain up to the first quarter of the following year and grow into juveniles. Juvenile prawns move out of estuaries and recruit onto the mud banks, where they grow to maturity and reproduce, thus completing the life cycle.

Deep water species include pink (knife) and red prawns *Haliporoides triarthrus* and *Aristaeomorpha foliacea*, langoustines *Metanephrops mozambicus* and *Nephropsis stewartii*,

red crab *Chaceon macphersoni*, and deep-water rock lobster *Palinurus delagoae*. The life cycles of these species are diverse, but some (such as rock lobster) are slow-growing and long-lived, making them more vulnerable to fishing. Little is known about the biology of the deep-water prawns and langoustines.

3. Sector profile

The KZN prawn trawl fishery is based in KwazuluKwaZulu-Natal and consists of two components: i.e., an inshore fishery which takes place on the Thukela Bank and at St. Lucia targeting shallow-water (< 50m) penaeid prawns; and an offshore deep-water (200-500m) fishery that is extending extends from Cape Vidal in the north to Amanzimtoti in the south, targeting pink prawns (*Haliporoides triarthrus*), langoustines (*Metanephrops mozambicus*), rock lobsters (*Palinurus delagoae*) and red crab (*Chaceon macphersoni*).

Up to the 1960s, trawling was sporadic, but thereafter the sector comprised up to 12 companies and 21 vessels, many of which also fished in Mozambique. Regular statistics were collected from 1988 onwards.

Catches and catch rates of individual species or groups of species fluctuate widely, sometimes as a result of fishing strategy (targeting of specific species) rather than fluctuations in abundance. The abundance of shallow-water prawns depends on rainfall patterns and their effects on the flushing of estuaries where larval and juvenile prawns develop. In general, the last two decades have seen declines in the landings of white prawns, pink prawns, langoustines, rock lobster and red crab.

The fishery is managed using a Total Applied Effort ("TAE") strategy, which limits the number of vessels permitted to fish on the inshore and offshore fishing grounds. A TAE of eight fishing permits has been maintained for the past decade.

The sector is capital-intensive and its infrastructure, marketing and product distribution are dominated by established companies. The fishery requires specialised trawling vessels and equipment and is suitable for commercial fishing only. Fishing grounds are on the South African continental shelf and no foreign fishing vessels are allowed. Vessels are *ex side* trawl vessels trawling over the stern with a *single net boom* vessels trawling with a single or with twin nets per boom, and *stern* trawlers operating with single, twin or triple nets over the stern. Trawl net sizes range from 25- to 72-metre footrope length, with a minimum of 60mm mesh size

measured from knot to knot. Trawling takes place on a 24-hour basis, at speeds of two to three knots and an average drag duration of four hours. Trawlers carry about 15 crew and remain at sea for two to three weeks at a time.

Catches (by mass) of the KZN prawn trawl fisheries consist of roughly 20 percent target species, 10 percent retained by-catch, and 70 percent discarded by-catch. The retained by-catch includes cephalopods (octopus, squid and cuttlefish), molluscs, and substantial quantities of several fish species. The discarded by-catch (juvenile or small fish, low-value crustaceans, elasmobranchs and molluscs) amounts to about 1 000 to 2 000 tons per annum.

The inshore trawling is seasonal due to seasonal variations in abundance of the target species as well as a mandatory closed period, while the offshore trawling takes place year-round. The boundary between the inshore and offshore fisheries is situated seven nautical miles from the shore between the St. Lucia lighthouse (28° 30.9'S 32° 24.0'E) and Zinkwazi Green Point (30°15.0'S 30° 46.8'E).

Catches are size-sorted, graded, packed and blast-frozen at sea. Little value is added on land. Modest shore-based infrastructure, including berthing, re-packing, storage and marketing facilities, is situated in Durban. Frozen products are sold on local markets. The landed catch sales in the KZN prawn fishery is worth approximately R6.566 million and the revenue generated is worth approximately 51 million however of this 51 million only 20 thousand is generated by Black right holders.

4. The 2005 Long-term rights allocation process

Fishing rights were allocated in 2005 for a long-term period of eight years. Rights are currently held by four fishing companies (with a total of seven vessels), of which two right-holders (with five vessels) may fish in both the inshore and offshore fisheries, and the other two right-holders (with two vessels) are restricted to the offshore fishery only.

The allocation records show that:

- 4.1 The KZN Prawn Trawl fishery has 50 percent of right holders with greater than 50 percent black-shareholding;
- 4.2 The black shareholder ownership in the KZN Prawn Trawl fishery has increased from 30 percent to 67 percent;

- 4.3 The KZN Prawn Trawl is a male dominated fishery as currently there is none right holder with 50 percent female shareholding;
- 4.4 The average female shareholder ownership in the KZN Prawn Trawl fishery has decreased by 9.65 percent;
- 4.5 Only 30 percent of the right holders in this fishery have an employee share scheme;
- 4.6 Black Directors has increased from below 10 percent to 72 percent however the average female directorship has decreased from 17 percent to 14.2 percent in this fishery; and
- 4.7 The number of employees in this fishery has decreased from 150 to 80 individuals of which 60 percent of employees are employed by Black right holders in this fishery.

5. Over-arching sectoral objectives

The over-arching objectives of allocating fishing rights in this fishery are to:

- 5.1 Notably improve and maintain the transformation profile of the KZN prawn trawl fishery;
- 5.2 Ensure that steps are taken to mitigate against avoidable by-catch, particularly catches of linefish species that are listed on recreational and prohibited species lists;
- 5.3 Ensure that, where possible, by-catches are landed and resources are not wasted;
- 5.4 Create an environment that attracts investment and stimulates job creation;
- 5.5 Support the economic viability of the fishery; and
- 5.6 Ensure the environmental sustainability of the fishery.

Transformation will be a particularly important consideration for the allocation of the fishing rights in this fishery. Although it is probable that the current number of vessels in the fishery (eight) will be maintained, the need for transformation will mean that it may not necessarily be existing right-holders that will be granted rights. Existing right holders may be replaced with new entrant applications.

The rate of by-catch and the effect of prawn trawling on the benthic habitat are issues of great concern and the delegated authority will reward applicants in this fishery who are able to indicate their intentions to introduce mitigating measures in this regard. The Department will increasingly insist that by-catch is landed, that resources are not wasted, and that right-holders seek markets for by-catch. However, the sale of by-catch that comprises linefish species that are listed on recreational and prohibited species lists will not be permitted.

6. Allocation of rights

6.1 Duration of rights

Having regard to the transformation profile of the fishery; the capital intensity of the fishery; the need to maintain the economic stability and increase the competitiveness of the fishery; and the lack of scientifically reliable resource assessments due to the high number of species involved in this fishery, together with a very high by-catch percentage, rights will be allocated for a period of seven years (1 January 2014 to 31 December 2020). The Department will regularly evaluate right holders against predetermined performance criteria (see paragraph 14 below).

7. New entrants

The number of participants will not be increased in this fishery. New entrant applicants may be preferred over existing right-holders, particularly if their inclusion will assist in the transformation of the KZN prawn trawl fishery.

8. Evaluation criteria

Applications will be screened in terms of a set of "exclusionary criteria", and thereafter assessed in terms of a set of weighted "comparative balancing criteria". A cut-off score or rank will then be determined in order to select the successful applicants. A proportion of the effort will be allocated to each successful applicant.

8.1 Exclusionary criteria

Apart from the criteria described in the general policy pertaining to the lodgement of the applications and material defects, the delegated authority will exclude applicants that fail to meet the following requirements:

- (a) **Form of the applicant:** Rights will only be granted to entities incorporated in terms of the Close Corporations Act 69 of 1984 and the Companies Act 61 of 1973 as well as Cooperatives established in terms of the Small-scale fisheries policy; trusts and Community Associations. Rights will not be granted to natural persons (i.e. individuals or sole proprietors).
- (b) **Compliance:** Right-holders, including their members, directors or controlling shareholders that have been convicted of an offence in terms of the MLRA will not be allocated a KZN Prawn trawl right. This does not include the payment of an admission of guilt fine. Right-holder applicants, including their members, directors or controlling shareholders that have had a fishing right cancelled, suspended or revoked in terms of the MLRA, or assets seized under the

Prevention of Organised Crime Act 21 of 1998 or the MLRA, will also not be allocated a KZN Prawn trawl fishing right.

Decisions may be reserved on applications from right-holders that are being investigated for breaches of the MLRA. A decision on such an application will be made after the completion of the investigation.

The Department requires every right-holder to pay a levy on targeted fish landed. Right-holders that have under-reported catches to, *inter alia*, avoid the payment of levies will be excluded. Right-holders that have not paid levies or will be penalised in the comparative balancing process as set out below. Should such an applicant nevertheless qualify for a right, a fishing permit will not be issued until the outstanding monies have been paid to the Department.

- (c) **Paper quotas:** Paper quotas as defined in the General Policy will be excluded.
- (d) **Access to a suitable vessel:** Applicants will have to demonstrate a right of access to a suitable vessel (see paragraph 9 below).

8.2 Comparative balancing criteria

Right-holder applicants and new entrant applicants will be evaluated in terms of the following balancing criteria, which will be weighted to assess the strength of each application. The criteria stated below must be read with the corresponding criteria in the General Policy for further detail. This applies in particular to the "transformation" criterion.

(a) Transformation:

As stipulated in the General Fisheries Policy, 2013, applicants will be assessed and scored on –

- (i) The percentage black and women ownership and black and women representation at top salary, board of directors and senior official and management levels;
- (ii) Whether employees (other than top salary earners) benefit from an employee share scheme;
- (iii) Affirmative procurement;
- (iv) Compliance with the Employment Equity Act 55 of 1998 and the representivity of blacks and women at the various levels of employment below senior official and management level. The

delegated authority may also have regard to the wage differentials between the highest and lowest paid employees;

- (v) Compliance with legislation on skills development and the amounts spent on the training of blacks and participation in learnership programmes; and
- (vi) Corporate social investment.

(b) Investment in the fishery

As far as right-holder applicants are concerned, the delegated authority will specifically consider:

- (i) Investments in suitable vessels and other fixed assets. In respect of vessels, investment in the form of shareholding will also be considered;
- (ii) Investments in processing and marketing infrastructure.

As far as new entrant applicants are concerned, the delegated authority will consider investments made in other sectors in the form of vessels, fixed assets, processing and marketing infrastructure. All new entrant applicants will be required to demonstrate that they have the knowledge, skill and capacity to participate in the hake deep-sea trawl fishery.

(c) Jobs

Job creation and increases in jobs as a result of the allocation of the 2005 long term fishing rights will be rewarded, and in particular, applicants that have provided their employees with –

- (i) Full time employment;
- (ii) Medical aid and pension; and
- (iii) Safe working conditions.

(d) Performance

Financial performance will be measured, as indicated in the General Policy: 2013. In addition, the delegated authority will have regard to the applicant's fishing performance, where possible, particularly with respect to the number of days spent fishing in South African waters as opposed to fishing in Mozambique or Tanzania.

(e) Payment of fish levies

Right-holder applicants will be penalised if their levies are outstanding for a period longer than 60 days at the date of application.

(f) Compliance

If the applicant, its members or its directors or controlling shareholders have paid admission of guilt fines for contraventions of the MLRA, its Regulations or permit conditions, the applicant will be penalised.

(g) By-catch

The delegated authority will seek to reward those right-holder applicants that have invested in and implemented measures to reduce the landing of by-catch species. The delegated authority will also positively score applicants that land by-catch and have found markets for by-catch species (other than linefish species on recreational and prohibited species lists.)

8.3 Quantum allocation

The TAE is split between inshore and offshore areas of operation. Applicants will be permitted to apply for both inshore and offshore rights on the same vessel or on two different vessels. It must be noted that offshore vessels will not be permitted to fish inshore. Inshore vessels may, however, fish offshore.

9. Suitable vessels

The KZN prawn trawl fishery is a specialised fishery and applicants must have access to large ocean-going fishing vessels that are rigged to trawl for prawns. Fishing should be by bottom trawling with single net stern, or boom-operated twin or triple nets. Trawl nets shall have a maximum footrope length of 72 metres with a minimum of 60mm mesh size measured from knot to knot. Vessels must be fitted with functioning vessel monitoring systems.

10. Multi-sector involvement

Right-holders in the KZN prawn trawl fishery are not precluded from holding rights in any fishery in the Cluster A and Cluster B fisheries. Right-holders in the KZN prawn trawl fishery (including their controlling shareholders and members of their executive management team) will not be allowed to hold fishing rights in the Cluster C and Cluster D fisheries, and in traditional line fish.

Vessels employed in the KZN prawn trawl fishery may not be used in other sectors.

11. Landing sites

The South African ports of Durban and Richards Bay must be used to land catches. No other ports may be used.

12. Application fees and levies

The application fee for this fishery will be determined having regard to:

- 12.1 The cost of the entire rights allocation process, including consultation, receipting, evaluation of applications, verification, appeals and reviews; and
- 12.2 The value of the fish being allocated over the duration of the right.

The annual levies payable with effect from 01 January 2014 will be determined after consultation with right holders. The levies payable will be utilised by the Department to mitigate the annual costs of management, compliance and research.

13. Management measures

The management measures discussed below reflect a number of the Department's principal post right allocation management intentions for this fishery.

13.1 Ecosystem approach to fisheries management

During 2012, the Department conducted the Ecological Risk Assessment in this fishery and several ecosystem approach to fisheries ("EAF") priority points were identified. A ERA review for this fishery will be conducted by the Department in the next three years. Right holders in this fishery will be required to participate in the ERA review for this fishery, failing which the Department may initiate section 28 proceedings.

This fishery will strictly be managed in accordance with the EAF. An ecosystem approach to fisheries management is a holistic and integrated policy which recognises that fishing and associated land based activities impact on the broader marine environment. This part of the KZN prawn trawl fishery fishing policy does not attempt to provide a policy statement on EAF in the KZN prawn trawl fishery. The EAF in the KZN prawn trawl fishery will be detailed further in the Fishery Management Manual for the KZN prawn trawl fishery. South Africa remains committed to the target date of 2010 for the implementation of an EAF in the commercial fisheries.

13.2 By-catch

Bycatch in the KZN prawn trawl fishery is the subject of several research projects which have focused on the quantification of by-catch species; the impacts on linefish species and ecosystems; the effects of excluder devices on by-catch rates; and the impact of a closed fishing season in the inshore fishery. All retained (but not discarded) by-catch species and quantities must be declared by skippers. No spotted grunter (*Pomadasys commersonii*) that is caught by the KZN prawn trawl fishery may be sold. Sector specific regulations regarding discarded by-catch will follow the completion of the research projects.

13.3 Vessels

Eight vessels are presently authorised to fish in this sector. The current TAE (in terms of vessels) has been maintained for a decade. However, only 50 to 60 percent of the available effort is applied in KZN; the remainder is latent. Some of the vessels fish in Mozambique for most of the year. No more than eight vessels will be permitted to participate in this sector.

13.4 Nationality of catch

Fish caught in Mozambique may be landed in Durban or Richards Bay, but must be accompanied by documentation stating the origin of the catch, i.e. the co-ordinates of the positions where fishing was undertaken, the fishing effort expended and the quantities landed and a Mozambique fishing permit.

13.5 Precautionary principle and sustainability

This is a specialised fishery open to local commercial fishing only. The fishery is comparatively small and no reliable stock assessments of the target species have been conducted. The KZN trawling grounds are small and unlikely to expand. A precautionary approach towards managing effort in the fishery will be taken until satisfactory assessments of the stocks and the ecological impacts of fishing have been assessed.

The Department is not in favour of increasing fishing effort in the inshore area because of large by-catches of juvenile fish. For this reason, the Department does not intend merging the inshore and offshore components of this fishery.

The Department recognises that the variability and unpredictability of the resource limits the profitability of the fishery. The performance of the fishery will be closely monitored and the objective is to manage it effectively and sustainably.

14. Performance measuring

The Department will institute a number of formal performance measuring exercises for the duration of the commercial fishing rights. It is envisaged that the first performance measuring exercise will take place after two years and thereafter every four years.

Although the Department will finalise the precise criteria against which right-holders will be measured after the allocation of commercial fishing rights, and after consulting with right-holders, the following broad performance-related criteria may be used:

- 14.1 transformation;
- 14.2 investment in vessels and gear;
- 14.3 sustainable utilisation, and in particular the ecological impacts of trawl fishing;
- 14.4 compliance with applicable laws and regulations.

The purpose of performance measuring will be to ensure that the objectives of the fishery are being met and that management methodologies and procedures remain current and suitable for the fishery. Right holders in this fishery will be required to participate in the performance measuring exercises for this fishery, failing which the Department may initiate section 28 proceedings.

15. Observer programme

The Department's observer programme will be expanded to include compliance observation. In addition, the Department will progressively increase the observer coverage of this fishery. Right-holders will be required to bear the costs of the observer programme.

16. Permit conditions

Permit conditions for this fishery will be issued annually. The permit conditions will be determined after consultation with right holders in this fishery and will be subject to revision as and when it may be necessary.

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