



Government Gazette Staatskoerant

REPUBLIC OF SOUTH AFRICA
REPUBLIEK VAN SUID AFRIKA

Vol. 605

16 November 2015
November

No. 39417

PART 1 OF 3

N.B. The Government Printing Works will not be held responsible for the quality of "Hard Copies" or "Electronic Files" submitted for publication purposes

ISSN 1682-5843



9 771682 584003

39417



AIDS HELPLINE: 0800-0123-22 Prevention is the cure

IMPORTANT

Information

from Government Printing Works

Dear Valued Customers,

Government Printing Works has implemented rules for completing and submitting the electronic Adobe Forms when you, the customer, submits your notice request.

Please take note of these guidelines when completing your form.



GPW Business Rules

1. No hand written notices will be accepted for processing, this includes Adobe forms which have been completed by hand.
2. Notices can only be submitted in Adobe electronic form format to the email submission address submit.egazette@gpw.gov.za. This means that any notice submissions not on an Adobe electronic form that are submitted to this mailbox will be **rejected**. National or Provincial gazette notices, where the Z95 or Z95Prov must be an Adobe form but the notice content (body) will be an attachment.
3. Notices brought into GPW by "walk-in" customers on electronic media can only be submitted in Adobe electronic form format. This means that any notice submissions not on an Adobe electronic form that are submitted by the customer on electronic media will be **rejected**. National or Provincial gazette notices, where the Z95 or Z95Prov must be an Adobe form but the notice content (body) will be an attachment.
4. All customers who walk in to GPW that wish to submit a notice that is not on an electronic Adobe form will be routed to the Contact Centre where the customer will be taken through the completion of the form by a GPW representative. Where a customer walks into GPW with a stack of hard copy notices delivered by a messenger on behalf of a newspaper the messenger must be referred back to the sender as the submission does not adhere to the submission rules.
5. All notice submissions that do not comply with point 2 will be charged full price for the notice submission.
6. The current cut-off of all Gazette's remains unchanged for all channels. (Refer to the GPW website for submission deadlines – www.gpwonline.co.za)
7. Incorrectly completed forms and notices submitted in the wrong format will be rejected to the customer to be corrected and resubmitted. Assistance will be available through the Contact Centre should help be required when completing the forms. (012-748 6200 or email info.egazette@gpw.gov.za)
8. All re-submissions by customers will be subject to the above cut-off times.
9. All submissions and re-submissions that miss the cut-off will be rejected to the customer to be submitted with a new publication date.
10. Information on forms will be taken as the primary source of the notice to be published. Any instructions that are on the email body or covering letter that contradicts the notice form content will be ignored.

You are therefore advised that effective from **Monday, 18 May 2015** should you not comply with our new rules of engagement, all notice requests will be rejected by our new system.

Furthermore, the fax number **012- 748 6030** will also be **discontinued** from this date and customers will only be able to submit notice requests through the email address submit.egazette@gpw.gov.za.

DISCLAIMER:

Government Printing Works reserves the right to apply the 25% discount to all Legal and Liquor notices that comply with the business rules for notice submissions for publication in gazettes.

National, Provincial, Road Carrier Permits and Tender notices will pay the price as published in the Government Gazettes.

For any information, please contact the eGazette Contact Centre on 012-748 6200 or email info.egazette@gpw.gov.za

Contents

<i>No.</i>		<i>Gazette No.</i>	<i>Page No.</i>
GOVERNMENT NOTICES • GOEWERMENTSKENNISGEWINGS			
Agriculture, Forestry and Fisheries, Department of/ Landbou, Bosbou en Visserye, Departement van			
1127	Publication of Sector Specific Policies for the allocation of Fishing Rights	39417	4
1128	Marine Living Resources Act (18/1998): Policy on the allocation and management of Commercial Fishing Rights in the Large Pelagic Longline Fishery: 2015	39417	5
1129	Marine Living Resources Act (18/1998): Policy on the allocation and management of Commercial Fishing Rights in the Hake Inshore Trawl Fishery: 2015	39417	27
1130	Marine Living Resources Act (18/1998): Policy on the allocation and management of Commercial Fishing Rights in the Horse Mackerel Fishery: 2015	39417	44
1131	Marine Living Resources Act (18/1998): Policy on the allocation and management of Commercial Fishing Rights in the KwaZulu-Natal Sardine Beach Seine Fishery: 2015	39417	60
1132	Marine Living Resources Act (18/1998): Policy on the allocation and management of Commercial Fishing Rights in the Netfish Fishery: 2015	39417	74
1133	Marine Living Resources Act (18/1998): Policy on the allocation and management of Commercial Fishing Rights in the Patagonian Toothfish Fishery: 2015	39417	90
1134	Marine Living Resources Act (18/1998): Policy on the allocation and management of Commercial Fishing Rights in the West Coast Rock Lobster (Offshore) Fishery: 2015	39417	105
1135	Marine Living Resources Act (18/1998): Policy on the allocation and management of Commercial Fishing Rights in the Seaweed Fishery: 2015	39417	120
1136	Marine Living Resources Act (18/1998): Policy on the allocation and management of Commercial Fishing Rights in the West Coast Rock Lobster (Nearshore) Fishery: 2015	39417	156
1137	Marine Living Resources Act (18/1998): Policy on the allocation and management of Commercial Fishing Rights in the Abalone Fishery: 2015	39417	171
1138	Marine Living Resources Act (18/1998): Policy on the Allocation and Management of Rights to operate Fish Processing Establishments: 2015	39417	193
1139	Marine Living Resources Act (18/1998): Branch Fisheries Management: Fish Processing Establishment: Application Form: FRAP 2015/2016	39417	212
1140	Marine Living Resources Act (18/1998): Branch Fisheries Management: Application Form for Individual Applicants: FRAP 2015/2016	39417	235
1141	Marine Living Resources Act (18/1998): Branch Fisheries Management: Application Form for Entity Applicants: FRAP 2015/2016	39417	246
1142	Marine Living Resources Act (18/1998): Schedule B of Fees determined in terms of Section 25 (1) and (2) of the Act	39417	264

GOVERNMENT NOTICES • GOEWERMENTSKENNISGEWINGS

DEPARTMENT OF AGRICULTURE, FORESTRY AND FISHERIES**NO. 1127****16 NOVEMBER 2015****Marine Living Resources Act, 1998 (Act No. 18 of 1998)**

I, Senzeni Zokwana, Minister of Agriculture, Forestry and Fisheries, hereby publishes the Sector Specific Policies for the allocation of rights in the Abalone, Fish Processing Establishment, Hake Inshore-Trawl, Horse Mackerel, Kwazulu-Natal Sardine Beach Seine, Large Pelagic Longline, Netfish, Patagonian Toothfish, Seaweed, West Coast Rock Lobster Nearshore, West Coast Rock Lobster Offshore fisheries sectors and Application Forms as set out in schedule A and Fees payable in respect of applications and grant of rights as set out in schedule B.

Senzeni Zokwana

**Minister of Agriculture, Forestry and Fisheries**

05 - 11 - 2015

DEPARTMENT OF AGRICULTURE, FORESTRY AND FISHERIES

NO. 1128

16 NOVEMBER 2015

**POLICY ON THE ALLOCATION AND MANAGEMENT OF COMMERCIAL FISHING RIGHTS
IN THE LARGE PELAGIC LONGLINE FISHERY: 2015**

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

(In case of any inconsistency, the English text prevails)

TABLE OF CONTENTS

1. Introduction	1
2. Profile of the fishery	1
3. The 2005/2006 long-term fishing rights allocation process	3
4. Objectives	4
5. Granting of rights	4
6. Multi-sector involvement	6
7. Evaluation criteria	7
8. Provisional lists, representations and consultations	13
9. Announcement of decisions	13
10. Payment of application and grant of right fees	13
11. Termination of pelagic shark longline exemptions	13
12. Management measures	14
13. Permit conditions	19
14. Glossary of terms.....	20

1. Introduction

The Department of Agriculture, Forestry and Fisheries (“the Department”) is responsible for administering the Marine Living Resources Act, 1998 (Act No. 18 of 1998) (“the MLRA”), regulations promulgated thereunder and policies issued by the Minister of Agriculture, Forestry and Fisheries (“the Minister”), in consultation with the Department.

This policy on the allocation and management of fishing rights in the Large Pelagic Longline fishery (“the Large Pelagic fishery”) shall be referred to as the “**Large Pelagic Policy: 2015**”.

This policy must be read in conjunction with the Marine Living Resources Act, 1998 (Act No. 18 of 1998) (“the MLRA”) and regulations under the MLRA; the General Policy on the Allocation and Management of Fishing Rights: 2013 (“the 2013: General Policy”); other relevant Sector Specific Policies including the Policy for the Small Scale Fisheries Sector in South Africa: 2012; and the Policy for the Transfer of Commercial Fishing Rights: 2009. This policy must be interpreted to be consistent with the MLRA, and all of the other relevant regulations and policies.

This policy sets out objectives, criteria and considerations that will guide the allocation, evaluation, and management of fishing rights in the fishery. This policy will thus guide the Delegated Authority in taking decisions on applications in this fishery.

Only persons issued with permits in terms of the MLRA may harvest, transport catch from a landing site to the permitted Fish Processing Establishment (FPE) and export large pelagic species catch and products thereof.

2. Profile of the fishery

2.1 Background

Pelagic longline fishing by South African vessels fishery started in the 1960s through explorations into viability by the Japanese and Taiwanese fleets fishing in South African waters under bilateral licensing agreements. The main target was southern bluefin tuna and albacore, yet the fishery ceased to exist after the mid 1960’s as a result of a poor market for low quality southern bluefin and albacore. However, foreign vessels, mainly from Japan and Taiwanese, continued to fish in South African waters in the 1970s and re-negotiated the issuing of bi-lateral agreements in the 1990s. Local interest in pelagic longline fishing re-emerged in 1995 when a joint-venture with a Japanese vessel

confirmed that tuna and swordfish could be profitably exploited within South Africa's waters.

The Minister of Environmental Affairs and Tourism ("the DEAT") granted 30 experimental longline permits in 1997 to target tuna, although swordfish made up two-thirds of the catch. The DEAT decided not to renew the bi-lateral agreements with Japanese and Taiwanese longline vessels to catch tuna and swordfish in South African waters and terminated these agreements at the end of January 2003. However, foreign participation in the fishery continued in the form of joint ventures with Japan from 1997 until the end of the long term commercial fishing rights in 2015.

2.1 **Biology of the resource**

Large pelagic resources include all common tuna species bigeye (*Thunnus obesus*), yellowfin (*Thunnus albacares*), albacore (*Thunnus alalunga*), skipjack (*Katsuwonus pelamis*), and southern bluefin (*Thunnus maccoyii*), swordfish (*Xiphias gladius*), pelagic sharks (shortfin mako (*Isurus oxyrinchus*), blue sharks (*Prionace glauca*)); and secondary species such as oilfish (*Ruvettus pretiosus*), escolar (*Lepidocybium flavobrunneum*) and other billfish species (marlin species (*Kajikia albidus*, *Kajikia audax*, *Makaira nigricans*, *Makaira mazara*, *Istiompax indica*) sailfish (*Istiophorus platypterus*, *Istiophorus albicans*) and spearfish (*Tetrapturus angustirostris*, *Tetrapturus pfluegeri*)).

South Africa's geographical position has made it possible for the fishery to target tropical (yellowfin), temperate (albacore and southern bluefin) and intermediate (bigeye) tunas. Southern Bluefin (120-130cm FL size-at-maturity), bigeye tuna (100-110 cm FL size-at-maturity) and yellowfin tuna (90-110 cm FL size-at-maturity) are on the larger size scale followed by the smaller albacore tuna (75-85 cm FL size-at-maturity). These tunas are pelagic oceanic migrants found in all oceans except the Arctic, and the southern bluefin tuna is confined to the southern regions of the Indian, Atlantic and Pacific Oceans. Yellowfin tuna is caught more often in the tropical Indian Ocean whereas bigeye tuna is caught around the entire South African coastline. Southern bluefin tuna is abundant at the southern border of South Africa's Exclusive Economic Zone. Albacore is mainly caught in temperate Atlantic Ocean waters.

The billfishes are also widely distributed throughout all major oceans. Swordfish (140-160 cm LJFL size-at-maturity) is cosmopolitan and all other *Istiophoridae* occur in the Atlantic, Indian or Pacific Oceans. Although distributed around South Africa, Swordfish is mainly caught in the Mozambique channel and in the Atlantic Ocean north of Cape Columbine.

Scombrids and billfishes are distributed in epipelagic (skipjack, yellowfin, swordfish, billfish, juvenile tunas) and mesopelagic (albacore, bigeye, southern bluefin, yellowfin, swordfish) depth ranges. Albacore, yellowfin tuna and swordfish have been known to dive to preferred depths of between 400 – 600m, whilst bigeye tuna and southern bluefin tuna dive to depths of 1000m and 2700m, respectively.

Environmental factors that affect the distribution of tunas include sea surface temperature, vertical thermal structure, dissolved oxygen, salinity, oceanic fronts and food availability. The temperate and intermediate tunas and billfishes make seasonal migrations over long distances between temperate and subtropical feeding grounds (e.g. off South Africa) and tropical spawning grounds. Tunas and billfish are designed to swim continuously over long distances (with red muscle) and at bursts of speed (with white muscle) to fulfil oxygen and feeding demands. Tunas and billfishes are opportunistic feeders preying on a variety of fish, crustaceans and cephalopods.

The fishing areas around South Africa straddle two recognised stocks, the Indian Ocean and the South Atlantic Ocean, for yellowfin tuna, bigeye tuna, albacore and swordfish.

2.2 **Current status of the fishery**

Tuna and tuna-like resources are targeted by the Large Pelagic fishery, the tuna pole-line fishery and the recreational fishery. Other fisheries, which catch large pelagic species as by-catch, are the traditional linefish fishery and the mid-water trawl fishery. Large pelagic fishes are widely distributed and highly migratory with the same stock being fished by many different fishing nations. Consequently, Regional Fisheries Management Organisations (“RFMOs”) are primarily responsible for the management of these resources. Countries that co-operate or which are members of an RFMO are required to adhere to all the conservation and management measures adopted by the respective RFMO.

South Africa is a member of the International Commission for the Conservation of Atlantic Tuna (“ICCAT”), the Commission for the Conservation of Southern Bluefin Tuna (“CCSBT”) and the Indian Ocean Tuna Commission (“IOTC”). The fishery is thus dependent upon country allocations from the relevant RFMOs.

3. **The 2005/2006 long-term fishing rights allocation process**

The commercial fishing rights in the South African Large Pelagic fishery were allocated in 2005. Initially, 18 swordfish-directed fishing rights (18 vessels) and 26 tuna-directed fishing

rights (26 vessels) were allocated during the 2005/2006 long-term rights allocation management process.

The pelagic shark longline fishery was terminated on the 31st of December 2005 and nine exemptions were granted for pelagic shark longline fishing. During the 2011 allocation which was used to include the pelagic shark vessels within the Large Pelagic fishery, the Large Pelagic fishery sector was increased to 21 swordfish-directed rights (21 vessels) and 29 tuna-directed rights (29 vessels). The Large Pelagic fishing rights expired on the 28th of February 2015.

4. Objectives

4.1 The objectives of allocating fishing rights in the Large Pelagic fishery are to:

- (a) promote transformation through allocation of fishing rights to entities owned and/or controlled by historically disadvantaged persons which shall include designated groups (youth, women and people with disabilities), and to broaden meaningful participation in the fishery (through increased participation, sharing value-creation opportunities and profits, and linkage
- (b) ensure sustainable livelihoods through the promotion of fair employment;
- (c) promote adherence to fair labour practices and improved working conditions;
- (d) to promote food security and poverty alleviation;
- (e) prefer applicants who rely on the harvesting of Large Pelagic species as a major source of their gross annual income above applicants deriving income from sources outside the Large Pelagic fishery;
- (f) achieve maximum growth and full active subscription of the Large Pelagic fishery; and
- (g) achieve optimum utilisation and ecologically sustainable development of marine living resources.

5. Granting of rights

Fishing rights are granted in terms of section 18 of the MLRA. In terms of section 79 of the MLRA the Minister has delegated the power to grant rights in each fishery to a Delegated Authority in the Department. Unless otherwise determined by the Minister, only South African persons shall acquire or hold rights in terms of section 18 of MLRA. In this fishery the Minister has not exercised his power to allow persons of other nationalities to acquire rights, meaning that only South African persons can acquire rights in this fishery.

The rights granted will be based on applicable balancing criteria, and will be reflected as a proportion of the local commercial Total Allowable Catch (TAC) and/or Total Allowable Effort (TAE) or a combination thereof that are available at the time that the rights allocation process is conducted. All rights granted shall be valid from the date of allocation for a period not exceeding 15 years, whereafter they will automatically terminate and revert back to the State to be reallocated. It should be further noted that in terms of section 16 of the MLRA the Minister may suspend any fishing in the fishery or impose effort restrictions in order to address a state of emergency.

5.1 **Form of right holder**

- (a) Section 18 of the MLRA provides that only South African persons may hold fishing rights.
- (b) Having regard to the nature of operations and resource accessibility only the following South African persons will be considered for a right in the Large Pelagic fishery:
 - (i) close corporations (legal entity); and
 - (ii) companies (legal entity).

5.2 **Duration of right**

Having regard to the right allocation process, and the need to encourage investment, fishing rights in the Large Pelagic Fishery will be granted for the maximum period of 15 years.

5.3 **Total Allowable Catch and Total Applied Effort Allocation**

In terms of section 14 of the MLRA the Minister is empowered to determine a TAC, TAE, or combination thereof to apply in each fishery. This fishery is regulated by the determination of a TAE. The TAE is determined by the Delegated Authority considering the history, resource users, sustainability of the operations of right holders, and the viability of the fishery. The Delegated Authority will only allocate a local commercial portion of the determined TAE to commercial right holders based on the proportion granted to each successful applicant at the time of commercial fishing rights allocation process. The right holder's allocation may decrease or increase should the annual local commercial portions of determined TAE decrease or increase respectively. In terms of section 14(4) of the MLRA, if the allowable commercial catch in respect of which commercial fishing rights exist increases, the mass of the increase shall be available for allocation by the Minister.

5.4 **Transfer of Rights Allocated in terms of this Policy**

In terms of section 21 of the MLRA the Minister may approve the transfer of fishing rights in whole or in part. However, rights granted in the fishery in terms of the MLRA shall not be transferred within the first two (2) years of being granted.

Rights can only be transferred in terms of the Policy for the Transfer of Commercial Fishing Rights (Government Gazette No 32449, 31 July 2009) or relevant amendments thereof.

A notification of transfer of shares or members' interest must be served on the Department within 30 days of such sale or transfer or any time-period set in applicable permit conditions in all cases in which shares or a member's interest in a right holder are sold or transferred. In addition, the Department's approval is required for all cases in which the sale or transfer of shares or a member's interest in a right holder results in a change of control of the entity, or in the entity being less transformed than it was at the date on which rights are allocated, with particular regard to any decrease in black ownership of such entity

Failure to pay the required fees for the grant of a right, or to apply for any permits, or to declare any catches during the first two (2) years, shall result in a cancellation of the right by the Minister.

6. Multi-sector involvement

Applicants for the allocation of rights in the Large Pelagic fishery will not be precluded from applying for or holding commercial fishing rights in other local commercial fishing sectors. This shall mean any person can apply for a right in any fishery sector regardless of whether the applicant has applied for a right or holds a right in any fishery sector. In this case, the applicant shall mean an individual, a shareholder or Directors in a company or a member in a close corporation or a close cooperatives applying for a right in any fishery sector.

Individuals who hold shares or a member's interest in an entity which is applying for the allocation of rights in the fishery, may also hold shares, an interest or a stake in a an entity or cooperative which is applying for, or already holds rights in another fishery. Individuals, who are directors or employees of an entity which is applying for the allocation of rights in the fishery, may also be a shareholder, member, director or employee of an entity which is applying for, or already holds rights in another fishery; or be a participant in a cooperative operating in another fishery.

The Delegated Authority reserves the right to grant a right to the applicant in any sector and may, however, prefer applicants who rely on the Large Pelagic fishery for a major source of their gross annual income.

7. Evaluation criteria

Applications for the allocation of rights in the fishery Large Pelagic 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 a portion of the TAE will be apportioned to successful applicants.

7.1 Exclusionary criteria

Apart from the criteria described in the 2013: General Policy pertaining to the lodgement of applications and material defects, the Delegated Authority will exclude applicants that fail to meet the following requirements/criteria:

(a) Compliance

An applicant will be excluded if it, a controlling shareholder, a member with a controlling interest, or a director, has been convicted of a serious transgression of the MLRA (without the option of the payment of a fine). An applicant will also be excluded if it, a controlling shareholder, a member with a controlling interest, or a director, has had any fishing right cancelled or revoked in terms of the MLRA. For these purposes an individual will be treated as having had rights cancelled or revoked if that person was a controlling shareholder, a member with a controlling interest, or a director of an entity which had its rights cancelled or revoked. Minor infringements, including those in respect of which an admission of guilt fine was paid, may be taken into account as a balancing criterion and may also adversely affect an application.

(b) Paper quotas

Applications from paper quota applicants, as defined in the 2013: General Policy, will be excluded.

(c) **Non-utilisation**

Applicants that held a Large Pelagic right within the period 2006 to 2014 and did not harvest any Large Pelagic species during the entire duration of that Right shall be excluded.

7.2 **Balancing criteria**

Applicants will be evaluated in terms of the following balancing criteria which will be weighted in order to evaluate and assess applications:

(a) **Transformation**

When assessing and scoring applications, and when allocating portions of the TAC, TAE or combinations thereof to successful applicants, the Delegated Authority may prefer applicants based on transformation criteria. When attributing a score for transformation criteria, or allocating portions of the TAC, the Delegated Authority may have regard to: census statistics or other information provided by Statistics South Africa regarding the composition of the population of South Africa, and the percentage of that population made up by different demographic groups; the need to ensure the recognition and meaningful participation in the fishing industry, of Historically Disadvantaged Individuals (HDIs) and the codes of good practice under the Broad Based Economic Empowerment Amended Act

Applicants, depending on the form of the applicant will be assessed and scored on the following transformation criteria:

- (i) The percentage of people from designated groups and HDIs represent at top salary, board of directors, members and senior official and management levels;
- (ii) The extent to which an applicant's black ownership and black management transformation credentials (as measured in the 2005 LTRAMP) have subsequently improved, remained the same, or deteriorated in the period following the granting of rights in the LTRAMP.
- (iii) Whether employees (other than top salary earners) benefit from an employee share scheme;
- (iv) Compliance with the Employment Equity Act 55 of 1998 and the representativity of designated groups and HDIs at the various levels of employment below senior official and management level;
- (v) Affirmative procurement;

- (vi) Compliance with legislation on skills development and the amounts spent on the training of Black persons, youth, women, people with disabilities and participation in learnership programmes; and
 - (vii) Corporate social investment.
- (b) **Fishing performance**
- (i) The fishing performance of applicants holding fishing rights in the Large Pelagic fishery will be examined to determine if they have effectively utilised their fishing rights. Effective utilisation shall mean activation of the catch permit, landing of catch and subsequent submission of catch data for at least five years during the period 2007-2014.
- (c) **Local economic development**
- (i) In order to promote local economic development, the Delegated Authority will give preference to applicants who will land catches at harbours situated outside of metropolitan areas, and process catches at land-based processing establishments outside of metropolitan areas. Metropolitan areas include the areas under the control of metropolitan (category A) municipalities (City of Cape Town; Nelson Mandela Bay Metropolitan Municipality; and Buffalo City Metropolitan Municipality).
 - (ii) The Delegated Authority may, in order to ensure that all fishing communities share in the marine living resources, use the locality of landing sites and fish processing establishments as scoring or tie-breaking criteria. For these purposes the Delegated Authority may give preference to applicants, with the aim of ensuring an equitable distribution of opportunities to communities along the coastline.
- (d) **Job creation**
- The Delegated Authority may give preference to any applicant which commits to retaining existing employment opportunities, or to increasing employment opportunities if it is allocated a right in the Large Pelagic fishery. For these purposes the Delegated Authority will consider the quality of the employment opportunities which will be created, including compliance with the Basic Conditions of Employment Act, 1997 (No. 75 of 1997) ("BCEA"); and the applicant's commitment to provide their employees with:
- (i) permanent employment;
 - (ii) medical aid or any other medical support arrangements;

- (iii) pension or provident fund;
- (iv) safe working conditions in accordance with the applicable legislative requirements; and
- (v) an employee share scheme, which ensures that employees enjoy an effective shareholding in the right holder.

(e) **Access to a suitable vessel**

An applicant will be required to demonstrate a right of access to a vessel suitable for the harvesting in the Large Pelagic fishery. Access may be in the form of ownership, part-ownership, a catch agreement, a charter agreement, or a bank guarantee for sufficient capital to purchase or build a vessel. If an applicant intends purchasing a vessel, then additional information must be provided to prove a firm and binding offer by the current owner of the vessel to sell the vessel to the applicant. If an applicant intends building a new vessel, then additional information must be provided including the vessel plans, the cost to be incurred and a firm and binding commitment by a vessel building company to build the vessel.

- (i) Suitable vessels in the Large Pelagic fishery are:

South African flagged fishing vessels

- The suitability of vessels will be determined having regard to, *inter alia*, vessel length (including the performance record of vessels), the ability to monitor and control the vessel and nationality of the vessel. A suitable vessel in the Large Pelagic fishery is a vessel that has a minimum South African Maritime Safety Authority (“SAMSA”) registered length of 18 metres, Vessels with lengths less than 18m may be considered having regard to their performance record and safety. Applicants must take cognisance of certain vessel limitations as stipulated in relevant RFMOs.

Further, the nominated vessel must:

- have a functioning INMARSAT based Vessel Monitoring System (“VMS”) installed; and
- not be a vessel that is listed on the official negative vessel lists of ICCAT, the IOTC or the CCSBT.

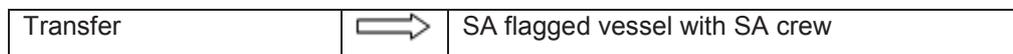
Foreign flagged fishing vessels

- The Department recognises that, because of a lack of suitable South African vessels and South Africa's limited experience in tuna longlining, joint ventures with non-South Africans may be a necessity. Notwithstanding this, joint ventures between South Africans and non-South Africans must be majority owned by South Africans (i.e. must be South African persons) and managed by South Africans. Evidence of fronting of South Africans will adversely affect an application.
- Accordingly, preference will be given to applicants who demonstrate right of access to or ownership of a suitable vessel with the intention of developing skills in South Africa.
- Experience subsequent to the long-term rights allocation process of 2005 has shown that the reflagging process could be both lengthy and costly. The reflagging process is dependent on the economic profitability of the Large Pelagic fishery, including access to international markets, especially the Japanese sashimi market.
- Therefore, foreign-flagged fishing vessels should be considered for the tuna longline fishing provided that the foreign-flagged fishing vessel adheres to the following:
 - has an initial one-year trial period to determine the feasibility of the joint venture and the reflagging process. Thereafter, the foreign fishing vessel shall reflag within the first three years when operating as a joint venture;
 - prior to commencing the second year of fishing the Right Holder must present the Department with a reflagging and skills transfer schedule indicating targets and timelines;
 - The Department will monitor this process very closely through quarterly reporting on progress by the Right Holder;
 - carries at the cost of the Right Holder, observers nominated by the Department on all fishing trips; the Observers shall be responsible for collecting fisheries data and samples and shall monitor all fishing operations and record any transgressions of the MLRA;
 - in terms of section 39 of the MLRA, be authorised by the relevant authority of the Flag State, in writing, that all catches of large pelagic species, whether harvested on the high seas or in South Africa's Exclusive Economic Zone ("EEZ"), shall

accrue to South Africa for the duration of the charter or joint venture agreement;

- the use of wire traces will be prohibited;
- owners and operators submit in writing that the vessel shall be subject to laws that govern in the territory of the Republic of South Africa for the duration of the charter or joint venture agreement; and
- To prevent fronting each vessel and each right holder will only be considered once for the duration of the fishing right to enter into a joint venture

Below is a schematic flow diagram of the desired approach for reflagging vessels in tuna longline:



- Further, nominated foreign-flagged vessel must:
 - have a functioning INMARSAT C-based vessel monitoring system (“VMS”) installed; and
 - not be a vessel that is listed on the official negative vessel lists of ICCAT, the IOTC or the CCSBT.

(f) **Applicant involvements and relationship with other applicants**

(i) **Entity and their subsidiaries involvement**

A company and its subsidiary/ies may not be granted more than one right in the fishery, so as to avoid fronts and monopolies in order to broaden access to the Large Pelagic resource. Applicants may be required to disclose their relationship to other applicants for the allocation of rights in the fishery, as well as in other commercial fisheries. If an entity and its subsidiary both apply for a right in this fishery, the holding company will be preferred over any subsidiary.

(ii) **Brother-Sister Corporations**

If two or more companies which are owned and controlled by the same shareholders apply for a commercial fishing right in the Large Pelagic fishery, the Department will consider allocating fishing right to one of the companies if two or more of the brother-sister companies qualify for a fishing right in this sector. The Department may also consider dividing one fishing right (TAC

and/or TAE) to the brother-sister companies if they all qualify for a fishing right in the Large Pelagic fishery.

8. Provisional lists, representations and consultations

- 8.1 The Delegated Authority may issue provisional lists for comment on any aspect relating to an application in any fishery/sector.
- 8.2 The Delegated Authority may request comment on any of the information provided by an applicant and on the basis of the comments received make a final decision.
- 8.3 The Delegated Authority may invite representations regarding the assessment of the applications before making final decisions.

9. Announcement of decisions

The Delegated Authority shall after making final decisions on the applications inform all applicants of the outcome of their individual applications giving specific reasons for such decision. Further General Reasons for decisions in a specific fishery will be published informing all applicants on how the decisions were formulated and reached. The General Reasons shall also include an annexure outlining the scores obtained by all applicants in the Large Pelagic fishery.

10. Payment of application and grant of right fees

- 10.1 The application fees for this fishery will be determined having regard to:
 - (a) The cost of the entire fishing rights allocation process, including consultation, receipting, evaluation of applications, verification, appeals and reviews; and
 - (b) The value of the fish being allocated over the duration of the right.
- 10.2 The non-refundable application fee shall be payable before submission of the application and only proof of payment shall be brought to the receipting centre.
- 10.3 The grant of right fee is payable by all successful applicants upon the granting of rights.

11. Termination of pelagic shark longline exemptions

Pelagic shark longline fishery was terminated on the 31st of December 2005. This was followed by granting of exemptions to the operators that held fishing rights in the sector. The exemption holders were incorporated in to the Large Pelagic fishery in 2011 and were allowed to operate in the sector with an Upper Precautionary Catch Limit ("UPCL") of 2000t dressed weight for sharks as a bycatch in the Large Pelagic fishery. In line with the 2008 Policy for Large Pelagic, the targeting of pelagic sharks in the Large Pelagic fishery by exemption holders is terminated. Any fishing practices

that promote the targeting of pelagic sharks such as the use of wire traces will be prohibited.

The Department encourages the existing exemption holders to adjust their fishing models and reduce their reliance on sharks as pelagic sharks will be considered to be bycatch. The fishing performance of the current exemption holders that were targeting pelagic sharks will be considered as effective utilization of their exemptions. Effective utilisation shall mean activation of the catch permit and subsequent catch data submission for at least five years during the period 2007-2014.

12. Management measures

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

12.1 The regulation of the commercial Large Pelagic fishery will be in terms of permit conditions designed to ensure the fulfilment of the purpose and objectives of this policy and South Africa's obligations in terms of the various management measures of the applicable RFMOs. The management measures for the Large Pelagic Fishery that are not covered specifically by any of the relevant RFMOs will be in line with the following permitted:

12.1.1 specified types and quantities of fishing gear;

12.1.2 with respect to any closure of an area that prohibits all fishing (i.e. Operation Phakisa's proposed Marine Protected Areas);

12.1.3 establish specified limitations which are necessary and appropriate for the conservation and management of the fishery on:

- (i) the catch of fish (based on area, species, size, number, weight, sex, bycatch, biomass, or other factors); and
- (ii) sale of fish caught consistent with any applicable safety and quality requirements.

12.1.4 require that one or more observers be carried on board a vessel engaged in fishing for Large Pelagic species under the policy, for the purpose of collecting data necessary for the conservation and management of the fishery;

12.1.5 include conservation and management measures that inhibit fishing practices that result in high levels of bycatch or bycatch mortality;

12.1.6 if requested by the department, reserve a portion of the allowable biological catch of the fishery for use in scientific research; and

12.1.7 include management measures in the plan to conserve target and non-target species and habitats, considering the variety of ecological factors affecting fishery

populations as outlined in, but not limited to the following: NPOA-Sharks, the NPOA-Seabirds, Migratory Species Act, Operation Phakisa's proposed Marine Protected Areas.

- 12.2 The following principal regulatory measures will apply to the harvesting of Large Pelagic species in the Atlantic and Indian Oceans. These regulatory measures are reviewed annually and subject to change by the department on recommendation of the Large Pelagics and Sharks Scientific Working Group and the Large Pelagics Management Working Group.

Atlantic Ocean	Indian Ocean
Annual ICCAT swordfish country allocation granted to South Africa for South Atlantic swordfish. This allocation changes annually.	No catch limit for swordfish.
No catch limit on tunas, except for southern bluefin where a catch limit will be implemented.	No catch limit on tunas, except for southern bluefin where a catch limit will be implement. IOTC fleet capacity limitation applies for bigeye tuna.
All vessels shall have unrestricted access to swordfish in the South Atlantic Ocean until 50% of the ICCAT swordfish country allocation has been landed by the large pelagic fishery. The remaining 50% shall be equally divided amongst all active Rights Holders.	
Southern bluefin tuna will be managed through individual apportionment to right holders at the start of the permit year. Individual apportionment is dependent upon the CCSBT country allocation	Southern bluefin tuna will be managed through individual apportionment to right holders at the start of the permit year. Individual apportionment is dependent upon the CCSBT country allocation

<p>granted to South Africa.</p> <p>As of the 30th May each year, quotas of non-active right holders shall be equally divided among, 1) active Large Pelagic Right Holders (i.e. those Permit Holders which are physically fishing), and 2) among vessels that have activated a permit and were actively fishing the previous season, for the remainder of the season.</p> <p>Any additional southern bluefin tuna shall not be retained on board unless prior approval has been granted for a transfer of southern bluefin tuna quota from another tuna right holder.</p> <p>Quotas or part thereof may be transferable to other Large Pelagic Right Holders subject to both parties providing consent to the Department for approval.</p> <p>No further landing of southern bluefin will be permitted once country allocation has been reached.</p>	<p>granted to South Africa.</p> <p>As of the 30th May each year, quotas of non-active right holders shall be equally divided among, 1) active Large Pelagic Right Holders (i.e. those Permit Holders which are physically fishing), and 2) among vessels that have activated a permit and were actively fishing the previous season, for the remainder of the season.</p> <p>Any additional southern bluefin tuna shall not be retained on board unless prior approval has been granted for a transfer of southern bluefin tuna quota from another tuna right holder.</p> <p>Quotas or part thereof may be transferable to other Large Pelagic Right Holders subject to both parties providing consent to the Department for approval.</p> <p>No further landing of southern bluefin will be permitted once the country allocation has been reached.</p>
<p>The Precautionary Upper Catch Limit (PUCL) for sharks is set as an annual allocation of landed dressed weight. The PUCL will be adjusted annually as new information becomes available, based on the recommendation of the LPSSWG. The PUCL will be managed on an Olympic system; once 80% of the PUCL has been caught the remaining 20% of the PUCL shall be subdivided equally</p>	<p>The Precautionary Upper Catch Limit (PUCL) for sharks is set as an annual allocation of landed dressed weight. The PUCL will be adjusted annually as new information becomes available, based on the recommendation of the LPSSWG. The PUCL will be managed on an Olympic system; once 80% of the PUCL has been caught the remaining 20% of the PUCL shall be subdivided equally among active</p>

<p>among active Right Holders. Quotas or part thereof may be transferable to other tuna and swordfish Right Holders subject to both parties providing consent to the Department for approval (Attn: Assistant and Deputy Directors: Pelagic and High Seas Management). Once the PUCL limit has been reached the fishery shall close.</p>	<p>Right Holders. Quotas or part thereof may be transferable to other tuna and swordfish Right Holders subject to both parties providing consent to the Department for approval (Attn: Assistant and Deputy Directors: Pelagic and High Seas Management). Once the PUCL limit has been reached the fishery shall close.</p>
<p>Thresher sharks belonging to the genus <i>Alopias</i>, hammerhead sharks (belonging to genus <i>Sphyrna</i>), oceanic whitetip sharks (<i>Carcharhinus longimanus</i>), porbeagle sharks (<i>Lamna nasus</i>), dusky sharks (<i>Carcharhinus obscurus</i>) and silky sharks (<i>Carcharhinus falciformis</i>) shall not be retained on board the vessel.</p>	<p>Thresher sharks belonging to the genus <i>Alopias</i>, hammerhead sharks (belonging to genus <i>Sphyrna</i>), oceanic whitetip sharks (<i>Carcharhinus longimanus</i>), porbeagle sharks (<i>Lamna nasus</i>), dusky sharks (<i>Carcharhinus obscurus</i>) and silky sharks (<i>Carcharhinus falciformis</i>) shall not be retained on board the vessel.</p>
<p>No vessel shall use wire leaders attached to or within 50cm of the hook.</p>	<p>No vessel shall use wire leaders attached to or within 50cm of the hook.</p>
<p>Setting and retrieving of longlines can be conducted in South Africa's Exclusive Economic Zone (EEZ), except in the following areas: 1) within a 12 nautical mile area up to 20°E, as well as the area known as the "Cape Canyon"; 2) in any Marine Protected Area.</p>	<p>Setting and retrieving of longlines can be conducted in South Africa's Exclusive Economic Zone (EEZ), except in the following areas: 1) within a 12 nautical mile area , from 20°E to the southern KwaZulu-Natal (KZN)/Eastern Cape provincial border. A 20 nautical mile exclusion limit with an additional 4 nautical mile seaward buffer area for the entire KZN province; 2) in any Marine Protected Area.</p>
<p>Fins may only be landed from shark trunks that are retained onboard and</p>	<p>Fins may only be landed from shark trunks that are retained onboard and both the</p>

both the fins and trunks must be landed together at the first point of landing.	fins and trunks must be landed together at the first point of landing.
The Permit holder is restricted to an initial seabird mortality limit of 25 birds per year irrespective of vessel replacements. No further setting shall be permitted once this limit is reached, until the Department has reviewed compliance with permit conditions. Permit Holders which have reached a mortality of 50 seabirds shall immediately stop fishing.	The Permit holder is restricted to an initial seabird mortality limit of 25 birds per year irrespective of vessel replacements. No further setting shall be permitted once this limit is reached, until the Department has reviewed compliance with permit conditions. Permit Holders which have reached a mortality of 50 seabirds shall immediately stop fishing.
Live turtles should be released according to the instructions provided in the permit conditions. Remove the hook either with a de-hooker or cut the line as close to the hook as possible.	Live turtles should be released according to the instructions provided in the permit conditions. Remove the hook either with a de-hooker or cut the line as close to the hook as possible.

12.3 In addition to the above regulatory controls, Right Holders will not be permitted to tranship while at sea. Transhipments in port will only be allowed in the presence of Fishery Control Officer or monitor subject to a permit being issued for the transhipment.

12.4 **Ecosystem approach to fisheries**

This fishery will be managed in accordance with the ecosystem approach to fisheries ("EAF"). An EAF strives to balance diverse societal objectives, by taking into account the knowledge and uncertainties about biotic, abiotic and human components of ecosystems and their interactions and applying an integrated approach to fisheries within ecologically meaningful boundaries.

12.5 **Observer Programme**

- (a) The right holder of a commercial Large Pelagic fishing right shall accommodate an observer on board the right holder's nominated vessel when required to do so by the Department or its agent.
- (b) The right holder might be required to bear the costs of the observer deployment

when so required by the Department.

- (c) The right holder shall allow the Observer unrestricted access to monitor fishing activity and to test compliance with permit conditions and all applicable laws.
- (d) Should the Department reasonably believe that an Observer is being prevented from carrying out his or her obligations in any way or threatened in any way while on board the right holders fishing vessel, the Department may implement proceedings under section 28 of the MLRA.

12.6 **Performance measuring**

Successful applicants will be subjected to performance measuring for the duration of their fishing rights. 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.

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:

- (i) transformation;
- (ii) investment in vessels, factories and gear;
- (iii) sustainable utilisation, and in particular by-catch mitigation and the reduction of the biological and ecological impacts of longlining;
- (iv) tuna and swordfish catch performance; and
- (v) compliance with applicable laws and regulations.

12.7 **Offences**

- (a) A successful applicants that fails to utilise their Large Pelagic fishing right for one season without any reasonable explanation or that contravenes the provisions of the MLRA, will be subject to proceedings under s28 of the MLRA.

13. **Permit conditions**

Permit conditions for this fishery will be issued annually. The permit conditions will be determined after consultation with the successful applicants in this fishery and will be revised as and when it may be necessary. Management and conservation measures of RFMO's responsible for tuna and tuna-like species management and conservation, like but not limited to CCSBT, ICCAT and IOTC will be taken into consideration.

14. Glossary of Terms

- 14.1 "Brother-Sister corporations" are subsidiary companies owned by the same parent company.
- 14.2 "Close corporation" means close corporation in terms of the Close Corporations Act, 1984 No. 69 of 1984, of which the majority of members are South African persons
- 14.3 "Company" means a company registered in terms of the Companies Act No. 71 of 2008, of which the majority of shareholders, as prescribed by the Minister, are South African persons.
- 14.4 "Historically disadvantaged person" means a person who belongs to a group of persons who suffered racial discrimination in terms of the system of apartheid and includes women.
- 14.5 "Legal entity" means a close corporation or company.
- 14.6 "MLRA" means the Marine Living Resources Act, (Act No. 18 of 1998).
- 14.7 "Rights" means fishing or harvesting rights granted in terms of section 18 of the Marine Living Resources Act, (Act No. 18 of 1998).
- 14.8 "Right Holder" means a person or a legal entity that was previously granted or lawfully acquired a fishing right, or which will be granted a right in the allocation process envisaged in this policy.
- 14.9 "South African citizen" means a South African citizen in terms of the South African Citizenship Act, Act No. 88 of 1995.
- 14.10 "Subsidiary company" is a company that is partly or completely owned by another company that holds a controlling interest in the subsidiary company.
- 14.11 "The 2013: General Policy" means the General Policy on the Allocation and Management of Fishing Rights: 2013.
- 14.12 "The Department" means the Department of Agriculture, Forestry and Fisheries.
- 14.13 "The Minister" means the Minister of Agriculture, Forestry and Fisheries.
- 14.14 "Total Allowable Catch" means the maximum quantity of fish of individual species or groups of species made available annually or during such other period of time as may be prescribed, for combined recreational, small-scale, commercial and foreign fishing.
- 14.15 "Total Applied Effort" means the maximum number of fishing vessels, the type, size and engine power thereof or the fishing method applied thereby for which fishing vessel licences or permits to fish may be issued for individual species or groups of species, or the maximum number of persons on board a fishing vessel for which fishing licences or permits may be issued to fish for individual species or groups of species.

DEPARTMENT OF AGRICULTURE, FORESTRY AND FISHERIES

NO. 1129

16 NOVEMBER 2015

**POLICY ON THE ALLOCATION AND MANAGEMENT OF COMMERCIAL FISHING RIGHTS IN
THE HAKE INSHORE TRAWL FISHERY: 2015**

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

(In case of any inconsistency, the English text prevails)

TABLE OF CONTENTS

1.	Introduction	1
2.	Profile of the fishery	1
3.	The 2005/2006 long term rights allocation process.....	4
4.	Objectives	4
5.	Granting of rights	5
6.	Multi-sector involvement.....	7
7.	Evaluation criteria	7
8.	Provisional lists, consultation and representations.....	12
9.	Announcement of decisions	12
10.	Payment of application and grant of right fees	12
11.	Management measures.....	12
12.	Permit conditions	13
13.	Glossary of Terms	14

1. Introduction

The Department of Agriculture, Forestry and Fisheries (“the Department”) is responsible for administering the Marine Living Resources Act, 1998 (Act No. 18 of 1998) (“the MLRA”), regulations promulgated thereunder and policies issued by the Minister of Agriculture, Forestry and Fisheries (“the Minister”), in consultation with the Department.

This policy on the allocation and management of fishing rights in the Hake Inshore Trawl fishery (“the HIT fishery”) shall be referred to as the “**Hake Inshore Trawl Policy: 2015**”.

This policy must be read in conjunction with the Marine Living Resources Act, 1998 (Act No. 18 of 1998) (“the MLRA”) and regulations under the MLRA; the General Policy on the Allocation and Management of Fishing Rights: 2013 (“the 2013: General Policy”); other relevant Sector Specific Policies including the Policy for the Small Scale Fisheries Sector in South Africa: 2012; and the Policy for the Transfer of Commercial Fishing Rights: 2009. This policy must be interpreted to be consistent with the MLRA, and all of the other relevant regulations and policies.

This policy sets out objectives, criteria and considerations that will guide the application, evaluation, allocation and management of fishing rights in the HIT fishery. This policy will thus guide the Delegated Authority in taking decisions on applications in this fishery.

Only persons issued with permits in terms of the MLRA may harvest hake and sole caught in the HIT fishery, transport the catch from a landing site to a permitted Fish Processing Establishment (“FPE”) and export hake and any products thereof.

2. Profile of the Fishery

2.1 Description of the fishery

The South African hake resource is comprised of two species, the shallow-water Cape hake (*Merluccius capensis*) and the deep-water Cape hake (*Merluccius paradoxus*). Both species are targeted by four fisheries, referred to as the “hake collective”: deep-sea trawl; inshore trawl; hake longline; and hake handline sectors.

The Minister annually sets a global Total Allowable Catch (“TAC”) for both hake species, most of which is distributed amongst the hake fisheries. A small portion of the TAC is also reserved for a by-catch of hake in other fisheries. In addition, since 2013 a portion of the TAC has been reserved for small-scale fishing, although no rights have as yet been allocated to this sector.

The inshore trawl and handline sectors mainly operate off the south and east coasts, while the deepsea trawl and longline fleets mainly operate off both the west and south coasts. Right holders in the demersal trawl fisheries (i.e. the deep-sea and inshore trawl fisheries) also target sole and horse mackerel. However, the exploitation of hake is the largest and most commercially important component for those participating in all four hake fisheries.

There are currently 16 right-holders operating in the inshore trawl fishery. Working conditions in the fishery are generally considered to be better than those that prevail in other fisheries. The majority of employees are employed on a full-time, year-round basis, with fixed salaries and employment benefits. The fishery is not as capital intensive as the deep-sea trawl fishery, but significant investment is required in the form of vessels, processing establishments, and product marketing.

2.2 History of the fishery

Since the 1890's, the exploitation of hake in the demersal area has been the mainstay of South Africa's fishing industry. In the early part of the twentieth century an industry was pioneered operating in the inshore part of the demersal area. Both hake species became subject to increasing levels of exploitation after the First World War.

It was however only in the 1950s that the inshore hake fishery took on a commercial face. At that stage smaller trawlers began targeting both shallow-water hake and the more valuable Agulhas sole (*Austroglossus pectoralis*) closer to the shore.

Prior to 1978 both the deep-sea and near-shore trawl sectors were largely unregulated, and participants were not restricted to a maximum catch limit. The incursion of foreign fleets during the 1960s culminated in a peak catch of close to 300 000 tons in the early 1970s.

Matter changed when in 1977 South Africa declared a 200 nautical mile Exclusive Economic Zone (EEZ) off its coastline. In 1978, the demersal trawl industry was formally separated into inshore and offshore sectors, and a global annual TAC was set for both hake species, to be divided between the sectors. The TAC was relatively conservative in order to rebuild fish stocks. An annual TAC was also set for Agulhas sole.

Individual quotas were introduced in 1982. Since then, an annual TAC has been set for both hake species, and a separate TAC set for Agulhas sole. Approximately 6% of the global hake TAC has historically been allocated to the inshore trawl sector.

The TACs have been determined on the basis of various assessments which have developed over time. Since 1991, the South African hake resource has been managed using Operational Management Procedures (“OMPs”). An OMP is essentially a combination of pre-specified methods of data collection and analysis, coupled with a set of simulation-tested decision rules which specify exactly how the regulatory mechanism is to be computed each year. In the case of South African hake, the regulatory mechanism is a TAC, the value of which is calculated from stock-specific monitoring data (commercial CPUE indices and indices of abundance derived from demersal research surveys). Implicit in the OMP approach is a schedule of OMP revision (every 4 years) to account for updated data sets and possible changes in resource and fishery dynamics.

During the last decade the demersal trawl fisheries have accounted for a substantial portion of the wealth generated from commercial fisheries. The fishery continues as a “dual quota” fishery, with participants targeting both shallow-water hake and Agulhas sole.

An important consideration in the development of the recent hake OMPs (OMP-2006, OMP-2010 and now OMP-2014) has been the certification of the South African hake trawl fishery (incorporating both the deepsea and inshore trawl fisheries) by the Marine Stewardship Council (MSC). The fishery first obtained this prestigious eco-label in 2004, and was the first (and currently the only) fishery in Africa to be MSC certified. The fishery was successfully re-certified in 2015 for a period of 5 years. MSC certification has provided substantial socio-economic benefits to the fishery through enabling access to international markets that are increasingly demanding seafood products that are eco-labelled.

2.3 The Management of the fishery

As noted above, the Department manages the fishery as a collective, together with three other fisheries which target both hake species. The Minister annually sets a global TAC for both hake species which is divided between all of these fisheries.

Until 2004 a portion of the TAC (of about 1 000 tons) was set aside for foreign fishing. Currently portions of the TAC are set aside for a reserve to cover a bycatch of hake in the horse mackerel fishery, and for allocation to the small-scale fishery. The balance is distributed amongst right holders in the four hake fisheries.

The division of the TAC amongst the four hake fisheries is currently made without regard to the two hake species, and the amount of each of the species caught in each fishery. It may be necessary for the Minister and the Department to develop a sectoral allocation

procedure, taking cognisance of the species caught in each fishery and the contribution of that species to the global TAC. This will ensure that the exploitation of the resource matches the productivity of each of the two hake species. In terms of such a procedure, the sectoral allocation of hake to the inshore trawl fishery would be determined only with regard to the status of the shallow-water hake resource.

Many participants in the fishery also target Agulhas sole. A separate TAC is set for sole, based on the productivity of that species. However, the allocation of rights in the fishery must be linked to, and proportional to rights allocated for the exploitation of sole, to ensure the viability of all species.

Inshore trawl grounds are located between Cape Agulhas in the west and the Great Kei River in the east. Vessels operating in the inshore fishery may not exceed 35m (although those operating in traditional Agulhas sole grounds may have to comply with more restrictive length requirements applicable in that fishery).

Vessels operating in the fishery usually trawl throughout the traditional "inshore" area i.e. in waters shallower than the 110m isobaths, but are not restricted from operating in deeper water. By contrast, vessels operating in the deep-sea trawl fishery may not operate in water depths of less than 110 metres or within 20 nautical miles of the coast, whichever is the greater distance from the coast.

Trawling for Agulhas sole takes place in water depths of 50-80m, mainly between Mossel Bay and Struisbaai, in areas where the substrate consists of mud/shale.

Most of the bays on the south coast are closed to trawling.

3. The 2005/2006 Long Term Rights Allocation and Management Process

In the 2005/2006 Long-Term Fishing Rights Allocation and Management Process (LTRAMP), rights were allocated to a total of 16 right holders in the Hake Inshore Trawl sector with an average black ownership percentage of 37%¹.

4. Objectives

- 4.1. The objectives and principles of allocating fishing rights in a fishery are set out in section 2 of the MLRA, inter alia, to:
- (a) promote transformation through allocation of fishing rights to entities owned and/or

¹ Figure from 2009 Performance Review Report

controlled by historically disadvantaged persons which shall include designated groups (youth, women and people with disabilities), and to broaden meaningful participation in the HIT fishery (through increased participation, sharing value-creation opportunities and profits, and forging links);

- (b) ensure sustainable livelihoods through the promotion of fair employment;
- (c) promote adherence to fair labour practices and improved working conditions;
- (d) promote food security and poverty alleviation;
- (e) prefer applicants who rely on the harvesting of hake in the HIT fishery as a major source of their gross annual income above applicants deriving income from sources outside the fishery;
- (f) facilitate the recovery of over-exploited and collapsed fish stocks;
- (g) achieve optimum utilisation and ecologically sustainable development of marine living resources; and
- (h) promote investments in processing and marketing infrastructure in areas outside the metropolitan areas which are economically depressed.

5. Granting of rights

Fishing rights are granted in terms of section 18 of the MLRA. In terms of section 79 of the MLRA the Minister has delegated the power to grant fishing right in each fishery to a Delegated Authority in the Department.

Unless otherwise determined by the Minister, only South African persons shall acquire or hold rights in terms of section 18 of MLRA. In this fishery the Minister has not exercised his power to allow persons of other nationalities to acquire rights, meaning that only South African persons can acquire rights in the fishery.

The rights granted will be based on applicable balancing criteria, and will be reflected as a proportion of the local commercial TAC and/or TAE or a combination thereof that are available at the time that the rights allocation process is conducted.

All rights granted shall be valid from the date of allocation for a period not exceeding 15 years, where after they will automatically terminate and revert back to the State to be reallocated.

It should be further noted that in terms of section 16 of the MLRA the Minister may suspend any fishing in the fishery or impose effort restrictions, in order to address a state of

emergency.

5.1 Form of right holders

- (a) Section 18 of the MLRA provides that only South African persons may hold fishing rights.
- (b) Having regard to the nature of operations and resource accessibility, only the following South African persons will be considered in the HIT fishery:
 - (i) companies (legal entity); and
 - (ii) close corporations (legal entity)

5.2 Duration of right

Having regard to the right allocation process and need to encourage investment, fishing rights in the HIT fishery will be granted for the maximum period of 15 years.

5.3 Total Allowable Catch and Total Applied Effort allocation

In terms of section 14 of the MLRA the Minister is empowered to determine a TAC, Total Applied Effort (TAE), or combination thereof to apply in each fishery. The fishery is regulated by the determination of a TAC

The TAC is determined by the Delegated Authority considering the history, resource users, sustainability of the operations of right holders, and the viability of the fishery. The Delegated Authority will only allocate a local commercial portion of the determined TAC to commercial right holders based on the proportion granted to each successful applicant at the time of commercial fishing rights allocation process. The right holder's allocation may decrease or increase should the annual local commercial portions of determined TAC decrease or increase respectively. In terms of section 14(4) of the MLRA, if the allowable commercial catch in respect of which commercial fishing rights exist increases, the mass of the increase shall be available for allocation by the Minister.

5.4 Transfer of rights allocation in terms of this Policy

In terms of section 21 of the MLRA the Minister may approve the transfer of fishing rights in whole or in part. However, rights granted in the HIT fishery in terms of the MLRA shall not be transferred within the first two (2) years of being granted.

Rights can only be transferred in terms of the Policy for the Transfer of Commercial Fishing Rights (Government Gazette No 32449, 31 July 2009) or relevant amendments thereof.

A notification of transfer of shares or members' interest must be served on the Department within 30 days of such sale or transfer or any time-period set in applicable permit conditions in all cases in which shares or a member's interest in a right holder are sold or transferred,. In addition, the Department's approval is required for all cases in which the sale or transfer of shares or a member's interest in a right holder results in a change of control of the entity, or in the entity being less transformed than it was at the date on which rights are allocated in particular regard to any decrease in black ownership of such entity.

Failure to pay the required fees for the grant of a right, or to apply for any permits, or to declare any catches during the first two (2) years, shall result in a cancellation of the right by the Minister.

6. Multi-sector involvement

Applicants for the allocation of rights in this fishery will not be precluded from applying for, or holding commercial rights in other local commercial fisheries sectors.

This shall mean any person can only apply for a right in any fishery sector regardless of whether the applicant has applied for a right or holds a right in any fishery sector. In this case, the "applicant" shall mean an individual, a shareholder or director in a company, or a member in a close corporation applying for a right in any fishery sector.,

Natural persons who hold shares or a member's interest in an entity which is applying for the allocation of rights in the fishery, may also hold shares, an interest in a an entity which is applying for, or already holds rights in another fishery.

Natural persons who are directors or employees of an entity which is applying for the allocation of rights in the fishery, may also be a shareholder, member, director or employee of an entity which is applying for, or already holds rights in another fishery.

The Delegated Authority reserves the right to grant a right to the applicant in any sector and may, however, prefer applicants who rely on the harvesting of inshore hake in the fishery as a major source of their gross annual income.

7. Evaluation criteria

Applications for the allocation of rights in the HIT fishery 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 a portion of the TAC will be apportioned to successful applicants.

7.1 **Exclusionary criteria**

Apart from the criteria described in the 2013: General Policy pertaining to the lodgement of applications and material defects, the Delegated Authority will exclude applicants that fail to meet the following requirements/criteria:

(a) **Compliance**

An applicant will be excluded if it, a controlling shareholder, a member with a controlling interest, or a director, has been convicted of a serious transgression of the MLRA (without the option of the payment of a fine).

An applicant will also be excluded if it, a controlling shareholder, a member with a controlling interest, or a director, has had any fishing right cancelled or revoked in terms of the MLRA. For these purposes a individual will be treated as having had rights cancelled or revoked if that person was a controlling shareholder, a member with a controlling interest, or a director of an entity which had its rights cancelled or revoked.

Minor infringements, including those in respect of which an admission of guilt fine was paid, may be taken into account as a balancing criterion and may also adversely affect an application.

(b) **Paper quotas**

Applications from paper quota applicants, as defined in the 2013: General Policy, will be excluded.

(c) **Non-utilisation**

Applicants which have held a right in the fishery during the period of 2006 to 2015, which was not utilised, shall be excluded.

7.2. **Balancing criteria**

Applicants will be evaluated in terms of the following balancing criteria which will be weighted in order to evaluate and assess applications:

(a) **Transformation**

When assessing and scoring applications, and when allocating portions of the TAC to successful applicants, the Delegated Authority may prefer applicants based on transformation criteria. When attributing a score for transformation criteria, or allocating portions of the TAC, the Delegated Authority may have regard to: census statistics or other information provided by Statistics South Africa regarding the composition of the population of South Africa, and the percentage of that population made up by different demographic groups; the need to ensure the recognition and meaningful participation in the fishing industry of Historically Disadvantaged Individuals (HDIs); and the codes of good practice under the Broad-Based Black Economic Empowerment Amendment Act.

Applicants, depending on the form of the applicant, will be assessed and scored on the following transformation criteria:

- (i) The percentage of people from designated groups and HDIs represented at top salary, board of directors, members and senior official and management levels;
- (ii) The extent to which an applicant's black ownership and black management transformation credentials (as measured in the 2005 LTRAMP) have subsequently improved, remained the same, or deteriorated in the period following the granting of rights in the LTRAMP
- (iii) Whether employees (other than top salary earners) benefit from an employee share scheme;
- (iv) Compliance with the Employment Equity Act 55 of 1998 and the representativity of designated groups and HDIs at the various levels of employment below senior official and management level;
- (v) Affirmative procurement;
- (vi) Compliance with legislation on skills development and the amounts spent on the training of Black persons, youth, women people with disabilities and participation in learnership programmes; and
- (vii) Corporate social investment.

(b) **Fishing performance**

The historical fishing performance of applicants who have held fishing rights in the fishery will be examined to determine if they have effectively utilised their fishing rights. Effective utilisation shall mean activation of the catch permit, landing of catch, and subsequent submission of catch data for at least five years during the period 2007-2014.

(c) **Local economic development**

- (i) In order to promote local economic development, the Delegated Authority will give preference to applicants who will land catches at harbours situated outside of metropolitan areas, and process catches at land-based processing establishments outside of metropolitan areas. Metropolitan areas include the areas under the control of metropolitan (category A) municipalities (City of Cape Town; Nelson Mandela Bay Metropolitan Municipality; and Buffalo City Metropolitan Municipality).
- (ii) The Delegated Authority shall give preference to applicants with the aim of ensuring that 80% of the hake caught in the fishery is landed and processed along the south coast and east coast, at locations between Cape Agulhas and the Great Kei river.
- (iii) The Delegated Authority may, in order to ensure that all fishing communities share in the marine living resources, use the locality of landing sites and fish processing establishments as scoring or tie-breaking criteria. For these purposes the Delegated Authority may give preference to applicants, with the aim of ensuring an equitable distribution of opportunities to communities along the coastline.

(d) **Job creation**

The Delegated Authority may give preference to any applicant which commits to retaining existing employment opportunities, or to increasing employment opportunities if it is allocated rights in the fishery. For these purposes the Delegated Authority will consider the quality of the employment opportunities which will be created, including compliance with the Basic Conditions of Employment Act, 1997 (No. 75 of 1997) ("BCEA"); and the applicant's commitment to provide their employees with:

- (i) permanent employment;
- (i) medical aid or any kind of medical support arrangement;
- (ii) pension / provident fund;
- (iii) safe working conditions in accordance with the applicable legislative requirements; and
- (iv) an employee share scheme, which ensures that employees enjoy an effective shareholding in the right holder.

(e) **Access to a suitable vessel**

An applicant will be required to demonstrate a right of access to a vessel suitable for the harvesting of hake in the HIT fishery. Access may be in the form of ownership, part-ownership, a catch agreement, a charter agreement, or a bank guarantee for sufficient capital to purchase or build a vessel. If an applicant intends purchasing a vessel, then additional information must be provided to prove a firm and binding offer by the current owner of the vessel to sell the vessel to the applicant. If an applicant intends building a new vessel, then additional information must be provided including the vessel plans, the cost to be incurred and a firm and binding commitment by a vessel building company to build the vessel.

A suitable vessel in the HIT fishery is one that:

- (i) is certified by South African Maritime Safety (SAMSA) as being safe and has a maximum SAMSA registered length not exceeding 35 metres;
- (ii) has an engine or engines with a maximum combined horsepower of 900 (subject to the understanding that smaller engine sizes may be imposed in permit conditions);
- (iii) is geared to target hake and sole; and
- (iv) is fitted with, or is capable of being fitted with a functioning Vessel Monitoring System (VMS).

(f) **Applicants involvement and relationship with other applicants**

(i) **Entity and their subsidiaries involvement**

A company and its subsidiary/ies may not be granted more than one right in the HIT fishery, so as to avoid fronts and monopolies and to promote broader access to the HIT resource. Applicants are required to disclose their relationship to other applicants for the allocation of rights in the HIT fishery, as well as in other commercial fisheries. If an entity and its subsidiary both apply for a right in the same fishery, the holding/umbrella/parent company will be preferred with due regard being taken to the Department's transformation objectives.

(ii) **Brother-Sister Corporations**

If two or more entities which are owned and controlled by the same person or persons or shareholders apply for commercial fishing rights in the HIT fishery, and qualify for the allocation of such rights, then the Department may consider: allocating a fishing right to one of the qualifying entities only; or dividing the TAC between the qualifying entities.

8. Provisional lists, consultation and representations

- 8.1 The Delegated Authority may issue provisional lists for comment on any aspect relating to an application in any fishery sector.
- 8.2 The Delegated Authority may request comment on any of the information provided by an applicant and on the basis of the comments received make its final decisions.
- 8.3 The delegated authorities may invite representations regarding the assessment of the applications before making final decisions.

9. Announcement of decisions

The Delegated Authority shall after making final decisions on the applications, inform all applicants of the outcome of their individual applications giving specific reasons for such decisions. Further General Reasons for decisions in a specific fishery will be published informing all applicants on how the decisions were formulated and reached. The General Reasons shall also include an annexure outlining the scores obtained by all applicants in the HIT fishery.

10. Payment of application and grant of right fees

- 10.1 The application fees for the HIT fishery will be determined having regard to:
- (a) The cost of the entire fishing rights allocation process, including consultation, receipting, evaluation of applications, verification, appeals and reviews; and
 - (b) The value of the fish being allocated over the duration of the right.
- 10.2 The non-refundable application fee shall be payable before submission of the application and only proof of payment shall be brought to the receipting centre.
- 10.3 The grant of right fee is payable by all successful applicants upon the granting of rights.

11. Management Measures

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

11.1 Ecosystem approach to fisheries

The HIT 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. An EAF strives to balance diverse societal objectives, by taking into account the knowledge and uncertainties about biotic, abiotic and human components of ecosystems and their interactions and applying an integrated approach to fisheries within ecologically meaningful boundaries.

11.2 Observer programme

- (a) The right holder of a commercial Hake Inshore Trawl fishing right shall accommodate an observer on board the right holder's nominated vessel when required to do so by the Department or its agent.
- (b) The right holder may bear the costs of the observer deployment when so required by the Department.
- (c) The right holder shall allow the Observer unrestricted access to monitor fishing activity, and to test compliance with permit conditions and all applicable laws.
- (d) Should the Department reasonably believe that an Observer is being prevented from carrying out his or her obligations in any way, or threatened in any way while on board the right holder's vessel, the Department may implement proceedings under section 28 of the MLRA.

11.3 Performance measuring

Successful applicants will be subjected to a number of performance measuring exercises for the duration of their fishing rights. The purpose of performance measuring will be to ensure that the objectives of the HIT fishery are being met and that management methodologies and procedures remain current and suitable for the HIT fishery.

11.4 Offences

A successful applicant that fails to utilise their Hake Inshore Trawl right for one fishing season without any reasonable explanation, or that contravenes the provisions of the MLRA, will be subject to proceedings under section 28 of the MLRA.

12. Permit Conditions

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

13. Glossary of Terms

- 13.1. "Brother-Sister corporations" are subsidiary companies owned by the same parent company.
- 13.2. "Close corporation" means close corporation in terms of the Close Corporations Act (No. 69 of 1984), of which the majority of members are South African persons.
- 13.3. "Company" means a company registered in terms of the Companies Act No. 71 of 2008, of which the majority of shareholders, as prescribed by the Minister, are South African persons.
- 13.4. "Historically disadvantaged person" means a person who belongs to a group of persons who suffered racial discrimination in terms of the system of apartheid and includes women.
- 13.5. "Legal entity" means a close corporation or company.
- 13.6. "MLRA" means the Marine Living Resources Act (Act No. 18 of 1998).
- 13.7. "Rights" means fishing or harvesting rights granted in terms of section 18 of the Marine Living Resources Act (Act No. 18 of 1998).
- 13.8. "Right Holder" means a person or a legal entity that was previously granted or lawfully acquired a fishing right, or which will be granted a right in the allocation process envisaged in this Policy.
- 13.9. "Same household" means a group of two or more persons living in a residential dwelling unit (which includes a house, semi-detached dwelling, separate outbuildings, an apartment, or any other independent structure) who are dependent on each other, or dependent on one or more members of that group. This includes, but is not limited to, spouses or persons in a long-term relationship, and their dependent children; guardians and their dependent wards; and any other dependent relationship. Persons living at the same address or in the same residential unit, and who are not dependent on any other person at that address or residential unit, do not constitute a single household.
- 13.10. "South African citizen" means a South African citizen in terms of the South African Citizenship Act (Act No. 88 of 1995).

- 13.11. "Subsidiary company" is a company that is partly or completely owned by another company that holds a controlling interest in the subsidiary company.
- 13.12. "The 2013: General Policy" means the General Policy on the Allocation and Management of Fishing Rights: 2013.
- 13.13. "The Department" means the Department of Agriculture, Forestry and Fisheries.
- 13.14. "The Minister" means the Minister of Agriculture, Forestry and Fisheries.
- 13.15. "Total Allowable Catch" means the maximum quantity of fish of individual species or groups of species made available annually or during such other period of time as may be prescribed, for combined recreational, small-scale, commercial and foreign fishing.
- 13.16. "Total Applied Effort" means the maximum number of fishing vessels, the type, size and engine power thereof or the fishing method applied thereby for which fishing vessel licences or permits to fish may be issued for individual species or groups of species, or the maximum number of persons on board a fishing vessel for which fishing licences or permits may be issued to fish for individual species or groups of species.

DEPARTMENT OF AGRICULTURE, FORESTRY AND FISHERIES

NO. 1130

16 NOVEMBER 2015

**POLICY ON THE ALLOCATION AND MANAGEMENT OF COMMERCIAL FISHING RIGHTS IN
THE HORSE MACKEREL FISHERY: 2015**

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

(In case of any inconsistency, the English text prevails)

TABLE OF CONTENTS

1. Introduction	1
2. Profile of the fishery	1
3. The 2005/2006 long-term rights allocation and management process.....	3
4. Objectives	3
5. Granting of rights.....	4
6. Multi-sector involvement	6
7. Evaluation criteria.....	6
8. Provisional lists, consultation and representations	10
9. Announcement of decisions.....	11
10. Payment of application and grant of right fees	11
11. Management measures	11
12. Permit conditions.....	12
13. Glossary of terms.....	13

1. Introduction

The Department of Agriculture, Forestry and Fisheries (“the Department”) is responsible for administering the Marine Living Resources Act, 1998 (Act No. 18 of 1998) (“the MLRA”), regulations promulgated thereunder and policies issued by the Minister of Agriculture, Forestry and Fisheries (“the Minister”), in consultation with the Department.

This policy on the allocation and management of fishing rights in the horse mackerel fishery (“the horse mackerel fishery”) shall be referred to as the **“Horse Mackerel Fishery Policy: 2015”**.

This policy must be read in conjunction with the MLRA and regulations under the MLRA; the General Policy on the Allocation and Management of Fishing Rights: 2013 (“the 2013: General Policy”), other relevant current Sector Specific Policies including the Policy for the Small Scale Fisheries Sector in South Africa: 2012 and the Policy for the Transfer of Commercial Fishing right: 2009. This policy must be interpreted to be consistent with the MLRA, and all of the other relevant regulations and policies.

This policy sets out objectives, criteria and considerations that will guide the allocation, evaluation, and management of fishing rights in the fishery. This policy will thus guide the Delegated Authority in taking decisions on applications in this fishery.

Only persons issued with permits in terms of the MLRA may harvest horse mackerel, transport horse mackerel catch from a landing site to the permitted Fish Processing Establishment (FPE) and export horse mackerel catch and products thereof.

2. Profile of the fishery

2.1. Distribution and status of the resource

The Cape Horse Mackerel (*Trachurus capensis*) is found along the entire South African coast with the largest concentrations of adult fish are found on the Agulhas Bank near the continental shelf break. Juveniles are found inshore, mainly on the west coast. The Cape Horse Mackerel is nomadic; causing local availability to be variable and dependent on environmental conditions.

In South Africa Horse Mackerel stock is comparatively small by world standards. In 2011, the stock assessment of Horse Mackerel was updated using recent catch data and abundance estimates. The results showed that in the past five years

Horse Mackerel abundance increased by 20% although long-term mathematical model projections showed no changes in future catches. However, since then and in the past years Horse Mackerel catch rates in the south coast region have decreased substantially.

2.2. History of the fishery

Horse Mackerel is mainly harvested by targeted mid-water trawling, its semi-pelagic nature, however brings it into contact with three different fishing sectors. These are (a) the near-surface pelagic purse-seine fleet that catch juveniles as by-catch; (b) the mid-water trawl fleet that targets adult Horse Mackerel on the south coast; (c) and the hake trawl fleet that catch adults as by-catch on both the west and south coasts. The majority of Horse Mackerel is exported to West Africa without being landed or processed in South Africa.

Since the inception of this fishery in the mid-1960s, Horse Mackerel is still caught primarily on the south coast. The highest landed mass was 93 000 tons in 1977. In 1977, South Africa declared the Exclusive Economic Zone (EEZ). The annual catches ranged between 25 000 and 40 000 tons. The foreign fleets were finally phased out to fish in South African waters in 1991 and the annual catches (now by South African vessels only) declined to between 20 000 and the 30 000 tons. While demersal trawl catches have remained low in recent years, the re-establishment of a mid-water fishery for Horse Mackerel in 1997 has resulted in an increase in the annual catch. Purse-seine catches of mainly adult Horse Mackerel on the west coast peaked in the early 1950s at 118 000 tons, subsequently declined to 80 000 tons in the late 1950s, 40 000 tons in the mid-1960s and finally levelled off at approximately 3 000 tons per annum between the early 1970s and late 1980s. The large surface schools of adult Horse Mackerel that were targeted by the early purse-seine fleet have now disappeared from the South African west coast. During the 1990s, purse-seine catches again showed an increasing trend, reaching 26 000 tons in 1998. Although these catches are low compared to those of the 1950s and 1960s, these purse-seine catches comprised of juvenile fish. Consequently, the number of fish per ton caught by purse-seine in 1998 is much greater than was the case during the 1950s. The increasing pelagic catches prompted modelling of the likely effects of large catches of pelagic juvenile Horse Mackerel on the trawl fishery for adults, resulting in the introduction in 2000 of a Precautionary Upper Catch Limit (PUCL) of 5 000 tons for purse-seine catches, separate from the adult Horse Mackerel Precautionary Maximum Catch Limit (PMCL) then in place. The annual purse-seine catch of juvenile horse mackerel has averaged 3 676 tons since 2000.

Because of their semi-pelagic behaviour and distribution throughout the water column, the biomass of Horse Mackerel cannot be reliably estimated using either hydro-acoustic surveys or demersal swept-area surveys in isolation. Fish in close proximity to the sea bed are accessible to demersal swept-area surveys but are not acoustically detectable, whereas fish in the water column can be detected by hydro-acoustic surveys but are not accessible to demersal trawl gear. These factors make it difficult to assess the status of the resource, particularly as there is limited contrast in the available commercial data. Improved direct survey indices of abundance using combined hydro-acoustic and swept-area techniques are needed to enhance the resource assessments.

2.3. Management

The Horse Mackerel fishery has been managed using the Precautionary Maximum Catch Limit ("PMCL") since 2002. A portion of the Horse Mackerel allocation is annually set aside as a by-catch reserve in the hake trawl sectors and some is reserved as by-catch in the small pelagic purse seine fishery. An adaptive control rule in the form of Total Allowable Catch ("TAC") was introduced in 2013. Effectively, the rule determines that if recent abundance indices are high compared to averages over a fixed past period, the TAC is increased; conversely, if recent abundance indices are correspondingly low, the TAC is decreased. Furthermore, a vessel fishing Capacity Management regime has also been implemented to regulate overcapacity in the Horse Mackerel sector since 2012.

3. The 2005/2006 Long-Term Rights Allocation and Management Process

In the 2005/2006 Long-Term Fishing Rights Allocation and Management process (LTRAMP) Horse Mackerel fishing rights were allocated to a total of 14 right holders, with an average black shareholding of 48%¹.

4. Objectives

4.1. The objectives and principles of allocating fishing rights in a fishery are set out in section 2 of the MLRA, inter alia, to:

- (a) promote transformation through allocation of fishing rights to entities owned and/or controlled by historically disadvantaged persons which shall include designated groups (youth, women and people with disabilities), and to broaden meaningful participation in a fishery (through increased participation, sharing value-creation opportunities and profits, and forging links);
- (b) ensure sustainable livelihoods through the promotion of fair employment;
- (c) promote adherence to fair labour practices and improved working

¹ Figure 2009:Performance Review Report records

- conditions;
- (d) promote food security and poverty alleviation;
 - (e) prefer applicants who rely on the harvesting of horse mackerel as a major source of their gross annual income over above applicants deriving income from sources outside the fishery;
 - (f) facilitate the recovery of over-exploited and collapsed fish stocks; and
 - (g) achieve optimum utilisation and ecologically sustainable development of marine living resources.

5. Granting of rights

Fishing rights are granted in terms of section 18 of the MLRA. In terms of section 79 of the MLRA the Minister has delegated the power to grant rights in each fishery to a Delegated Authority in the Department.

Unless otherwise determined by the Minister only South African persons shall acquire or hold rights in terms of section 18 of MLRA. In this fishery the Minister has not exercised his power to allow persons of other nationalities to acquire rights, meaning that only South African persons can acquire rights in this fishery. The rights granted will be based on applicable balancing criteria, and will be reflected as a proportion of the local commercial Total Allowable Catch ("TAC") and/or Total Applied Effort ("TAE") or a combination thereof that is/are available at the time that the rights allocation process is conducted.

All rights granted shall be valid from the date of allocation for a period not exceeding 15 years, whereafter they will automatically terminate and revert back to the State to be reallocated.

It should be further noted that in terms of section 16 of the MLRA the Minister may suspend any fishing in the fishery or impose effort restrictions in order to address a state of emergency.

5.1. Form of right holders

- (a) Section 18 of the MLRA provides that only South African persons may hold fishing rights in the Horse Mackerel fishery.
- (b) Having regard to the nature of operations and resource accessibility, only the following South African persons will be considered in the Horse Mackerel fishery:
 - (i) companies (legal entity);and
 - (ii) close corporations (legal entity)

5.2. Duration of right

Having regard to the rights allocation process and need to encourage investment in the Horse Mackerel fishery, fishing rights will be granted in the Horse Mackerel fishery for the maximum period of 15 years.

5.3. Total Allowable Catch allocation and Total Applied Effort allocation

In terms of section 14 of the MLRA the Minister is empowered to determine a TAC, TAE, or combination thereof to apply in each fishery. The fishery is regulated by the determination of a TAC.

The TAC is determined by the Delegated Authority considering the history, resource users, sustainability of the operations of right holders, and the viability of the fishery. The Delegated Authority will only allocate a local commercial portion of the determined TAC to commercial right holders based on the proportion granted to each successful applicant at the time of commercial fishing rights allocation process. The right holder's allocation may decrease or increase should the annual local commercial portions of determined TAC decrease or increase respectively. In terms of section 14(4) of the MLRA, if the allowable commercial catch in respect of which commercial fishing rights exist increases; the mass of the increase shall be available for allocation by the Minister.

5.4. Transfer of rights allocated in terms of this policy

In terms of section 21 of the MLRA the Minister may approve transfer of fishing rights in whole or in part. However, rights granted in the fishery in terms of the MLRA shall not be transferred within the first two (2) years of being granted.

Rights can only be transferred in terms of the Policy for the Transfer of Commercial Fishing Rights (Government Gazette No 32449, 31 July 2009) or relevant amendments thereof.

A notification of transfer of shares or members' interest must be served on the Department within 30 days of such sale or transfer or any time-period set in applicable permit conditions in all cases in which shares or a member's interest in a right holder are sold or transferred. In addition, the Department's approval is required for all cases in which the sale or transfer of shares or a member's interest in a right holder results in a change of control of the entity, or in the entity being less transformed than it was at the date on which rights are allocated in particular regard to any decrease in black ownership of such entity.

Failure to pay the required fees for the grant of a right or to apply for any permits, or to declare any catches during the first two (2) years, shall result in a cancellation of the right by the Minister.

6. Multi-sector involvement

Applicants for the allocation of rights in the Horse Mackerel fishery will not be precluded from applying for, or holding commercial rights in other local commercial fisheries sectors.

This shall mean any person can only apply for a right in any fishery sector regardless of whether the applicant has applied for a right or holds a right in any fishery sector. In this case, the “applicant” shall mean an individual, a shareholder or director in a company, or a member in a close corporation or a co-operative applying for a right in any fishery sector.

Individuals who hold shares or a member’s interest in an entity which is applying for the allocation of rights in the fishery, may also hold shares, an interest or a stake in an entity or cooperative which is applying for, or already holds rights in another fishery.

Individuals who are directors or employees of an entity which is applying for the allocation of rights in the fishery, may also be a shareholder, member, director or employee of an entity which is applying for, or already holds rights in another fishery; or be a participant in a cooperative operating in another fishery.

The Delegated Authority reserves the right to grant a right to the applicant in any sector and may, however, prefer applicants who rely on the harvesting of horse mackerel in the fishery as a major source of their gross annual income.

7. Evaluation criteria

Applications for the allocation of rights in the Horse Mackerel fishery 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 a portion of the TAC will be apportioned to successful applicants.

7.1. Exclusionary criteria

Apart from the criteria described in the 2013: General Policy pertaining to the lodgement of applications and material defects, the Delegated Authority will exclude applicants that fail to meet the following requirements/criteria:

(a) **Compliance**

Applicants will be excluded if, a controlling shareholder, a member with a controlling interest, or a director, has been convicted of a serious transgression of the MLRA (without the option of the payment of a fine).

An applicant will also be excluded if, a controlling shareholder, a member with a controlling interest, or a director, has had any fishing right cancelled or revoked in terms of the MLRA. For these purposes an individual will be treated as having had rights cancelled or revoked if that person was a controlling shareholder, a member with a controlling interest, or a director of an entity which had its rights cancelled or revoked.

Minor infringements, including those in respect of which an admission of guilt fine was paid, may be taken into account as a balancing criterion and may also adversely affect an application.

(b) **Paper Quotas**

Applications from paper quota applicants, as defined in the 2013: General Policy, will be excluded.

(c) **Non-utilization**

Applicants that had a Horse Mackerel right and did not harvest any Horse Mackerel during the period between 2006 and 2014 will be excluded.

7.2. Balancing criteria

Applicants will be evaluated in terms of the following balancing criteria, which will be weighted in order to evaluate and assess applications:

(a) **Transformation**

When assessing and scoring applications, and when allocating portions of the TAC to successful applicants, the Delegated Authority may prefer applicants based on transformation criteria. When attributing a score for transformation criteria, or allocating portions of the TAC, the Delegated Authority may have regard to: census statistics or other information provided by Statistics South Africa regarding the composition of the population of South Africa, and the percentage of that population made up by different demographic groups; the need to ensure the recognition and meaningful participation in the fishing industry of Historically Disadvantaged Individuals (HDIs); and the codes of good practice under the Broad-Based Black Economic Empowerment Amendment Act.

Applicants, depending on the form of the applicant, will be assessed and scored on the following transformation criteria:

- (i) The percentage of people from designated groups and HDIs represented at top salary, board of directors, members and senior official and management levels;
- (ii) The extent to which an applicant's black ownership and black management transformation credentials (as measured in the 2005 LTRAMP) have subsequently improved, remained the same, or deteriorated in the period following the granting of rights in the LTRAMP;
- (iii) Whether employees (other than top salary earners) benefit from an employee share scheme;
- (iv) Compliance with the Employment Equity Act 55 of 1998 and the representivity of designated groups and HDIs at the various levels of employment below senior official and management level;
- (v) Affirmative procurement;
- (vi) Compliance with legislation on skills development and the amounts spent on the training of Black persons, youth, women people with disabilities and participation in learnership programmers; and
- (vii) Corporate social investment.

(b) Fishing performance

The historical fishing performance of applicants who have held fishing rights in the Horse Mackerel fishery will be examined to determine if they have effectively utilised their fishing rights. Effective utilisation shall mean activation of the catch permit, landing of catch, and subsequent submission of catch data for at least five years during the period 2007-2014. Applicants should submit this information with their application forms.

(c) Local economic development

- (i) In order to promote local economic development, the Delegated Authority will give preference to applicants who will land catches at harbours situated outside of metropolitan areas, and process catches at land-based processing establishments outside of metropolitan areas. Metropolitan areas include the areas under the control of metropolitan (category A) municipalities (City of Cape Town; Nelson Mandela Bay Metropolitan Municipality; EThekweni Municipality and Buffalo City Metropolitan Municipality).
- (ii) The Delegated Authority may, in order to ensure that all fishing communities share in the marine living resources, use the locality of landing sites and fish processing establishments as scoring or tie-

breaking criteria. For these purposes the Delegated Authority may give preference to applicants, with the aim of ensuring an equitable distribution of opportunities to communities along the coastline.

(d) Job creation

The Delegated Authority may give preference to any applicant which commits to retaining existing employment opportunities, or to increasing employment opportunities if it is allocated rights in the fishery. For these purposes the Delegated Authority will consider the quality of the employment opportunities which will be created, including compliance with the Basic Conditions of Employment Act, 1997 (No. 75 of 1997) ("BCEA"); and the applicant's commitment to provide their employees with:

- (i) permanent employment;
- (ii) medical aid or any kind of medical support arrangement;
- (iii) pension / provident fund;
- (iv) safe working conditions in accordance with the applicable legislative requirements; and
- (v) an employee share scheme, which ensures that employees enjoy an effective shareholding in the right holder.

(e) Access to a suitable vessel

An applicant will be required to demonstrate a right of access to a vessel suitable for the harvesting of horse mackerel in the fishery. Access may be in the form of ownership, part-ownership, a catch agreement, a charter agreement, or a bank guarantee for sufficient capital to purchase or build a vessel. If an applicant intends purchasing a vessel, then additional information must be provided to prove a firm and binding offer by the current owner of the vessel to sell the vessel to the applicant. If an applicant intends building a new vessel, then additional information must be provided including the vessel plans, the cost to be incurred and a firm and binding commitment by a vessel building company to build the vessel.

A suitable vessel in the fishery is one that:

- (i) is either a mid-water directed vessel geared for mid-water trawling or a suitable hake deep-sea trawl vessel that is capable of carrying a mid-water trawl net;
- (ii) is South African Maritime Safety (SAMSA) certified; and
- (iii) Upon the allocation of a fishing right, the vessel shall be fitted with a functioning Vessel Monitoring System (VMS).

(f) **Applicants involvements and relationship with other applicants**

(i) **Entity and their subsidiaries involvement**

A company and its subsidiary/ies may not be granted more than one right in a fishery, so as to avoid fronts and monopolies and to promote broaden access to the horse mackerel resource. Applicants are required to disclose their relationship to other applicants for the allocation of rights in the fishery, as well as in other commercial fisheries. If an entity and its subsidiary both apply for a right in the same fishery, the holding/umbrella/parent company will be preferred with due regard being taken to the Department's transformation objectives.

(ii) **Brother-Sister Corporations**

If two or more entities which are owned and controlled by the same person or persons or shareholders apply for a commercial fishing right in the fishery, and qualify for allocation of such rights, then the Department may consider allocating a fishing right to one of the qualifying entities only; or dividing the TAC/TAE between the qualifying entities.

(g) **Value-adding, local marketing and enterprise development**

The Delegated Authority may have regard to enterprise development and the ability of applicants to add or who intend to add value to Horse Mackerel by processing fish products for local and international markets. The Delegated Authority may reward the landing and selling of Horse Mackerel in South Africa.

(h) **By-catch**

The impact of trawling for Horse Mackerel on dolphins, pelagic sharks and sunfish is a concern. Applicants able to demonstrate steps taken to reduce the impact of mid-water trawling on these species will be positively scored.

Prospective applicants may be required to demonstrate what by-catch mitigation and reduction measures they have been implementing or if the applicant is a new applicant, what would they invest in to ensure adherence to existing by-catch limitations.

8. Provisional lists, consultation and representations

- 8.1. The Delegated Authority may issue provisional lists for comment on any aspect relating to an application in any fishery / sector.

- 8.2. The Delegated Authority may request comment on any of the information provided by an applicant and on the basis of the comments received make a final decision.
- 8.3. The Delegated Authorities may invite representations regarding the assessment of the applications before making final decisions.

9. Announcement of decisions

The Delegated Authority shall after making final decisions on the applications, inform all applicants of the outcome of their individual applications giving specific reasons for such decisions. Further General Reasons for decisions in a specific fishery will be published informing all applicants on how the decisions were formulated and reached. The General Reasons shall also include an annexure outlining the scores obtained by all applicants in the Horse Mackerel fishery.

10. Payment of application and grant of right fees

- 10.1. The application fees for this fishery will be determined having regard to:
- (a) The cost of the entire fishing rights allocation process, including consultation, receipting, evaluation of applications, verification, appeals and reviews; and
 - (b) The value of the fish being allocated over the duration of the right;
- 10.2. The non-refundable application fee shall be payable before submitting and only payment proof shall be brought to the receipting centre.
- 10.3. The grant of right fee is payable by all successful applicants upon the granting of rights.

11. Management measures

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

11.1. Ecosystem approach to fisheries

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. An EAF strives to balance diverse societal objectives, by taking into account the knowledge and uncertainties about biotic, abiotic and human components of

ecosystems and their interactions and applying an integrated approach to fisheries within ecologically meaningful boundaries.

11.2. **Observer Programme**

- (a) The right holder of a commercial Horse Mackerel fishing right shall accommodate an observer on board the right holder's nominated vessel when required to do so by the department or its agent.
- (b) The right holder may bear the costs of the observer deployment when so required by the department.
- (c) The right holder shall allow the Observer unrestricted access to monitor fishing activity and to test compliance with permit conditions and all applicable laws.
- (d) Should the Department reasonably believe that an Observer is being prevented from carrying out his or her obligations in any way or threatened in any way while on board the right holder's vessel the Department may implement proceeding under section 28 of the MLRA.

11.3 **Performance measuring**

Successful applicants will be subjected to performance measuring for the duration of their fishing rights. 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.

11.4. **Offences**

A successful applicant that fails to utilise its Horse Mackerel fishing right for one fishing season without any reasonable explanation or that contravenes the provisions of the MLRA will be subjected to proceedings under section 28 of the MLRA.

12. **Permit conditions**

Permit conditions for this fishery will be issued annually. The permit conditions will be determined after consultation with the successful applicants in this fishery and will be revised as and when it may be necessary.

13. Glossary of terms

- 13.1. "Brother- Sister Corporations" are subsidiary companies owned by the same parent company.
- 13.2. "Close corporation" means close corporation in terms of the Close Corporations Act, 1984 (Act No. 69 of 1984), of which the majority of members are South African persons.
- 13.3. "Company" means a company registered in terms of the Companies Act, 2008 (Act No. 71 of 2008), of which the majority of shareholders, as prescribed by the Minister, are South African persons.
- 13.4. "Historically disadvantaged person" means a person who belongs to a group of persons who suffered racial discrimination in terms of the system of apartheid and includes women.
- 13.5. "Legal entity" means a close corporation or company.
- 13.6. "MLRA" means the Marine Living Resources Act, 1998 (Act No. 18 of 1998).
- 13.7. "Rights" means fishing or harvesting rights granted in terms of section 18 of the Marine Living Resources Act, 1998 (Act No. 18 of 1998).
- 13.8. "Right Holder" means a person or a legal entity that was previously granted or lawfully acquired a fishing right, or which will be granted a right in the allocation process envisaged in this Policy.
- 13.9. "South African citizen" means a South African citizen in terms of the South African Citizenship Act, 1995 (Act No. 88 of 1995).
- 13.10. "Subsidiary company" is company that is partly or completely owned by another company that holds a controlling interest in the subsidiary company.
- 13.11. "The 2013: General Policy" means the General Policy on the Allocation and Management of Fishing Rights: 2013.
- 13.12. "The Department" means the Department of Agriculture, Forestry and Fisheries.
- 13.13. "The Minister" means the Minister of Agriculture, Forestry and Fisheries.
- 13.14. "Total Allowable Catch" means the maximum quantity of fish of individual species or groups of species made available annually or during such other period of time as

may be prescribed, for combined recreational, small-scale, commercial and foreign fishing.

- 13.15 “Total Applied Effort” means the maximum number of fishing vessels, the type, size and engine power thereof or the fishing method applied thereby for which fishing vessel licences or permits to fish may be issued for individual species or groups of species, or the maximum number of persons on board a fishing vessel for which fishing licences or permits may be issued to fish for individual species or groups of species.

DEPARTMENT OF AGRICULTURE, FORESTRY AND FISHERIES

NO. 1131

16 NOVEMBER 2015

**POLICY ON THE ALLOCATION AND MANAGEMENT OF COMMERCIAL FISHING RIGHTS IN THE
KWAZULU NATAL SARDINE BEACH SEINE FISHERY: 2015**

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

(In case of any inconsistency, the English text prevails)

TABLE OF CONTENTS

1. Introduction	1
2. Profile of the fishery	1
3. The 2005/2006 long-term fishing rights allocation process	2
4. Objectives	2
5. Granting of rights.....	3
6. Multi-sector involvement.....	4
7. Evaluation criteria.....	5
8. Provisional lists, representations and consultations.....	8
9. Announcement of decisions	8
10. Payment of application and grant of right fees.....	8
11. Management measures.....	9
12. Permit conditions.....	10
13. Glossary of terms	11

1. Introduction

The Department of Agriculture, Forestry and Fisheries (“the Department”) is responsible for administering the Marine Living Resources Act, 1998 (Act No. 18 of 1998) (“the MLRA”), regulations promulgated thereunder and policies issued by the Minister of Agriculture, Forestry and Fisheries (“the Minister”), in consultation with the Department.

This policy on the allocation and management of fishing rights in the KwaZulu Natal Sardine Beach Seine Fishery (“the KZN Sardine Beach Seine fishery”) shall be referred to as the **“KZN Sardine Beach Seine fishery Policy: 2015”**.

This policy must be read in conjunction with the MLRA and regulations under the MLRA; the General Policy on the Allocation and Management of Fishing Rights: 2013 (“the 2013: General Policy”), other relevant current Sector Specific Policies including the Policy for the Small Scale Fisheries Sector in South Africa: 2012 and the Policy for the Transfer of Commercial Fishing right: 2009. This policy must be interpreted to be consistent with the MLRA, and all of the other relevant regulations and policies.

This policy sets out objectives, criteria and considerations that will guide the allocation, evaluation, and management of fishing rights in the fishery. This policy will thus guide the Delegated Authority in taking decisions on applications in this fishery.

Only persons issued with permits in terms of the MLRA may harvest, transport catch from a landing site to the permitted Fish Processing Establishment (FPE) and export KZN Sardine Beach Seine catch and products thereof.

2. Profile of the fishery

2.1. Brief description of the fishery

The KwaZulu Natal Sardine Beach Seine Fishery is an opportunistic fishery operation targeting migrating sardines stranded in the shallow waters of the KwaZulu Natal beaches. These fish are a spill off from the spawning grounds in the Agulhas bank and the south east coast around Algoa bay. They follow inshore cooler counter currents in massive numbers and migrate east and northwards along the former Transkei coast into KwaZulu Natal, affectionately called the **Natal Sardine Run** (“the run”). The sardine schools in these runs can be as big as 15km long, 40 metres deep and three kilometres wide. The sardine run, will draw predator fish, like sharks, dolphins and seals. It also attracts a number of tourist, fishermen and women and the general local public.

As the fish migrate northwards along the KwaZulu Natal Coast, they tend to beach, more often than not in the areas between Port Shepstone and Durban. The sardine run is seasonal occurring during the winter months. Whilst the run is expected annually, it does not always arrive annually. When it does arrive its duration and size varies. Some runs are longer with more fish whilst others are shorter with fewer fish and sometimes its duration may be longer with less fish.

The KZN Sardine Beach Seine Fishery relies exclusively on the **Sardine Run**. The unpredictable variables of the run make operations within the fishery very challenging. Despite the challenges, associated with making viable catches there are times when the catches average landings estimated at 500 tons with a value of approximately two million rand.

2.2. **Current resource users**

The Total Applied Effort (TAE) is set at 35 operators. There are currently 25 operators operating the KwaZulu Natal seashore. These operators are not restricted to any area or beach, allowing them to follow the sardine run to maximise the catch when possible. Understandably, operators participating in this seasonal fishery work in other fisheries or industries when the fishery is dormant. These operators alternatively participate in the traditional line fish industry either as crew or commercial right holders.

3. **The 2005/2006 Long-Term Fishing Rights Allocation and Management Process**

In the 2005/2006 Long-Term Fishing Rights Allocation and Management Process (LTRAMP) fishing rights in this fishery were allocated to 24 operators, 67% of whom were white, with 90% of them being male¹.

4. **Objectives**

4.1. The objectives and principles of allocating fishing rights in a fishery are set out in section 2 of the MLRA, inter alia, to:

- (a) promote transformation through allocation of fishing rights to entities owned and/or controlled by historically disadvantaged persons which shall include designated groups (youth, women and people with disabilities), and to broaden meaningful participation in a fishery (through increased participation, sharing value-creation opportunities and profits, and forging links);
- (b) ensure sustainable livelihoods through the promotion of fair employment;
- (c) promote adherence to fair labour practices and improved working conditions;
- (d) promote food security and poverty alleviation;

¹ Figures as per 2005/6 LTRAMP records

- (e) prefer applicants who rely on the KZN Sardine Beach Seine for a major source of their gross annual income over above applicants deriving income from sources outside the fishery;
- (f) facilitate the recovery of over-exploited and collapsed fish stocks; and
- (g) achieve optimum utilisation and ecologically sustainable development of marine living resources.

5. Granting of rights

Fishing rights are granted in terms of section 18 of the MLRA. In terms of section 79 of the MLRA the Minister has delegated the power to grant rights in each fishery to a Delegated Authority in the Department. Unless otherwise determined by the Minister only South African persons shall acquire or hold rights in terms of section 18 of MLRA. In this fishery the Minister has not exercised his power to allow persons of other nationalities to acquire rights, meaning that only South African persons can acquire rights in this fishery.

The Delegated Authority shall allocate proportions of TAC and/or TAE to each successful applicant based on the applicable balancing criteria and it will be reflected as a proportion of the local commercial TAC, TAE or a combination thereof available at the time the fishing right is allocated. All rights granted shall be valid from the date of allocation for a period not exceeding 15 years, where after they will automatically terminate and revert back to the State to be reallocated. It should be further noted that in terms of section 16 of the MLRA the Minister may suspend any fishing in the KZN Sardine Beach Seine fishery or impose effort restrictions in order to address a state of emergency.

5.1. Form of right holder

- (a) Section 18 of the MLRA provides that only South African persons may hold fishing rights.
- (b) Having regard to the nature of operations and resource accessibility, only the following South African persons will be considered in the KwaZulu Natal Sardine Beach Seine Fishery:
 - (i) a citizen (individual) as defined in the South African Citizenship Act, 1995 (Act 88 of 1995) permanently resident adjacent to the KwaZulu Natal Province sea-shore.

5.2. Duration of right

Having regard to the right allocation process and the need to encourage investment in the fishery, fishing rights will be granted in the KwaZulu Natal Sardine Beach Seine Fishery for a maximum period of 15 years.

5.3 Total Allowable Catch and Total Applied Effort Allocation

In terms of section 14 of the MLRA the Minister is empowered to determine a TAC, TAE, or combination thereof to apply in each fishery. This fishery is regulated by the determination of a TAE.

The TAE is determined by the Delegated Authority considering the history, resource users, sustainability of the operations of right holders, and the viability of the fishery. The Delegated Authority will only allocate a local commercial portion of the determined TAE to commercial right holders based on the proportion granted to each successful applicant at the time of commercial fishing rights allocation process. The right holder's allocation may decrease or increase should the annual local commercial portions of determined TAE decrease or increase respectively. In terms of section 14(4) of the MLRA, if the allowable commercial catch in respect of which commercial fishing rights exist increases, the mass of the increase shall be available for allocation by the Minister.

5.4 Transfer of rights allocated in terms of this policy

In terms of section 21 of the MLRA the Minister may approve the transfer of fishing rights in whole or in part. However KwaZulu Natal Sardine Beach Seine rights granted in terms of MLRA shall not be transferred within the first two (2) years of allocation of being granted.

Rights can only be transferred in terms of the Policy for the Transfer of Commercial Fishing Rights (Government Gazette No 32449, 31 July 2009) or relevant amendments thereof.

Failure to pay the grant of right fees or apply for any permits or declare any catches during the first two (2) years shall result in a cancellation of the right by the Minister.

6. Multi-sector involvement

Applicants for the allocation of rights in the KZN Sardine Beach Seine fishery will not be precluded from applying for or holding commercial rights in other local commercial fishery sectors. This shall mean any person can only apply for a right in any fishery sector regardless of whether the applicant has applied for a right or holds a right in any fishery sector. In this case, the "applicant" shall mean an individual, a shareholder or director in a company, or a member in a close corporation or a co-operative applying for a right in any fishery sector.

Individuals who hold shares or a member's interest in an entity which is applying for the allocation of rights in the fishery, may also hold shares, an interest or a stake in a an entity or cooperative which is applying for, or already holds rights in another fishery. Individuals, who are directors or employees of an entity which is applying for the allocation of rights in the fishery, may also be a

shareholder, member, director or employee of an entity which is applying for, or already holds rights in another fishery; or be a participant in a cooperative operating in another fishery.

The Delegated Authority reserves the right to grant a right to the applicant in any sector and may, however, prefer applicants who rely on the harvesting sardines in this fishery as a major source of their gross annual income.

7. Evaluation criteria

Applications for the allocation of rights in the KZN Sardine Beach Seine fishery 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 a portion of the TAE will be apportioned to successful applicants.

7.1. Exclusionary criteria

Apart from the criteria described in the 2013: General Policy pertaining to the lodgement of applications and material defects, the Delegated Authority will exclude applicants that fail to meet the following requirements/criteria:

(a) Compliance

An applicant will be excluded if he or she has been convicted of a serious transgression of the MLRA (without the option of the payment of a fine).

An applicant will also be excluded if he or she has had any fishing right cancelled or revoked in terms of the MLRA.

Minor infringements, including those in respect of which an admission of guilt fine was paid, may be taken into account as a balancing criterion and may also adversely affect an application.

(b) Paper Quotas

Applications from paper quota applicants, as defined in the 2013: General Policy, will be excluded.

(c) Non-utilisation

Applicants that had a KwaZulu Natal Sardine Beach Seine right and did not harvest any Sardines during period of 2006 to 2014 shall be excluded.

(d) **Personal involvement in harvesting of the resource**

Applicants will be required to demonstrate that they will be personally involved in the fishery. They will be required to actively participate in the harvesting of the resource and the business operations. Only applicants incapable of participating due to a permanent physical disability will be exempted from this requirement. Consideration will be given to female applicants who may not be personally involved in the harvesting of the resource but who are dependent on the fishery for their livelihood.

7.2. **Balancing criteria**

Applicants will be evaluated in terms of the following balancing criteria which will be weighted in order to evaluate and assess applications:

(a) **Transformation**

When assessing and scoring applications, and when allocating portions of the TAE to successful applicants, the Delegated Authority may prefer applicants based on transformation criteria. When attributing a score for transformation criteria, or allocating portions of the TAE, the Delegated Authority may have regard to: census statistics or other information provided by Statistics South Africa regarding the composition of the population of South Africa, and the percentage of that population made up by different demographic groups; the need to ensure the recognition and meaningful participation in the fishing industry of Historically Disadvantaged Individuals (HDIs); and the codes of good practice under the Broad-Based Black Economic Empowerment Amendment Act.

Applicants will be assessed and scored on:

- (i) Affirmative procurement; and
- (ii) Corporate social investment.

(b) **Fishing performance**

The historical fishing performance of applicants who have held fishing rights in the KZN Sardine Beach Seine fishery will be examined to determine if they have effectively utilised their fishing rights. Effective utilisation shall mean activation of the catch permit, landing of catch, and subsequent submission of catch data for at least five years during the period 2007-2014

(c) **Local economic development**

- (i) In order to promote local economic development, the Delegated Authority will give preference to applicants who will land catches at harbours situated outside of

metropolitan areas, and process catches at land-based processing establishments outside of metropolitan areas. Metropolitan areas include the areas under the control of metropolitan (category A) municipalities.

- (ii) The Delegated Authority may, in order to ensure that all fishing communities share in the marine living resources, use the locality of landing sites and fishing processing establishments as scoring or tie-breaking criteria. For these purposes the Delegated Authority may give preference to applicants, with the aim of ensuring an equitable distribution of opportunities to communities along the coastline.

(d) **Job creation**

The Delegated Authority may give preference to any applicant who commits to retaining existing employment opportunities, or to increasing employment opportunities if he or she is allocated a right in the KZN Beach Seine fishery. For these purposes the Delegated Authority will consider the quality of the employment opportunities which will be created, including compliance with the Basic Conditions of Employment Act, 1997 (No. 75 of 1997) (“BCEA”); and the applicant’s commitment to provide their employees with:

- (i) permanent employment;
- (ii) medical aid or any kind of medical support arrangement;
- (iii) pension / provident fund; and
- (iv) Safe working conditions in accordance with the applicable legislative requirements.

(e) **Access to a suitable vessel**

An applicant will be required to demonstrate a right of access to a vessel suitable for the harvesting in the KZN Sardine Beach Seine fishery. Access may be in the form of ownership, part-ownership, a catch agreement, a charter agreement, or a bank guarantee for sufficient capital to purchase or build a vessel. If an applicant intends purchasing a vessel, then additional information must be provided to prove a firm and binding offer by the current owner of the vessel to sell the vessel to the applicant. If an applicant intends building a new vessel, then additional information must be provided including the vessel plans, the cost to be incurred and a firm and binding commitment by a vessel building company to build the vessel.

A suitable vessel in the KZN Sardine Beach Seine fishery is a vessel that:

- (i) is either a ski boat or traditional rowboat (only row boats are applicable for beach seine/trek netting operations); and

- (ii) it has been certified by the South African Maritime Safety Authority (SAMSA) as safe for fishing.

(f) **Same household involvement**

The same household may not be granted more than one right in the KZN Sardine Beach Seine fishery so as to avoid fronts and monopolies and to broaden access to the KZN Sardine Beach Seine resource. Applicants are required to disclose their relationship to other applicants in the KZN Sardine Beach Seine fishery as well as in other commercial fisheries. If more than one member of the same household applies for a right, the Department will determine who the preferred right holder will be with due regard being taken to the Department's transformation objectives.

Applicants who are permanently resident close to the KwaZulu Natal coastline will be preferred over other applicants.

8. Provisional lists, representations and consultations

- 8.1. The Delegated Authority may issue provisional lists for comment on any aspect relating to an application in any fishery/sector.
- 8.2. The Delegated Authority may request comment on any of the information provided by an applicant and on the basis of the comments received make a final decision.
- 8.3. The delegated authorities may invite representations regarding the assessment of the applications before making final decisions.

9. Announcement of decisions

The Delegated Authority shall after making final decisions on the applications, inform all applicants of the outcome of their individual applications giving specific reasons for such decisions.

Further General Reasons for decisions in a specific fishery will be published informing all applicants on how the decisions were formulated and reached. The General Reasons shall also include an annexure outlining the scores obtained by all applicants in the KZN Sardine Beach Seine fishery

10. Payment of application and grant of right fees

- 10.1 The application fees for this fishery will be determined having regard to:
 - (a) The cost of the entire fishing rights allocation process, including consultation, receipting, evaluation of applications, verification, appeals and reviews; and
 - (b) The value of the fish being allocated over the duration of the right.

10.2 The non-refundable application fee shall be payable before submission of the application and only proof of payment shall be brought to the receipting centre.

10.3 The grant of right fee is payable by all successful applicants upon the granting of rights.

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

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. An EAF strives to balance diverse societal objectives, by taking into account the knowledge and uncertainties about biotic, abiotic and human components of ecosystems and their interactions and applying an integrated approach to fisheries within ecologically meaningful boundaries.

11.2. Observer Programme

- (a) The right holder of a commercial KZN Sardine Beach Seine fishing right shall accommodate an observer on board the right holder's nominated vessel when required to do so by the department or its agent.
- (b) The right holder may bear the costs of the observer deployment when required by the Department.
- (c) The right holder shall allow the Observer unrestricted access to monitor fishing activity and compliance with permit conditions and all applicable laws.
- (d) Should the Department reasonably believe that an Observer is being prevented from carrying out his or her obligations in any way or threatened in any way while on board; the Department may implement proceedings under section 28 of the MLRA.

11.3. Performance measuring

Successful applicants will be subjected to performance measuring for the duration of their fishing rights. 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.

11.4. Offences

A successful applicant that fails to utilise their KZN Beach Seine right for one fishing season without any reasonable explanation, or that contravenes the provisions of the MLRA, will be subject to proceedings under section 28 of the MLRA.

12. Permit conditions

Permit conditions for this fishery will be issued annually. The permit conditions will be determined after consultation with the successful applicants in this fishery and will be revised as and when it may be necessary.

13. Glossary of terms

- 13.1. "Brother- Sister corporations" are subsidiary companies owned by the same parent company.
- 13.2. "Close corporation" means close corporation in terms of the Close Corporations Act, (Act No. 69 of 1984), of which the majority of members are South African persons.
- 13.3. "Company" means a company registered in terms of the Companies Act, (Act No. 71 of 2008), of which the majority of shareholders, as prescribed by the Minister, are South African persons.
- 13.4. "Historically disadvantaged person" means a person who belongs to a group of persons who suffered racial discrimination in terms of the system of apartheid and includes women.
- 13.5. "Legal entity" means a close corporation or company.
- 13.6. "MLRA" means the Marine Living Resources Act (Act No. 18 of 1998).
- 13.7. "Race, gender and disability" means race, gender and disability as defined in the Employment Equity Act (Act No. 55 of 1998).
- 13.8. "Right Holder" means a person or a legal entity that was previously granted or lawfully acquired a fishing right or which will be granted a right in the allocation process envisaged in this Policy.
- 13.9. "Rights" means fishing or harvesting rights granted in terms of section 18 of the Marine Living Resources Act, 1998 (Act No. 18 of 1998).
- 13.10. "Same household" means a group of two or more persons living in a residential dwelling unit (which includes a house, semi-detached dwelling, separate outbuildings, an apartment, or any other independent structure) who are dependent on each other, or dependent on one or more members of that group. This includes, but is not limited to, spouses or persons in a long-term relationship, and their dependent children; guardians and their dependent wards; and any other dependent relationship. Persons living at the same address or in the same residential unit, and who are not dependent on any other person at that address or residential unit, do not constitute the same household.
- 13.11. "South African citizen" means a South African citizen in terms of the South African Citizenship Act, 1995 (Act No. 88 of 1995).

13.12. "Subsidiary company" is a company that is partly or completely owned by another company that holds a controlling interest in the subsidiary company.

13.13. "The Department" means the Department of Agriculture, Forestry and Fisheries.

13.14. "The Minister" means the Minister of Agriculture, Forestry and Fisheries.

13.15. "The 2013: General Policy" means the General Policy on the Allocation and Management of Fishing Rights: 2013.

13.16. "Total Allowable Catch" (TAC) means the maximum quantity of fish of individual species or group of species made available annually or during such other period of time as may be prescribed, for combined recreational, small-scale, commercial and foreign fishing.

13.17. "Total Applied Effort" (TAE) means the maximum number of fishing vessels, the type, size and engine power thereof or the fishing method applied thereby for which fishing vessel licences or permits to fish may be issued for individual species or groups of species, or the maximum number of persons on board a fishing vessel for which fishing licences or permits may be issued to fish for individual species or groups of species.

DEPARTMENT OF AGRICULTURE, FORESTRY AND FISHERIES

NO. 1132

16 NOVEMBER 2015

**DRAFT POLICY ON THE ALLOCATION AND MANAGEMENT OF FISHING RIGHTS IN THE NETFISH
FISHERY: 2015**

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

(In case of any inconsistency, the English text prevails)

TABLE OF CONTENTS

1. Introduction	1
2. Profile of the fishery	1
3. The 2005/2006 long- term fishing rights allocation process	4
4. Objectives	4
5. Granting of rights.....	4
6. Multi-sector involvement.....	6
7. Evaluation criteria.....	6
8. Provisional lists, representations and consultations.....	10
9. Announcement of decisions	11
10. Payment of application and grant of right fees.....	11
11. Management measures.....	11
12. Permit conditions.....	12
13. Glossary of Terms.....	13

1. Introduction

The Department of Agriculture, Forestry and Fisheries (“the Department”) is responsible for administering the Marine Living Resources Act, 1998 (Act No. 18 of 1998) (“the MLRA”), regulations promulgated thereunder and policies issued by the Minister of Agriculture, Forestry and Fisheries (“the Minister”), in consultation with the Department.

This policy on the allocation and management of fishing rights in the Netfish fishery (“the netfish fishery”) shall be referred to as the “**Netfish Fishery Policy: 2015**”.

This policy must be read in conjunction with the MLRA and regulations under the MLRA; the General Policy on the Allocation and Management of Fishing Rights: 2013 (“the 2013: General Policy”); other relevant Sector Specific Policies including the Policy for the Small Scale Fisheries Sector in South Africa: 2012; and the Policy for the Transfer of Commercial Fishing Rights: 2009. This policy must be interpreted to be consistent with the MLRA, and all of the other relevant regulations and policies.

This policy sets out objectives, criteria and considerations that will guide the allocation, evaluation, and management of fishing rights in the fishery. This policy will thus guide the Delegated Authority in taking decisions on applications in this fishery.

Only persons issued with permits in terms of the MLRA may harvest netfish, transport netfish catch from a landing site to the permitted Fish Processing Establishment (FPE) and export netfish catch and products thereof.

2. Profile of the fishery

2.1. Brief description of the fishery

The gillnet and beach seine (treknet) fisheries make up the Netfish fishery. These fisheries (gillnet and beach seine (treknet)) operate in the open sea and from the beach. They are distinguished by the methods employed during the respective fishing operations. The species targeted, is *Liza richardsonii* commonly known as harders (mulletts). Other target specie includes St Joseph sharks in the West Coast and some linefish species in the Falsebay area. The gillnet fishery fishing operations are restricted between Port Nolloth to Yzerfontein. The treknet fishery operates between Port Nolloth and Gordon’s Bay. As part of the management strategy the fishery is subdivided into areas with discrete effort and species restrictions. The number of nets permitted, the number of operators per area, the fish size limit, the target fish species and the time of fishing are common effort restrictions in the fishery.

It is not uncommon for the gillnet fishery to employ motor driven vessels to operate on open sea, whilst some operators fish in bays and lagoons, like the Langebaan Lagoon, with a limited number of traditional fishermen fishing in the Bergriver estuary (see figure 1). Gillnet fishing in estuaries is detrimental to the resource because it increases juvenile mortality due to fishing. Only rowing boats (non-motorised boats) (see figure 2) may be used in the treknet fishery to deploy nets when fish have been spotted. Blind tows are discouraged in the treknet fishery because non-target fish species are caught.

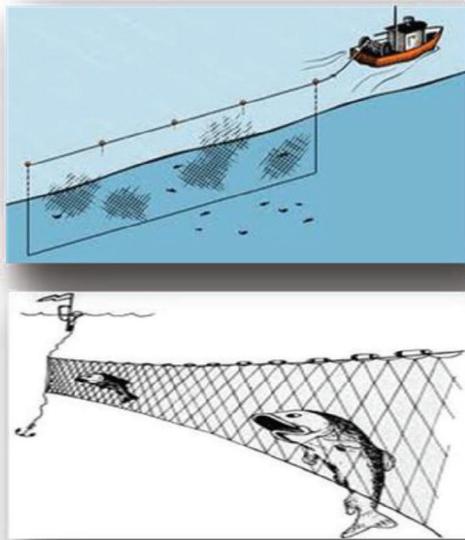


Figure 1: Illustration of a gillnet operation

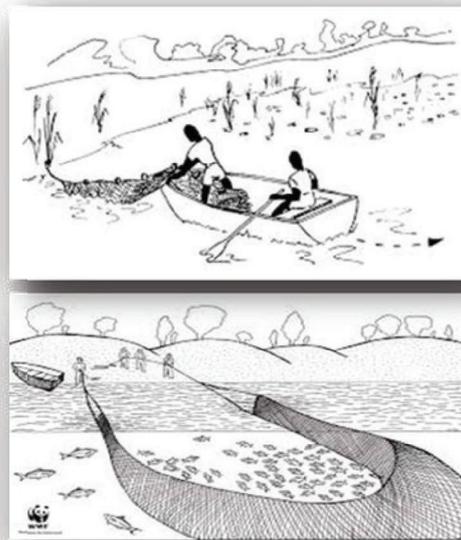


Figure 2 : Illustration of a beach seine (treknet) operation

The resource is currently deemed over exploited but due to limited stock assessment information it is challenging to predict the current levels.

2.2. Current resource users

There are currently 120 right holders in the Netfish fishery sector from Port Nolloth to the west of Cape Hangklip. The area between Draaihoek to Cape Colombine, including Paternoster has the most operators in this sector: eighty (80) gillnet and four (4) beach seine (treknet) operators. The global commercial Total Applied Effort (TAE) is tabulated in Table 1 and the recommended TAE for each Netfish area is tabulated in Table 2 below.

Table 1. Number of Netfish operators (RHs/EHs) by region (2015 TAE)

Net Type	Area	Target species	RH/EH
Beach seine/trek	Western Cape (WC)	Harders and or yellowtail	28
Gill/Drift net	Western Cape (WC)	Harders, St Joseph shark	117
		Total	145

Table 2. Recommended TAE (number of Right Holders/Exemption Holders) for each Netfish area. (shaded: areas where effort is not fully allocated/not allocated and interim relief).

Area Name	Locality	Beach- Seine	Gill/ Drift	Total	Rights/ Exemptions	Interim Relief
A	Port Nolloth	3	4	7	4	0
B	Hondeklipbaai	0	2	2	0	0
C	Doringbaai - Wadriftsoutpansmond	2	8	10	4	0
D	Wadriftsoutpansmond - Elandsbaai - Draaihoek	3	6	9	6	0
E	Draaihoek, (Rocheban) -Cape Columbine, including Paternoster	4	80	84	84	0
F	Saldanha	1	5	6	5	0
G	Langebaan Lagoon	0	10	10	10	3
H	Yzerfontein	2	2	4	1	0
I	Bokpunt (Melkbos) – Milnerton	3	0	3	1	0
J	Houtbay beach	2	0	2	0	0
K	Longbeach - Scarborough	3	0	3	1	0
L	Smitswinkel Bay, Simonstown, Fishoek	2	0	2	2	1
M	Muizenberg - Strandfontein	2	0	2	2	0
N	Strandfontien - Monwabisi	0	0	0	0	0
O	Macassar	1	0	1	1	0
OE	Olifants River Estuary (exemptions).	0	45	45	45	0
BE	Berg River Estuary	0	0	0	0	0
KZN	KwaZulu Natal (Sardine)	35	0	35	24	0
SEC	South East Coast (Struisbaai)	0	0	0	0	1
	TOTAL	63	162	225	190	5

3. The 2005/2006 long- term fishing rights allocation process

In the 2005/2006 long-term fishing rights allocation process rights were allocated to a total of 120 operators in this sector, 50% of whom were white, with 97% of them being male¹.

4. Objectives

4.1. The objectives and principles of allocating fishing rights in a fishery are set out in section 2 of the MLRA, inter alia, to:

- (a) promote transformation through allocation of fishing rights to entities owned and/or controlled by historically disadvantaged persons which shall include designated groups (youth, women and people with disabilities), and to broaden meaningful participation in a fishery (through increased participation, sharing value-creation opportunities and profits, and forging links);
- (b) ensure sustainable livelihoods through the promotion of fair employment;
- (c) promote adherence to fair labour practices and improved working conditions;
- (d) promote food security and poverty alleviation;
- (e) prefer applicants who rely on the harvesting of netfish as a major source of their gross annual income over above applicants deriving income from sources outside the fishery;
- (f) facilitate the recovery of over-exploited and collapsed fish stocks; and
- (g) achieve optimum utilisation and ecologically sustainable development of marine living resources.

5. Granting of rights

Fishing rights are granted in terms of section 18 of the MLRA. In terms of section 79 of the MLRA the Minister has delegated the power to grant fishing rights in each fishery to a Delegated Authority in the Department. Unless otherwise determined by the Minister only South African persons shall acquire or hold rights in this sector. In the netfish fishery the Minister has not exercised his power to allow persons of other nationalities to acquire rights, meaning that only South African persons can acquire rights in the fishery.

The Delegated Authority shall allocate proportions of TAC and/or TAE to each successful applicant based on the applicable balancing criteria and it will be reflected as a proportion of

Figures as per 2005/6 Long Term Rights Allocation records

the local commercial TAC, TAE or a combination thereof available at the time the fishing right is allocated. All rights granted shall be valid from the date of allocation for a period not exceeding 15 years, where after they will automatically terminate and revert back to the State to be reallocated. It should be further noted that in terms of section 16 of the MLRA the Minister may suspend any fishing in the netfish fishery or impose effort restrictions in order to address a state of emergency.

5.1. Form of right holder

- (a) Section 18 of the MLRA provides that only South African persons may hold fishing rights.
- (b) Having regard to the nature of operations and resources accessibility, only South African citizens (individual) as defined in terms of the South African Citizenship Act, 1995 (Act 88 of 1995) will be considered in this fishery:

5.2. Duration of right

Having regard to the right allocation process and need to encourage investment the fishery, fishing rights will be granted in the netfish fishery for the maximum period of 15 years.

5.3 Total Allowable Catch and Total Applied Effort

The TAC, TAE or combination thereof are determined by the Delegated Authority considering the history, resource users, sustainability of the operations of right holders and the viability of the fishery. The Delegated Authority will only allocate a local commercial portion of the determined TAC, TAE or combination thereof to commercial right holders based on the proportion granted to each successful applicant at the time of the commercial fishing rights allocation process. The right holder's allocation may decrease or increase should the annual local commercial portions of the determined TAC, TAE or combination thereof decrease or increase respectively. In terms of section 14(4) of the MLRA, if the allowable commercial catch in respect of which commercial fishing rights exist increases, the mass of the increase shall be available for allocation by the Minister.

5.4 Transfer of Rights Allocated in terms of this Policy

In terms of section 21 of the MLRA the Minister may approve transfer of fishing rights in whole or in part. However, Netfish rights granted in terms of the MLRA shall not be transferred within the first two (2) years of being granted.

Rights can only be transferred in terms of the Policy for the Transfer of Commercial Fishing Rights (Government Gazette No 32449, 31 July 2009) or relevant amendments thereof.

6. Multi-sector involvement

Applicants for the allocation of rights in the netfish fishery will not be precluded from applying for, or holding commercial fishing rights in other local commercial fisheries sectors.

This shall mean any person can apply for a right in any fishery sector regardless whether the applicant has applied for a right or holds a right in any other fishery sector. In this case, the “applicant” shall mean an individual, a shareholder or Director in a company, or a member in a close corporation applying for a right in any fishery sector. However the Delegated Authority reserves the right to grant a right in any sector.

7. Evaluation criteria

Applications for rights in the netfish fishery 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 a TAC, TAE or combination thereof will be apportioned to successful applicants

7.1. Exclusionary criteria

Apart from the criteria described in the 2013: General Policy pertaining to the lodgement of applications and material defects, the Delegated Authority will exclude applicants that fail to meet the following requirements/criteria:

(a) Compliance

An applicant will be excluded, if it, a member with controlling interest, a director or a controlling shareholder has been convicted of a serious transgression of the MLRA (without the option of the payment of a fine).

An applicant will also be excluded, if it, a member with a controlling interest, a director or controlling shareholder had had any fishing right cancelled or revoked in terms of the MLRA. For these purposes an individual will be treated as having had rights cancelled or revoked if that person was a controlling shareholder, a member with a controlling interest, or a director of an entity which had its rights cancelled or revoked.

Minor infringements, including those in respect of which an admission of guilt fine was paid, may be taken into account as a balancing criterion and may also adversely affect an application.

(b) **Paper quotas**

Applications from paper quota applicants, as defined in the 2013: General Policy will be excluded.

(c) **Non-utilisation**

Applicants which have held a right in the netfish fishery during the period of 2006 to 2014, which was not utilised, shall be excluded.

(d) **Personal involvement in harvesting of the resource**

Individual applicants will be required to demonstrate that they will be personally involved in this fishery. They will be required to actively participate in the harvesting of the resource and the business operations. Only applicants incapable of participating due to a permanent physical disability will be exempted from this requirement. Consideration will be given to female applicants who may not be personally involved in the harvesting of the resource but who are dependent on the netfish fishery for their livelihood.

7.2. **Balancing criteria**

Applicants will be evaluated in terms of the following balancing criteria, which will be weighted in order to evaluate and assess applications:

(a) **Transformation**

When assessing and scoring applications, and when allocating portions of the TAC, TAE or combinations thereof to successful applicants, the Delegated Authority may prefer applicants based on transformation criteria. When attributing a score for transformation criteria, or allocating portions of the TAC, the Delegated Authority may have regard to: census statistics or other information provided by Statistics South Africa regarding the composition of the population of South Africa, and the percentage of that population made up by different demographic groups; the need to ensure the recognition and meaningful participation in the fishing industry, of Historically Disadvantaged Individuals (HDIs) and the codes of good practice under the Broad Based Economic Empowerment Amended Act

Applicants, depending on the form of applicant, will be assessed and scored on the following transformation criteria:

- (i) Affirmative procurement;

(ii) Corporate social investment.

(b) **Fishing performance**

The historical fishing performance of applicants who have held fishing rights in the netfish fishery will be examined to determine if they have effectively utilised their fishing rights. Effective utilisation shall mean activation of the right and subsequent catch data submission for at least five (5) years during the period 2007-2014. Applicants should submit this information with their application forms.

(c) **Local economic development**

(i) In order to promote local economic development the Delegated Authority will give preference to applications who will land catches at harbours situated outside the metropolitan areas.

(ii) The Delegated Authority may, in order to ensure that all fishing communities share in the marine living resources, use the locality of landing sites and fishing processing establishments as scoring or tie-breaking criteria. For these purposes the Delegated Authority may give preference to applicants, with the aim of ensuring an equitable distribution of opportunities to communities along the coastline.

(d) **Job creation**

The Delegated Authority may give preference to any applicant which commits to retaining existing employment opportunities, or to increasing employment opportunities if it is allocated rights in the fishery. For these purposes the Delegated Authority will consider the quality of the employment opportunities which will be created, including compliance with the Basic Conditions of Employment Act, 1997 (No. 75 of 1997) ("BCEA"); and the applicant's commitment to provide their employees with:

- (i) permanent employment;
- (ii) medical aid or any kind of medical support arrangement;
- (iii) pension / provident fund;
- (iv) safe working conditions in accordance with the applicable legislative requirements;

(e) **Access to a suitable vessel**

An applicant will be required to demonstrate a right of access to a vessel suitable for the harvesting in the fishery, where applicable as some methods of netfish harvesting does not require the use of a vessel, e.g. in beach cast kelp harvesting. Access may be in the form of ownership, part-ownership, a catch agreement, a charter agreement, or a bank guarantee for sufficient capital to purchase or build a vessel. If an applicant intends purchasing a vessel then additional information must be provided to prove a firm and binding offer by the current owner of the vessel to sell the vessel to the applicant and a purchase agreement must be provided. If an applicant intends building a new vessel then additional information must be provided including the vessel plans, the cost to be incurred and a firm and binding commitment by a vessel building company to build the vessel.

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

- (i) is either a ski boat or traditional rowboat (only row boats are applicable for beach seine/trek netting operations); and
- (ii) it has been certified by the South African Maritime Safety Authority (SAMSA) as safe for fishing.

(f) **Applicant's involvement and relationship with other applicants**

(i) **Same household involvement**

The same household may not be granted more than one right in the netfish fishery so as to avoid fronts and monopolies and to broaden access to the netfish resource. Applicants are required to disclose their relationship to other applicants in the netfish fishery as well as in other commercial fisheries. If more than one member of the same household applies for a right, the Department will determine who the preferred right holder will be with due regard being taken to the Department's transformation objectives.

(g) **Residing adjacent to Fishing zones or areas**

Applicants who reside adjacent to fishing zones or fishing areas will be preferred over other applicants. Fishing areas in the Netfish fishery are listed in the table 3 (list of commercial areas only)

Table 3: Fishing areas in the Commercial Netfish fishery sector

Area Name	Description and boundaries
Area A	Port Nolloth: The area between the border of the State's alluvial mining areas just north of Port Nolloth and the northern border of the farm Oubeep, south of Mc Douglas Bay, excluding the areas where the permit-holder may only operate with the permission of the relevant authorities
Area B	Hondeklipbaai: The area between Kleinsee and the security fence at Mitchell's Bay nearby the mouth of the Spoeg River.
Area C	Doringbaai / Lambert's Bay: The area between the mouth of the Olifants River and mouth of the Wadrifsoutpan
Area D	Elandsbaai: The area between the mouth of the Wadrifsoutpan and a beacon marked MO 1 directly opposite the farm Draaihoek
Area E	Draaihoek to Cape Columbine The area between the beacon marked MO 1 directly opposite the farm Draaihoek and Cape Columbine
Area F	Saldanha Bay: North of Salamander Point to Leentjiesklip No. 4 (excluding the Harbour area under the jurisdiction of the Ports Authority.
Area G	Langebaan: Langebaan Lagoon in the areas stipulated by the authority of South African National Parks
Area H	Yzerfontein: The area between the beacon marked YF approximately 11 km north of Yzerfontein and the northern border fence of the Koeberg Nuclear Power Station but excluding a 500 m exclusion zone around Dassen Island bounded by the latitudes 33°24.420'S and 33°26.289'S and longitudes 18°04.161'E and 18°06.317'E.
Area I	Milnerton to Bokpunt: Between the Milnerton Lighthouse and Bokpunt
Area J	Hout Bay beach
Area K	Longbeach-Kommetjie-Scarborough
Area L	Smitwinkel Bay-Simonstown-Fishoek
Area M	Muizenberg-Strandfontein: Neptunes Corner to Strandfontein Pavillion
Area N	Strandfontein: Strandfontein to Pavillion-Swartklip (zero TAE area)
Area O	Macassar: Monwabisi tidal pool to the western boundary fence of the AECI security area

8. Provisional lists, representations and consultations

- 8.1. The Delegated Authority may issue provisional lists for comment on any aspect relating to an application in any fishery/sector.
- 8.2. The Delegated Authority may request comment on any of the information provided by an applicant and on the basis of the comments received make its final decision.

- 8.3. The Delegated Authority may invite representations regarding the assessment of the applications before making final decisions.

9. Announcement of decisions

The Delegated Authority shall after making final decisions on the applications inform all applicants of the outcome of their individual applications giving specific reasons for such decision.

Further General Reasons for decisions in a specific fishery sector will be published informing all applicants on how the decisions were formulated and reached. The General Reasons shall also include an annexure outlining the scores obtained by all application in the netfish sector.

10. Payment of application and grant of right fees

10.1 The application fees will be determined having regard to:

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

10.2. The non –refundable application fee shall be payable on or before the submission of the application form and only proof of payment shall be brought to the receipting centre.

10.3 The grant of right fee is payable by all successful applicants upon the granting of rights.

11. Management measures

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

11.1. Ecosystem approach to fisheries

A 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. An EAF strives to balance diverse societal objectives, by taking into account the knowledge and uncertainties about biotic, abiotic and

human components of ecosystems and their interactions and applying an integrated approach to fisheries within ecologically meaningful boundaries.

11.2. **Observer Programme**

- (a) The right holder of a commercial netfish fishing right shall accommodate an observer on board the right holder's nominated vessel when required to do so by the Department or its agent.
- (b) The right holder may bear the costs of the observer deployment when so required by the Department.
- (c) The right holder shall allow the Observer unrestricted access to monitor fishing activity and to test compliance with permit conditions and all applicable laws.
- (d) Should the Department reasonably believe that an Observer is being prevented from carrying out his or her obligations in any way, or threatened in any way while on board the right holders' vessel; the Department may implement proceedings under section 28 of the MLRA.

11.3. **Performance measuring**

Successful applicants will be subjected to a number of performance measuring exercises for the duration of their fishing right. 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.

11.4. **Offences**

A successful applicant that fails to utilise its netfish fishing right for one fishing season without any reasonable explanation or that contravenes the provisions of the MLRA will be subject to proceedings under section 28 of the MLRA.

12. **Permit conditions**

Permit conditions for the netfish fishery will be issued annually. The permit conditions will be determined after consultation with successful applicants in the netfish fishery and will be subject to revision as and when it may be necessary.

13. Glossary of Terms

- 13.1. "Historically disadvantaged person" means a person who belongs to a group of persons who suffered racial discrimination in terms of the system of apartheid and includes women.
- 13.2. "Legal entity" means a close corporation or company.
- 13.3. "MLRA" means the Marine Living Resources Act (Act No. 18 of 1998).
- 13.4. "Race, gender and disability" means race, gender and disability as defined in the Employment Equity Act (Act No. 55 of 1998).
- 13.5. "Right Holder" means a person or a legal entity that was previously granted or lawfully acquired a fishing right or which will be granted a right in the allocation process envisaged in this Policy.
- 13.6. "Rights" means fishing or harvesting rights granted in terms of section 18 of the Marine Living Resources Act, 1998 (Act No. 18 of 1998).
- 13.7. "Same household" means a group of two or more persons living in a residential dwelling unit (which includes a house, semi-detached dwelling, separate outbuildings, an apartment, or any other independent structure) who are dependent on each other, or dependent on one or more members of that group. This includes, but is not limited to, spouses or persons in a long-term relationship, and their dependent children; guardians and their dependent wards; and any other dependent relationship. Persons living at the same address or in the same residential unit, and who are not dependent on any other person at that address or residential unit, do not constitute the same household.
- 13.8. "South African citizen" means a South African citizen in terms of the South African Citizenship Act, 1995 (Act No. 88 of 1995).
- 13.9. "Subsidiary company" is a company that is partly or completely owned by another company that holds a controlling interest in the subsidiary company.
- 13.10. "The Department" means the Department of Agriculture, Forestry and Fisheries.
- 13.11. "The Minister" means the Minister of Agriculture, Forestry and Fisheries.

13.12. "The 2013: General Policy" means the General Policy on the Allocation and Management of Fishing Rights: 2013.

13.13. "Total Allowable Catch" (TAC) means the maximum quantity of fish of individual species or group of species made available annually or during such other period of time as may be prescribed, for combined recreational, small-scale, commercial and foreign fishing.

13.14. "Total Applied Effort" (TAE) means the maximum number of fishing vessels, the type, size and engine power thereof or the fishing method applied thereby for which fishing vessel licences or permits to fish may be issued for individual species or groups of species, or the maximum number of persons on board a fishing vessel for which fishing licences or permits may be issued to fish for individual species or groups of species.

DEPARTMENT OF AGRICULTURE, FORESTRY AND FISHERIES

NO. 1133

16 NOVEMBER 2015

**POLICY ON THE ALLOCATION AND MANAGEMENT OF COMMERCIAL FISHING RIGHTS IN
THE PATAGONIAN TOOTHFISH FISHERY: 2015**

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

(In case of any inconsistency, the English text prevails)

TABLE OF CONTENTS

1.	Introduction	1
2.	Profile of the fishery	1
3.	The 2005/2006 long term rights allocation process	3
4.	Objectives	4
5.	Granting of fishing rights	4
6.	Multi-sector involvement	8
7.	Evaluation criteria	7
8.	Provisional lists, consultations and representations	12
9.	Announcement of decisions	12
10.	Payment of application and grant of right fees	11
11.	Management measures	11
12.	Permit conditions	12
13.	Glossary of terms	13

1. Introduction

The Department of Agriculture, Forestry and Fisheries (“the Department”) is responsible for administering the Marine Living Resources Act, 1998 (Act No. 18 of 1998) (“the MLRA”), regulations promulgated thereunder and policies issued by the Minister of Agriculture, Forestry and Fisheries (“the Minister”), in consultation with the Department.

This policy on the allocation and management of fishing rights in the Patagonian Toothfish fishery (“the fishery”) shall be referred to as the “**Patagonian Toothfish Policy:2015**”.

This policy must be read in conjunction with the Marine Living Resources Act, 1998 (Act No. 18 of 1998) (“the MLRA”) and regulations under the MLRA; the General Policy on the Allocation and Management of Fishing Rights: 2013 (“the 2013: General Policy”); and all other relevant Sector Specific Policies including the Policy for the Small Scale Fisheries Sector in South Africa: 2012; and the Policy for the Transfers of Commercial Fishing Rights: 2009. This policy must be interpreted to be consistent with the MLRA, and all of the other relevant regulations and policies.

This policy sets out objectives, criteria and, considerations that will guide the allocation application, evaluation and management of fishing Rights in the Patagonian Toothfish fishery sector (“the fishery”). This policy will also guide the Delegated Authority in taking decisions on applications in this fishery.

Only persons issued with permits in terms of the MLRA may harvest Patagonian Toothfish, transport Patagonian Toothfish catch from a landing site to the permitted Fish Processing Establishment (FPE) and export Patagonian Toothfish catch and products thereof.

2. Profile of the fishery

2.1 Description of the fishery

Patagonian Toothfish, also known as Chilean sea bass, is a deep-water, demersal species which is found on sub-Antarctic continental shelves down to 3 000 metres. Several countries can lay claim to Patagonian Toothfish, which occur within the exclusive economic zones (“EEZ’s”) of Chile, Argentina and other countries with sovereignty over the southern Ocean islands. South Africa’s EEZ around the Prince Edward Islands (“PEI”) is a prime fishing ground for Patagonian Toothfish. Much of the range of Patagonian

Toothfish, however, falls within the high seas.

The Prince Edward Islands are situated within the Convention area of the Commission for the Conservation of Antarctic Marine Living Resources ("CCAMLR"). CCAMLR is the regional fishery management organisation tasked with, among other roles, monitoring catches of Patagonian Toothfish in the Southern Ocean.

Patagonian Toothfish live for longer than 50 years and reach a length of over two metres. Maturity is attained between six and nine years of age, equivalent to a length range of 70 to 95 centimetres. Spawning occurs on continental shelves in winter, but eggs only hatch in spring.

Global catches of Patagonian Toothfish have declined sharply since the origins of the fishery in the late 1980s. A combination of its high value, late maturity and occurrence in the high seas has caused the near-collapse of the fishery, which has seen unprecedented levels of illegal, unregulated and unreported ("IUU") fishing. South Africa's waters around the Prince Edward Islands were extensively targeted and CCAMLR estimates that as much as 32 000 tons of toothfish, with a value of US\$100 million was illegally fished from the PEI-EEZ between 1996 and 1998.

There has been no indication of IUU fishing in the PEI-EEZ since 2004, however IUU vessels are active on the nearby fishing grounds of Ob and Lena Banks and an IUU vessel was sighted close to the PEI-EEZ in 2015. Therefore there is a concern that, as the resource in the PEI-EEZ recovers, IUU fishing could once again become an issue. The fishery remains commercially sustainable, according to the scientific advice provided by the relevant Department's Scientific Working Group. The Minister has decided to re-allocate long-term commercial fishing Rights in this fishery.

The harvesting of Patagonian Toothfish within the South African EEZ around the Prince Edward Islands (PEI-EEZ) started in 1996 as an experimental fishery until the end of 2005.

2.2 Resource users

Currently, there are five South African Right Holders operating in the PEI-EEZ. The Department has set annual Total Allowable Catch (TAC) limits for this fishery over the period 2001 to 2015.

Fishing Year	Legal			Illegal	TOTAL	TAC
	Longline	Pot	Trotline			
1997	2754.9			21350.0	24104.9	
1998	1224.6			1808.0	3032.6	
1999	945.1			1014.0	1959.1	
2000	1577.8			1210.0	2787.8	
2001	267.8			352.0	619.8	2250
2002	237.3			306.0	543.3	600
2003	251.1			256.0	507.1	500
2004	182.5	34.3		156.0	372.8	500
2005	142.6	141.9			284.5	450
2006	169.1				169.1	450
2007	245.0				245.0	450
2008	88.8		56.4		145.2	450
2009	41.8		30.7		72.5	450
2010	49.2		174.6		223.8	450
2011	1.0		323.9		324.9	400
2012	70.7		205.5		276.2	320
2013	50.0		215.3		265.3	320
2014*	0.0		400.0		400.0	450

* The total catch for 2014 is the *expected* catch for the year as the fishing season is still ongoing, and is assumed to be entirely caught with trotlines

The Patagonian Toothfish fishery is a high-risk and extremely capital-intensive fishery that requires Right Holders to make substantial investments in vessels, gear, research and marketing. Start-up costs would require a capital investment of several million rand and operational costs are substantial.

3. The 2005/2006 long term rights allocation process

In 1996 five experimental permits were issued for the fishing of Patagonian Toothfish in 1996. In order to improve the economic gains from the fishery, the experimental permit-holders consolidated costs and effort by reducing the number of vessels in the fishery from three to two. Four of the operators concluded a joint venture agreement to operate one vessel and effectively pooled their resources. Long-term commercial fishing Rights were allocated to five Right Holders for the first time in 2006. The Patagonian Toothfish

fishing Rights will be expiring on the 31st of October 2015.

4. Objectives

4.1 The objectives of allocating fishing rights in the Patagonian Toothfish fishery are to:

- (a) promote transformation through allocation of fishing Rights to entities owned and/or controlled historically disadvantaged persons which shall include designated groups (youth, women and people with disabilities), broaden meaningful participation (increased participation, sharing value-creation opportunities and profits, and forging links);
- (b) ensure sustainable livelihoods through the promotion of fair permanent employment.
- (c) promote adherence to fair labour practices and improved working conditions;
- (d) promote food security and poverty alleviation;
- (e) prefer applicants who rely on the harvesting of Patagonian Toothfish for a significant portion of their gross annual income above applicants deriving income from sources outside the Patagonian Toothfish fishery;
- (f) facilitate the recovery of over-exploited and collapsed fish stocks; and
- (g) achieve optimum utilisation and ecologically sustainable development of marine living resources.

5. Granting of fishing rights

Fishing rights are granted in terms of section 18 of the MLRA. In terms of section 79 of the MLRA the Minister has delegated the power to grant rights in each fishery to a Delegated Authority in the Department. Unless otherwise determined by the Minister only South African persons shall acquire or hold rights in terms of section 18 of MLRA. In this fishery the Minister has not exercised his power to allow persons of other nationalities to acquire rights, meaning that only South African persons can acquire rights in this fishery.

The Delegated Authority shall allocate proportions of TAC to each successful applicant based on the applicable balancing criteria and it will be reflected as a proportion of the local commercial TAC available at the time the fishing right is allocated. All rights granted shall be valid from the date of allocation for a period not exceeding 15 years, whereafter it they will automatically terminate and revert back to the State to be reallocated. It should be further noted that in terms of section 16 of the MLRA the Minister may suspend any fishing in the fishery or impose effort restrictions, in order to address a state of emergency.

5.1 **Form of right holder**

- (a) Section 18 of the MLRA provides that only South African persons may hold fishing Rights.
- (b) With regard to the nature of operations and resource accessibility in the Patagonian Toothfish fishery, only the following South African persons will be considered for a right in the fishery:
 - (i) close corporations (Legal entity); and
 - (ii) companies (Legal entity);

5.2 **Duration of right**

Having regard to the right allocation process, and need to encourage investment, fishing rights in the Patagonian Toothfish fishery will be granted for the maximum period of 15 years.

5.3 **Total Allowable Catch and Total Applied Effort Allocation**

In terms of section 14 of the MLRA the Minister is empowered to determine a TAC, Total Applied Effort (TAE), or combination thereof to apply in each fishery. The fishery is one regulated by the determination of a TAC. The TAC and/or TAE or combination thereof is determined by the Delegated Authority considering the history, resource users, sustainability of the operations of right holders, and the viability of the fishery. The Delegated Authority will only allocate a local commercial portion of the determined TAC and/or TAE or combination thereof to commercial right holders based on the proportion granted to each successful applicant at the time of commercial fishing rights allocation process. The right holder's allocation may decrease or increase should the annual local commercial portions of determined TAC and/or TAE or combination thereof decrease or increase respectively. In terms of section 14(4) of the MLRA, if the allowable commercial catch in respect of which commercial fishing rights exist increases, the mass of the increase shall be available for allocation by the Minister.

5.4 **Transfer of Rights Allocated in terms of this Policy**

In terms of section 21 of the MLRA the Minister may approve the transfer of fishing rights in whole or in part. However, Patagonian Toothfish rights allocated in terms of the MLRA and this Policy shall not be transferred within the first two (2) years of allocation.

Rights can only be transferred in terms of the Policy for the Transfer of Commercial Fishing Rights (Government Gazette No 32449, 31 July 2009) or relevant amendments thereof.

A notification of transfer of shares or members' interest must be served on the Department within 30 days of such sale or transfer or any time-period set in applicable permit conditions in all cases in which shares or a member's interest in a right holder are sold or transferred,. In addition, the Department's approval is required for all cases in which the sale or transfer of shares or a member's interest in a right holder results in a change of control of the entity, or in the entity being less transformed than it was at the date on which rights are allocated in particular regard to any decrease in black ownership of such entity.

Failure to pay the required fees for the grant of a right fee, or apply for any permits, or to, declare any catches during the first two (2) years, shall result in a cancellation of the right by the Minister.

6. Multi-sector involvement

Applicants for the allocation of rights in this Patagonian Toothfish fishery will not be precluded from applying for, or holding commercial rights in other local commercial fisheries sectors.

This shall mean any person can apply for a Right in any fishery sector regardless whether the applicant has applied for a right or holds a right in any fishery sector. In this case, the "applicant" shall mean an individual, a shareholder or director in a company, or a member in a close corporation or a co-operative applying for a right in any fishery sector. However the Delegated Authority reserves the right to grant a right in any sector.

Natural persons who hold shares or a member's interest in an entity which is applying for the allocation of rights in the fishery, may also hold shares, an interest or a stake in a an entity or cooperative which is applying for, or already holds rights in another fishery.

Natural Persons, who are directors or employees of an entity which is applying for the allocation of rights in the fishery, may also be a shareholder, member, director or employee of an entity which is applying for, or already holds rights in another fishery; or be a participant in a cooperative operating in another fishery.

The Delegated Authority reserves the right to grant a right to the applicant in any sector and may, however, prefer applicants who rely on the Patagonian Toothfish fishery for a major source of their gross annual income.

7. Evaluation criteria

Applications for the allocation of rights in the Patagonian Toothfish fish 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 a portion of the TAC and/or TAE or combination thereof will be apportioned to successful applicants.

7.1 Exclusionary criteria

Apart from the criteria described in the 2013: General Policy pertaining to the lodgement of applications and material defects, the Delegated Authority will exclude applicants that fail to meet the following requirements/criteria:

(a) Compliance

An applicant will be excluded if it, a controlling shareholder, a member with a controlling interest, or a director, has been convicted of a serious transgression of the MLRA (without the option of the payment of a fine).

An applicant will also be excluded if it, a controlling shareholder, a member with a controlling interest, or a director, has had any fishing right cancelled or revoked in terms of the MLRA. For these purposes individuals will be treated as having had rights cancelled or revoked if that person was a controlling shareholder, a member with a controlling interest, or a director of an entity which had its rights cancelled or revoked.

Minor infringements, including those in respect of which an admission of guilt fine was paid, may be taken into account as a balancing criterion and may also adversely affect an application

(b) Paper quotas

Applications from paper quota applicants, as defined in the 2013: General Policy, will be excluded.

(c) Non-utilisation

(i) Applicants that held a Patagonian Toothfish right within the period 2006 to 2014 and did not harvest any Patagonian Toothfish during the entire duration of that right shall be excluded.

7.2 **Balancing criteria**

Applicants will be evaluated in terms of the following balancing criteria which will be weighted in order to evaluate and assess applications:

(a) **Transformation**

When assessing and scoring applications, and when allocating portions of the TAC and/or TAE or combination thereof to successful applicants, the Delegated Authority may prefer applicants based on transformation criteria. When attributing a score for transformation criteria, or allocating portions of the TAC and/or TAE or combination thereof, the Delegated Authority may have regard to: census statistics or other information provided by Statistics South Africa regarding the composition of the population of South Africa, and the percentage of that population made up by different demographic groups; the need to ensure the recognition and meaningful participation in the fishing industry of Historically Disadvantaged Individuals (HDIs); and the codes of good practice under the Broad-Based Black Economic Empowerment Amendment Act.

Applicants, depending on the form of the applicant will be assessed and scored on the following transformation criteria:

- (i) The percentage of ownership and represented of black, youth and women at top salary, board of directors, members and senior official and management levels;
- (ii) Whether employees (other than top salary earners) benefit from an employee share scheme;
- (iii) Compliance with the Employment Equity Act 55 of 1998 and the representatively of designated groups and Historically Disadvantaged Individuals (HDIs) at the various levels of employment below senior official and management level;
- (iv) Affirmative procurement;
- (v) Compliance with legislation on skills development and the amounts spent on the training of Black persons, youth, women, including people with disabilities, and participation in learnership programmes; and
- (vi) Corporate social investment.

(b) **Fishing performance**

- (i) The historical fishing performance of applicants who have held fishing rights in the Patagonian Toothfish fishery will be examined to determine if they have effectively utilised their fishing rights. Effective utilisation shall mean activation of the catch permit, landing of catch, and subsequent submission of catch data for at least five years during the period 2007-2014. Applicants should submit this information with their application forms.

(c) **Local economic development**

- (i) In order to promote local economic development, the Delegated Authority will give preference to applicants who will land catches at harbours situated outside of metropolitan areas, and process catches at land-based processing establishments outside of metropolitan areas.
- (ii) The Delegated Authority may, in order to ensure that all fishing communities share in the marine living resources, use the locality of landing sites and fishing processing establishments as scoring or tie-breaking criteria. For these purposes the Delegated Authority may give preference to applicants, with the aim of ensuring an equitable distribution of opportunities to communities along the coastline.

(d) **Job creation**

- (i) The Delegated Authority may give preference to any applicant which commits to retaining existing employment opportunities, or to increasing employment opportunities if it is allocated rights in the Patagonian Toothfish. For these purposes the Delegated Authority will consider the quality of the employment opportunities which will be created, including compliance with the Basic Conditions of Employment Act, 1997 (No. 75 of 1997) ("BCEA"); and the applicant's commitment to provide their employees with: permanent employment;
- (ii) medical aid, pension / provident fund;
- (iii) safe working conditions in accordance with the applicable legislative requirements; and
- (iv) an employee share scheme as a shareholding entity of the Right Holder.

(e) **Access to a suitable vessel**

An applicant will be required to demonstrate a right of access to a vessel suitable for the harvesting of Patagonian Toothfish in the fishery. Access may be in the

form of ownership, part-ownership, a catch agreement, a charter agreement, or a bank guarantee for sufficient capital to purchase or build a vessel. If an applicant intends purchasing a vessel, then additional information must be provided to prove a firm and binding offer by the current owner of the vessel to sell the vessel to the applicant. If an applicant intends building a new vessel, then additional information must be provided including the vessel plans, the cost to be incurred and a firm and binding commitment by a vessel building company to build the vessel. A suitable vessel in the Patagonian Toothfish fishery is a vessel that has a minimum South African Maritime Safety Authority ("SAMSA") registered length of 30 metres or such maximum length as may be reflected in the permit conditions, must be over 400GT or such minimum gross tonnage as may be reflected in the permit conditions and is equipped for Patagonian Toothfish fishing using the longline method. The Department will require each vessel owner to invest in an acceptable Vessel Monitoring System ("VMS") after the allocation of fishing rights and also that the vessel shall be fitted with such a VMS at all times for the entire duration of the fishing right. The VMS shall be functional at all times during fishing operations.

(f) **Applicant's involvement and relationship with other applicants**

(i) **Entity and their subsidiaries involvement**

A company and its subsidiary/ies may not be granted more than one right in the fishery, so as to avoid fronts and monopolies and to promote broaden access to the Patagonian Toothfish resource. Applicants may be required to disclose their relationship to other applicants for the allocation of rights in the fishery, as well as in other commercial fisheries. If an entity and its subsidiary both apply for a right in Patagonian Toothfish, the holding/umbrella/parent company will be preferred over any subsidiary.

(ii) **Brother-Sister Corporations**

If two or more entities which are owned and controlled by the same person or persons or shareholders apply for a commercial fishing right in the fishery, and qualify for allocation of such rights, then the Department may consider allocating a fishing right to one of the qualifying entities only; or dividing the TAC/TAE between the qualifying entities.

8. Provisional lists, consultations and representations

- 8.1 The Delegated Authority may issue provisional lists for comment on any aspect relating to an application in any fishery/sector.
- 8.2 The Delegated Authority may request comment on any of the information provided by an

applicant and on the basis of the comments received make a final decision.

- 8.3 The Delegated Authority may invite representations regarding the assessment of the applications before making final decisions.

9. Announcement of decisions

The Delegated Authority shall after making a final decisions on the applications, inform all applicants of the outcome of their individual applications giving specific reasons for such decisions.

Further General Reasons for decisions in a specific fishery sector will be published informing all applicants on how the decisions were formulated and reached. The General Reasons shall also include an annexure referred to as decision sheet outlining the scores obtained by all applicants in the Patagonian Toothfish Fishery.

10. Payment of application and grant of right fees

- 10.1 The application fees for this fishery will be determined having regard to:
- (a) The cost of the entire fishing Rights allocation process, including consultation, receipting, evaluation of applications, verification, appeals and reviews; and
 - (b) The value of the fish being allocated over the duration of the Right.
- 10.2 The non-refundable application fee shall be payable before submitting the application form and only proof of payment shall be brought to the receipting center.
- 10.3 The grant of right fee is payable by all successful applicants upon the granting of rights.

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

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. An EAF strives to balance diverse societal objectives, by taking into account the knowledge and uncertainties about biotic, abiotic and human components of ecosystems and their interactions and applying an integrated approach to fisheries within ecologically meaningful boundaries.

11.2 **Observer Programme**

- (a) The right holder of a commercial Patagonian Toothfish fishing right shall accommodate an observer on board the right holder's nominated vessel when required to do so by the Department or its agent.
- (b) The right holder may bear the costs of the observer deployment when so required by the Department.
- (c) The right holder shall allow the Observer unrestricted access to monitor fishing activity and compliance with permit conditions and all applicable laws.
- (d) Should the Department reasonably believe that an Observer is being prevented from carrying out his or her obligations in any way or threatened in any way while on board, the Department may implement proceeding under section 28 of the MLRA.

11.3 **Performance measuring**

Successful applicants will be subjected to a number of performance measuring exercises for the duration of their fishing Rights. 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.

11.4 **Offences**

- (a) A Successful applicants that fails to utilise their Patagonian Toothfish fishing Right for one season without any reasonable explanation or that contravenes the provisions of the MLRA, will be subjected to proceedings of under section 28 of the MLRA.

12. **Permit conditions**

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

13. Glossary of terms

- 13.1 "Brother-Sister Corporations" A subsidiary company owned by the same parent company.
- 13.2 "Close corporation" means close corporation in terms of the Close Corporations Act, (Act No. 69 of 1984), of which the majority of members are South African persons.
- 13.3 "Company" means a company registered in terms of the Companies Act, (Act No. 71 of 2008), of which the majority of shareholders, as prescribed by the Minister, are South African persons
- 13.4 "Historically disadvantaged person" means a person who belongs to a group of persons who suffered racial discrimination in terms of the system of apartheid and includes women
- 13.5 "Legal entity" means a close corporation or company.
- 13.6 "MLRA" means the Marine Living Resources Act, (Act No. 18 of 1998
- 13.7 "Rights" means fishing or harvesting Rights granted in terms of section 18 of the Marine Living Resources Act,(Act No. 18 of 1998).
- 13.8 "Right Holder" means a person that was previously granted or lawfully acquired a fishing Right or which will be granted a right in the allocation process envisaged in this Policy
- 13.9 "Subsidiary company" is a company that is partly or completely owned by another company that holds a controlling interest in the subsidiary company.
- 13.10 "The 2013: General Policy" means the General Policy on the Allocation and Management of Fishing Rights: 2013.
- 13.11 "The Department" means the Department of Agriculture, Forestry and Fisheries.
- 13.12 "The Minister" means the Minister of Agriculture, Forestry and Fisheries.
- 13.13 "Historically Disadvantaged Person" means a person who belongs to a group of persons who suffered racial discrimination in terms of the system of apartheid and includes women.
- 13.14 "Total Allowable Catch (TAC)" means the maximum quantity of fish of individual species or groups of species made available annually or during such other period of time as may be prescribed, for combined recreational, small-scale, commercial and foreign fishing.
- 13.15 "Total Applied Effort (TAE)" means the maximum number of fishing vessels, the type, size and engine power thereof or the fishing method applied thereby for which fishing vessel licences or permits to fish may be issued for individual species or groups of species, or the maximum number of persons on board a fishing vessel for which fishing licences or permits may be issued to fish individual species or groups of species.
- 13.16 "Ownership" means beneficial ownership, in terms of which the shareholder or member is entitled to participate equitably in the profits of the entity.

DEPARTMENT OF AGRICULTURE, FORESTRY AND FISHERIES

NO. 1134

16 NOVEMBER 2015

**POLICY ON THE ALLOCATION AND MANAGEMENT OF COMMERCIAL FISHING RIGHTS IN
THE WEST COAST ROCK LOBSTER (OFFSHORE) FISHERY: 2015**

(available at www.daff.gov.za)

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

(In case of any inconsistency, the English text prevails)

TABLE OF CONTENTS

1. Introduction	1
2. Profile of the fishery	1
3. The 2005/2006 Long-Term Rights Allocation and Management Process	4
4. Objectives	4
5. Granting of fishing rights	5
6. Multi-sector involvement	6
7. Evaluation criteria	7
8. Provisional lists, consultations and representations	10
9. Announcement of decisions	11
10. Payment of application and grant of right fees	11
11. Management measures	11
12. Permit conditions	12
13. Glossary of terms	13

1. Introduction

The Department of Agriculture, Forestry and Fisheries (“the Department”) is responsible for administering the Marine Living Resources Act, 1998 (Act No. 18 of 1998) (“the MLRA”), regulations promulgated thereunder and policies issued by the Minister of Agriculture, Forestry and Fisheries (“the Minister”), in consultation with the Department.

This policy on the allocation and management of fishing rights in the West Coast Rock Lobster commercial (offshore) fishery (“the WCRL(O) fishery”) shall be referred to as the **“West Coast Rock Lobster Offshore Policy: 2015”**.

This policy must be read in conjunction with MLRA; regulations under the MLRA; the General Policy on the Allocation and Management of Fishing Rights: 2013 (“the 2013: General Policy”); other relevant Sector Specific Policies including the Policy for the Small Scale Fisheries Sector in South Africa: 2012; and the Policy for the Transfer of Commercial Fishing Rights: 2009. This policy must be interpreted to be consistent with the MLRA, and all of the other relevant regulations and policies.

This policy sets out objectives, criteria and considerations that will guide the allocation, evaluation, and management of fishing rights in the fishery. This policy will thus guide the Delegated Authority in taking decisions on applications in this fishery.

Only persons issued with permits in terms of the MLRA may harvest lobster caught in the WCRL(O) fishery, transport the catch from a landing site to a permitted Fish Processing Establishment (“FPE”) and export lobster and any products thereof.

2. Profile of the fishery

2.1. Description of the fishery

West Coast rock lobster (*Jasus lalandii*) are slow-growing, long-lived animals. The size of females at maturity varies and ranges from 57 millimetres carapace length (CL) to 66 millimetres CL. Male lobsters attain a larger size and grow faster than females. As a result of the size limit of 75 mm CL that is imposed on commercial fishers, male lobsters make up 90 to 99 percent of the catch.

The resource is found in waters less than 200 metres deep from the mouth of the Orange River in Northern Cape to East London. Commercial exploitation of the resource occurs from about 25°S in Namibia to Gansbaai. Recreational fishing extends further eastwards to Mossel Bay.

The Minister or a Delegated Authority annually sets a commercial Total Allowable Catch (“TAC”) for the exploitation of West Coast rock lobster, which is divided between the

WCRL(O) fishery and a separate fishery for the nearshore area (“the WCRL(N) fishery”). Based on the prevalence and location of the resource, 80% of the TAC is allocated to the WCRL(O) fishery, and 20% to the WCRL(N) fishery.

2.2. History of the fishery

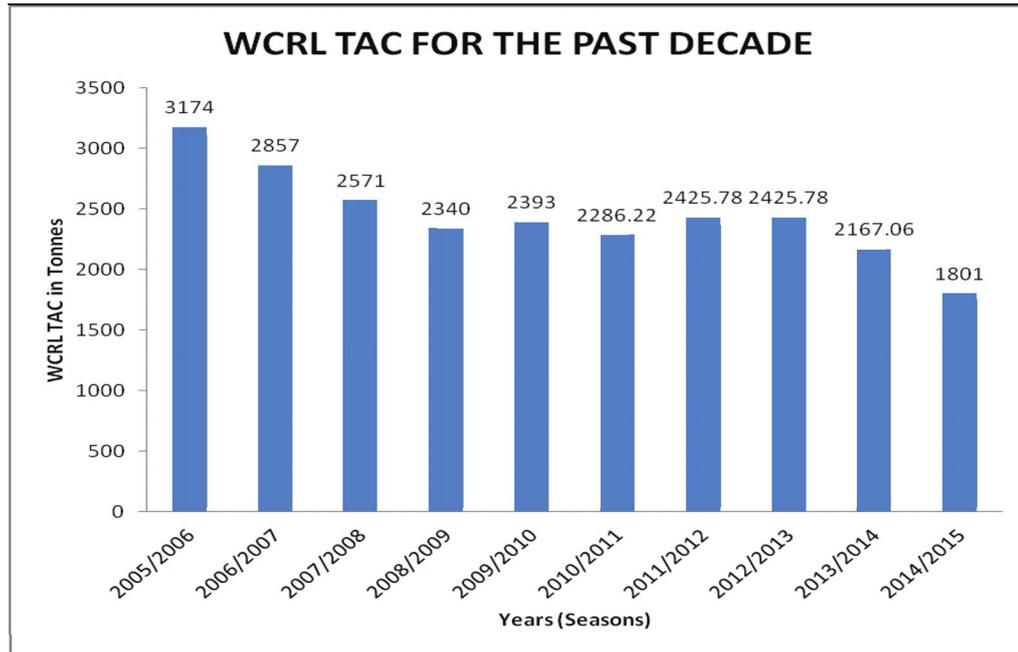
Commercial fishing began in the 1880’s, and expanded rapidly in the early part of the 20th century. Although catch records prior to 1940 are sparse, catches appear to have peaked in the period 1950 to 1965, when between 13 000 and 16 000 tons were landed annually.

Prior to 1946, the commercial fishery was unregulated. In that year, a tail-mass production quota was imposed to control exports. This formed the basis of the “output-controlled” management philosophy that is still employed in the management of the West Coast rock lobster resource today.

Beginning in 1946 onwards, annual tail-mass production quotas were granted to participants in the industry, based primarily on the performance of the fishery in the preceding season. Until the mid-1960’s, catches were directly controlled by these quotas. In the 1967/68 fishing season, catch rates began to decline and quotas could not be filled. Decreases in the permissible catch TAC restored some balance in the period 1970/71 to 1989/90.

In the early 1980’s the tail-mass production quota was replaced by a whole lobster (landed mass) quota, and a TAC was introduced to manage the exploitation of the resource. Area or zonal allocations were introduced at the same time. Other management measures that were enforced included size limits, and the enforcement of a closed season. Catches of berried (i.e. females bearing eggs) and soft-shelled lobsters were banned. The 1990/91 season again saw the catch rates drop and, in the ensuing years, the commercial TAC was gradually reduced, reaching 1 500 tons in the 1995/96 season. There was subsequently a slow recovery, and by the 2004/2005 season the TAC had risen to 3 527 tons for the 2004/2005 season.

Since the 2004/2005 season the TAC has had to be reduced sharply, based on serious declines in the resource, which primarily resulted from alarmingly high levels of illegal fishing. By the 2014/15 fishing season the TAC had reduced to 1801 tonnes. The reduction in the TAC has serious implications for the future of both the WCRL(N) and WCRL(O) fisheries. Over the past decade the TAC in the West Coast rock lobster has been set as indicated in the graph below:



Prior to the introduction of lobster traps in the 1960's, the commercial fishery depended almost exclusively on hand-hauled hoopnets, which are light and easy to deploy from small boats in shallower waters.

Right-holders in the WCRL(N) fishery are still restricted to using hoopnets in shallower waters. As a result right-holders in the WCRL(N) fishery usually use smaller vessels with fewer crew-members. By contrast, right-holders in the WCRL(O) fishery use larger, more sophisticated vessels, with larger crews.

2.3. Biological state of the resource

The resource is in a parlous state. The current harvestable biomass is estimated to be approximately 2.5 percent of that which existed before the resource was exploited. This decline has several causes, including: large unsustainable catches taken particularly during the first half of the 20th century; a substantial reduction in the somatic growth rate during the 1990's; and unlawful fishing.

2.4. Current resource users

West Coast rock lobster is exploited by three distinct sectors: the commercial fisheries (i.e. the WCRL(O) and WCRL(N) fisheries); a small scale fishery (formerly interim relief); and a recreational sector. Recreational users may only fish using hoopnets from a boat or the shore, or practice breath-hold diving or poling from the shore. Recreational fishers may not sell their catch.

3. The 2005/2006 Long-Term Rights Allocation and Management Process

The Department has made significant strides in transforming the commercial West Coast rock lobster fisheries. In 1992, 39 predominantly white right-holders controlled the West Coast rock lobster TAC. The industry was also marked by a high disparity in the highest and lowest quota allocations. By contrast, by the end of 2003, the Department had allocated 1 019 commercial rock lobster fishing rights, of which more than 785 were granted to former subsistence fishers. To accommodate the larger number of right-holders, the average allocation per right-holder was reduced, and the disparity between the largest and smallest right-holders was greatly narrowed.

During the 2005/2006 Long-Term Fishing Rights Allocation and Management Process ("LTRAMP"), the Department allocated 1062 commercial West Coast rock lobster fishing rights. Of these, 237 were granted in the WCRL(O) fishery (as per records of the long term rights allocation process, LTRAMP)¹.

More than 90 percent of the rights granted in the WCRL(N) fishery were allocated to black individual right holders; and 66 percent of the rights granted in the WCRL(O) fishery were allocated to black entities. This means that approximately 70 percent of the West Coast rock lobster fishery is controlled by blacks.

4. Objectives

4.1. The objectives and principles of allocating rights in a fishery are set out in section 2 of the MLRA, *inter alia*, to:

- (a) promote transformation through allocation of fishing rights to entities owned and/or controlled by historically disadvantaged persons which shall include designated groups (youth, women and people with disabilities), and to broaden meaningful participation in the WCRL(O) fishery (through increased participation, sharing value-creation opportunities and profits, and links);
- (b) ensure sustainable livelihoods through the promotion of fair employment
- (c) promote adherence to fair labour practices and improved working conditions
- (d) promote food security and poverty alleviation;
- (e) prefer applicants who rely on the harvesting of lobster in the WCRL(O) fishery as a major source of their gross annual income above applicants deriving income from sources outside the WCRL(O) fishery;
- (f) facilitate the recovery of over-exploited and collapsed fish stocks; and
- (g) achieve optimum utilisation and ecologically sustainable development of marine living resources.

¹ Figures as per 2005/6 long term rights allocation process

5. Granting of fishing rights

Fishing rights are granted in terms of section 18 of the MLRA. In terms of section 79 of the MLRA the Minister has delegated the power to grant rights in each fishery to a Delegated Authority in the Department.

Unless otherwise determined by the Minister, only South African persons shall acquire or hold rights in terms of section 18 of MLRA. In this fishery the Minister has not exercised his power to allow persons of other nationalities to acquire rights, meaning that only South African persons can acquire rights in this fishery.

The rights granted will be based on applicable balancing criteria, and will be reflected as a proportion of the local commercial TAC available at the time that the rights allocation process is conducted.

All rights granted shall be valid from the date of allocation for a period not exceeding 15 years, whereafter they will automatically terminate and revert back to the State to be reallocated.

It should be further noted that in terms of section 16 of the MLRA the Minister may suspend any fishing in the fishery or impose effort restrictions, in order to address a state of emergency.

5.1. Form of right holders

- (a) Section 18 of the MLRA provides that only South Africans persons may hold a fishing right.
- (b) Having regard to the nature of operations and resource accessibility. Only the following South African citizens will be considered in the West Coast rock lobster offshore fishery.
 - (i) companies (legal entity); and
 - (ii) close corporations (legal entity).

5.2. Duration of right

Having regard to the right allocation process and need to encourage investment, fishing rights in the WCRL(O) fishery will be granted for the maximum period of 15 years.

5.3. Total Allowable Catch and Total Applied Effort

In terms of section 14 of the MLRA the Ministers is empowered to determine a TAC, a Total Allowable Effort ("TAE") or combination thereof to apply in each fishery. This fishery is regulated by determination of a TAC.

The TAC is determined by the Delegated Authority considering the history, resource users, sustainability of the operations of right holders, and the viability of the fishery. The Delegated Authority will only allocate a local commercial portion of the determined TAC to commercial right holders based on the proportion granted to each successful applicant at the time of commercial fishing rights allocation process. The right holder's allocation may decrease or increase should the annual local commercial portions of determined TAC decrease or increase respectively. In terms of section 14(4) of the MLRA, if the allowable commercial catch in respect of which commercial fishing rights exist increases, the mass of the increase shall be available for allocation by the Minister.

5.4 Transfer of Rights Allocated in terms of this Policy

In terms of section 21 of the MLRA the Minister may approve the transfer of fishing rights in whole or in part. However, rights granted in the WCRL(O) fishery in terms of the MLRA shall not be transferred within the first two (2) years of being granted.

Rights can only be transferred in terms of the Policy for the Transfer of Commercial Fishing Rights (Government Gazette No 32449, 31 July 2009) or relevant amendments thereof.

Failure to pay the required fees for the grant of a right, or to apply for any permits, or to declare any catches during the first two (2) years, shall result in a cancellation of the right by Minister.

6. Multi-sector involvement

Applicants for the allocation of rights in the WCRL(O) fishery will not be precluded from applying for, or holding commercial rights in other local commercial fisheries sectors.

This shall mean any person can only apply for a right in any fishery sector regardless of whether the applicant has applied for a right or holds a right in any other fishery. In this case, the "applicant" shall mean an individual, a shareholder or director in a company, or a member in a close corporation applying for a right in any fishery sector.

Individuals who hold shares or a member's interest in an entity which is applying for the allocation of rights in the fishery, may also hold shares, an interest in an entity which is applying for, or already holds rights in another fishery.

Individuals who are directors or employees of an entity which is applying for the allocation of rights in the fishery, may also be a shareholder, member, director or employee of an entity which is applying for, or already holds rights in another fishery.

The Delegated Authority reserves the right to grant a right to the applicant in any sector and will prefer applicants who rely on the harvesting of lobster in the WCRL(O) fishery as a major source of their gross annual income.

7. Evaluation criteria

Applications for the allocation of rights in the WCRL(O) fishery 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 a portion of the TAC will be apportioned to successful applicants.

7.1. Exclusionary criteria

In addition to the criteria described in the 2013: 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/criteria:

(a) Compliance

An applicant will be excluded if it, a controlling shareholder, a member with a controlling interest, or a director, has been convicted of a serious transgression of the MLRA (without the option of the payment of a fine).

An applicant will also be excluded if it, a controlling shareholder, a member with a controlling interest, or a director, has had any fishing right cancelled or revoked in terms of the MLRA. For these purposes an individual will be treated as having had rights cancelled or revoked if that individual was a controlling shareholder, a member with a controlling interest, or a director of an entity which had its rights cancelled or revoked.

Minor infringements, including those in respect of which an admission of guilt fine was paid, may be taken into account as a balancing criterion and may also adversely affect an application.

(b) Paper quotas

Applications from paper quota applicants, as defined in the 2013: General Policy, will be excluded.

(c) Non-utilisation

Applicants which have held a right in the WCRL(O) fishery during the period duration of 2006 to 2014, which was not utilised, shall be excluded.

7.2. Balancing criteria

Applicants will be evaluated in terms of the following balancing criteria which will be weighted in order to evaluate and assess applications:

(a) Transformation

When assessing and scoring applications, and when allocating portions of the TAC to successful applicants, the Delegated Authority may prefer applicants based on transformation criteria. When attributing a score for transformation criteria, or allocating portions of the TAC, the Delegated Authority may have regard to: census statistics or other information provided by Statistics South Africa regarding the composition of the population of South Africa, and the percentage of that population made up by different demographic groups; the need to ensure the recognition and meaningful participation in the fishing industry of Historically Disadvantaged Individuals (HDIs); and the codes of good practice under the Broad-Based Black Economic Empowerment Amendment Act.

Applicants, depending on the form of the applicant, will be assessed and scored on the following transformation criteria:

- (i) The percentage of people from designated groups and HDIs represented at top salary, board of directors, members and senior official and management levels;
- (ii) The extent to which an applicant's black ownership and black management transformation credentials (as measured in the 2005 LTRAMP) have subsequently improved, remained the same, or deteriorated in the period following the granting of rights in the LTRAMP
- (iii) Whether employees (other than top salary earners) benefit from an employee share scheme;
- (iv) Compliance with the Employment Equity Act 55 of 1998 and the representativity of designated groups and HDIs at the various levels of employment below senior official and management level;
- (v) Affirmative procurement;
- (vi) Compliance with legislation on skills development and the amounts spent on the training of Black persons, youth, women people with disabilities and participation in learnership programmes; and
- (vii) Corporate social investment.

(b) Fishing performance

The historical fishing performance of applicants who have held fishing rights in the WCRL(O) fishery will be examined to determine if they have effectively utilised their

fishing rights. Effective utilisation shall mean activation of the catch permit, landing of catch, and subsequent submission of catch data for at least five years during the period 2007-2014.

(c) Local economic development

- (i) In order to promote local economic development, the Delegated Authority will give preference to applicants who will land catches at harbours situated outside of metropolitan areas, and process catches at land-based processing establishments outside of metropolitan areas. Metropolitan areas include the areas under the control of a metropolitan (category A) municipality (which in this fishery most notably includes the area governed by the City of Cape Town).
- (ii) The delegated authority shall, in order to ensure that all fishing communities share in the marine living resources, use the locality of landing sites and fish processing establishments as scoring or tie-breaking criteria. For these purposes the Delegated Authority may give preference to applicants, with the aim of ensuring an equitable distribution of opportunities to communities along the coastline.

(d) Job creation

The Delegated Authority may give preference to any applicant which commits to retaining existing employment opportunities, or to increasing employment opportunities if it is allocated a right in the WCRL(O) fishery. For these purposes the Delegated Authority will consider the quality of the employment opportunities which will be created, including compliance with the Basic Conditions of Employment Act, 1997 (No. 75 of 1997) ("BCEA"); and the applicant's commitment to provide their employees with:

- (i) permanent employment;
- (ii) medical aid or any kind of medical support;
- (iii) pension and provident fund;
- (iv) safe working conditions in accordance with the applicable legislative requirements; and
- (v) an employee share scheme, which ensures that employees enjoy an effective shareholding in the right holder.

(e) Access to a suitable vessel

An applicant will be required to demonstrate a right of access to a vessel suitable for the harvesting of lobster in the WCRL(O) fishery. Access may be in the form of ownership, part-ownership, a catch agreement, a charter agreement, or a bank guarantee for sufficient capital to purchase or build a vessel. If an applicant intends

purchasing a vessel, then additional information must be provided to prove a firm and binding offer by the current owner of the vessel to sell the vessel to the applicant. If an applicant intends building a new vessel, then additional information must be provided including the vessel plans, the cost to be incurred, and a firm and binding commitment by a vessel building company to build the vessel.

A suitable vessel in the WCRL(O) fishery is a large fishing vessel that:

- (i) has a South African Maritime Safety Authority (SAMSA) registered length of approximately 30 meters and a minimum length of approximately 8 meters;
- (ii) has a functioning Vessel Monitoring System (VMS); and
- (iii) is geared for either trap or hoop net fishing.

(f) Applicants involvements and relationship with other applicants

(i) Entity and their subsidiaries involvement

A company and its subsidiary/ies may not be granted more than one right in the WCRL(O) fishery, so as to avoid fronts and monopolies in order to promote broader access to the WCRL(O) resource. Applicants are required to disclose their relationship to other applicants for the allocation of rights in the WCRL(O) fishery, as well as in other commercial fisheries. If an entity and its subsidiary both apply for a right in this fishery, the holding/umbrella/parent company will be preferred with due regard being taken of the Department's transformation objectives.

(ii) Brother-Sister Corporations

If two or more entities which are owned and controlled by the same person or persons or shareholders apply for commercial fishing rights in the WCRL(O) fishery, and qualify for the allocation of such rights, then the Department may consider: allocating a fishing right to one of the qualifying entities only; or dividing the TAC between the qualifying entities.

8. Provisional lists, consultations and representations

- 8.1. The Delegated Authority may issue provisional lists for comment on any aspect relating to an application in any fishery sector.
- 8.2. The Delegated Authority may request comment on any of the information provided by an applicant and on the basis of the comments received make its final decisions.
- 8.3. The delegated authorities may invite representations regarding the assessment of the applications before making final decisions.

9. Announcement of decisions

The Delegated Authority shall after making final decisions on the applications, inform all applicants of the outcome of their individual applications giving specific reasons for such decisions. Further General Reasons for decisions in a specific fishery will be published informing all applicants on how the decisions were formulated and reached. The General Reasons shall also include an annexure outlining the scores obtained by all applicants in the WCRL(O) fishery.

10. Payment of application and grant of right fees

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

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

10.2. The non-refundable application fee shall be payable before submission of the application and only proof of payment shall be brought to the receipting centre.

10.3 The grant of right fee is payable by all successful applicants upon the granting of rights.

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"). 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. An EAF strives to balance diverse societal objectives, by taking into account the knowledge and uncertainties about biotic, abiotic and human components of ecosystems and their interactions and applying an integrated approach to fisheries within ecologically meaningful boundaries.

11.2. Observer programme

- (a) The right holder of a commercial WCRL(O) fishing right shall accommodate an observer on board the right holder's nominated vessel when required to do so by the Department or its agent.
- (b) The right holder may bear the costs of the observer deployment when so required by the Department.

- (c) The right holder shall allow the Observer unrestricted access to monitor fishing activity, and to test compliance with permit conditions and all applicable laws.
- (d) Should the Department reasonably believe that an Observer is being prevented from carrying out his or her obligations in any way or threatened in any way while on board the right-holder's vessel, the Department may implement proceeding under section 28 of the MLRA.

11.3. Vessels and fishing effort

As many right-holders do not own the vessels they use, the Department anticipates that many right-holders will seek to introduce further vessels after the allocation of long-term fishing rights. Current effort levels are optimal and the Department will therefore carefully evaluate the cumulative effect of the introduction of further and new vessels into the fleet. Right-holders will not be permitted to introduce vessels capable of expending effort far in excess of their allocations.

11.4. Performance measuring

Successful applicants will be subjected to a number of performance measuring exercises for the duration of their fishing rights. The purposes of the performance measuring exercises 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.

11.5. Offences

A successful applicant that fails to utilise its WCRL(O) fishing right for one fishing season without any reasonable explanation, or that contravenes the provisions of the MLRA, will be subject to proceedings under section 28 of the MLRA.

12. 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.

13. Glossary of terms

- 13.1 "Brother-Sister corporations" are subsidiary companies owned by the same parent company.
- 13.2 "Close corporation" means close corporation in terms of the Close Corporations Act (No. 69 of 1984), of which the majority of members are South African persons.
- 13.3 "Company" means a company registered in terms of the Companies Act No. 71 of 2008, of which the majority of shareholders, as prescribed by the Minister, are South African persons.
- 13.4 "Historically disadvantaged person" means a person who belongs to a group of persons who suffered racial discrimination in terms of the system of apartheid and includes women.
- 13.5 "Legal entity" means a close corporation or company.
- 13.6 "MLRA" means the Marine Living Resources Act (Act No. 18 of 1998).
- 13.7 "Rights" means fishing or harvesting rights granted in terms of section 18 of the Marine Living Resources Act (Act No. 18 of 1998).
- 13.8 "Right Holder" means a person or a legal entity that was previously granted or lawfully acquired a fishing right, or which will be granted a right in the allocation process envisaged in this Policy.
- 13.9 "Same household" means a group of two or more persons living in a residential dwelling unit (which includes a house, semi-detached dwelling, separate outbuildings, an apartment, or any other independent structure) who are dependent on each other, or dependent on one or more members of that group. This includes, but is not limited to, spouses or persons in a long-term relationship, and their dependent children; guardians and their dependent wards; and any other dependent relationship. Persons living at the same address or in the same residential unit, and who are not dependent on any other person at that address or residential unit, do not constitute a single household.
- 13.10 "South African citizen" means a South African citizen in terms of the South African Citizenship Act (Act No. 88 of 1995).
- 13.11 "Subsidiary company" is a company that is partly or completely owned by another company that holds a controlling interest in the subsidiary company.
- 13.12 "The 2013: General Policy" means the General Policy on the Allocation and Management of Fishing Rights: 2013.
- 13.13 "The Department" means the Department of Agriculture, Forestry and Fisheries.
- 13.14 "The Minister" means the Minister of Agriculture, Forestry and Fisheries.
- 13.15 "Total Allowable Catch" means the maximum quantity of fish of individual species or groups of species made available annually or during such other period of time as may be prescribed, for combined recreational, small-scale, commercial and foreign fishing.
- 13.16 "Total Applied Effort" means the maximum number of fishing vessels, the type, size and engine power thereof or the fishing method applied thereby for which fishing vessel licences or permits to fish may be issued for individual species or groups of species, or the maximum number of persons on board a fishing vessel for which fishing licences or permits may be issued to fish for individual species or groups of species.

DEPARTMENT OF AGRICULTURE, FORESTRY AND FISHERIES

NO. 1135

16 NOVEMBER 2015

DEPARTMENT OF AGRICULTURE; FORESTRY AND FISHERIES

**POLICY ON THE ALLOCATION AND MANAGEMENT OF COMMERCIAL FISHING
RIGHTS IN THE SEAWEED FISHERY: 2015**

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

(In case of any inconsistency, the English text prevails)

TABLE OF CONTENTS

1.	Introduction _____	1
2.	Profile of the fishery _____	1
3.	The 2005/2006 Long-Term Rights Allocation and Management Process _____	3
4.	Objectives _____	4
5.	Granting of fishing rights _____	5
6.	Multi-sector involvement _____	6
7.	Evaluation criteria _____	7
8.	Provisional lists, representations and consultations _____	12
9.	Announcement of decisions _____	12
10.	Payment of application and grant of right fees _____	12
11.	Management measures _____	12
12.	Permit conditions _____	13
13.	Glossary of Terms _____	14

1. Introduction

The Department of Agriculture, Forestry and Fisheries (“the Department”) is responsible for administering the Marine Living Resources Act, 1998 (Act No. 18 of 1998) (“the MLRA”), regulations promulgated thereunder and policies issued by the Minister of Agriculture, Forestry and Fisheries (“the Minister”), in consultation with the Department.

This policy on the allocation and management of fishing rights in the seaweed fishery (“the seaweed fishery”) shall be referred to as the **“Seaweed Fishery Policy: 2015”**.

This policy must be read in conjunction with the MLRA and regulations under the MLRA; the General Policy on the Allocation and Management of Fishing Rights: 2013 (“the 2013: General Policy”), other relevant current Sector Specific Policies including the Policy for the Small Scale Fisheries Sector in South Africa: 2012 and the Policy for the Transfer of Commercial Fishing right: 2009. This policy must be interpreted to be consistent with the MLRA, and all of the other relevant regulations and policies.

This policy sets out objectives, criteria and considerations that will guide the allocation, evaluation, and management of fishing rights in the fishery. This policy will thus guide the Delegated Authority in taking decisions on applications in this fishery.

Only persons issued with permits in terms of the MLRA may harvest seaweed, transport seaweed harvest from a landing site to the permitted Fish Processing Establishment (FPE) and export seaweed harvest and products thereof.

2. Profile of the Fishery

2.1 Description of the fishery

Seaweeds harvesting in South Africa is primarily directed at two species of large brown seaweed (kelp), *Ecklonia maxima* and *Laminaria pallida*. These seaweeds are abundant in the cool, temperate waters between Cape Agulhas and Namibia. The South African coastline is also home to a number of other seaweed species, including *Gelidium* and *Gracilaria*. Since at least 1953 beach-cast kelp of both *Ecklonia maxima* and *Laminaria pallida*, have been harvested at quantities that have been determined by market demand. By 1977 a maximum of approximately 5 000 tons (dry weight) was reached. Since then, an annual average of 1 312 dry weight tons have been collected. Yields were lower between 1993 and 1995 as a consequence of strong international competition from Chinese alginate producers. Beach-cast kelp is sundried, milled and exported mainly for the extraction of alginate. No commercial extraction occurs in South Africa due to strong international competition. Laboratory tests on South African kelps indicate that alginate yields of between 22 and 40

percent. Recently, powdered kelp has been exported to Japan for use in formulated fish-feed. Fresh kelp has been harvested since 1979 in relatively small quantities for the production of a liquid plant-growth stimulant (Kelpak). A similar local product has recently also been marketed (Liquikelp). These products contain cytokinins that have been shown to improve the growth and quality of various food and horticultural crops.

The recent growth of the abalone farming industry has created further demand for freshly harvested kelp. Commercially viable quantities of Gracilarioid seaweeds (*Gracilaria gracilis* and *Gracilariopsis* sp.) occur in Saldanha Bay and St Helena Bay. Since at least 1957 commercially viable quantities of *Gelidium* have been harvested in the Eastern Cape. Four species (*G. pristoides*, *G. abbotiorum*, *G. pteridifolium* and possibly some *G. capense*) have historically been harvested from the intertidal and shallow subtidal zones of concession areas 1, 20, 21, 22 and 23. Currently, only *G. pristoides* has reasonable marketing potential. An attempt was made to extract agar in the Eastern Cape from 1978-1982 but this proved uneconomical. The present levels and methods of exploitation have a negligible ecological effect. Exploitation levels are essentially controlled by limiting effort to only one commercial operator per concession area and through the monitoring of yields. These species are also difficult to fully remove by picking.

Whilst the Minister annually sets both a total allowable catch ("TAC") and Total Applied Effort ("TAE") for the seaweed sector, the principal management tool is effort control and the number of right holders in each seaweed harvesting area is restricted. Each concession area is limited to one right-holder for each functional group of seaweeds (e.g. kelps, *Gelidium* spp., Gracilarioids). In certain areas there are also limitations placed on the amounts that may be harvested. Seaweed is harvested on a per area basis. The Department has divided the South African coastline (between Port Nolloth and Port St Johns) into 23 harvesting areas. Very few right holders who harvest seaweed add value to it. Currently, many right holders harvest seaweed for feed for abalone farms. In terms of value adding, seaweed is used in specialised "health-food" products, fertilizers, as part of aromatherapy products and for cosmetic products.

The seaweed sector employs approximately over 1 700 people (of whom approximately 313 are permanent whilst approximately 1 450 are employed seasonally). Approximately 92 percent of the jobs created are held by historically disadvantaged persons. The majority of workers are women. The start-up costs for a new entrant may range from approximately R250 000 to R10 million. The operations are labour intensive and it is reported that wage costs for the various right holders range from approximately R50 000 per annum to R1 783 000 per annum. Certain

right holders also invest in research and development and these investments range from R60 000 to R600 000 per annum.

2.2 **Current resource users**

Seaweed right holders harvest the seaweed in various ways depending on what part of the seaweed is required by the right-holder. Right-holders either harvest the seaweed fronds or the whole seaweed. Some right-holders collect the seaweed washed up on the shore. There are 23 commercial areas in which to exploit seaweed. It is not being exploited in areas 2, 3, 18, 19, 20 and 22.

3. **The 2005/2006 Long-Term Rights Allocation and Management Process**

In the 2005/2006 Long-Term Fishing Rights Allocation and Management Process (LTRAMP), 14 commercial seaweed harvesting rights were allocated to a total of 14 commercial entities. In 1997, the commercial seaweed sector was dominated by white-owned and managed entities. Currently, six of the 14 right holder entities are black-owned and managed. Accordingly, 42.8 percent of right holders are black. Of the 14 right holders, seven (or 50 percent) are small- and medium-sized enterprises. A map of the concession areas (Figure 1) and brief descriptions of the resources in each area are attached as Appendix A.

Concession areas

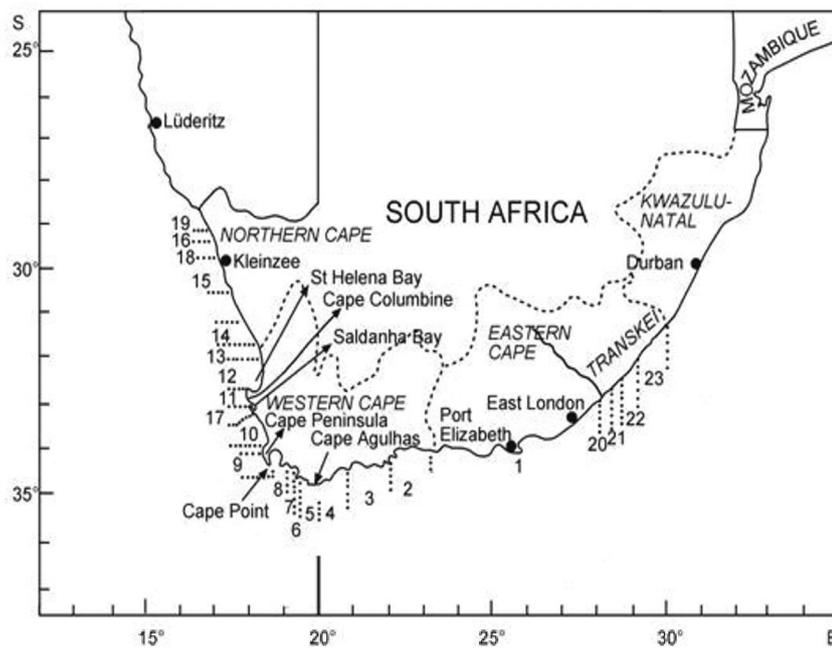


Figure 1: The map showing the Seaweed concession areas.

4. Objectives

4.1 The objectives and principles of allocating fishing rights in a fishery are set out in section 2 of the MLRA, inter alia, to:

- (a) promote transformation through allocation of fishing rights to entities owned and/or controlled by historically disadvantaged persons which shall include designated groups (youth, women and people with disabilities), and to broaden meaningful participation in a fishery (through increased participation, sharing value-creation opportunities and profits, and forging links);
- (b) ensure sustainable livelihoods through the promotion of fair employment;
- (c) promote adherence to fair labour practices and improved working conditions;
- (d) promote food security and poverty alleviation;
- (e) prefer applicants who rely on the harvesting of seaweed as a major source of their gross annual income over above applicants deriving income from sources outside the fishery;
- (f) facilitate the recovery of over-exploited and collapsed fish stocks; and

- (g) achieve optimum utilisation and ecologically sustainable development of marine living resources.

5. Granting of fishing rights

Fishing rights are granted in terms of section 18 of the MLRA. In terms of section 79 of the MLRA the Minister has delegated the power to grant fishing rights in each fishery to a Delegated Authority in the Department. Unless otherwise determined by the Minister only South African persons shall acquire or hold rights in this sector. In the seaweed fishery the Minister has not exercised his power to allow persons of other nationalities to acquire rights, meaning that only South African persons can acquire rights in the fishery.

The Delegated Authority shall allocate proportions of TAC and/or TAE to each successful applicant based on the applicable balancing criteria and it will be reflected as a proportion of the local commercial TAC, TAE or a combination thereof available at the time the fishing right is allocated. All rights granted shall be valid from the date of allocation for a period not exceeding 15 years, where after they will automatically terminate and revert back to the State to be reallocated. It should be further noted that in terms of section 16 of the MLRA the Minister may suspend any fishing in the seaweed fishery or impose effort restrictions in order to address a state of emergency.

4.1 Form of Right Holders

- (a) Section 18 of the MLRA provides that only South African persons may hold fishing rights.
- (b) Having regard to the nature of operations and resources accessibility, only the following South African persons will be considered in the fishery:
 - (i) a citizen (individual) as defined in terms of the South African Citizenship Act, 1995 (Act 88 of 1995);
 - (ii) a company (legal entity); and
 - (iii) a close corporation (legal entity).

4.2 Duration of Right

Having regard to the right allocation process and the need to encourage investment in the fishery, fishing rights will be granted in the seaweed fishery for a maximum period of 15 years.

4.3 Total Allowable Catch and Total Applied Effort

In terms of section 14 of the MLRA the Minister is empowered to determine a TAC, TAE or combination thereof to apply in each fishery.

The TAC, TAE or combination thereof are determined by the Delegated Authority considering the history, resource users, sustainability of the operations of right holders and the viability of the fishery. The Delegated Authority will only allocate a local commercial portion of the determined TAC, TAE or combination thereof to commercial right holders based on the proportion granted to each successful applicant at the time of the commercial fishing rights allocation process. The right holder's allocation may decrease or increase should the annual local commercial portions of the determined TAC, TAE or combination thereof decrease or increase respectively. In terms of section 14(4) of the MLRA, if the allowable commercial catch in respect of which commercial fishing rights exist increases, the mass of the increase shall be available for allocation by the Minister.

4.4 Transfer of Rights Allocated in terms of this Policy

In terms of section 21 of the MLRA the Minister may approve transfer of fishing rights in whole or in part. However, rights granted in terms of the MLRA shall not be transferred within the first two (2) years of being granted.

Rights can only be transferred in terms of the Policy for the Transfer of Commercial Fishing Rights (Government Gazette No 32449, 31 July 2009) or relevant amendments thereof.

A notification of transfer of shares or members' interest must be served on the Department within 30 days of such sale or transfer or any time-period set in applicable permit conditions in all cases in which shares or a member's interest in a right holder are sold or transferred,. In addition, the Department's approval is required for all cases in which the sale or transfer of shares or a member's interest in a right holder results in a change of control of the entity, or in the entity being less transformed than it was at the date on which rights are allocated.

Failure to pay the required fees for the grant of a right or to apply for any permits or to declare any catches during the first two (2) years shall result in a cancellation of the right by the Minister.

6. Multi-sector involvement

Applicants for the allocation of rights in the seaweed fishery will not be precluded from applying for, or holding commercial fishing rights in other local commercial fisheries sectors.

CONTINUES ON PAGE 130 - PART 2



Government Gazette Staatskoerant

REPUBLIC OF SOUTH AFRICA
REPUBLIEK VAN SUID AFRIKA

Vol. 605

16 November 2015
November

No. 39417

PART 2 OF 3

N.B. The Government Printing Works will not be held responsible for the quality of "Hard Copies" or "Electronic Files" submitted for publication purposes

ISSN 1682-5843



9 771682 584003

39417



AIDS HELPLINE: 0800-0123-22 Prevention is the cure

This shall mean any person can apply for a right in any fishery sector regardless whether the applicant has applied for a right or holds a right in any other fishery sector. In this case, the “applicant” shall mean an individual, a shareholder or Director in a company, or a member in a close corporation or a co-operative applying for a right in any fishery sector. However the Delegated Authority reserves the right to grant a right in any sector.

Natural persons who hold shares or a member’s interest in an entity which is applying for the allocation of rights in the fishery, may also hold shares, an interest or a stake in a an entity or cooperative which is applying for, or already holds rights in another fishery.

Natural persons who are directors or employees of an entity which is applying for the allocation of rights in the fishery, may also be a shareholder, member, director or employee of an entity which is applying for, or already holds rights in another fishery; or be a participant in a cooperative operating in another fishery.

The Delegated Authority reserves the right to grant a right to the applicant in any sector and may, however, prefer applicants who rely on the harvesting of seaweed as a major source of their gross annual income.

7. Evaluation criteria

Applications for rights in the seaweed fishery 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 a TAC, TAE or combination thereof will be apportioned to successful applicants.

7.1 Exclusionary criteria

Apart from the criteria described in the 2013: General Policy pertaining to the lodgement of applications and material defects, the Delegated Authority will exclude applicants that fail to meet the following requirements/criteria:

(a) Compliance

An applicant will be excluded, if it, a member with controlling interest, a director or a controlling shareholder has been convicted of a serious transgression of the MLRA (without the option of the payment of a fine).

An applicant will also be excluded, if it, a member with a controlling interest, a director or controlling shareholder had had any fishing right cancelled or

revoked in terms of the MLRA. For these purposes a natural person will be treated as having had rights cancelled or revoked if that person was a controlling shareholder, a member with a controlling interest, or a director of an entity which had its rights cancelled or revoked.

Minor infringements, including those in respect of which an admission of guilt fine was paid, may be taken into account as a balancing criterion and may also adversely affect an application.

(b) **Paper quotas**

Applications from paper quota applicants, as defined in the 2013: General Policy will be excluded.

(c) **Non-utilisation**

Applicants which have held a right in the seaweed fishery during the period of 2006 to 2015, which was not utilised, shall be excluded.

(d) **Personal involvement in harvesting of the resource**

Individual applicants will be required to demonstrate that they will be personally involved in this fishery. They will be required to actively participate in the harvesting of the resource and the business operations. Only applicants incapable of participating due to a permanent physical disability will be exempted from this requirement. Consideration will be given to female applicants who may not be personally involved in the harvesting of the resource but who are dependent on the seaweed fishery for their livelihood.

7.2 **Balancing criteria**

Applicants will be evaluated in terms of the following balancing criteria, which will be weighted in order to evaluate and assess applications:

(a) **Transformation**

When assessing and scoring applications, and when allocating portions of the TAC, TAE or combinations thereof to successful applicants, the Delegated Authority may prefer applicants based on transformation criteria. When attributing a score for transformation criteria, or allocating portions of the TAC, the Delegated Authority may have regard to: census statistics or other information provided by Statistics South Africa regarding the composition of the population of South Africa, and the percentage of that population made up by different demographic groups; the need to ensure the recognition and meaningful participation in the

fishing industry, of Historically Disadvantaged Individuals (HDIs) and the codes of good practice under the Broad Based Economic Empowerment Amended Act

Applicants, depending on the form of applicant, will be assessed and scored on the following transformation criteria:

- (i) The percentage of people from designated groups and HDIs represented at top salary, board of directors, members and senior official and management levels;
- (ii) The extent to which an applicant's black ownership and black management transformation credentials (as measured in the 2005 LTRAMP) have subsequently improved, remained the same, or deteriorated in the period following the granting of rights in the 2005 LTRAMP process;
- (iii) Whether employees (other than top salary earners) benefit from an employee share scheme;
- (iv) Compliance with the Employment Equity Act 55 of 1998, and the representivity of designated groups and HDIs at the various levels of employment below senior official and management level;
- (v) Affirmative procurement;
- (vi) Compliance with legislation on skills development and the amounts spent on the training of blacks, youth, women, people with disabilities, and participation in learnership programmes; and
- (vii) Corporate social investment.

(b) **Fishing performance**

The historical fishing performance of applicants who have held fishing rights in the seaweed fishery will be examined to determine if they have effectively utilised their fishing rights. Effective utilisation shall mean activation of the catch permit and subsequent catch data submission for at least five (5) years during the period 2007-2014. Applicants should submit this information with their application forms.

(c) **Local economic development**

- (i) In order to promote local economic development the Delegated Authority will give preference to applications who will land catches at harbours situated outside the metropolitan areas.
- (ii) The Delegated Authority may, in order to ensure that all fishing communities share in the marine living resources, use the locality of landing sites and fishing processing establishments as scoring or tie-

breaking criteria. For these purposes the Delegated Authority may give preference to applicants, with the aim of ensuring an equitable distribution of opportunities to communities along the coastline.

(d) **Job creation**

The Delegated Authority may give preference to any applicant which commits to retaining existing employment opportunities, or to increasing employment opportunities if it is allocated rights in the fishery. For these purposes the Delegated Authority will consider the quality of the employment opportunities which will be created, including compliance with the Basic Conditions of Employment Act, 1997 (No. 75 of 1997) ("BCEA"); and the applicant's commitment to provide their employees with:

- (i) permanent employment;
- (ii) medical aid or any kind of medical support arrangement;
- (iii) pension / provident fund;
- (iv) safe working conditions in accordance with the applicable legislative requirements; and
- (v) an employee share scheme, which ensures that employees enjoy an effective shareholding in the right holder.

(e) **Access to a suitable vessel**

An applicant will be required to demonstrate a right of access to a vessel suitable for the harvesting in the fishery, where applicable as some methods of seaweed harvesting does not require the use of a vessel, e.g. in beach cast kelp harvesting. Access may be in the form of ownership, part-ownership, a catch agreement, a charter agreement, or a bank guarantee for sufficient capital to purchase or build a vessel. If an applicant intends purchasing a vessel then additional information must be provided to prove a firm and binding offer by the current owner of the vessel to sell the vessel to the applicant and a purchase agreement must be provided. If an applicant intends building a new vessel then additional information must be provided including the vessel plans, the cost to be incurred and a firm and binding commitment by a vessel building company to build the vessel.

The vessel must be certified by South African Maritime Safety (SAMSA) as being safe.

(f) **Applicant's involvement and relationship with other applicants**

(i) **Same household involvement**

The same household may not be granted more than one right in the seaweed fishery so as to avoid fronts and monopolies and to broaden access to the seaweed resource. Applicants are required to disclose their relationship to other applicants in the seaweed fishery as well as in other commercial fisheries. If more than one member of the same household applies for a right, the Department will determine who the preferred right holder will be with due regard being taken to the Department's transformation objectives.

(ii) **Entity and their subsidiaries involvement**

A company and its subsidiary/ies may not be granted more than one right in a fishery, so as to avoid fronts and monopolies and to promote broaden access to the seaweed resource. Applicants are required to disclose their relationship to other applicants for the allocation of rights in the fishery, as well as in other commercial fisheries. If an entity and its subsidiary both apply for a right in the same fishery, the holding/umbrella/parent company will be preferred with due regard being taken to the Department's transformation objectives.

(iii) **Brother-Sister Corporations**

If two or more entities which are owned and controlled by the same person or persons or shareholders apply for a commercial fishing right in the fishery, and qualify for allocation of such rights, then the Department may consider allocating a fishing right to one of the qualifying entities only; or dividing the TAC/TAE between the qualifying entities.

(iv) **Individuals with shareholding in legal entity**

If an individual applies and qualifies for a fishing right in the seaweed sector as an individual as well as a shareholder in a legal entity, the Department will only consider allocating the seaweed fishing right to the individual in the capacity as a shareholder of the legal entity so as to broaden participation in the seaweed fishery.

- (g) Applicants who reside adjacent to the fishing concession areas will be preferred over other applicants.

8. Provisional lists, representations and consultations

- 8.1 The Delegated Authority may issue provisional lists for comment on any aspect relating to an application in any fishery/sector.
- 8.2 The Delegated Authority may request comment on any of the information provided by an applicant and on the basis of the comments received make its final decision.
- 8.3 The Delegated Authority may invite representations regarding the assessment of the applications before making final decisions.

9. Announcement of decisions

The Delegated Authority shall after making final decisions on the applications inform all applicants of the outcome of their individual applications giving specific reasons for such decision.

Further General Reasons for decisions in a specific fishery sector will be published informing all applicants on how the decisions were formulated and reached. The General Reasons shall also include an annexure outlining the scores obtained by all application in the seaweed sector.

10. Payment of application and grant of right fees

- 10.1 The application fees will be determined having regard to:
- (a) The cost of the entire fishing rights allocation process, including consultation, receipting, evaluation of applications, verification, appeals and reviews; and
 - (b) The value of the fish being allocated over the duration of the right.
- 10.2 The non –refundable application fee shall be payable on or before the submission of the application form and only proof of payment shall be brought to the receipting centre.
- 10.3 The grant of right fee is payable by all successful applicants upon the granting of rights.

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

A 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. An EAF strives to balance diverse societal objectives, by taking into account the knowledge and uncertainties about biotic, abiotic and human components of ecosystems and their interactions and applying an integrated approach to fisheries within ecologically meaningful boundaries.

11.2 Observer Programme

- (a) The right holder of a commercial seaweed fishing right shall accommodate an observer on board the right holder's nominated vessel when required to do so by the Department or its agent.
- (b) The right holder may bear the costs of the observer deployment when so required by the Department.
- (c) The right holder shall allow the Observer unrestricted access to monitor fishing activity and to test compliance with permit conditions and all applicable laws.
- (d) Should the Department reasonably believe that an Observer is being prevented from carrying out his or her obligations in any way, or threatened in any way while on board the right holders' vessel; the Department may implement proceedings under section 28 of the MLRA.

11.3 Performance measuring

Successful applicants will be subjected to a number of performance measuring exercises for the duration of their fishing right. 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.

11.4 Offences

A successful applicant that fails to utilise its seaweed fishing right for one fishing season without any reasonable explanation or that contravenes the provisions of the MLRA will be subject to proceedings under section 28 of the MLRA.

12. Permit conditions

Permit conditions for the seaweed fishery will be issued annually. The permit conditions will be determined after consultation with successful applicants in the seaweed fishery and will be subject to revision as and when it may be necessary.

13. Glossary of Terms

- 13.1. "Brother- Sister corporations" are subsidiary companies owned by the same parent company.
- 13.2. "Close corporation" means close corporation in terms of the Close Corporations Act, (Act No. 69 of 1984), of which the majority of members are South African persons.
- 13.3. "Company" means a company registered in terms of the Companies Act, (Act No. 71 of 2008), of which the majority of shareholders, as prescribed by the Minister, are South African persons.
- 13.4. "Historically disadvantaged person" means a person who belongs to a group of persons who suffered racial discrimination in terms of the system of apartheid and includes women.
- 13.5. "Legal entity" means a close corporation or company.
- 13.6. "MLRA" means the Marine Living Resources Act (Act No. 18 of 1998).
- 13.7. "Race, gender and disability" means race, gender and disability as defined in the Employment Equity Act (Act No. 55 of 1998).
- 13.8. "Right Holder" means a person or a legal entity that was previously granted or lawfully acquired a fishing right or which will be granted a right in the allocation process envisaged in this Policy.
- 13.9. "Rights" means fishing or harvesting rights granted in terms of section 18 of the Marine Living Resources Act, 1998 (Act No. 18 of 1998).
- 13.10. "Same household" means a group of two or more persons living in a residential dwelling unit (which includes a house, semi-detached dwelling, separate outbuildings, an apartment, or any other independent structure) who are dependent on each other, or dependent on one or more members of that group. This includes, but is not limited to, spouses or persons in a long-term relationship, and their dependent children; guardians and their dependent wards; and any other dependent relationship. Persons living at the same address or in the same residential unit, and who are not dependent on any other person at that address or residential unit, do not constitute the same household.
- 13.11. "South African citizen" means a South African citizen in terms of the South African Citizenship Act, 1995 (Act No. 88 of 1995).
- 13.12. "Subsidiary company" is a company that is partly or completely owned by another company that holds a controlling interest in the subsidiary company.
- 13.13. "The Department" means the Department of Agriculture, Forestry and Fisheries.
- 13.14. "The Minister" means the Minister of Agriculture, Forestry and Fisheries.
- 13.15. "The 2013: General Policy" means the General Policy on the Allocation and Management of Fishing Rights: 2013.
- 13.16. "Total Allowable Catch" (TAC) means the maximum quantity of fish of individual species or group of species made available annually or during such other period of

time as may be prescribed, for combined recreational, small-scale, commercial and foreign fishing.

- 13.17. "Total Applied Effort" (TAE) means the maximum number of fishing vessels, the type, size and engine power thereof or the fishing method applied thereby for which fishing vessel licences or permits to fish may be issued for individual species or groups of species, or the maximum number of persons on board a fishing vessel for which fishing licences or permits may be issued to fish for individual species or groups of species.

APPENDIX A

Concession areas

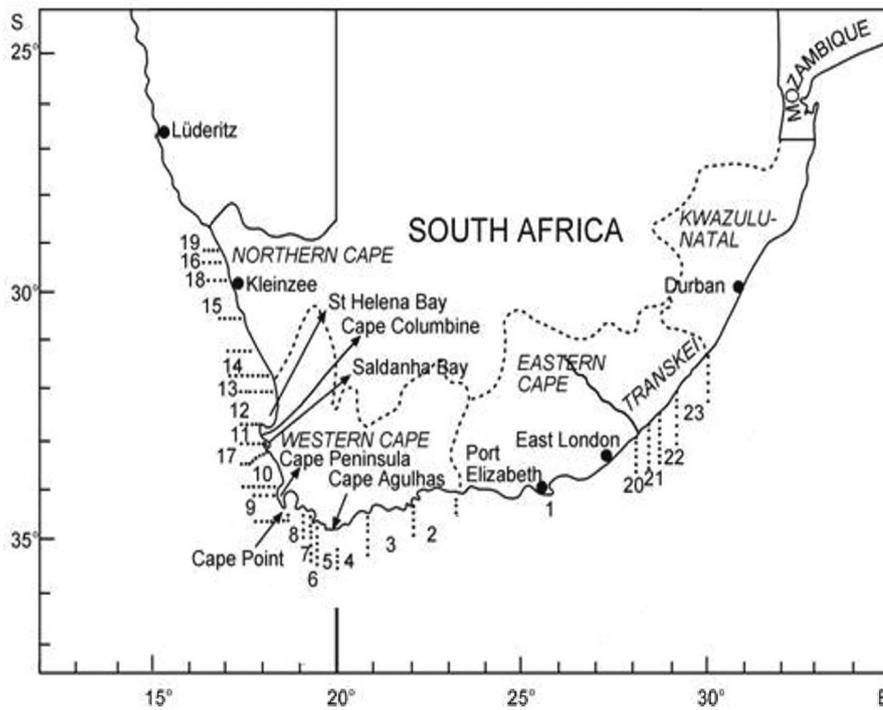


Figure 1: The map showing the Seaweed concession areas.

Area 1 (*Gelidium right*)

1. Boundaries of Concession Area:
Kei River (32° 40' 28" S, 28° 23' 00" E) to Cape Seal (34° 01' 12" S, 23° 24' 48" E).

2. Functional group/genus/species:
Gelidium pristoides, *G. abbottiorum*, *G. amansii*, *G. pteridifolium*
("G. cartilagineum/G. versicolor")

3. Harvesting/collecting method:
By hand (picking).

4. Maximum Yield:
Not applicable (effort-controlled).

Area 2 (*Gelidium right*)

1. Boundaries of Concession Area:
Cape Seal (34° 01' 12" S, 23° 24' 48" E) to Cape St Blaize (34° 10' 16" S, 22° 05' 30" E).

2. Functional group/genus/species:
Gelidium pristoides, *G. abbottiorum*, *G. amansii*, *G. pteridifolium*
("G. cartilagineum/G. versicolor")

3. Harvesting/collecting method:
By hand (picking).

4. Maximum Yield:
Not applicable (effort-controlled).

5. Comments:
Poor resource: low biomass, poor access, MPAs.

Area 3 (*Gelidium right*)

1. Boundaries of Concession Area:
Cape St Blaize (34° 10' 16" S, 22° 05' 30" E) to the eastern bank of the Breede River River
(34° 24' 00" S, 20° 50' 00" E).

2. Functional group/genus/species:
Gelidium pristoides, *G. abbottiorum*, *G. amansii*, *G. pteridifolium*
("G. cartilagineum/G. versicolor")

3. Harvesting/collecting method:
By hand (picking).

4. Maximum Yield:
Not applicable (effort-control)

5. Comments:
Limited resource: only a few good sub-areas.

Area 4 (*Gelidium right*)

1. Boundaries of Concession Area:
Western bank of the Breede River River (34° 24' 40" S, 20° 50' 00" E) to Cape Agulhas (34°
49' 40" S, 20° 00' 40" E).

2. Functional group/genus/species:

Gelidium pristoides, *G. abbottiorum*, *G. amansii*, *G. pteridifolium*
("G. cartilagineum/G. versicolor")

3. Harvesting/collecting method:
By hand (picking).

4. Maximum Yield:
Not applicable (effort-control)

5. Comments:
Poor resource: low biomass, poor access, MPAs.

Area 4: (Mixed beach-cast seaweed right).

1. Boundaries of Concession Area:
Western bank of the Breede River (34° 24' 40" S, 20° 50' 00" E) to Cape Agulhas (34° 49' 40" S, 20° 00' 40" E).

2. Functional group/genus/species:
Mixed beach-cast seaweeds (all species including kelp).

3. Harvesting/collecting method:
Beach-cast seaweeds: all or any parts of beach-cast plants may be collected by hand, shovel, rakes, etc.
No attached seaweeds may be picked.

4. Maximum Yield:
Not applicable (effort-controlled).

5. Comments:
Sometimes collected for abalone feed.

Area 5 (kelp right)

1. Boundaries of Concession Area:
Cape Agulhas (34° 49' 40" S, 20° 00' 40" E) to the eastern bank of the Uilenkraal River (34° 36' 24" S, 19° 24' 36" E).
Harvesting exclusion zones. Note that **no kelp harvesting** is permitted in the following areas:
From Oubaai (34° 47' 00" S, 19° 39' 30" E) to Cape Agulhas; from Sandy Point (34° 39' 20" S, 19° 27' 06" E) to the eastern bank of the Uilenkraal River.

2. Functional group/genus/species:
Kelp (*Ecklonia maxima* and *Laminaria pallida*)

3. Harvesting/collecting method:
3.a. Beach-cast kelp: all or any parts of beach-cast plants may be collected by hand.
3.b. Harvesting of live (fresh) kelp: by hand, using a knife or sickle, from a boat or from the shore. Note that most of this area falls within a Diving Ban area which extends from Gansbaai Harbour to Quoin Point. Harvesters may not use, or be in possession of, underwater breathing apparatus.

4. Maximum Yield: as specified in annual permit.
Beach-cast kelp: no limit.

5. Comments:
2014/15 kelp TAC:

Kelp fronds: A maximum of 2625 tonnes fresh weight of kelp fronds may be harvested in one year

Whole kelp plants (fronds plus stipes): a maximum of 0 tonnes per year.

Area 5: mixed beach-cast seaweed right (excluding kelp)

1. Boundaries of Concession Area:

Cape Agulhas (34° 49' 40" S, 20° 00' 40" E) to the eastern bank of the Uilenkraal River (34° 36' 24" S, 19° 24' 36" E).

2. Functional group/genus/species

Mixed beach-cast seaweeds, all species **excluding kelp**.

3. Harvesting/collecting method:

Beach-cast seaweeds: all or any parts of beach-cast plants may be collected by hand, shovel, rakes, etc.

No attached seaweeds may be picked.

4. Maximum Yield:

Not applicable: effort-controlled.

5. Comments:

Occasionally collected for abalone feed in the past.

Area 5 (*Ulva/Porphyra* right)

1. Boundaries of Concession Area:

Cape Agulhas (34° 49' 40" S, 20° 00' 40" E) to the eastern bank of the Uilenkraal River (34° 36' 24" S, 19° 24' 36" E).

2. Functional group/species

Ulva species, *Porphyra* species

3. Harvesting/collecting method:

Picking by hand

4. Maximum yield

As specified in annual permit.

5. Comments.

Likely harvests of 1-2 tons p.a. of each genus are possible.

Area 6 (kelp right)

1. Boundaries of Concession Area:

Western bank of the Uilenkraal River (34° 36' 24" S, 19° 24' 36" E) to the eastern bank of the Mossel River (34° 24' 30" S, 19° 16' 24" E) on the mainland and Dyer Island and its neighbouring reefs.

Harvesting exclusion zones. Note that **no kelp harvesting** is permitted in the following areas:

From Stanford's Cove (34° 34' 06" S, 19° 21' 20" E) to Voorsteklip (34° 31' 00" S, 19° 22' 20" E); from Blousloep (34° 36' 50" S, 19° 23' 18" E) to the western bank of the Uilenkraal River; within 500m of Dyer Island.

2. Functional group/genus/species:

Kelp (*Ecklonia maxima* and *Laminaria pallida*)

3. Harvesting/collecting method:

3.a. Beach-cast kelp: all or any parts of beach-cast plants may be collected by hand.

3.b. Harvesting of live (fresh) kelp: Note that most of this area falls within a Diving Ban area which extends from Gansbaai Harbour to Quoin Point. Therefore from Gansbaai Harbour to the Uilenkraal River, and at Dyer Island, **only non-lethal harvesting** of kelp fronds is permitted. Harvesting of fronds must be done by hand, using a knife or sickle. The secondary blades (fronds) must be cut at least 25 cm from their junction with the primary blade. No cutting of the stipe, bulb or primary blade is permitted. In this area harvesters may not use, or be in possession of, underwater breathing apparatus. From Gansbaai Harbour to the Mossel River there is no diving ban and the harvesting of whole kelp (**lethal harvesting**) is permitted. No kelp plants with a stipe less than 50cm long may be cut or harmed.

4. Maximum Yield.

Beach-cast kelp: no limit.

Kelp: as specified in annual permit.

5. Comments:

2014/15 kelp TAC:

A maximum of 4592 tonnes fresh weight of kelp fronds may be harvested in one year, comprising 3504 tonnes from mainland kelp beds, and 1088 tonnes from Dyer Island and associated reefs.

Area 6 (*Ulva/Porphyra* right)

1. Boundaries of Concession Area:

Western bank of the Uilenkraal River (34° 36' 24" S, 19° 24' 36" E) to the eastern bank of the Mossel River (34° 24' 30" S, 19° 16' 24" E) excluding Dyer Island and its neighbouring reefs.

2. Functional group/species

Ulva species, *Porphyra* species

3. Harvesting/collecting method:

Picking by hand

4. Maximum yield

As specified in annual permit.

5. Comments.

Likely harvests of 1-2 tons p.a. of each genus are possible

Area 7 (kelp rights)

1. Boundaries of Concession Area:

Western bank of the Mossel River (34° 24' 30" S, 19° 16' 24" E) to the eastern bank of the Bot River estuary mouth (34° 22' 00" S, 19° 06' 00" E).

Harvesting exclusion zones.

Note that **no kelp harvesting** is permitted in the following areas:

From the Hermanus New Harbour (34° 26' 00" S, 19° 13' 30" E) to the western bank of the Mossel River (34° 24' 30" S, 19° 16' 24" E); from Skulphoek (34° 26' 10" S, 19° 12' 14" E) to a point in line with the Sandbaai main road (34° 25' 40" S, 19° 11' 37" E) (i.e. within Sandbaai).

2. Functional group/genus/species:

Kelp (*Ecklonia maxima* and *Laminaria pallida*)

3. Harvesting/collecting method:

- 3.a. Beach-cast kelp: all or any parts of beach-cast plants may be collected by hand.
 3.b. Harvesting of live (fresh) kelp: by hand, using a knife or sickle, using a diver or from a boat or the shore. No kelp plants with a stipe less than 50cm long may be cut or harmed.

4. Maximum Yield.

Beach-cast kelp: no limit.

Kelp fronds: As specified in annual permit. Whole kelp plants (fronds plus stipes): As specified in annual permit.

5. Comments:

Kelp TAC 2014/205:

A maximum of 710 tonnes fresh weight of kelp fronds may be harvested in one year, OR Whole kelp plants (fronds plus stipes): A maximum of 1421 tonnes of whole kelp may be harvested in one year.

Area 7 (*Ulva/ Porphyra* right)

1. Boundaries of Concession Area:

Western bank of the Mossel River (34° 24' 30" S, 19° 16' 24" E) to the eastern bank of the Bot River estuary mouth (34° 22' 00" S, 19° 06' 00" E).

2. Functional group/species

Ulva species, *Porphyra* species

3. Harvesting/collecting method:

Picking by hand

4. Maximum yield

As specified in annual permit.

5. Comments.

Likely harvests of 1-2 tons p.a. of each genus are possible

Area 8 (kelp right)

1. Boundaries of Concession Area:

Western bank of the bank of the Bot River estuary mouth (34° 22' 00" S, 19° 06' 00" E) to Swartklip (34° 04' 29" S, 18° 41' 12" E).

Harvesting exclusion zones.

Note that **no kelp harvesting** is permitted in the following areas:

In the Bettys' Bay Marine Reserve i.e. from Stony Point (34° 22' 28" S, 18° 53' 45" E) to Beacon B4 on the eastern side of Jock Se Baai (Dawidskraal) (34° 21' 24" S, 18° 56' 17" E).

2. Functional group/genus/species:

Kelp (*Ecklonia maxima* and *Laminaria pallida*)

3. Harvesting/collecting method:

3. a. Beach-cast kelp: all or any parts of beach-cast plants may be collected by hand.
 3. b. Harvesting of live (fresh) kelp: by hand, using a knife or sickle, using a diver or from a boat or the shore. No kelp plants with a stipe less than 50cm long may be cut or harmed.

4. Maximum Yield.

Beach-cast kelp: no limit.

Kelp fronds: As specified in annual permit

5. Comments:

2014/2015 kelp TAC: A maximum of 1 024 tonnes fresh weight of kelp fronds may be harvested in one year, OR

Whole kelp plants (fronds plus stipes): A maximum of 2 048 tonnes of whole kelp may be harvested in one year..

Area 8 (*Ulva/ Porphyra* right)

1. Boundaries of Concession Area:

Western bank of the bank of the Bot River estuary mouth (34° 22' 00" S, 19° 06' 00" E) to Swartklip (34° 04' 29" S, 18° 41' 12" E).

Harvesting exclusion zones.

Note that **no kelp harvesting** is permitted in the following areas:

In the Bettys' Bay Marine Reserve i.e. from Stony Point (34° 22' 28" S, 18° 53' 45" E) to Beacon B4 on the eastern side of Jock Se Baai (Dawidskraal) (34° 21' 24" S, 18° 56' 17" E).

2. Functional group/species

Ulva species, *Porphyra* species

3. Harvesting/collecting method:

Picking by hand

4. Maximum yield

As specified in annual permit.

5. Comments.

Likely harvests of 1-2 tons p.a. of each genus are possible

Area 9 (kelp right)

1. Boundaries of Concession Area:

From Simonstown municipal border at Rocklands (34° 13' 00" S, 18° 28' 00" E) to Klein Koeelbaai near Bakoven (33° 57' 38" S, 18° 22' 20" E).

Permitted harvesting zone:

Kelp harvesting is permitted in the Soetwater/Kommetjie area.

2. Functional group/genus/species:

Kelp (*Ecklonia maxima* and *Laminaria pallida*)

3. Harvesting/collecting method:

3. a. Beach-cast kelp: all or any parts of beach-cast plants may be collected by hand.

3. b. Harvesting of live (fresh) kelp: by hand, using a knife or sickle, using a diver or from a boat or the shore. No kelp plants with a stipe less than 50cm long may be cut or harmed.

4. Maximum Yield from Soet water area.

Beach-cast kelp: no limit.

Kelp fronds: as specified in annual permit.

5. Comments:

2014/2015 kelp TAC:

A maximum of 1 030 tonnes fresh weight of kelp fronds may be harvested in one year OR

Whole kelp plants (fronds plus stipes): A maximum of 2 060 tonnes of whole kelp may be harvested in one year.

Area 9 (*Ulva/Porphyra* right)

1. Boundaries of Concession Area:
From Simonstown municipal border at Rocklands (34° 13' 00" S, 18° 28' 00" E) to Klein Koeelbaai near Bakoven (33° 57' 38" S, 18° 22' 20" E), excluding MPAs..
2. Functional group/species
Ulva species, *Porphyra* species
3. Harvesting/collecting method:
Picking by hand
4. Maximum yield
As specified in annual permit.
5. Comments.
Likely harvests of 1-2 tons p.a. of each genus are possible. Note that much of this area lies in MPAs.

Area 10 (kelp right)

1. Boundaries of Concession Area:
CCC boundary south of Blouberg (33° 48' 48" S, 18° 28' 00" E) to South Head, Saldanha (33° 06' 18" S, 17° 57' 18" E). .

Harvesting exclusion zone

Note that **no kelp harvesting** is permitted in the following areas:
South Head (33° 06' 18" S, 17° 57' 18" E) to Black Rock (33° 09' 44" S, 18° 01' 20" E), off Dassen Island, off Robben Island.

2. Functional group/genus/species:
Kelp (*Ecklonia maxima* and *Laminaria pallida*)
3. Harvesting/collecting method:
 3. a. Beach-cast kelp: all or any parts of beach-cast plants may be collected by hand.
 3. b. Harvesting of live (fresh) kelp: by hand, using a knife or sickle, using a diver or from a boat or the shore. No kelp plants with a stipe less than 50cm long may be cut or harmed.
4. Maximum Yield.
Beach-cast kelp: no limit.
Kelp fronds: as specified in annual permit.
5. Comments:
2014/2015 kelp TAC:
A maximum of 94 tonnes fresh weight of kelp fronds may be harvested in one year, OR
Whole kelp plants (fronds plus stipes): A maximum of 188 tonnes of whole kelp may be harvested in one year.

Area 10 (*Ulva/Porphyra* right)

1. Boundaries of Concession Area:
CCC boundary south of Blouberg (33° 48' 48" S, 18° 28' 00" E) to South Head, Saldanha (33° 06' 18" S, 17° 57' 18" E).

Harvesting exclusion zone

Note that **no harvesting** is permitted in the following areas:

South Head (33° 06' 18" S, 17° 57' 18" E) to Black Rock (33° 09' 44" S, 18° 01' 20" E), off Dassen Island, off Robben Island.

2. Functional group/species

Ulva species, *Porphyra* species

3. Harvesting/collecting method:

Picking by hand

4. Maximum yield

As specified in annual permit.

5. Comments.

Likely harvests of 1-2 tons p.a. of each genus are possible.

Area 11 (Kelp right)

1. Boundaries of Concession Area:

North Head (Schooner Rock), Saldanha (33° 03' 05" S, 17° 54' 36" E) to the southern bank of the Berg River (32° 46' 12" S, 18° 08' 42" E).

2. Functional group/genus/species:

Kelp (*Ecklonia maxima* and *Laminaria pallida*)

3. Harvesting/collecting method:

3. a. Beach-cast kelp: all or any parts of beach-cast plants may be collected by hand.

3. b. Harvesting of live (fresh) kelp: by hand, using a knife or sickle, using a diver or from a boat or the shore. No kelp plants with a stipe less than 50cm long may be cut or harmed.

4. Maximum Yield.

Beach-cast kelp: no limit.

Kelp fronds: as specified in annual permit.

5. Comments.

2014/2015 kelp TAC:

A maximum of 1543 tonnes fresh weight of kelp fronds may be harvested in one year, OR Whole kelp plants (fronds plus stipes): A maximum of 3085 tonnes of whole kelp may be harvested in one year.

Area 11 (*Gracilaria* right)

1. Boundaries of Concession Area:

North Head (Schooner Rock), Saldanha (33° 03' 05" S, 17° 54' 36" E) to the southern bank of the Berg River (32° 46' 12" S, 18° 08' 42" E).

2. Functional group/genus/species:

Beach-cast *Gracilaria*

3. Harvesting/collecting method:

Beach-cast *Gracilaria* only: all or any parts of beach-cast plants may be collected by hand, rakes, etc.

No harvesting of live (fresh) material by diver is permitted.

4. Maximum Yield.

Not applicable.

5. Comments.

Very occasional wash-ups south of the Berg River. Should be collected together with *Gracilaria* in Area 12.

Area 11 (*Ulva/Porphyra* rights)

1. Boundaries of Concession Area:
North Head (Schooner Rock), Saldanha (33° 03' 05" S, 17° 54' 36" E) to the southern bank of the Berg River (32° 46' 12" S, 18° 08' 42" E).

2. Functional group/species
Ulva species, *Porphyra* species

3. Harvesting/collecting method:
Picking by hand

4. Maximum yield
A maximum of 2 tons fresh weight of *Ulva* spp. and 5 tonnes of *Porphyra* spp. may be harvested in one year.

Area 12 (kelp right)

1. Boundaries of Concession Area:
North bank of the Berg River (32° 46' 06" S, 18° 08' 48" E) to the southern border of Lambert's Bay (32° 06' 00" S, 18° 18' 12" E) .

2. Functional group/genus/species:
Kelp (*Ecklonia maxima* and *Laminaria pallida*)

3. Harvesting/collecting method:
3. a. Beach-cast kelp: all or any parts of beach-cast plants may be collected by hand.
3. b. Harvesting of live (fresh) kelp: by hand, using a knife or sickle, using a diver or from a boat or the shore. No kelp plants with a stipe less than 50cm long may be cut or harmed.

4. Maximum Yield.

Beach-cast kelp: no limit.

Kelp fronds: as specified in annual permit.

5. Comments.

2014/2015 TAC: A maximum of 25 tonnes fresh weight of kelp fronds may be harvested in one year, OR

Whole kelp plants (fronds plus stipes): A maximum of 50 tonnes of whole kelp may be harvested in one year.

Area 12 (*Ulva/Porphyra* right)

1. Boundaries of Concession Area:
North bank of the Berg River (32° 46' 06" S, 18° 08' 48" E) to the southern border of Lambert's Bay (32° 06' 00" S, 18° 18' 12" E) .

2. Functional group/species
Ulva species, *Porphyra* species

3. Harvesting/collecting method:
Picking by hand

4. Maximum yield
As specified in annual permit.

5. Comments.

Likely harvests of 1-2 tons p.a. of each genus are possible.

Area 12 (*Gracilaria/Gracilariopsis* right)

1. Boundaries of Concession Area:
North bank of the Berg River (32° 46' 06" S, 18° 08' 48" E) to the southern border of Lambert's Bay (32° 06' 00" S, 18° 18' 12" E).
2. Functional group/species
Gracilaria/Gracilariopsis species – beach-cast material only
3. Harvesting/collecting method:
By hand, rakes, forks, mechanical means, etc.
No harvesting of attached *Gracilaria/Gracilariopsis* from the subtidal zone is permitted.
4. Maximum Yield.
No limit.
5. Comments.
Wash-ups are occasional and unpredictable.

Area 13 (kelp right)

1. Boundaries of Concession Area:
Groothoek Bay (31° 54' 36" S, 18° 16' 22" E) to the southern bank of the Olifant's River (31° 42' 36" S, 18° 11' 15" E).
2. Functional group/genus/species:
Kelp (*Ecklonia maxima* and *Laminaria pallida*)
3. Harvesting/collecting method:
 3. a. Beach-cast kelp: all or any parts of beach-cast plants may be collected by hand.
 3. b. Harvesting of live (fresh) kelp: by hand, using a knife or sickle, using a diver or from a boat or the shore. No kelp plants with a stipe less than 50cm long may be cut or harmed.
4. Maximum Yield.
Beach-cast kelp: no limit.
Kelp fronds: as specified in annual permit.
5. Comments.
2014/2015 kelp TAC:
A maximum of 57 tonnes fresh weight of kelp fronds may be harvested in one year, OR
Whole kelp plants (fronds plus stipes): A maximum of 113 tonnes of whole kelp may be harvested in one year.

Area 13 (*Ulva/Porphyra* right)

1. Boundaries of Concession Area:
Groothoek Bay (31° 54' 36" S, 18° 16' 22" E) to the southern bank of the Olifant's River (31° 42' 36" S, 18° 11' 15" E).
2. Functional group/species
Ulva species, *Porphyra* species
3. Harvesting/collecting method:
Picking by hand
4. Maximum yield
As specified in annual permit.
5. Comments.

Likely harvests of 1-2 tons p.a. of each genus are possible.

Area 14 (kelp right)

1. Boundaries of Concession Area:

Northern bank of the Olifant's River (31° 42' 04" S, 18° 11' 15" E) to the southern bank of the Groen River (30° 51' 00" S, 17° 34' 36" E).

2. Functional group/genus/species:

Kelp (*Ecklonia maxima* and *Laminaria pallida*)

3. Harvesting/collecting method:

3. a. Beach-cast kelp: all or any parts of beach-cast plants may be collected by hand.

3. b. Harvesting of live (fresh) kelp: by hand, using a knife or sickle, using a diver or from a boat or the shore. No kelp plants with a stipe less than 50cm long may be cut or harmed.

4. Maximum Yield.

Beach-cast kelp: no limit.

Kelp fronds: as specified in annual permit.

5. Comments.

2014/2015 kelp TAC:

A maximum of 310 tonnes fresh weight of kelp fronds may be harvested in one year, OR
Whole kelp plants (fronds plus stipes): A maximum of 620 tonnes of whole kelp may be harvested in one year.

Area 14 (*Ulva/Porphyra* right)

1. Boundaries of Concession Area:

Northern bank of the Olifant's River (31° 42' 04" S, 18° 11' 15" E) to the southern bank of the Groen River (30° 51' 00" S, 17° 34' 36" E).

2. Functional group/species

Ulva species, *Porphyra* species

3. Harvesting/collecting method:

Picking by hand

4. Maximum yield

As specified in annual permit.

5. Comments.

Likely harvests of 1-2 tons p.a. of each genus are possible.

Area 15 (kelp right)

1. Boundaries of Concession Area:

Security fence at Mitchell's Bay near the mouth of the Spoeg River (30° 27' 54" S, 17° 21' 22" E) to the angling club slipway at Kleinzee (29° 42' 48" S, 17° 03' 24" E).

2. Functional group/genus/species:

Kelp (*Ecklonia maxima* and *Laminaria pallida*)

3. Harvesting/collecting method:

3. a. Beach-cast kelp: all or any parts of beach-cast plants may be collected by hand.

3. b. Harvesting of live (fresh) kelp: by hand, using a knife or sickle, using a diver or from a boat or the shore. No kelp plants with a stipe less than 50cm long may be cut or harmed.

4. Maximum Yield.

Beach-cast kelp: no limit.

Kelp fronds: as specified in annual permit.

5. Comments.

2014/2015 kelp TAC:

A maximum of 1100 tonnes fresh weight of kelp fronds may be harvested in one year, OR
Whole kelp plants (fronds plus stipes): A maximum of 2200 tonnes of whole kelp may be harvested in one year.

Area 15 (*Ulva/Porphyra* right)

1. Boundaries of Concession Area:

Security fence at Mitchell's Bay near the mouth of the Spoeg River (30° 27' 54" S, 17° 21' 22" E) to the angling club slipway at Kleinzee (29° 42' 48" S, 17° 03' 24" E).

2. Functional group/species

Ulva species, *Porphyra* species

3. Harvesting/collecting method:

Picking by hand

4. Maximum yield

As specified in annual permit.

5. Comments.

Likely harvests of 1-2 tons p.a. of each genus are possible.

Area 16 (kelp right)

1. Boundaries of Concession Area:

Northern border of the farm Oubeep south of McDougall's Bay (29° 19' 45" S, 16° 54' 38" E) to the border of the proclaimed State Alluvial Diggings just north of Port Nolloth (29° 13' 56" S, 16° 51' 15" E).

2. Functional group/genus/species:

Kelp (*Ecklonia maxima* and *Laminaria pallida*)

3. Harvesting/collecting method:

3. a. Beach-cast kelp: all or any parts of beach-cast plants may be collected by hand.

3. b. Harvesting of live (fresh) kelp: by hand, using a knife or sickle, using a diver or from a boat or the shore. No kelp plants with a stipe less than 50cm long may be cut or harmed.

4. Maximum Yield.

Beach-cast kelp: no limit.

Kelp fronds: As specified in annual permit.

Whole kelp plants (fronds plus stipes): As specified in annual permit.

5. Comments.

2014/2015 kelp TAC:

A maximum of 310 tonnes fresh weight of kelp fronds may be harvested in one year, OR
Whole kelp plants (fronds plus stipes): A maximum of 620 tonnes of whole kelp may be harvested in one year.

Area 16 (*Ulva/Porphyra* right)

1. Boundaries of Concession Area:
Northern border of the farm Oubeep south of McDougall's Bay (29° 19' 45" S, 16° 54' 38" E) to the border of the proclaimed State Alluvial Diggings just north of Port Nolloth (29° 13' 56" S, 16° 51' 15" E).
2. Functional group/species
Ulva species, *Porphyra* species
3. Harvesting/collecting method:
Picking by hand
4. Maximum yield
As specified in annual permit.
5. Comments.
Likely harvests of 1-2 tons p.a. of each genus are possible.

Area 17 (*Gracilaria/Gracilariopsis* right)

1. Boundaries of Concession Area:
South Head (33° 06' 18" S, 17° 57' 18" E) to the North Head (Schooner Rock) of Saldanha Bay (33° 03' 05" S, 17° 54' 36" E), including Saldanha Bay but excluding Langebaan Lagoon.
2. Functional group/genus/species:
Beach-cast *Gracilaria/Gracilariopsis*
3. Harvesting/collecting method:
By hand, rakes, forks, mechanical means, etc.
No harvesting of attached *Gracilaria* from the subtidal zone is permitted.
4. Maximum Yield.
No limit.
5. Comments.
Entirely dependent on wash-ups.

Area 17 (beach-cast kelp right)

1. Boundaries of Concession Area:
South Head (33° 06' 18" S, 17° 57' 18" E) to the North Head (Schooner Rock) of Saldanha Bay (33° 03' 05" S, 17° 54' 36"E), including Saldanha Bay but excluding Langebaan Lagoon.
2. Functional group/genus/species:
Beach-cast kelp only
3. Harvesting/collecting method:
By hand.
No harvesting of attached kelp is permitted
4. Maximum Yield.
No limit.
5. Comment.
An unknown but small amount of kelp washes up in this area.

Area 18 (kelp right)

1. Boundaries of Concession Area:

From the slipway at the angling club at Kleinzee (29° 42' 48" S, 17° 03' 24" E) to the northern border of the farm Oubeep, south of McDougall's Bay (29° 19' 45" S, 16° 54' 38" E).

2. Functional group/genus/species:
Kelp (*Ecklonia maxima* and *Laminaria pallida*)

3. Harvesting/collecting method:
3.a. Beach-cast kelp: all or any parts of beach-cast plants may be collected by hand.
3.b. Harvesting of live (fresh) kelp: by hand, using a knife or sickle, using a diver or from a boat or the shore. No kelp plants with a stipe less than 50cm long may be cut or harmed.

4. Maximum Yield.

Beach-cast kelp: no limit.

Kelp fronds: As specified in annual permit.

5. Comments.

2014/2015 kelp TAC:

A maximum of 1464 tonnes fresh weight of kelp fronds may be harvested in one year, OR Whole kelp plants (fronds plus stipes): A maximum of 2928 tonnes of whole kelp may be harvested in one year.

Area 18 (*Ulva/Porphyra* right)

1. Boundaries of Concession Area:
From the slipway at the angling club at Kleinzee (29° 42' 48" S, 17° 03' 24" E) to the northern border of the farm Oubeep, south of McDougall's Bay (29° 19' 45" S, 16° 54' 38" E).

2. Functional group/species
Ulva species, *Porphyra* species

3. Harvesting/collecting method:
Picking by hand

4. Maximum yield
As specified in annual permit.

5. Comments.
Likely harvests of 1-2 tons p.a. of each genus are possible.

Area 19 (kelp right)

1. Boundaries of Concession Area:
From the border of the proclaimed State Alluvial Diggings just north of Port Nolloth (29° 13' 56" S, 16° 51' 15" E) to the southern bank of the Orange River (28° 38' 18" S, 16° 27' 42" E).

2. Functional group/genus/species:
Kelp (*Ecklonia maxima* and *Laminaria pallida*)

3. Harvesting/collecting method:
3.a. Beach-cast kelp: all or any parts of beach-cast plants may be collected by hand.
3.b. Harvesting of live (fresh) kelp: by hand, using a knife or sickle, using a diver or from a boat or the shore. No kelp plants with a stipe less than 50cm long may be cut or harmed.

4. Maximum Yield.

Beach-cast kelp: no limit.

Kelp fronds: As specified in annual permit.

5. Comments.

2014/2015 kelp TAC:

A maximum of 383 tonnes fresh weight of kelp fronds may be harvested in one year, OR
Whole kelp plants (fronds plus stipes): A maximum of 765 tonnes of whole kelp may be
harvested in one year

NOTE: Although companies have obtained rights to Area19 in the past, **they have NEVER
used them because it lies in a diamond area.**

Area 20: (*Gelidium* right)

1. Boundaries of Concession Area:

Kei River (32° 40' 28" S, 28° 23' 00" E) to Qora River (32° 27' 00" S, 28° 40' 24" E)

2. Functional group/genus/species:

Gelidium pristoides, *G. abbottiorum*, *G. amansii*, *G. pteridifolium* (*G. cartilagineum*/*G. versicolor*)

3. Harvesting/collecting method:

By hand (picking) and purchase of material collected from casual pickers.

4. Maximum Yield:

Not applicable (effort-controlled).

5. Comments.

Prior to 2006 yield of up to 20 t dry were obtained, but road access and security problems
resulted in no yields since then.

Area 21 (*Gelidium* right)

1. Boundaries of Concession Area:

Qora River (32° 27' 00" S, 28° 40' 24" E) to Mbashe River (32° 14' 54" S, 28° 54' 00" E).

2. Functional group/genus/species:

Gelidium pristoides, *G. abbottiorum*, *G. amansii*, *G. pteridifolium* (*G. cartilagineum*/*G. versicolor*)

3. Harvesting/collecting method:

By hand (picking) and purchase of material collected from casual pickers.

4. Maximum Yield:

Not applicable (effort-controlled).

5. Comments.

Unknown amounts of *Gelidium* in this area. Small yields (up to 1 ton dry) in some years since
2006. There are problems with road access and security.

Area 22 (*Gelidium* right)

1. Boundaries of Concession Area:

Mbashe River (32° 14' 54" S, 28° 54' 00" E) to Mnenu River (31° 48' 24" S, 29° 19' 46" E).

2. Functional group/genus/species:

Gelidium pristoides, *G. abbottiorum*, *G. amansii*, *G. pteridifolium* (*G. cartilagineum*/*G. versicolor*)

3. Harvesting/collecting method:

By hand (picking) and purchase of material collected from casual pickers.

4. Maximum Yield:
Not applicable (effort-controlled).

5. Comments.
Unknown amounts of *Gelidium* in this area. Small yields (up to 6 tons dry) in some years since 2006. There are problems with road access and security.

Area 23 (*Gelidium* right)

1. Boundaries of Concession Area:
Mnenu River (31° 48' 24" S, 29° 19' 46" E) to Mtamvuna River (31° 04' 50" S, 30° 11' 42" E).

2. Functional group/genus/species:
Gelidium pristoides, *G. abbottiorum*, *G. amansii*, *G. pteridifolium* (*G. cartilagineum*/*G. versicolor*)

3. Harvesting/collecting method:
By hand (picking) and purchase of material collected from casual pickers.

4. Maximum Yield:
Not applicable (effort-controlled).

5. Comments.
Unknown amounts of *Gelidium* in this area. No harvesting has been done there in recent years. There are problems with road access and security.

DEPARTMENT OF AGRICULTURE, FORESTRY AND FISHERIES

NO. 1136

16 NOVEMBER 2015

**POLICY ON THE ALLOCATION AND MANAGEMENT OF COMMERCIAL FISHING RIGHTS IN THE
WEST COAST ROCK LOBSTER (NEARSHORE) FISHERY: 2015**

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

(In case of any inconsistency, the English text prevails)

TABLE OF CONTENT

1. Introduction	1
2. Profile of the fishery	1
3. The 2005/2006 Long-Term Rights Allocation and Management Process	4
4. Objectives	4
5. Granting of a right	5
6. Multi-sector involvement	6
7. Evaluation criteria	6
8. Provisional lists, representations and consultations	10
9. Announcement of results	10
10. Payment of application and grant of right fees	10
11. Management measures	11
12. Permit conditions	12
13. Glossary of terms	13

1. Introduction

The Department of Agriculture, Forestry and Fisheries (“the Department”) is responsible for administering the Marine Living Resources Act, 1998 (Act No. 18 of 1998) (“the MLRA”), regulations promulgated thereunder and policies issued by the Minister of Agriculture, Forestry and Fisheries (“the Minister”), in consultation with the Department.

This policy on the allocation and management of fishing rights in the West Coast Rock Lobster commercial (nearshore) fishery (“the WCRL(N) fishery”) shall be referred to as the **“West Coast Rock Lobster Nearshore Policy: 2015”**.

This policy must be read in conjunction with the MLRA; regulations under the MLRA; the General Policy on the Allocation and Management of Fishing Rights: 2013 (“the 2013: General Policy”); other relevant Sector Specific Policies including the Policy for the Small Scale Fisheries Sector in South Africa: 2012; and the Policy for the Transfer of Commercial Fishing Rights: 2009. This policy must be interpreted to be consistent with the MLRA, and all of the other relevant regulations and policies.

This policy sets out objectives, criteria and considerations that will guide the allocation, evaluation, and management of fishing rights in the fishery. This policy will thus guide the Delegated Authority in taking decisions on applications in this fishery.

Only persons issued with permits in terms of the MLRA may harvest lobster caught in the WCRL(N) fishery, transport the catch from a landing site to a permitted Fish Processing Establishment (“FPE”) and export lobster and any products thereof.

2. Profile of the fishery

2.1 Description of the fishery

West Coast rock lobster (*Jasus lalandii*) are slow-growing, long-lived animals. The size of females at maturity varies and ranges from 57 millimetres carapace length (CL) to 66 millimetres CL. Male lobsters attain a larger size and grow faster than females. As a result of the size limit of 75 mm CL that is imposed on commercial fishers, male lobsters make up 90 to 99 percent of the catch.

The resource is found in waters less than 200 metres deep from the mouth of the Orange River in Northern Cape to East London. Commercial exploitation of the resource occurs from about 25°S in Namibia to Gansbaai. Recreational fishing extends further eastwards to Mossel Bay.

Until 2001 the resource was exploited by subsistence fishers. In 2001 a nearshore commercial sector (or limited commercial fishery) was established, based on the recommendations and findings of an independent review of subsistence fishing in South Africa. The review recommended that high-value subsistence fisheries such as West Coast

rock lobster, traditional linefish and abalone should be commercialised. The commercialisation of these fisheries has permitted fishers to sell and market their products.

The Minister or a delegated Authority annually sets a commercial Total Allowable Catch ("TAC") for the exploitation of West Coast rock lobster, which is divided between the WCRL(N) fishery and a separate fishery for the offshore area ("the WCRL(O) fishery"). Based on the prevalence and location of the resource, 20% of the TAC is allocated to the WCRL(N) fishery, and 80% to the WCRL(O) fishery.

2.2 History of the fishery

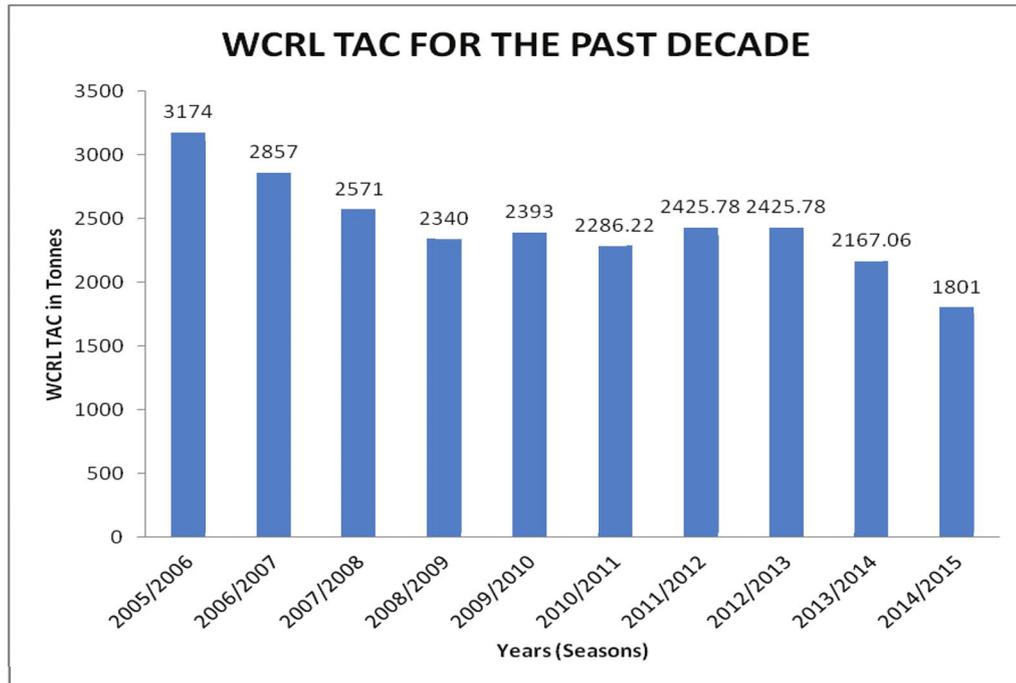
Commercial fishing began in the 1880's, and expanded rapidly in the early part of the 20th century. Although catch records prior to 1940 are sparse, catches appear to have peaked in the period 1950 to 1965, when between 13 000 and 16 000 tons were landed annually.

Prior to 1946, the commercial fishery was unregulated. In that year, a tail-mass production quota was imposed to control exports. This formed the basis of the "output-controlled" management philosophy that is still employed in the management of the West Coast rock lobster resource today.

Beginning in 1946 onwards, annual tail-mass production quotas were granted to participants in the industry, based primarily on the performance of the fishery in the preceding season. Until the mid-1960's, catches were directly controlled by these quotas. In the 1967/68 fishing season, catch rates began to decline and quotas could not be filled. Decreases in the permissible catch TAC restored some balance in the period 1970/71 to 1989/90.

In the early 1980's the tail-mass production quota was replaced by a whole lobster (landed mass) quota, and a TAC was introduced to manage the exploitation of the resource. Area or zonal allocations were introduced at the same time. Other management measures that were enforced included size limits and the enforcement of a closed season. Catches of berried (i.e. females bearing eggs) and soft-shelled lobsters were banned. The 1990/91 season again saw the catch rates drop and, in the ensuing years, the commercial TAC was gradually reduced, reaching 1 500 tons in the 1995/96 season. There was subsequently a slow recovery, and by the 2004/2005 season the TAC had risen to 3 527 tons for the 2004/2005 season.

Since the 2004/2005 season the TAC has had to be reduced sharply, based on serious declines in the resource, which primarily resulted from alarmingly high levels of illegal fishing. By the 2014/15 fishing season the TAC had reduced to 1801 tonnes. The reduction in the TAC has serious implications for the future of both the WCRL(N) and WCRL(O) fisheries. Over the past decade the TAC in the West Coast rock lobster has been set as indicated in the graph below:



Prior to the introduction of lobster traps in the 1960's, the commercial fishery depended almost exclusively on hand-hauled hoopnets, which are light and easy to deploy from small boats in shallower waters. Hoopnets are seldom used at depths exceeding 30 metres. Hoopnet dinghies may either travel to fishing grounds independently (by oar or with outboard motors); or be transported to the fishing grounds on larger motorized mother vessels (deckboats).

Right-holders in the WCRL(N) fishery are still restricted to using hoopnets in shallower waters. As a result right-holders in the WCRL(N) fishery usually use smaller vessels with fewer crew-members. By contrast, right-holders in the WCRL(O) fishery use larger, more sophisticated vessels, with larger crews.

2.3 Biological state of the resource

The resource is in a parlous state. The current harvestable biomass is estimated to be approximately 2.5 percent of that which existed before the resource was exploited.. This decline has several causes, including: large unsustainable catches taken particularly during the first half of the 20th century; a substantial reduction in the somatic growth rate during the 1990's; and unlawful fishing.

2.4 Current resource users

West Coast rock lobster is exploited by three distinct sectors: the commercial fisheries (i.e. the WCRL(N) and WCRL(O) fisheries); a small scale fishery (formerly interim relief); and a recreational sector. Recreational users may only fish using hoopnets from a boat or the shore, or practice breath-hold diving or poling from the shore. Recreational fishers may not sell their catch.

3. The 2005/2006 Long-Term Rights Allocation and Management Process

The Department has made significant strides in transforming the commercial West Coast rock lobster fisheries. In 1992, 39 predominantly white right-holders controlled the West Coast rock lobster TAC. The industry was also marked by a high disparity in the highest and lowest quota allocations. By contrast, by the end of 2003, the Department had allocated 1 019 commercial rock lobster fishing rights, of which more than 785 were granted to former subsistence fishers. To accommodate the larger number of right-holders, the average allocation per right-holder was reduced, and the disparity between the largest and smallest right-holders was greatly narrowed.

During the 2005/2006 Long-Term Fishing Rights Allocation and Management Process ("LTRAMP"), the Department allocated 1062 commercial West Coast rock lobster fishing rights. Of these, 825 were granted in the WCRL(N) fishery.

More than 90 percent of the rights granted in the WCRL(N) fishery were allocated to black individual right holders; and 66 percent of the rights granted in the WCRL(O) fishery were allocated to black entities. This means that approximately 70 percent of the West Coast rock lobster fishery is controlled by blacks.¹

4. Objectives

- 4.1. The objectives and principles of allocating rights in a fishery are set out in section 2 of the MLRA, *inter alia*, to:
- (a) promote transformation through allocation of fishing rights to historically disadvantaged persons, which includes persons from designated groups (youth, women and people with disabilities), and to broaden meaningful participation (through increased participation, sharing: value-creation, and linkages);
 - (b) ensure sustainable livelihoods through the promotion of fair employment;
 - (c) promote adherence to fair labour practices and improve working conditions;
 - (d) to promote food security and poverty alleviation;
 - (e) prefer applicants who rely on the harvesting of West Coast rock lobster nearshore fishery as a major source of their gross annual income above applicants deriving income from sources outside the West Coast rock lobster fisheries;

¹ Figures as per 2005/6 Long Term Rights Allocation Process.

- (f) facilitate the recovery of over-exploited and collapsed fish stocks; and
- (g) achieve optimum utilisation and ecologically sustainable development of marine living resources.

5. Granting of a right

Fishing rights are granted in terms of section 18 of the MLRA. In terms of section 79 of the MLRA the Minister has delegated the power to grant rights in each fishery to a Delegated Authority in the Department. Unless otherwise determined by the Minister, only South African persons shall acquire or hold rights in terms of section 18 of MLRA. In this fishery the Minister has not exercised his power to allow persons of other nationalities to acquire rights, meaning that only South African persons can acquire rights in this fishery. The rights granted will be based on applicable balancing criteria, and will be reflected as a proportion of the local commercial TAC available at the time that the rights allocation process is conducted. All rights granted shall be valid from the date of allocation for a period not exceeding 15 years, whereafter they will automatically terminate and revert back to the State to be reallocated. It should be further noted that in terms of section 16 of the MLRA the Minister may suspend any fishing in the fishery or impose effort restrictions, in order to address a state of emergency.

5.1 Form of right-holders

Having regard to the nature of operations and resource accessibility, applications for rights in the WCRL(N) fishery will only be considered from South African citizens (Individuals).

5.2 Duration of right

Having regard to the right allocation process and the need to encourage investment, fishing rights in the WCRL(N) fishery will be granted for the maximum period of 15 years.

5.3 Total Allowable Catch allocation and Total Applied Effort

In terms of section 14 of the MLRA the Ministers is empowered to determine a TAC, a Total Allowable Effort ("TAE") or combination thereof to apply in each fishery. This fishery is regulated by determination of a TAC.

The TAC is determined by the Delegated Authority considering the history, resource users, sustainability of the operations of right holders, and the viability of the fishery. The Delegated Authority will only allocate a local commercial portion of the determined TAC to commercial right holders based on the proportion granted to each successful applicant at the time of commercial fishing rights allocation process. The right holder's allocation may decrease or increase should the annual local commercial portions of determined TAC decrease or increase respectively. In terms of section 14(4) of the MLRA, if the allowable commercial catch in respect of which commercial fishing rights exist increases, the mass of the increase shall be available for allocation by the Minister.

5.4 Transfer of Rights Allocated in terms of this Policy

In terms of section 21 of the MLRA the Minister may approve the transfer of fishing rights in whole or in part. However, rights granted in the WCRL(N) fishery in terms of the MLRA shall not be transferred within the first two (2) years of being granted. Rights can only be transferred in terms of the Policy for the Transfer of Commercial Fishing Rights (Government Gazette No 32449, 31 July 2009) or relevant amendments thereof. Failure to pay the required fees for the grant of a right, or to apply for any permits, or to declare any catches during the first two (2) years, shall result in a cancellation of the right by Minister.

6. Multi-sector involvement

Applicants for the allocation of rights in this fishery will not be precluded from applying for, or holding commercial fishing rights in other local commercial fisheries.

This shall mean any person can apply for a right in any fishery sector regardless of whether the applicant has applied for a right or holds a right in any other fishery sector.

Individuals applying for rights in the WCRL(N) fishery may also hold shares, an interest or a stake in an entity which is applying for, or already holds rights in another fishery. Individual applying for rights in the WCRL(N) fishery may also be a shareholder, member, director or employee of an entity which is applying for, or already holds rights in another fishery.

The Delegated Authority reserves the right to grant a right to the applicant in any sector and will prefer applicants who rely on the West Coast rock lobster for a major source of their gross annual income.

7. Evaluation criteria

Application for the allocation of rights in the West Coast rock lobster nearshore fishery 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 a portion of TAC, TAE or combination thereof will be apportioned to successful applicants.

7.1 Exclusionary criteria

In addition to the criteria described in the 2013: 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/criteria:

(a) Compliance

An applicant will be excluded if he or she has been convicted of a serious transgression of the MLRA (without the option of the payment of a fine). For these purposes an applicant will be treated as having been convicted of a serious

transgression of the MLRA if he or she was a controlling shareholder, a member with a controlling interest, or a director of an entity which has been so convicted.

An applicant will also be excluded if he or she has had any fishing right cancelled or revoked in terms of the MLRA. For these purposes an applicant will be treated as having had rights cancelled or revoked if he or she was a controlling shareholder, a member with a controlling interest, or a director of an entity which has had its rights cancelled or revoked.

Minor infringements, including those in respect of which an admission of guilt fine was paid, may be taken into account as a balancing criterion and may also adversely affect an application

(b) Paper Quota

Applications from paper quota applicants, as defined in the 2013: General Policy, will be excluded.

(c) Non-Utilisation

Applicants who held a right in the WCRL(N) fishery during the period of 2007 to 2014, which was not utilised, shall be excluded.

(d) Personal involvement in harvesting of the resource

Applicants will be required to demonstrate that they will be personally involved in the fishery. They will be required to actively participate in the harvesting of the resource and the business operations. Only applications incapable of participating due to a permanent physical disability will be exempted from this requirement. Consideration will be given to female applicants who may not personally be involved in the harvesting of the resource but who are dependent on the fishery for their livelihood.

7.2 Balancing criteria

Applicants will be evaluated in terms of the following balancing criteria which will be weighted in order to evaluate and assess applications:

(a) Transformation

When assessing and scoring applications, and when allocating portions of the TAC to successful applicants, the Delegated Authority may prefer applicants based on transformation criteria. When attributing a score for transformation criteria, or allocating portions of the TAC, the Delegated Authority may have regard to: census statistics or other information provided by Statistics South Africa regarding the composition of the population of South Africa, and the percentage of that population made up by different demographic groups; the need to ensure the recognition and meaningful participation in the fishing industry, of Historically Disadvantaged

Individuals (HDIs) and the codes of good practice under the Broad Based Economic Empowerment Amended Act.

Applicants, will be assessed and scored on the following criteria:

- (i) Affirmative procurement; and
- (ii) Corporate social investment.

(b) Fishing performance

The historical fishing performance of applicants who have held fishing rights in the fishery will be examined to determine if they have effectively utilised their fishing rights. Effective utilisation shall mean activation of the catch permit, and subsequent catch data submission for at least five years during the period 2007-2014.

(c) Local economic development

- (i) In order to promote local economic development, the Delegated Authority will give preference to applicants who will land catches at harbours situated outside of metropolitan areas, and process catches at land-based processing establishments outside of metropolitan areas. Metropolitan areas include the areas under the control of a metropolitan (category A) municipality (which in this fishery most notably includes the area governed by the City of Cape Town).
- (ii) The delegated authority shall, in order to ensure that all fishing communities share in the marine living resources, use the locality of landing sites and fish processing establishments as scoring or tie-breaking criteria. For these purposes the Delegated Authority may give preference to applicants, with the aim of ensuring an equitable distribution of opportunities to communities along the coastline.

(d) Job creation

The Delegated Authority may give preference to any applicant who commits to retaining existing employment opportunities, or to increasing employment opportunities if he or she is allocated a right in the fishery. For these purposes the Delegated Authority will consider the quality of the employment opportunities which will be created, including compliance with the Basic Conditions of Employment Act, 1997 (No. 75 of 1997) ("BCEA"); and the applicant's commitment to provide their employees with:

- (i) permanent employment;
- (i) medical aid or any kind of medical support arrangement;
- (ii) pension / provident fund; and
- (iii) safe working conditions in accordance with the applicable legislative requirements.

(e) Access to a suitable vessel

An applicant will be required to demonstrate a right of access to a vessel suitable for harvesting in the WCRL(N) fishery. Access may be in the form of ownership, part-ownership, a catch agreement, a charter agreement, or a bank guarantee for sufficient capital to purchase or build a vessel. If an applicant intends purchasing a vessel, then additional information must be provided to prove a firm and binding offer by the current owner of the vessel to sell the vessel to the applicant. If an applicant intends building a new vessel, then additional information must be provided including the vessel plans, the cost to be incurred, and a firm and binding commitment by a vessel building company to build the vessel.

(f) Same household involvement

The same household may not be granted more than one right in the WCRL(N) fishery so as to avoid fronts and monopolies and to broaden access to the WCRL(N) resource. Applicants are required to disclose their relationship to other applicants in the WCRL(N) fishery as well as in other commercial fisheries. If more than one member of the same household applies for a right, the Department will determine who the preferred right holder will be with due regard being taken to the Department's transformation objectives.

(g) Residing adjacent to fishing zones

Applicants who reside adjacent to fishing zones will be preferred over other applicants. Fishing zones in the WCRL(N) fishery are in the map below.

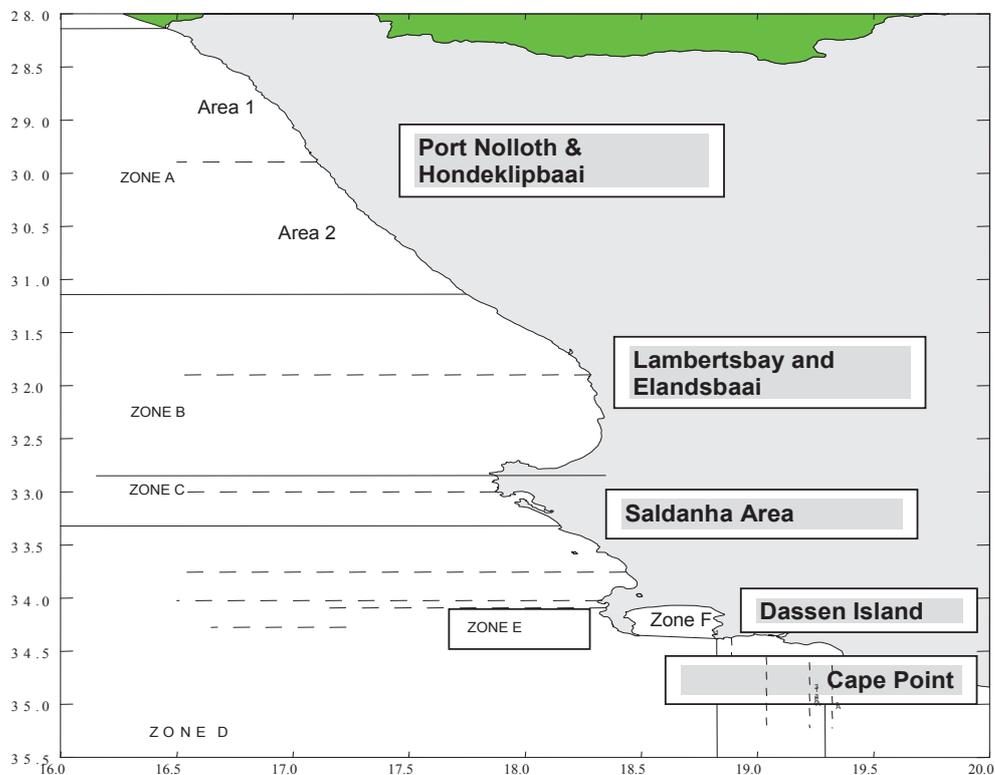


Fig.1. West Coast rock lobster fishing zones and areas. The five super-areas are A1-2 corresponding to Zone A, A3-4 to Zone B, A5-6 to Zone C, A7 being the northernmost Area within Zone D, and A8+ comprising Area 8 of Zone D in conjunction with Zone F.

7.3 Suitable vessels

- (a) A suitable vessel in the WCRL(N) fishery is a vessel that –
 - (i) is geared to fish for WCRL using hoop nets only;
 - (ii) is certified by South African Maritime Safety (“SAMSA”) as being safe for fishing; and
 - (iii) has a functional Vehicle Monitoring System (“VMS”) except for vessels under 5 metres in length.
- (b) Right Holders in the WCRL(N) fishery will not be precluded from jointly using one vessel, provided that when the vessel is going out to sea, only one right holder’s permit will be on board the vessel.
- (c) In order to verify if the vessel meets the suitable vessel criteria, applicants must submit photographs of the vessel as well as copies of the SAMSA registration certificate.

8. Provisional lists, representations and consultations

- 8.1 The delegated authority may issue provisional lists for comment on any aspects relating to an application in any fishery/sector.
- 8.2 The delegated authority may request comments on any of the information provided by an applicant and on the basis of the comments received make a final decision.
- 8.3 The delegated authorities may

9. Announcement of results

The Delegated Authority shall after making final decisions on the applications, inform all applicants of the outcome of their individual applications giving specific reasons for such decisions. Further General Reasons for decisions in a specific fishery will be published informing all applicants on how the decisions were formulated and reached. The General Reasons shall also include an annexure outlining the scores obtained by all applicants in the WCRL(N) fishery.

10. Payment of application and grant of right fees

- 10.1 The application fees for this fishery will be determined having regard to:
 - (a) The cost of the entire fishing rights allocation process, including consultation, receipting, evaluation of applications, verification, appeals and reviews; and
 - (b) The value of the fish being allocated over the duration of the right.
- 10.2 The application fee shall be payable before the submission of the application form and only proof of payment shall be brought to the receipting centre.

10.3 The grant of right fee is payable by all successful applicants upon the granting of rights.

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 Ecosystems approach to fisheries

- (a) 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 impacts on the broader marine environment. This part of the current policy does not attempt to provide a comprehensive statement on EAF applicable in the WCRL(N) fishery. An EAF strives to balance diverse societal objectives by taking account the knowledge and uncertainties about biotic and abiotic and human components of ecosystems and their interactions and applying an integrated approach to fisheries within ecologically meaningful boundaries.
- (b) The WCRL(N) fishery will be managed using a number of controls, including minimum size limits, closed seasons, gear restrictions, area and time restrictions, marine protected areas, and limitations on retention of berried females and soft-shelled lobster. These restrictions will be contained in permit conditions.

11.2 Observer programmes

- (a) The right holder of a commercial WCRL(N) fishing right shall accommodate an Observer on board the right holder's nominated vessel when required to do so by the Department or its agent
- (b) The right holder may bear the costs of the Observer deployment when required by the Department.
- (c) The right holder shall allow the Observer unrestricted access to monitor fishing activities, and to test compliance with permit conditions and all applicable laws.
- (d) Should the Department reasonably believe that an Observer is being prevented from carrying out his or her obligations in any way or threatened in any way while on board the right-holder's vessel, the Department may implement proceedings under section 28 of the MLRA.

11.3 Performance measuring

Successful applicants will be subjected to performance measuring for the duration of their fishing rights. 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.

11.4 Offences

A successful applicants that fail to utilise his or her WCRL(N) right for one fishing season without any reasonable explanation, or who contravenes the provisions of the MLRA, will be subject to proceedings under section 28 of the MLRA.

12. Permit conditions

Permit conditions for this fishery will be issued annually. The permit conditions will be determined after consultation with the successful with the successful applicants in this fishery and will be revised as and when it may be necessary.

13. Glossary of terms

- 13.1. "MLRA" means the Marine Living Resources Act, 1998 (Act No. 18 of 1998)
- 13.2. "Right Holder" means a person who was previously granted or lawfully acquired a fishing right, or who will be granted a right in the allocation process envisaged in this Policy.
- 13.3. "Rights" means fishing or harvesting rights granted in terms of section 18 of the Marine Living Resources Act, 1998 (Act No. 18 of 1998).
- 13.4. "Same household" is the people in a family living together at the same residential address or house. A family shall be inclusive of parent(s) or guardian(s) and dependants. Person(s) living in the same address and not depending in each other shall not be regarded as same household.
- 13.5. "South African citizen" means a South African citizen in terms of the South African Citizenship Act, 1995 (Act No. 88 of 1995)
- 13.6. "The 2013: General Policy" means the General Policy on the Allocation and Management of Fishing Rights: 2013.
- 13.7. "The Department" means the Department of Agriculture, Forestry and Fisheries.
- 13.8. "The Minister" means the Minister of Agriculture, Forestry and Fisheries.
- 13.9. "Total allowable catch" means the maximum quantity of fish of individual species or groups of species made available annually or during such other period of time as may be prescribed, for combined recreational, small-scale, commercial and foreign fishing.
- 13.10. "Total applied effort" means the maximum number of fishing vessels, the type, size and engine power thereof or the fishing method applied thereby for which fishing vessel licences or permits to fish may be issued for individual species or groups of species, or the maximum number of persons on board a fishing vessel for which fishing licences or permits may be issued to fish individual species or groups of species.

DEPARTMENT OF AGRICULTURE, FORESTRY AND FISHERIES

NO. 1137

16 NOVEMBER 2015

**POLICY ON THE ALLOCATION AND MANAGEMENT OF COMMERCIAL FISHING RIGHTS IN
THE ABALONE FISHERY: 2015**

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

(In case of any inconsistency, the English text prevails)

TABLE OF CONTENTS

1. Introduction	1
2. Profile of the fishery	1
3. The 2003/2004 long-term rights allocation process	6
4. Objectives	7
5. Granting of Fishing Rights	7
6. Multi-sector involvement	9
7. Evaluation Criteria	9
8. Provisional lists, representations and consultations	15
9. Announcement of decisions	15
10. Payment of application and grant of right fees	15
11. Management Measures	16
12. Permit Conditions	18
13. Glossary of Terms	19

1. Introduction

The Department of Agriculture, Forestry and Fisheries (“the Department”) is responsible for administering the Marine Living Resources Act, 1998 (Act No. 18 of 1998) (“the MLRA”), regulations promulgated thereunder and policies issued by the Minister of Agriculture, Forestry and Fisheries (“the Minister”), in consultation with the Department.

This policy on the allocation and management of fishing rights in the Abalone fishery (“the abalone fishery”) shall be referred to as the “**Abalone Fishery Policy: 2015**”.

This policy must be read in conjunction with the MLRA and regulations under the MLRA; the General Policy on the Allocation and Management of Fishing Rights: 2013 (“the 2013: General Policy”), other relevant current Sector Specific Policies including the Policy for the Small Scale Fisheries Sector in South Africa: 2012 and the Policy for the Transfer of Commercial Fishing right: 2009. This policy must be interpreted to be consistent with the MLRA, and all of the other relevant regulations and policies.

This policy sets out objectives, criteria and considerations that will guide the allocation, evaluation, and management of fishing rights in the fishery. This policy will thus guide the Delegated Authority in taking decisions on applications in this fishery.

Only the persons issued with permits in terms of the MLRA may harvest abalone, transport abalone catch from a landing site to the permitted Fish Processing Establishment (“FPE”) and export abalone catch and products thereof.

2. Profile of the fishery

2.1. Species description

The targeted commercial specie of abalone in South Africa is the *Haliotis midae*, locally known as perlemoen. Abalone is an herbivorous gastropod that feeds on seaweed and algae.

Abalone has a flattened, ear-shaped shell, with irregular corrugation, a wide opening at the base and a row of small holes through which water escapes after aerating the gills. The shell covers the dorsal part of the body leaving some fleshy parts protruding from the side. Abalone also has a muscular foot running along the wide open base.

Abalones are dioecious broadcast spawners in that they reproduce by releasing their gametes into the surrounding water for external fertilization to occur. Therefore, groups of adult males and females are necessary to increase chances of successful external fertilization. Like many gastropods, Abalone has a complex life cycle involving larval stages. External fertilization is followed by development of larvae that eventually change into the adult form, which settle from the plankton into a hard substrate. The larvae may spend 2 to 14 days

in the water column before settling into a hard substrate. Abalone takes about eight years to reach sexual maturity or between six to twelve years for their shells to grow to the minimum legal size limit of 114 millimetres shell width.

2.2. **Habitat**

Abalone is a long-lived specie that can survive for at least 30 years, living in rocky ocean waters habitat that is interspersed with sand channels. Sand channels may be important for the movement, and concentration of drift macro algae and red algae, upon which Abalone is also known to feed. Abalone is found in shallow waters, with greatest densities occurring in water less than 10 metres deep. Abalone juveniles are known to shelter under the sea urchin spines canopy. Abalone shells provide an alternative, secondary habitat for a host of organisms such as algae and small invertebrates.

2.3. **Distribution of population and status of the fishery**

The South African Abalone Fishery extends from St Helena Bay to the North of Port St Johns. The commercial fishing grounds, however, are located from Cape of Columbine in the west to Cape Agulhas in the east. The commercial harvesting area is divided into seven primary zones (Zones A-G) which are further subdivided into secondary zones A1, A2, A3 (excluding Dyer Island); B1, B2; C1, C2; D1, D2; E1, E2; F1 G1, G2 and G3 as depicted in Figure 1 and Figure 2 below respectively. The purpose of splitting the zones into smaller secondary zones is to assist with compliance and monitoring and to instill a sense of “ownership” amongst right holders over the secondary zone and abalone in that zone. However, the splitting of the commercial fishery into primary and secondary zones has its own complications in that the populations of abalone in zones differ and may be insufficient to support commercial fishing. This in turn has resulted in abalone right holders allocated to zones where there is zero or not enough abalone to harvest their Total Allowable Catch (TAC) being allocated to other zones where there is a recommended TAC or more than enough that can be harvested by right holders after the proportional split of the global TAC. Permitting the right holders to harvest their portions of abalone allocations (“Quota”) has never been a smooth process given the expectation of “ownership.” Some of the right holders in areas where there is a recommended abalone TAC resisted the re-allocation of right holders in primary or secondary zones with zero TAC or zonal TAC even though there was enough abalone to accommodate them. As result hereof court proceedings were instituted. The dispute was resolved in a manner which permitted the Minister to deviate from policy when necessary.

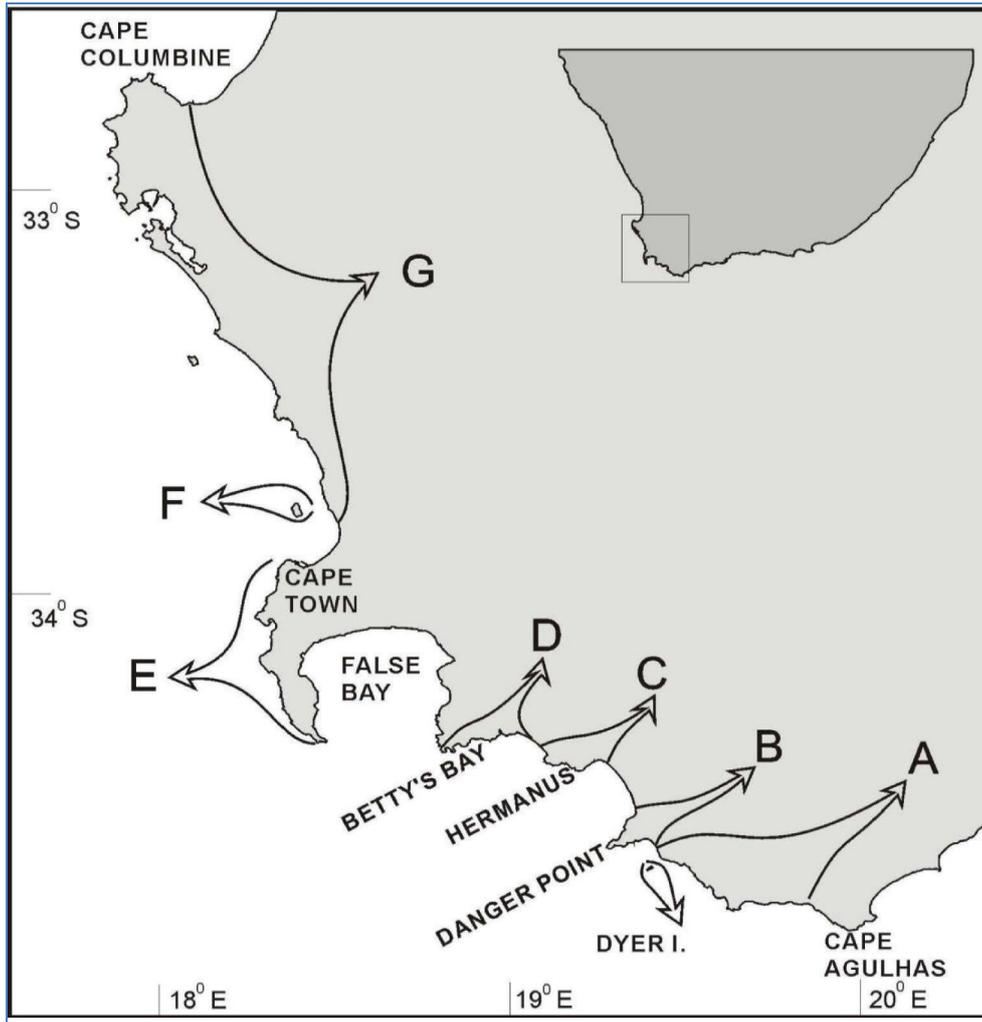


Figure 1: Map depicting the abalone primary harvesting zones.

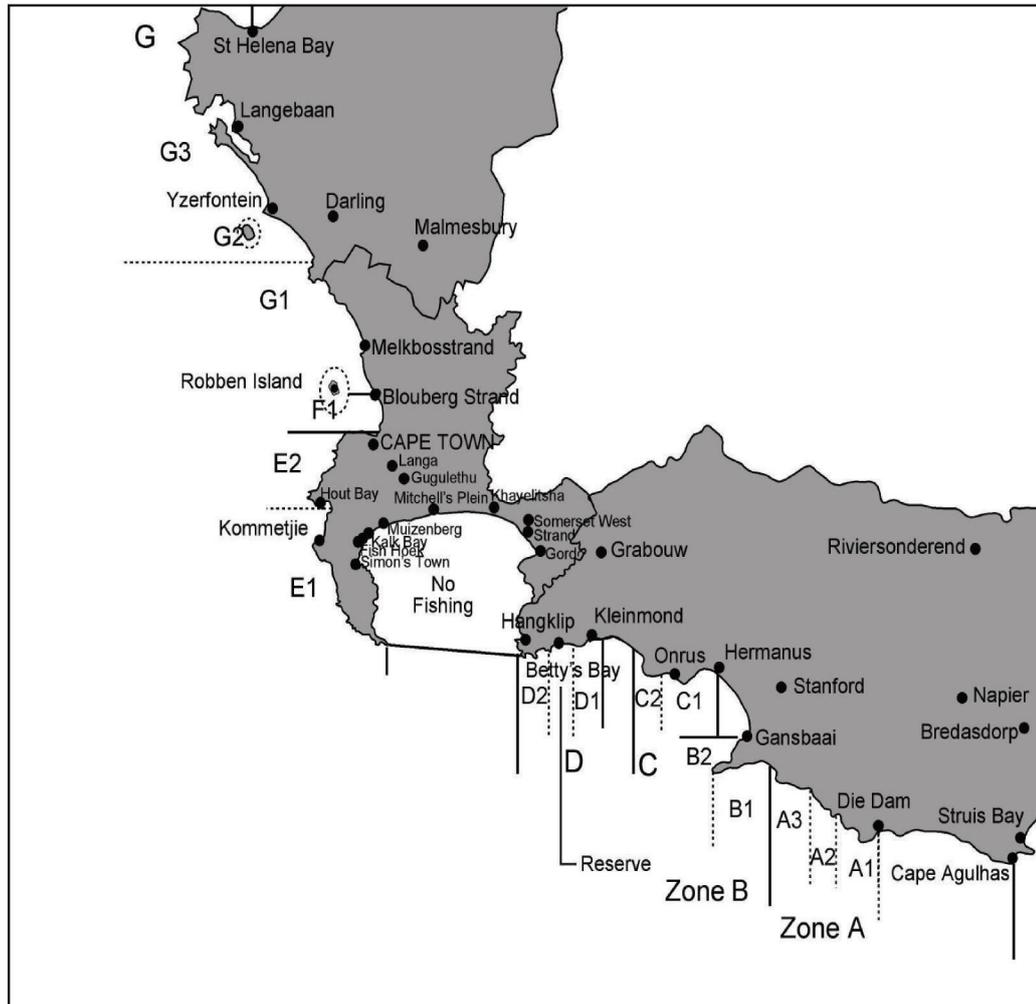


Figure 2: Map depicting the abalone secondary harvesting zones:

- Zone A Secondary Zones: A1, A2 and A3 (excluding Dyer Island)
- Zone B Secondary Zones: B1 and B2
- Zone C Secondary Zones: C1 and C2
- Zone D Secondary Zones: D1 and D2
- Betty's Bay Marine Protected Area between Secondary Zones D1 and D2
- No abalone harvesting in the False Bay Area
- Zone E Secondary Zones: E1 and E2
- Zone F: Robben Island ("F1")
- Zone G Secondary Zones: Secondary Zones G1, G2 (Dassen Island) and G3

The South African abalone commercial fishery commenced in 1949 as a limited entry fishery. The abalone fishing season is from 1 November of year one to 31 July of the following year. In each fishing season the right holders will be given a certain TAC that they must harvest. The abalone fishery is primarily a day fishery. Vessel launching and landing of catch occurs

between 08h00 and 15h00. In summer launching can be done an hour earlier. The designated landing or launching sites are depicted in Table 1 below. The right or permit holders are only allowed to utilize a “hookah system” (surface air supply) for the harvesting of abalone. Only the use of an air-hose not exceeding 60 meters in length, attached to the vessel, is permitted when undertaking commercial fishing of abalone. Most of the abalone caught is exported to Asian countries and only a small portion is sold locally. The abalone catch is processed and exported in frozen or canned or dried or live or shell products and/or parts thereof.

Table 1: Abalone designated landing or launching sites

No.	Landing or launching sites
1.	Buffeljagsbaai slipway
2.	Cape Town (Oceana Power Boat Club) slipway
3.	Gansbaai harbor
4.	Hout Bay harbor
5.	Kleinbaai slipway
6.	Kleinmond slipway
7.	Kommetjie slipway
8.	Miller’s Point slipway
9.	Saldanha Bay harbour (Allowed to launch at Jacobsbaai but must land at Saldanha Bay Harbour)
10.	St Helena Bay harbor
11.	Witsands slipway
12.	Yzerfontein harbor

Prior to the 1998-1999 abalone fishing season, the commercial fishery was divided into two components, namely: entitlement holders (approximately 50 licenced divers) and quota holders (about five “packers”). The entitlement holders owned the right to dive (using hookah equipment only) and deliver a fixed percentage of the annual TAC. The quota holders owned the receiving, processing, and marketing rights to a fixed percentage of the annual TAC.

Commercial fishing of the resource has been managed on the basis of annual revised area specific TACs since the 1985-1986 fishing season. The TAC in 1986-1987 to 1988-1989 fishing seasons to approximately 640 tons. It steadily decreased, reaching 75 tons in the 2007/08 fishing season. The abalone fishery was closed in February 2008. The fishery was reopened in July 2010 pursuant to a Cabinet decision. There was a zero TAC for abalone in the 2008/2009 fishing season. The TAC was 96 tons in the 2013/2014 and 2014/2015 fishing seasons.

The decreased in the TAC was as a result of amongst other the effects of illegal harvesting (poaching) and the collapse of the sea urchin population in some commercial fishing zones. The latter is due to increased predation by west coast rock lobster, *Jasus lalandii*. Juvenile abalone shelter under the sea urchin spines canopy. As a result of the collapse in the urchin populations it resulted in a high mortality of juvenile abalone recruits.

In fact illegal harvesting is considered to be the most significant threat to abalone in South Africa. Abalone in South Africa is especially vulnerable to harvesters because it has a patchy distribution, short larval period, is slow growing, relatively long-lived, has low or sporadic recruitment, and mature individuals, which tend to accumulate in shallow water, making it easily accessible to harvesters. The sale of abalone yields high economic returns and hence it has attracted the interest of many, including poachers. The high economic return from the abalone fishery has been found to be associated with a sharply declining South African Rand to US Dollar exchange. Poachers are non-selective with regard to the size of the abalone that they poach, and today, more than 60% of the abalone is below the minimum legal size of 114 mm shell breadth (137 mm shell length).

Low recruitment in various protected areas further threatens the abalone population as the reproductive adults that have died from natural causes or have been removed from illegal and legal harvesting are not replenished. While low recruitment caused by unfavourable environmental and biotic factors usually cannot be predicted or controlled, ensuring that there are sufficient adult abalones to reproduce each year will allow recruitment to occur when environmental conditions are favourable. Future threats may include habitat loss in localised areas to developments on, in and under the water in the event they are unregulated, and predation by west coast rock lobster.

3. The 2003/2004 long-term rights allocation process

In the 2003/2004 Long-Term Fishing Rights Allocation and Management Process (LTRAMP) 304 rights were issued (264 individuals and 40 legal entities). Rights valid for ten years were allocated to Divers and Legal Entities. Rights valid for three years were allocated to five Abalone Processing Factories (APFs). One individual right holder returned his abalone fishing right to the Department. In 2012 the Minister revoked the abalone rights of 5 individual right holders. The number of abalone right holders at the expiry of the abalone fishing rights on 30 July 2015 was 298 (258 individual right holders and 40 legal entities). The split of the 298 abalone right holders per zone was as follows:

- Zone A = 28 (25 divers plus 3 legal entities)
- Zone B = 32 (27 divers plus 5 legal entities)
- Zone C = 165 (151 divers plus 14 legal entities)
- Zone D = 18 (15 divers plus 3 legal entities)
- Zone E = 46 (37 divers plus 9 legal entities)

- Zone G = 9 (3 divers plus 6 legal entities)

4. Objectives

The objectives and principles of allocating fishing rights in a fishery are set out in section 2 of the MLRA, inter alia, to:

- (a) promote transformation through allocation of fishing rights to entities owned and/or controlled by historically disadvantaged persons which shall include designated groups (youth, women and people with disabilities), and to broaden meaningful participation in a fishery (through increased participation, sharing value-creation opportunities and profits, and forging links);
- (b) ensure sustainable livelihoods through the promotion of fair employment;
- (c) promote adherence to fair labour practices and improved working conditions;
- (d) promote food security and poverty alleviation;
- (e) prefer applicants who rely on the harvesting of abalone as a major source of their gross annual income over above applicants deriving income from sources outside the fishery;
- (f) facilitate the recovery of over-exploited and collapsed fish stocks; and
- (g) achieve optimum utilisation and ecologically sustainable development of marine living resources.

5. Granting of Fishing Rights

Fishing rights are granted in terms of section 18 of the MLRA. In terms of section 79 of the MLRA the Minister has delegated the power to grant fishing rights in each fishery to a Delegated Authority in the Department. Unless otherwise determined by the Minister only South African persons shall acquire or hold rights in this sector. In the abalone fishery the Minister has not exercised his power to allow persons of other nationalities to acquire rights, meaning that only South African persons can acquire rights in the fishery.

The Delegated Authority shall allocate proportions of TAC to each successful applicant based on the applicable balancing criteria and it will be reflected as a proportion of the local commercial TAC available at the time the fishing right is allocated. All rights granted shall be valid from the date of allocation for a period not exceeding 15 years, where after they will automatically terminate and revert back to the State to be reallocated. It should be further noted that in terms of section 16 of the MLRA the Minister may suspend any fishing in the abalone fishery or impose effort restrictions in order to address a state of emergency.

5.1 Form of Right Holders

- (a) Section 18 of the MLRA provides that only South African persons may hold fishing rights.

- (b) Having regard to the nature of operations and resources accessibility, only the following South African persons will be considered in the abalone fishery:
- (i) a citizen (individuals/divers) as defined in terms of the South African Citizenship Act, 1995 (Act 88 of 1995);
 - (ii) a company (legal entity); and
 - (iii) a close corporation (legal entity).

5.2 Duration of Right

Having regard to the right allocation process and the need to encourage investment in the fishery, fishing rights will be granted in the abalone fishery for a maximum period of 15 years.

5.3 Total Allowable Catch

In terms of section 14 of the MLRA the Minister is empowered to determine a TAC, Total Applied Effort (TAE) or combination thereof to apply in each fishery.

The TAC, TAE or combination thereof are determined by the Delegated Authority considering the history, resource users, sustainability of the operations of right holders and the viability of the fishery. The Delegated Authority will only allocate a local commercial portion of the determined TAC, TAE or combination thereof to commercial right holders based on the proportion granted to each successful applicant at the time of the commercial fishing rights allocation process. The right holder's allocation may decrease or increase should the annual local commercial portions of the determined TAC, TAE or combination thereof decrease or increase respectively. In terms of section 14(4) of the MLRA, if the allowable commercial catch in respect of which commercial fishing rights exist increases, the mass of the increase shall be available for allocation by the Minister.

5.4 Transfer of rights allocated in terms of this policy

In terms of section 21 of the MLRA the Minister may approve transfer of fishing rights in whole or in part. However, rights granted in terms of the MLRA shall not be transferred within the first two (2) years of being granted.

Rights can only be transferred in terms of the Policy for the Transfer of Commercial Fishing Rights (Government Gazette No 32449, 31 July 2009) or relevant amendments thereof.

A notification of transfer of shares or members' interest must be served on the Department within 30 days of such sale or transfer or any time-period set in applicable permit conditions in all cases in which shares or a member's interest in a right holder are sold or transferred. In addition, the Department's approval is required for all cases in which the sale or transfer of shares or a member's interest in a right holder results in a change of control of the entity, or in the entity being less transformed than it was at the date on which rights are allocated.

Failure to pay the required fees for the grant of a right or to apply for any permits or to declare any catches during the first two (2) years shall result in a cancellation of the right by the Minister.

6. Multi-sector involvement

Applicants for the allocation of rights in the abalone fishery will not be precluded from applying for, or holding commercial fishing rights in other local commercial fisheries sectors.

This shall mean any person can apply for a right in any fishery sector regardless whether the applicant has applied for a right or holds a right in any other fishery sector. In this case, the “applicant” shall mean an individual, a shareholder or Director in a company, or a member in a close corporation or a co-operative applying for a right in any fishery sector. However the Delegated Authority reserves the right to grant a right in any sector.

Individuals who hold shares or a member’s interest in an entity which is applying for the allocation of rights in the fishery, may also hold shares, an interest or a stake in an entity or cooperative which is applying for, or already holds rights in another fishery.

Individuals who are directors or employees of an entity which is applying for the allocation of rights in the fishery, may also be a shareholder, member, director or employee of an entity which is applying for, or already holds rights in another fishery; or be a participant in a cooperative operating in another fishery.

The Delegated Authority reserves the right to grant a right to the applicant in any sector and may, however, prefer applicants who rely on the harvesting of abalone as a major source of their gross annual income.

7. Evaluation Criteria

Applications for rights in the abalone fishery 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 a TAC will be apportioned to successful applicants.

7.1. Exclusionary criteria

Apart from the criteria described in the 2013: General Policy pertaining to the lodgement of applications and material defects, the Delegated Authority will exclude applicants that fail to meet the following requirements/criteria:

(a) Compliance

An applicant will be excluded, if it, a member with controlling interest, a director or a controlling shareholder has been convicted of a serious transgression of the MLRA (without the option of the payment of a fine).

An applicant will also be excluded, if it, a member with a controlling interest, a director or controlling shareholder had had any fishing right cancelled or revoked in terms of the MLRA. For these purposes an Individual will be treated as having had rights cancelled or revoked if that person was a controlling shareholder, a member with a controlling interest, or a director of an entity which had its rights cancelled or revoked.

Minor infringements, including those in respect of which an admission of guilt fine was paid, may be taken into account as a balancing criterion and may also adversely affect an application.

(b) **Paper quotas**

Applications from paper quota applicants, as defined in the 2013: General Policy will be excluded.

(c) **Non-utilisation**

Applicants which have held a right in the abalone fishery during the period of 2006 to 2014, which was not utilised, shall be excluded.

(d) **Personal involvement in harvesting of the resource**

Individual applicants will be required to demonstrate that they will be personally involved in the abalone fishery. They will be required to actively participate in the harvesting of the resource and the business operations. Only applicants incapable of participating due to a permanent physical disability will be exempted from this requirement. Consideration will be given to female applicants who may not be personally involved in the harvesting of the resource but who are dependent on the abalone fishery for their livelihood.

7.2. **Balancing criteria**

Applicants will be evaluated in terms of the following balancing criteria, which will be weighted in order to evaluate and assess applications:

(a) **Transformation**

When assessing and scoring applications, and when allocating portions of the TAC to successful applicants, the Delegated Authority may prefer applicants based on transformation criteria. When attributing a score for transformation criteria, or allocating portions of the TAC, the Delegated Authority may have regard to: census statistics or other information provided by Statistics South Africa regarding the composition of the population of South Africa, and the percentage of that population made up by different demographic groups; the

need to ensure the recognition and meaningful participation in the fishing industry, of Historically Disadvantaged Individuals (HDIs) and the codes of good practice under the Broad Based Economic Empowerment Amended Act

Applicants, depending on the form of applicant, will be assessed and scored on the following transformation criteria:

- (i) The percentage of people from designated groups and HDIs represented at top salary, board of directors, members and senior official and management levels;
- (ii) The extent to which an applicant's black ownership and black management transformation credentials (as measured in the 2004/05 abalone rights allocation process) have subsequently improved, remained the same, or deteriorated in the period following the granting of rights in the 2004/05 abalone rights allocation process;
- (iii) Whether employees (other than top salary earners) benefit from an employee share scheme;
- (iv) Compliance with the Employment Equity Act 55 of 1998, and the representivity of designated groups and HDIs at the various levels of employment below senior official and management level;
- (v) Affirmative procurement;
- (vi) Compliance with legislation on skills development and the amounts spent on the training of blacks, youth, women, people with disabilities, and participation in learnership programmes; and
- (vii) Corporate social investment.

(b) Fishing performance

The historical fishing performance of applicants who have held fishing rights in the abalone fishery will be examined to determine if they have effectively utilised their fishing rights. Effective utilisation shall mean activation of the catch permit and subsequent catch data submission for at least five (5) years during the period 2005-2013. Applicants should submit this information with their application forms.

(c) Local economic development

To the extent relevant to the abalone fishery:

- (i) In order to promote local economic development the Delegated Authority will give preference to applications who will land catches at harbours situated outside the metropolitan areas.
- (ii) The Delegated Authority may, in order to ensure that all fishing communities share in the marine living resources, use the locality of landing sites and fishing processing establishments as scoring or tie-breaking criteria. For

these purposes the Delegated Authority may give preference to applicants, with the aim of ensuring an equitable distribution of opportunities to communities along the coastline.

(d) Job creation

The Delegated Authority may give preference to any applicant which commits to retaining existing employment opportunities, or to increasing employment opportunities if it is allocated rights in the fishery. For these purposes the Delegated Authority will consider the quality of the employment opportunities which will be created, including compliance with the Basic Conditions of Employment Act, 1997 (No. 75 of 1997) ("BCEA"); and the applicant's commitment to provide their employees with:

- (i) permanent employment;
- (ii) medical aid or any kind of medical support arrangement;
- (iii) pension / provident fund;
- (iv) safe working conditions in accordance with the applicable legislative requirements; and
- (v) an employee share scheme, which ensures that employees enjoy an effective shareholding in the right holder.

(e) Access to a suitable vessel

An applicant will be required to demonstrate a right of access to a vessel suitable for the harvesting of abalone. Access may be in the form of ownership, part-ownership, a catch agreement, a charter agreement, or a bank guarantee for sufficient capital to purchase or build a vessel. If an applicant intends purchasing a vessel, then additional information must be provided to prove a firm and binding offer by the current owner of the vessel to sell the vessel to the applicant. If an applicant intends building a new vessel, then additional information must be provided including the vessel plans, the cost to be incurred and a firm and binding commitment by a vessel building company to build the vessel.

A suitable vessel (where applicable) in the abalone fishery is a vessel which is suitable in the abalone fishery in that it:

- has a maximum overall length of 8m ("loa" as set out in the certificate of safety issued by SAMSA);
- is certified by South African Maritime Safety (SAMSA) as being safe and has valid safety certificates issued by SAMSA;
- is geared for abalone fishing; and
- has a functioning vessel monitoring system (VMS) at the time of applying for a vessel licence if the application is successful;

- has a pole extending 2m above the deck of the vessel displaying the vessel and area numbers at the time of applying for a vessel licence if the application is successful.
- has a vessel and area numbers clearly marked on the bow section of the vessel. All identification numbers and letters must be 20cm in height and 2cm in thickness and must be white on black.

For the purposes of ensuring effective enforcement, a suitable vessel will exclude all:

- inflatable boats;
- semi-rigid inflatable boats; and
- vessels equipped with outboard motors will not be permitted to utilise motors of more than 90 hp each.

In order to verify if the vessel meets the suitable vessel criteria, applicants must submit photos of the vessel as well as copies of the SAMSA registration certificate.

(f) **Applicant's involvements and relationship with other applicants**

(i) **Same household involvement**

The same household may not be granted more than one right in the abalone fishery so as to avoid fronts and monopolies and to broaden access to the abalone resource. Applicants are required to disclose their relationship to other applicants in the abalone fishery as well as in other commercial fisheries. If more than one member of the same household applies for a right, the Department will determine who the preferred right holder will be with due regard being taken to the Department's transformation objectives.

(ii) **Entity and their subsidiaries involvement**

A company and its subsidiary/ies may not be granted more than one right in a fishery, so as to avoid fronts and monopolies and to promote broaden access to the abalone resource. Applicants are required to disclose their relationship to other applicants for the allocation of rights in the fishery, as well as in other commercial fisheries. If an entity and its subsidiary both apply for a right in the same fishery, the holding/umbrella/parent company will be preferred with due regard being taken to the Department's transformation objectives.

(iii) **Brother-Sister Corporations**

If two or more entities which are owned and controlled by the same person or persons or shareholders apply for a commercial fishing right in the fishery, and qualify for allocation of such rights, then the Department may consider allocating a fishing right to one of the qualifying entities only; or dividing the TAC between the qualifying entities.

(iv) **Individuals with shareholding in legal entity**

If an individual applies and qualifies for a fishing right in the abalone sector as an individual as well as a shareholder in a legal entity, the Department will only consider allocating the abalone fishing right to the individual in the capacity as a shareholder of the legal entity so as to broaden participation in the abalone fishery.

7.3. **Divers**

- (a) Preference will be given to allocating rights to citizen who are *divers* and who reside in the coastal community adjacent to the secondary zone in which abalone rights are to be allocated. The South African citizen applicant must clearly demonstrate that he or she:
- (i) is a qualified diver and is certified in terms of the regulations promulgated under the Occupational Health and Safety Act 85 of 1993 to be a certified commercial diver;
 - (ii) has an historical involvement in the harvesting of abalone (i.e. that he or she has a history of diving legally for abalone) and who will use assistants experienced in abalone harvesting and who are members of the communities adjacent to the secondary zone applied for;
 - (iii) is substantially reliant on the abalone resource for 75% or more of his or her annual income;
 - (iv) has been permanently resident for the past two years in the coastal community adjacent to the secondary zone that is applied for;
 - (v) is registered as a tax payer with the South African Receiver of Revenue and all taxes have been paid; and
 - (vi) has not been convicted of an offence related to the poaching of abalone during the last two years.
- (b) Divers that are historically disadvantaged persons will be given preference. Preference will be given to divers who are not shareholders or directors of abalone processing factories.

7.4. **Legal entities**

- (a) The Department will allow legal entities (only South African companies and trusts and close corporations) to apply. However, a right will only be granted to a legal entity—
- (i) that demonstrates that it is capable of catching its own allocation;
 - (ii) that demonstrates a track-record of involvement in abalone catching or processing and marketing;
 - (iii) that held a medium-term commercial abalone right (2001-2003 abalone fishing seasons);
 - (iv) demonstrates access to a suitable vessel as described above;

- (v) that demonstrates significant transformation in both ownership and management (i.e. is more than 66% owned and managed by historically disadvantaged persons);
- (vi) that demonstrates that 75% or more of its annual turnover is derived from the harvesting and / or marketing of abalone;
- (vii) that is a registered VAT vendor (if applicable) and is registered with the South African Revenue Services and whose taxes have been fully paid up;
- (viii) whose registered place of business for the past two abalone fishing seasons has been in the coastal area adjacent to the zone that is applied for; and
- (ix) that has historically complied with the MLRA and all the requirements thereunder.

8. Provisional lists, representations and consultations

- 8.1. The Delegated Authority may issue provisional lists for comment on any aspect relating to an application in any fishery/sector.
- 8.2. The Delegated Authority may request comment on any of the information provided by an applicant and on the basis of the comments received make its final decision.
- 8.3. The Delegated Authority may invite representations regarding the assessment of the applications before making final decisions.

9. Announcement of decisions

The Delegated Authority shall after making final decisions on the applications inform all applicants of the outcome of their individual applications giving specific reasons for such decision.

Further General Reasons for decisions in a specific fishery sector will be published informing all applicants on how the decisions were formulated and reached. The General Reasons shall also include an annexure outlining the scores obtained by all application in the abalone sector.

10. Payment of application and grant of right fees

- 10.1. The application fees will be determined having regard to:
 - (a) The cost of the entire fishing rights allocation process, including consultation, receipting, evaluation of applications, verification, appeals and reviews; and
 - (b) The value of the fish being allocated over the duration of the right.
- 10.2. The non –refundable application fee shall be payable on or before the submission of the application form and only proof of payment shall be brought to the receipting centre.

10.3. The grant of right fee is payable by all successful applicants upon the granting of rights.

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

A 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. An EAF strives to balance diverse societal objectives, by taking into account the knowledge and uncertainties about biotic, abiotic and human components of ecosystems and their interactions and applying an integrated approach to fisheries within ecologically meaningful boundaries.

11.2. Observer Programme

- (a) The right holder of a commercial abalone fishing right shall accommodate an observer on board the right holder's nominated vessel when required to do so by the Department or its agent.
- (b) The right holder may bear the costs of the observer deployment when so required by the Department.
- (c) The right holder shall allow the Observer unrestricted access to monitor fishing activity and to test compliance with permit conditions and all applicable laws.
- (d) Should the Department reasonably believe that an Observer is being prevented from carrying out his or her obligations in any way, or threatened in any way while on board the right holders' vessel; the Department may implement proceedings under section 28 of the MLRA.

11.3. Performance measuring

Successful applicants will be subjected to a number of performance measuring exercises for the duration of their fishing right. 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.

11.4. Offences

A successful applicant that fails to utilise its abalone fishing right for one fishing season without any reasonable explanation or that contravenes the provisions of the MLRA will be subject to proceedings under section 28 of the MLRA.

11.5. Marine Protected Areas

The marine protected area at Betty's Bay will be closed to all abalone harvesting. No right holder shall be permitted to enter this protected area for the purposes of diving for abalone.

11.6. Dyer Island

- (a) It is the Department's view that the abalone species should be afforded further protection in one other "no-take" refuge. This should be a discrete identifiable, population site.
- (b) Dyer Island is well suited and the closure of Dyer Island for the purposes of making it a sanctuary is part of a necessary strategy to protect the abalone species as the Bettys Bay Marine Protected Area is not sufficient to provide the only protection to abalone.

11.7. Gear and equipment

- (a) The Department will only permit the utilisation of the "hookah system" for the harvesting of abalone. The generator that will be used on board the vessel must at all times carry an official Department "abalone generator" tag, which shall be provided by the Department.
- (b) Each diver will only be permitted one wetsuit or drysuit on board the suitable vessel. No assistant may wear or carry a wet suit on board the suitable vessel. Divers will each be provided with one tag for their wetsuit.

11.8. Landing site

- (a) Right holders shall only be entitled to land catches at the landing site located nearest to the secondary zone in which they are permitted to harvest abalone. The landing sites for abalone are listed in Table 1. These landing sites / boat launching sites (other than those within proclaimed harbours or ports) will however only be capable of use if licenced in accordance with regulation 7 of GN Regulation 1399 of 21 December 2001.
- (b) Permits allocated will stipulate the harbour or landing site from which right holders must launch and at which all catches must be landed. All catches will be weighed at the harbour or landing site. The weight at the landing site will be the recorded weight for the purposes of quantum control.

11.9. Processing, transporting and selling abalone

- (a) Only fish processing establishments that hold a fish processing establishment permitted in terms of the MLRA to process abalone in wild form shall process abalone.
- (b) Harvested abalone must be transported from the landing site and delivered to a permitted fish processing establishment by a person(s) permitted to transport

abalone. A certified true copy of the catch permit and the catch statistics book (landing book) for the permit holder whose abalone is being transported must be kept in the vehicle transporting the harvested abalone. Should any fish processing establishment purchase abalone that has already been shucked, such a fish processing establishment could have its right suspended, revoked or cancelled.

- (c) The landed mass of the abalone must be recorded by the right holder. The Department will only allow for a maximum of 3% loss of weight from landing site to the fish processing establishment.
- (d) Who may market and sell the abalone shall be for the right holder to determine.

12. Permit Conditions

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

13. Glossary of Terms

- 13.1. "Brother- Sister corporations" are subsidiary companies owned by the same parent company.
- 13.2. "Close corporation" means close corporation in terms of the Close Corporations Act, (Act No. 69 of 1984), of which the majority of members are South African persons.
- 13.3. "Company" means a company registered in terms of the Companies Act, (Act No. 71 of 2008), of which the majority of shareholders, as prescribed by the Minister, are South African persons.
- 13.4. "Historically disadvantaged person" means a person who belongs to a group of persons who suffered racial discrimination in terms of the system of apartheid and includes women.
- 13.5. "Legal entity" means a close corporation or company.
- 13.6. "MLRA" means the Marine Living Resources Act (Act No. 18 of 1998).
- 13.7. "Race, gender and disability" means race, gender and disability as defined in the Employment Equity Act (Act No. 55 of 1998).
- 13.8. "Right Holder" means a person or a legal entity that was previously granted or lawfully acquired a fishing right or which will be granted a right in the allocation process envisaged in this Policy.
- 13.9. "Rights" means fishing or harvesting rights granted in terms of section 18 of the Marine Living Resources Act, 1998 (Act No. 18 of 1998).
- 13.10. "Same household" means a group of two or more persons living in a residential dwelling unit (which includes a house, semi-detached dwelling, separate outbuildings, an apartment, or any other independent structure) who are dependent on each other, or dependent on one or more members of that group. This includes, but is not limited to, spouses or persons in a long-term relationship, and their dependent children; guardians and their dependent wards; and any other dependent relationship. Persons living at the same address or in the same residential unit, and who are not dependent on any other person at that address or residential unit, do not constitute the same household.
- 13.11. "South African citizen" means a South African citizen in terms of the South African Citizenship Act, 1995 (Act No. 88 of 1995).
- 13.12. "Subsidiary company" is a company that is partly or completely owned by another company that holds a controlling interest in the subsidiary company.
- 13.13. "The Department" means the Department of Agriculture, Forestry and Fisheries.
- 13.14. "The Minister" means the Minister of Agriculture, Forestry and Fisheries.
- 13.15. "The 2013: General Policy" means the General Policy on the Allocation and Management of Fishing Rights: 2013.
- 13.16. "Total Allowable Catch" (TAC) means the maximum quantity of fish of individual species or group of species made available annually or during such other period of time as may be prescribed, for combined recreational, small-scale, commercial and foreign fishing.

- 13.17. "Total Applied Effort" (TAE) means the maximum number of fishing vessels, the type, size and engine power thereof or the fishing method applied thereby for which fishing vessel licences or permits to fish may be issued for individual species or groups of species, or the maximum number of persons on board a fishing vessel for which fishing licences or permits may be issued to fish for individual species or groups of species.

DEPARTMENT OF AGRICULTURE, FORESTRY AND FISHERIES

NO. 1138

16 NOVEMBER 2015

**POLICY ON THE ALLOCATION AND MANAGEMENT OF RIGHTS TO OPERATE FISH PROCESSING
ESTABLISHMENTS: 2015**

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

(In case of any inconsistency, the English text prevails)

TABLE OF CONTENTS

1. Introduction.....	1
2. Profile of the sector	1
3. Objectives.....	3
4. Granting of rights.....	3
5. Multi-sector involvement.....	5
6. Evaluation criteria.....	5
7. Provisional lists, representations and consultations	14
8. Announcement of decisions	14
9. Payment of application fees	15
10. Management measures.....	15
11. Permit conditions	16
12. Glossary of terms	17

1. Introduction

This policy on the allocation and management of rights to operate fish processing establishments (“FPEs”) is issued by the Minister of Agriculture, Forestry and Fisheries (“the Minister”), in consultation with the Department of Agriculture, Forestry and Fisheries (“the Department”). It shall be referred to as the “**Fish Processing Establishment Policy: 2015**”. The Department is responsible for administering the Marine Living Resources Act, 1998 (Act 18 of 1998) (“the MLRA”), regulations promulgated thereunder, and policies issued by the Minister.

This policy must be read in conjunction with MLRA; regulations under the MLRA; the General Policy on the Allocation and Management of Fishing Rights: 2013 (“the 2013: General Policy”); other relevant Sector Specific Policies including the Policy for the Small Scale Fisheries Sector in South Africa: 2012; and the Policy for the Transfer of Commercial Fishing Rights: 2009. This policy must be interpreted to be consistent with the MLRA, and all of the other relevant regulations and policies.

This policy sets out objectives, criteria and considerations that will guide the allocation, evaluation, and management of fishing rights in the fishery. This policy will thus guide the Delegated Authority in taking decisions on applications in this fishery.

2. Profile of the sector

2.1. Brief description of the sector

In terms of section 18 of the MLRA, no person shall operate an FPE unless a right to do so has been granted by the Minister.

Section 13 of the MLRA stipulates that no person shall exercise any right granted in terms of section 18 or perform any other activity in terms thereof unless a permit has been issued by the Minister to such person to exercise that right or perform that activity.

Any person processing fish is therefore required to have a right to operate a FPE and be in possession of a valid permit issued in terms of section 13 of the MLRA to undertake such activity unless exempted terms of section 81 of the MLRA.

Section 1 of the MLRA defines an FPE to mean any vehicle, premises or place where any substance or article is produced from fish by any method, including the work of cutting up, dismembering, separating parts of, cleaning, sorting, lining and preserving of fish, or where fish are canned, packed, dried, gutted, salted, iced, chilled, frozen or otherwise processed for sale in

or outside the territory of the Republic. A fish product defined to mean any product, whether in a processed form or not, wholly or partially derived from fish.

The statutory definition of an FPE is wide. Pursuant to section 81 of the MLRA, the Delegated Authority intends to exempt certain activities which involve the processing of fish, and which would otherwise fall within the definitional ambit of an FPE, from sections 1, 13 and 18 of the MLRA - including fishmongers; restaurants; fish shops; supermarkets; large chain stores; authorised fishing vessels that only pack fish in crates or use ice to land fresh fish; those engaged in the drying of legally caught and purchased fish; and the cleaning, heading, gutting, gilling and tailing of fish on board an authorised fishing vessel.

By regulating the operation of FPEs, the Department seeks to curb the processing of fish that has been caught in contravention of the MLRA, without necessarily resulting in unintended consequences or causing difficulties with the enforcement of the MLRA. These proposed exemptions will also be monitored to ensure that they do not result in increased illegal, unregulated and unreported fishing.

Rights to operate FPEs allocated in terms of section 18 of the MLRA do not amount to property rights. Instead it is no more than a statutory permission to process fish for a specified period of time. Accordingly, the cancellation or revocation of a right to operate an FPE does not amount to the expropriation of a property right within the meaning of section 25 of the Constitution of the Republic of South Africa, 1996 or the Expropriation Act 63 of 1975. This is clear from section 18(6) of the MLRA, which provides that a FPE right is valid for the period determined by the Minister (or his delegate), where after it automatically reverts back to the State.

On 27 July 2001, the Department issued a notice inviting applicants to apply for rights to operate FPEs (Government Gazette No. 22517 of 27 July 2001 ("the Gazette")). The applications were received, evaluated and rights were granted for a period of fifteen (15) years, expiring on 31 December 2016. The Gazette indicated that an opportunity would again be granted in 2002 for additional applicants to apply for rights to operate FPEs. This opportunity never materialized.

After the 2001 process a vast number of fishing companies were formed and received rights to exploit fish resources in various fishing sectors. In order for these right-holders to process their catches, and to meaningfully participate in the fishing industry, their land and sea-based processing facilities were exempted them from the provisions of section 18. Though exempted, these right-holders had to apply for permits in terms of section 13 of the MLRA.

In 2005 the General Policy for the Allocation of Long-Term Fishing Rights (LTRAMP), stated that a separate policy would be adopted dealing specifically with FPEs. No further long term rights to operate FPEs were issued in 2005/2006 or 2013.

2.2. Current resource users

There are currently approximately 892 (521 land-based and 371 vessel-based) right/exemption holders in the sector operating from Port Nolloth to the west of Cape Hangklip.

3. Objectives

3.1. The objectives and principles of allocating rights in a fishery are set out in section 2 of the MLRA, *inter alia*, to:

- (a) promote transformation through allocation of fishing rights to entities owned and/or controlled by historically disadvantaged persons which shall include designated groups (youth, women and people with disabilities), and to broaden meaningful participation (through increased participation, sharing value-creation opportunities and profits, and links);
- (b) ensure sustainable livelihoods through the promotion of fair employment
- (c) promote adherence to fair labour practices and improved working conditions
- (d) promote food security and poverty alleviation;
- (e) facilitate the recovery of over-exploited and collapsed fish stocks; and
- (f) achieve optimum utilisation and ecologically sustainable development of marine living resources.

4. Granting of rights

As noted above, section 18 of the MLRA requires that FPEs may only operate when granted a right to do so by the Minister. In terms of section 79 of the MLRA the Minister has delegated the power to grant such rights to a Delegated Authority in the Department.

Unless otherwise determined by the Minister, only South African persons shall acquire or hold rights in terms of section 18 of MLRA. In this fishery the Minister has not exercised his power to allow persons of other nationalities to acquire rights, meaning that only South African persons can acquire rights in this fishery.

All rights granted shall be valid from the date of allocation for a period not exceeding 15 years, where after they will automatically terminate and revert back to the State to be reallocated. Applications for rights to operate FPEs will be open-ended, i.e. there will be not be a specified

application period with opening and closing dates, but instead applications can be made as required.

It should be further noted that in terms of section 16 of the MLRA the Minister may suspend the operation of an FPE or impose restrictions to address a state of emergency.

4.1. **Form of right holder**

- (a) Section 18 of the MLRA provides that only South African persons may hold fishing rights.
- (b) Having regard to the nature of operations and resource accessibility the following South African persons will be considered for rights to operate FPEs:
 - (i) a citizen (individual) as defined in terms of the South African Citizenship Act, 1995 (Act 88 of 1995);
 - (ii) a company (legal entity) of which the majority of shareholders, as prescribed by the Minister, are South African persons;
 - (iii) a close corporation (legal entity) of which the majority of members are South African persons;
 - (iv) a trust in which the majority of trustees having the controlling power at any given time are South African citizens or a majority of the beneficial interests are held by South African citizens; and
 - (v) After the Marine Living Resources Amendment Act, 2014 (Act 5 of 2014 comes into force, a co-operative registered in terms of the Co-operatives Act, 2005 (Act 14 of 2005). All the members of the co-operative must be South African citizens but, where any member is a juristic person, such person's registered office and principal place of business must be located in South Africa.

4.2 **Duration of right**

Having regard to the right allocation process and the need to encourage investment, the right to operate an FPE will be granted for the maximum period of 15 years.

4.3 **Transfer of rights allocated in terms of this Policy**

In terms of section 21 of the MLRA the Minister may approve the transfer of rights, including rights to operate FPEs, in whole or in part. However, rights granted in terms of the MLRA shall not be transferred within the first two (2) years of being granted.

Rights can only be transferred in terms of the Policy for the Transfer of Commercial Fishing Rights (Government Gazette No 32449, 31 July 2009) or relevant amendments thereof.

In all cases a notification of a transfer of shares or a members' interest must be served on the Department within 30 days of such sale or transfer, or any time-period set in applicable permit conditions. In addition, the Department's approval is required for all cases in which the sale or transfer of shares or a member's interest in a right-holder results in a change of control of the entity, or in the entity being less transformed than it was at the date on which rights are allocated. Failure to pay the required fees for the grant of a right or to apply for any permits during the first two (2) years shall result in a cancellation of the right by the Minister.

5. Multi-sector involvement

Applicants for the allocation of FPE rights will not be precluded from applying for, or holding commercial rights in other local commercial fisheries sectors.

This shall mean any person can apply for a right in any fishery sector regardless of whether the applicant has applied for a right or holds a right in any other fishery. In this case, the "applicant" shall mean an individual, a shareholder or director in a company, or a member in a close corporation applying for a right in any fishery sector.

Natural persons who hold shares or a member's interest in an entity which is applying for the allocation of rights in the fishery, may also hold shares, an interest in an entity which is applying for, or already holds rights in another fishery.

Natural persons who are directors or employees of an entity which is applying for the allocation of rights in the fishery, may also be a shareholder, member, director or employee of an entity which is applying for, or already holds rights in another fishery.

6. Evaluation criteria

Applications for the allocation of rights in the FPE fishery will be screened in terms of a set of "exclusionary criteria".

6.1. Exclusionary criteria

In addition to the criteria described in the 2013: 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/criteria:

(a) Compliance

An applicant will be excluded, if it, a member with controlling interest, a director or a controlling shareholder has been convicted of a serious transgression of the MLRA (without the option of the payment of a fine).

An applicant will also be excluded, if it, a member with a controlling interest, a director or controlling shareholder had had any fishing right cancelled or revoked in terms of the MLRA. For these purposes a natural person will be treated as having had rights cancelled or revoked if that person was a controlling shareholder, a member with a controlling interest, or a director of an entity which had its rights cancelled or revoked.

Minor infringements, including those in respect of which an admission of guilt fine was paid, may be taken into account as a balancing criterion and may also adversely affect an application.

(b) **Paper quotas**

Applications from paper quota applicants, as defined in the 2013: General Policy will be excluded.

(c) **Non-utilisation**

Applicants which have held a right in the FPE fishery during the period of 2001 to 2015, which was not utilised, shall be excluded.

6.2. **Balancing criteria**

Applicants will be evaluated in terms of the following criteria:

6.2.1 **Transformation**

When assessing and scoring applications, the Delegated Authority may prefer applicants based on transformation criteria. This is especially so given the legacy of systematic labour market discrimination and inferior education. In this context accelerated skills and advanced professional skill development is important.

When attributing a score for transformation criteria the Delegated Authority may have regard to: census statistics or other information provided by Statistics South Africa regarding the composition of the population of South Africa, and the percentage of that population made up by different demographic groups; the need to ensure the recognition and meaningful participation in the fishing industry, of Historically Disadvantaged Individuals (HDIs) and the codes of good practice under the Broad Based Economic Empowerment Act.

The BEE scorecard for Broad-Based Black Economic Empowerment will be used to measure the three core elements of BEE, namely, direct empowerment through ownership and control of enterprises and assets, human resource development and employment equity and indirect empowerment through preferential procurement and enterprise development.

(a) **Direct empowerment**

The process of BEE must result in an increase in the ownership and control of the economy by black persons. This means that a significant proportion of black persons' ownership of assets and enterprises must reflect a controlling interest, a genuine participation in decision-making at board, executive management and operations levels, as well as an assumption of real risk. In the scorecard, direct empowerment focuses on ownership of enterprises and assets through shares and other instruments that provide the holder thereof with voting rights and economic benefits, such as dividends or interest payments.

Control means the right or the ability to direct or otherwise control the majority of the votes attaching to the shareholders' issued shares; the right or ability to appoint or remove directors holding a majority of voting rights at meetings of the board of directors of the applicant and the right to control the management of that applicant.

(b) **Human resource development and employment equity**

This component of the scorecard focuses on the development of the employees of an enterprise or sector as well as employment equity. Enterprises are required to comply with the provisions of the Employment Equity Act, 1998 (Act 55 of 1998) to bring about an equitable representation of black persons in all occupations and at all levels of the organisation over a period of time. The following will be considered:

- (i) The percentage of people from designated groups and HDIs represented at top salary, board of directors, members and senior official and management levels;
- (ii) The extent to which an applicant's black ownership and black management transformation credentials have subsequently improved, remained the same, or deteriorated since the granting of the right in 2001;
- (iii) Whether employees (other than top salary earners) benefit from an

- employee share scheme;
- (iv) Extent of compliance with the Employment Equity Act, and the representivity of designated groups and HDIs at the various levels of employment below senior official and management level;
 - (v) Affirmative procurement;
 - (vi) Compliance with legislation on skills development and the amounts spent on the training of blacks, youth, women, people with disabilities, and participation in learnership programmes; and
 - (vii) Corporate social investment.

(c) **Indirect empowerment**

In order to grow the economy, more enterprises are needed to produce value-added goods and services, to attract investment, and to employ more people in productive activities. Thus, a core component of BEE is the creation and nurturing of new enterprises by black people. Preferential procurement by both the State and the private sector is an effective and efficient instrument to drive BEE as it provides emerging black enterprises with opportunities to expand their output. The scorecard, therefore, includes a preferential procurement element.

A second element of indirect empowerment is enterprise development. This can take the form of investment in black-owned and black-empowered enterprises or joint ventures with black-owned and black-empowered enterprises that result in substantive skills transfer.

(d) **The residual 10% in the scorecard**

In order to allow sectors and enterprises to tailor the scorecard to their circumstances, a residual 10% of the scorecard is left to sectors and enterprises to determine.

Government encourages sectors and enterprises to consider including some of the following in their scorecards: infrastructural support to suppliers and other enterprises in the same area or community, labour-intensive production and construction methods, beneficiation, investment and support to enterprises operating in rural communities and the geographic areas identified in government's integrated sustainable rural development programme and urban renewal programme and investment in the social wage of employees for example, housing, transport, and healthcare.

(e) **The BEE scorecard**

Core component of BEE	Indicators	Conversion Factor	Raw Score	Weighting	Total Score
Direct empowerment score					
Equity Ownership		% share of economic benefits		20%	
Management		% black persons in executive management and/ or executive board and board committees		10%	
Human resource development and employment equity score					
Employment equity		Weighted employment equity analysis		10%	
Skills development		Skills development expenditure as a proportion of total payroll		20%	
Indirect empowerment score					
Preferential procurement		Procurement from black-owned and empowered enterprises as a proportion of total procurement		20%	
Enterprise development		Investment in black-owned and empowered enterprises as a proportion of total assets		10%	
Residual 10%					
To be determined by sector/ enterprise				10%	
Total Score out of 100%					

(f) **Indicators**

The indicators outlined in the scorecard are provided as a guide. In practice, enterprises and sectors may use these ratios, analysis tables or mini-scorecards to provide the most accurate reflection of progress in each of the core components of BEE.

(g) **Weighting**

The weighting of each component reflects the relative importance that government places thereon. The six core components of BEE are weighted to bring the scorecard to a maximum of 100%. The weightings total 100 in order to bring the scorecard to a standardised maximum score.

(h) **Total score**

The total score will be calculated by the sum of the individual component scores and will be reflected as a score out of 100%.

6.2.2 Fish processing performance

The historical performance of applicants who have held rights to operate FPEs will be examined to determine if they have effectively utilised their rights. Effective utilisation shall mean activation of fish processing permits and subsequent submission of fish processing data for at least five years during the period 2002-2015. Applicants should submit this information with their application forms.

6.2.3 Local economic development

The Delegated Authority may, in order to ensure that all fishing communities share in the marine living resources, have regard to the locality of FPEs. In doing so the Delegated Authority may give preference to applicants, with the aim of ensuring an equitable distribution of opportunities to communities along the coastline.

6.2.4 Job creation

The Delegated Authority may give preference to any applicant which commits to retaining existing employment opportunities, or to increasing employment opportunities. For these purposes the Delegated Authority will consider the quality of the employment opportunities which will be created, including compliance with the Basic Conditions of Employment Act, 1997 (Act 75 of 1997) ("BCEA"); and the applicant's commitment to provide their employees with:

- (a) permanent employment;
- (b) medical aid or any kind of medical support;
- (c) pension and provident fund;
- (d) safe working conditions in accordance with the applicable legislative requirements; and
- (e) an employee share scheme, which ensures that employees enjoy an effective shareholding in the right holder.

6.2.5 Access to a suitable fish processing establishment

- (a) An applicant for a vessel-based FPE will be required to demonstrate access to a vessel suitable for the processing of fish. Access may be in the form of ownership, part-ownership, a catch agreement, a charter agreement, or a bank guarantee for sufficient capital to purchase or build a vessel. If an applicant intends purchasing a vessel then additional information must be provided to prove a firm and binding offer by the current owner of the vessel to sell the vessel to the applicant and a purchase agreement must be provided. If an applicant intends building a new vessel then additional information must be provided including the vessel plans, the cost to be incurred and a firm and binding commitment by a vessel building company to build the vessel. The vessel must be certified by South African Maritime Safety (SAMSA) as being safe.
- (b) An applicant for a land-based FPE will be required to demonstrate access to suitable premises by means of a valid lease agreement or title deed. An applicant will be required to provide a sitemap with coordinates of the site locality. All land-based activities need relevant land use planning approval from the local authority, and may also require other statutory planning approvals or authorisations. These approvals and authorisations do not, however, exempt an applicant from undergoing a thorough public participation process, which will ensure that all interested and affected parties are informed and well aware of the activities around them. The requisite land use planning approvals and other requisite statutory authorisations must be in writing and submitted with the application.

6.2.6 Business plan

An applicant will be required to submit a detailed business plan including the following information:

- (a) Company profile and shareholding structure;
- (b) Investment in vessel-based and/or land-based fish processing establishments fixed assets;
- (c) Product category to be processed e.g. shellfish, finfish, crustaceans, seaweeds, etc;

- (d) If imported species are being considered, the measures to be taken to avoid the spread and introduction of exotic commensals, parasites and pathogens;
- (e) A detailed description of processing methods and operational plan/s including:
 - (i) Design and technology;
 - (ii) Water quality monitoring;
 - (iii) Effluent discharge;
 - (iv) Quality control measures;
 - (v) Sanitary and hygiene measures; and
 - (vi) Hazard Critical Analysis Control Points (HACCP).
- (g) The use of any kind of chemicals, disinfectants, therapeutants and anaesthetics, that may be used or result from the operation. Methods of application that are being considered for use must also be outlined in the proposal;
- (h) The product destination and/or marketing strategy;
- (i) A detailed financial plan projecting capital, expenditure and income over a minimum period of 2 years should be included;
- (j) Facilities and employment opportunities that will be created should be highlighted in the business plan;
- (k) Information on how the facility will minimize and prevent potential negative environmental impacts.

6.2.7 **Applicant's involvement and relationship with other applicants**

Applicants for rights to FPE are required to disclose their relationship to other applicants for FPE as well as in other commercial fisheries. If members of the same household apply, or if an entity and its subsidiary both apply or if two or more entities which are owned and controlled by the same person or persons or shareholders apply or if an individual applies both as an individual as well as a shareholder or member of another entity for a right to a FPE, this relationship must be disclosed on the application for a right to FPE. A failure to do so may result in the Department implementing proceedings under section 28 of the MLRA.

6.2.8 **Environmental authorisation**

During 2010 the Minister of Environmental Affairs published the Environmental Impact Assessment (EIA) regulations under the National Environmental Management Act, 1998 (Act 18 of 1998) containing listed activities which require a Basic Assessment or scoping and environmental impact reporting. Environmental authorisation may be required before the establishment of an FPE as certain activities germane to an FPE are contained in the listed activities.

If an applicant in the Aquaculture sector or wild capture fisheries is advised that an environmental authorisation is required for the activity, such applicant must register the Aquaculture Management Section of the Department as an interested and affected party, and should forward all environmental impact reports for comments to the Aquaculture Management Section.

6.2.9 **Certificate of acceptability for fish factories and other fish handling and processing establishments**

The Regulations published under Government Notice No. R918 of 1999 as corrected by Government Notice No. 723 of 12 July 2002, promulgated in terms of the Health Act, 1977 (Act 63 of 1977), sets out certain general hygiene requirements for food premises and the transport of food. In terms of these Regulations, a certificate of acceptability for food premises is required before a person can be allowed to handle food on such premises.

An applicant must apply in writing to the Health Services section of the local municipality in whose area of jurisdiction the food premises and or FPEs, where applicable, are situated for a certificate of acceptability. A certificate of acceptability must accompany the application to operate an FPE.

6.2.10 **Coastal waters discharge permit**

The National Environmental Management: Integrated Coastal Management (ICM) Act, 2008 (Act 24 of 2008) addresses a number issues relating to coastal pollution including the discharge of effluent into coastal waters. The provisions of Chapter 8 of the ICM Act, in particular section 69 thereof, regulates the discharge of effluent into coastal waters from any source on land. Such activities, in addition to any other permit or authorisation which may be required by any other law, require a coastal waters discharge permit obtained from the Department of Environmental Affairs (DEA).

6.2.11 Environmental and land use planning laws

An FPE must in all respects comply with all relevant and applicable environmental laws and land use planning laws, including by-laws of the municipality governing the area in which the FPE is located, , and any conditions attached to any statutory approval or authorisation applicable to the FPE. A failure to do so may result in the Department implementing proceedings under section 28 of the MLRA and/or obtaining a court order to temporarily close the FPE

6.2.12 Supplier agreements

An applicant will be required to submit all supplier agreements for wild capture fisheries or aquaculture products to be processed and to provide documentation to clearly identify all signatories to the supplier agreements.

6.2.13 Valid SARS tax clearance certificate

An applicant will be required to declare the financial status of the business with the South African Revenue Services (SARS). A valid SARS tax clearance certificate must accompany the application.

7. Provisional lists, representations and consultations

- 7.1. The Delegated Authority may issue provisional lists for comment on any aspect relating to an application in any fishery/sector.
- 7.2. The Delegated Authority may request comment on any of the information provided by an applicant and on the basis of the comments received make its final decision.
- 7.3. The Delegated Authority may invite representations regarding the assessment of the applications before making final decisions.

8. Announcement of decisions

The Delegated Authority shall after making final decisions on the applications inform all applicants of the outcome of their individual applications giving specific reasons for such decision. Further General Reasons for decisions in a specific fishery sector will be published informing all applicants on how the decisions were formulated and reached. The General Reasons shall also include an annexure outlining the scores obtained by all application in the seaweed sector.

9. Payment of application fees

9.1 The fees for this sector will be determined having regard to the cost of the entire rights allocation process, including consultation, receipting, evaluation of applications, verification, appeals and reviews.

9.2 An applicant must pay the non-refundable application fee of R9123.00 before submitting an application for a right for FPE. Only the proof of payment shall be brought to the receipting centre.

10. Management measures

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

10.1. Ecosystem approach to fisheries

A 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. An EAF strives to balance diverse societal objectives, by taking into account the knowledge and uncertainties about biotic, abiotic and human components of ecosystems and their interactions and applying an integrated approach to fisheries within ecologically meaningful boundaries.

10.2. Observer Programme

- (a) The right holder of FPE right shall accommodate an observer on board the right holder's nominated vessel, where applicable, when required to do so by the Department or its agent.
- (b) The right holder may bear the costs of the observer deployment when so required by the Department.
- (c) The right holder shall allow the Observer unrestricted access to monitor the fish processing activity and to test compliance with permit conditions and all applicable laws.
- (d) Should the Department reasonably believe that an Observer is being prevented from carrying out his or her obligations in any way, or threatened in any way while on board the right holders' vessel; the Department may implement proceedings under section 28 of the MLRA.

10.3 Performance measuring

Successful applicants will be subjected to a number of performance measuring exercises for the duration of their fishing right. 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.

10.4 Offences

Successful applicants that fail to utilise their rights to operate FPEs for one year after the granting of the right without any reasonable explanation or that contravenes the provisions of the MLRA will be subjected to proceedings in terms of section 28 of the MLRA.

11. Permit conditions

Permit conditions for this sector will be issued annually. The permit conditions will be determined after consultation with the successful applicants in this sector and will be revised as and when it may be necessary with due regard to the laws at the time such permits are issued.

12. Glossary of terms

- 12.1 "Brother- Sister corporations" are subsidiary companies owned by the same parent company.
- 12.2 "Close corporation" means close corporation in terms of the Close Corporations Act, (Act No. 69 of 1984), of which the majority of members are South African persons.
- 12.3 "Company" means a company registered in terms of the Companies Act, (Act No. 71 of 2008), of which the majority of shareholders, as prescribed by the Minister, are South African persons.
- 12.4 "Historically disadvantaged person" means a person who belongs to a group of persons who suffered racial discrimination in terms of the system of apartheid and includes women.
- 12.5 "Legal entity" means a close corporation or company.
- 12.6 "MLRA" means the Marine Living Resources Act (Act No. 18 of 1998).
- 12.7 "Race, gender and disability" means race, gender and disability as defined in the Employment Equity Act (Act No. 55 of 1998).
- 12.8 "Right Holder" means a person or a legal entity that was previously granted or lawfully acquired a fishing right or which will be granted a right in the allocation process envisaged in this Policy.
- 12.9 "Rights" means fishing or harvesting rights granted in terms of section 18 of the Marine Living Resources Act, 1998 (Act No. 18 of 1998).
- 12.10 "Same household" means a group of two or more persons living in a residential dwelling unit (which includes a house, semi-detached dwelling, separate outbuildings, an apartment, or any other independent structure) who are dependent on each other, or dependent on one or more members of that group. This includes, but is not limited to, spouses or persons in a long-term relationship, and their dependent children; guardians and their dependent wards; and any other dependent relationship. Persons living at the same address or in the same residential unit, and who are not dependent on any other person at that address or residential unit, do not constitute the same household.
- 12.11 "South African citizen" means a South African citizen in terms of the South African Citizenship Act, 1995 (Act No. 88 of 1995).
- 12.12 "Subsidiary company" is a company that is partly or completely owned by another company that holds a controlling interest in the subsidiary company."
- 12.13 "The Department" means the Department of Agriculture, Forestry and Fisheries.
- 12.14 "The Minister" means the Minister of Agriculture, Forestry and Fisheries.
- 12.15 "The 2013: General Policy" means the General Policy on the Allocation and Management of Fishing Rights: 2013.

DEPARTMENT OF AGRICULTURE, FORESTRY AND FISHERIES

NO. 1139

16 NOVEMBER 2015



agriculture,
forestry & fisheries

Department:
Agriculture, Forestry and Fisheries
REPUBLIC OF SOUTH AFRICA

BRANCH: FISHERIES MANAGEMENT												
FISH PROCESSING ESTABLISHMENT	APPLICATION NUMBER											
	IDENTIFICATION NUMBER OR REGISTRATION NUMBER											

Application form

Fishing Rights Allocation Process 2015/2016

FRAP 2015/2016

SECTIONS OF THE APPLICATION FORM "MARKED WITH YES" TO BE COMPLETED BY APPLICANT			
		INDIVIDUAL	ENTITY
SECTION 1	Applicant's details (individual)	YES	NO
SECTION 2	Rights and/or exemptions held by applicant (individual)	YES	NO
SECTION 3	Applicant's details (entity)	NO	YES
SECTION 4	Rights and/or exemptions held by applicant (entity)	NO	YES
SECTION 5	Compliance	YES	YES
SECTION 6	Access to a suitable vessel/premises	YES	YES
SECTION 7	Fishing Processing Performance	YES	YES
SECTION 8	Transformation	YES	YES
SECTION 9	Job Creation	YES	YES
SECTION 10	Application declaration	YES	YES

APPLICATION NUMBER										
--------------------	--	--	--	--	--	--	--	--	--	--

Applicant's or duly authorised representative of the applicant's (initials) _____ Commissioner of Oaths (initials) _____

IMPORTANT INFORMATION INSTRUCTIONS

1. The applicant or its duly authorised representative shall read and understand the instructions and application requirement sections before completing this application form. All the information provided by an applicant must be true, correct, and verifiable.
2. Only South African citizens, companies, close corporations or trusts as defined in the Marine Living Resources Act 1998 (Act No. 18 of 1998) (MLRA), may apply for a commercial fishing right. A South African company, close corporation or trust must be registered in South Africa, and the majority of its respective shareholders, members, trustees and beneficiaries must be South African citizens.
3. An applicant completing this application form must read the General Policy on the Allocation and Management of Fishing Rights: 2013 (General policy) and the Fish Processing Establishment Policy (FPE): 2015 (FPE policy). These policies will guide the Minister or his/her delegate's assessment of this application and the decision to allocate the fishing right applied for. Copies of these policies are accessible on the Department's website at <http://www.daff.gov.za>, or are obtainable at the Distribution Centre where this form was collected.
4. Whilst you may ask a departmental official at any application centre to explain the application form to him/her or it and/or to assist with any query related to completing this form or related to the FRAP 2015/16 process and queries may also be addressed during office hours, Monday to Friday between 08h00 to 16h00, to **the FRAP Call Centre Helpline at 021 402 3727**, you remain responsible for ensuring that the form is correctly completed and that all the documentation and information is provided.
5. Please do not communicate with the Minister, the delegated authority, or officials in the Department about your application during the application and allocation process other than at the application centre or **FRAP Call Centre Helpline at 021 402 FRAP (3727)**. It is the applicant's responsibility to ensure that all the applicable sections of the form are completed and that all the documentation and information requested as indicated in the form, or from the General or FPE policies are submitted with the form.
6. The applicant must complete all the sections of the form that are relevant to the applicant's application. When completing this form, if any section does not apply to the applicant, then mark the section "N/A" – "not applicable" and the information requested in that section does not have to be supplied. No section should remain blank. The applicant must as far as possible confine their responses to the spaces provided in the application form. If this is not possible then the information may be submitted as attachments to the form referencing the question number to which the attachment relates.
7. All documents attached must be true and certified copies of the originals, unless the original document is specifically requested. Copies of originals that have not been certified as true copies of the original will not be accepted.
8. Only applications submitted on the official departmental FRAP 2015/16 Form will be accepted. If an application is submitted on any other form or in any other manner, it will not be considered. Please fill out the form with a pen unless completing the form electronically. Do not use a pencil.
9. The application form and the applicant's declaration in section 10 must be signed by the applicant or its authorised representative and attested to before a Commissioner of Oaths. Please ensure that each page of the application form and attachments (supporting documents) are initialled by the applicant or its authorised representative and the Commissioner of Oaths. If the application and declaration is not signed before a Commissioner of Oaths, the application will not be considered. The application will consist of the original application form with supporting documentation. Please submit the original application together with one (1) certified true copy of the original application. The application and the copy must be punched, divided and submitted in a file.
10. The application and the copy **must** reach one of the Receiving Centre's before the stipulated closing date and time listed in the Government Gazette Notice dated **[insert date]**. The application must be physically (hand) delivered to one of the Receiving Centre's listed in Government Gazette Notice dated **[insert date]**. Copies hereof are accessible on the Department's website at <http://www.daff.gov.za>, or are obtainable at the Distribution Centre where this form was collected. Late applications will not be accepted and will not be considered.
11. Do not submit an application by mail (post), by fax or email.

APPLICATION NUMBER									
---------------------------	--	--	--	--	--	--	--	--	--

Applicant's or duly authorised representative of the applicant's (initials) _____ Commissioner of Oaths (initials) _____

12. The application fee must be deposited into **[insert name of account holder]**, **[insert name of bank]** with account number **[insert number]** before the application is submitted. Please use the application form number as the reference number on the bank deposit slip or the printed “electronic funds transfer” page. Your proof of payment must be attached to the application. . Your application will not be considered if the proof of payment is not attached to the application. No application fees will be refunded.
13. If you furnish any information that is not true or complete, you will be disqualified from applying or the application may be refused or if granted, it may be revoked or suspended.
14. An application will be refused if the applicant-
 - a. provides false information and/or documentation under oath; or
 - b. falsifies documents; or
 - c. makes misleading false statements; or
 - d. fails to disclose material information or documentation which may materially affect the assessment of this application.
15. If you fail to comply with the lodgement requirements of the General Policy on the Allocation and Management of Fishing Rights: 2013, the Fish Processing Establishment Policy: 2015 and/or the instructions and requirements of the application, the application will be refused. The delegated authority has no discretion to condone non-compliance with lodgement requirements, materially defective applications and/or an essential requirement for participating in the FPE sector.
16. The Minister or his/her delegated authority reserves the right to call upon the applicant to make further representations, provide additional information and documentation, or to verify any aspect of the application.
17. Applicants may call the **FRAP Call Centre Helpline (021 402 3727)**, during the week (Monday to Friday) between 08h00 and 16h00. All relevant information about FRAP 2015/16 is also accessible on the Department’s website at <http://www.daff.gov.za>.

APPLICATION NUMBER										
---------------------------	--	--	--	--	--	--	--	--	--	--

Applicant’s or duly authorised representative of the applicant’s (initials) _____ Commissioner of Oaths (initials) _____

IMPORTANT INFORMATION				
APPLICATION REQUIREMENTS				
IF AN APPLICANT CANNOT PROVIDE THE DOCUMENTS OR INFORMATION AS REQUIRED, THEN THE APPLICANT MUST SUBMIT A WRITTEN EXPLANATION FOR IT IN THE PLACE OF THAT SPECIFIC ANNEXURE.				Mark the box with an "X" if the required documents are attached
Sub-section	Documents or information required	Annexure	Applicant	Official
1.1 - 1.5	Provide a certified true copy of the applicant's identity document.	1A-1		
1.6	Provide an original valid South African Revenue Services (SARS) tax clearance certificate.	1A-2		
1.11 - 1.14	Provide a copy of one of the following documents: (a) a utility bill (water, electricity, telephone), or (b) a rent agreement for a house or flat, or (c) a bond agreement with a bank or (d) bank statements, or (e) an original affidavit from a third party, confirming the current residential address of the applicant.	1C		
1.19 – 1.20	Provide a description detailing all the fish processing activities of the applicant, including his or her involvement in other sectors and experience in the fishing industry. A new entrant must demonstrate that he or she has the necessary skill, knowledge and ability to participate in the fish processing sector.	1E		
2.1	If "Yes", provide a copy of any commercial catch permit or a grant of right letter or a right transfer approval letter or an exemption issued to the applicant in terms of the Marine Living Resources Act 18 of 1998 (MLRA).	2A-1		
2.5	If "Yes," provide proof of the applicant's shareholding/membership interest in the other entities that applied for fishing right during FRAP 2015/16.	2A-2		
2.6	If "Yes", provide proof of audited/verified/certified financial statement from all source of income in respect of the financial year which ends on any date between 1 July 2014 and 30 June 2015.	2A-3		
3.1 - 3.5	Provide a certified true copy of the company or close corporation registration documents and in the case of a trust a certified true copy of the trust deed together with any amendments and letters of authority.	3A-1		
3.6	Provide an original valid South African Revenue Services (SARS) tax clearance certificate.	3A-2		
3.10 - 3.16	Provide a letter on the letterhead of the applicant confirming the appointment of the person as the duly authorised contact person for the applicant including the certified true copy of the authorised person's Identity document..	3C		
3.17 - 3.21	Provide a copy of one of the following: (a) a utility bill (water, electricity, telephone), or (b) a lease agreement, or (c) a bond agreement with a bank or (d) bank statements, confirming the current registered address of the applicant.	3D		
4.1	If "Yes", provide a copy of any commercial catch permit or the grant of right letter or an exemption letter or right transfer approval letter issued to the applicant in terms of the Marine Living Resources Act 18 of 1998 (MLRA).	4A-1		
4.4	If "Yes", provide the information of each individual shareholders/members/trustees and beneficiaries interests represented as a percentage as follows: Full name; Identity number/registration number; Proof of address and contact details; Racial classification; Number of shares, interest as a member and beneficial interest as a trustee or beneficiary; Rand value of the share, members or beneficial interest in the entity; Percentage interest; and Number of years in the fishing industry and in what capacity; including specifying the precise extent of foreign shareholders/members/trustees and beneficiaries interests in the applicant	4A-2		

APPLICATION NUMBER									
---------------------------	--	--	--	--	--	--	--	--	--

Applicant's or duly authorised representative of the applicant's (initials) _____ Commissioner of Oaths (initials) _____

4.5 -4.6	If "Yes", provide proof of shareholding/members interest in other entities that applied for a FPE right and for a fishing right in any other fishery/sector during FRAP2015/16.	4A-3		
4.7 -4.8	If "Yes" provide proof of audited/verified/certified financial statement from all source of income in respect of the financial year which ends on any date between 1 July 2014 and 30 June 2015.	4A-4		
5.1	If "Yes", provide details and any documentation regarding the offence including information regarding the conduct giving rise to the charge and the outcome of the criminal proceedings.	5A-1		
5.2	If "Yes", provide details and any documentation regarding the plea bargain arrangement entered into, including the conduct giving rise to the plea bargain, the dates and specifics of the plea bargain.	5A-2		
5.3	If "Yes," provide details and documentation regarding the conduct of the applicant, the date(s) of conviction, and the penalties imposed.	5A-3		
5.4	If "Yes", provide details and any documentation regarding the admission of guilt fine paid, including information regarding the conduct giving rise to the fine, the date of the offence and rand amount paid.	5A-4		
5.5	If "Yes", provide details regarding the detention, arrest or seizure, including information regarding the conduct giving rise to the proceedings, and whether a final confiscation or forfeiture order was granted under the Prevention of Organised Crime Act 121 of 1998 (or its predecessor) or the MLRA.	5A-5		
5.6	If "Yes", provide details and any documentation including the conduct of the individuals giving rise to the Section 28 proceedings.	5A-6		
6.1 - 6.3	If "Yes", provide proof of vessel ownership(s) detailing shareholding in the vessel(s) and the cost of that shareholding, alternatively how the shareholding was acquired, with proof. If more than one vessel, attach annexures and label it in sequential order e.g. A-1a, 6A-1b, etc.	6A-1		
6.4	If "Yes", provide copy of vessel access agreement (i.e. catch agreement, charter agreement, or bank guarantee and/or offer to purchase agreement). If the applicant is considering building a new vessel, then the vessel plans and related costs from the building company are required.	6A-2		
6.5 – 6.8	Provide the South African Maritime Safety Authority (SAMSA) certificate and vessel specification documents, except in cases where a vessel is still to be built or purchased. If more than one vessel, attach annexures and label in sequential order e.g. 6A-3a, 6A-3b, etc. If yes, please indicate the name of the Regional Fishery Management Organisation and detail the reasons for the negative listing.	6A-3		
6.10 - 6.12	If "Yes", provide a copy /copies of the title deed(s) confirming the ownership of the premises (site(s)).	6A-4		
6.13	If "Yes", provide a copy /copies of the lease agreement(s) in respect of the premises (site(s)).	6A-5		
8.1 - 8.2	Provide proof of dividends paid to black shareholders/members in 2001, 2005, 2009, 2013 and 2014 financial years.	8A-1		
8.3	Provide proof in writing from the applicant's registered auditors/bookkeepers confirming the ownership profile of the applicant.	8A-2		
8.5	Attach the most recent employment equity profile provided to the Department of Labour and if none provided to the Department of Labour, provide the employment equity profile as at the date of application.	8A-3		
8.6	Provide proof in writing confirming board of directors from registered auditors and the relevant documentation from the Companies and Intellectual Property Commission.	8A-4		
8.7	If the applicant's turnover is greater than R50 million, provide a BBBEE certificate. If the turnover is less than R50 million, provide confirmation of BEE status from the applicant's registered auditors and/or accounting officers and attach sworn affidavits as per the latest Department of Trade and Industry (DTI) legislation and directives/standards in respect of B-BBEE exempted micro and	8A-5		

APPLICATION NUMBER									
---------------------------	--	--	--	--	--	--	--	--	--

Applicant's or duly authorised representative of the applicant's (initials) _____ Commissioner of Oaths (initials) _____

	qualifying small enterprises.			
8.9	If "Yes", provide proof of donations of the annual taxable income which qualify for deduction in terms of section 18A of the Income Tax Act 58 of 1962.	8B-1		
8.10	Please provide full details of the various corporate social investment projects that were invested in by the applicant. Proof thereof should also be provided.	8B-2		
8.11	If "Yes", provide net percentage of the total procurement from black owned company (ies) for the financial year which ends on any date between 1 July 2014 and 30 June 2015.	8C-1		
8.14 -15	If "Yes", provide a copy of the report submitted to the Department of Labour on the development and consultation of an employment equity plan and the progress made to implement the employment equity plan in terms of section 21 of the Employment Equity Act 55 of 1998. If "Yes", provide a copy of the analysis require by section 19 of the Employment Equity Act, 55 of 1998 which must include a profile of the applicant's workforce within each occupational category and level in order to determine the degree of under-representation of people from designated groups in the various occupational categories and levels in the employer's workforce. If "Yes", provide a copy of the reports submitted to the Department of Labour in terms of section 27 of the Employment Equity Act, 55 of 1998 indicating the remuneration and benefits received in each occupational category and level of that employer's workforce. If "Yes", provide a copy of the written acknowledgment or other communication received from the Department of Labour regarding the applicant's reports.	8E-1(a) 8E-1(a) 8E-1(a) 8E-1(a)		
8.16	If "Yes", provide a copy of the employment equity plan.	8E-2		
8.18	If "Yes", provide proof indicating which Sector Education Training Authority ("SETA") the applicant is registered with.	8F-1		
8.18	If "No", provide a statement as to why the applicant has not complied.	8F-2		
8.19	If "Yes", provide proof of the levies paid for the period 2006 to 2014 as well as at the time of application.	8F-3		
8.19	If "No", provide a statement with reasons why the applicant has not paid the levies.	8F-4		
8.21	If "Yes", provide proof confirming the appointee's appointment.	8F-5		
8.21	If "No", provide a statement as to why the applicant has not complied.	8F-6		
8.23	If "Yes", provide a copy of the workplace skills plan.	8F-7		
8.23	If no, provide a statement as to why the workplace skills plan has not been developed.	8F-8		
8.24	If "Yes", provide details, including the number of historically disadvantaged persons who participate in these programmes;	8F-9		
8.27	If "Yes", provide full details of the initiatives that the applicant has embarked upon to increase black ownership, management and skills in new business enterprises, and which includes investment programmes and access to finance.	8G-1		
8.28	If "Yes", provide a list of the value adding activities that the applicant has initiated, particularly those activities that stimulate the creation of jobs and wealth within the specific sector(s) the applicant operates within.	8G-2		
9.1 - 9.3	If "Yes", provide a copy of the applicant's most recent employee's payroll in respect of the financial year which ends on any date between 1 July 2014 and 30 June 2015. If "No" provide reasons.	9A-1		
9.5	If "Yes", provide full details of these benefits with proof.	9A-2		

APPLICATION NUMBER									
---------------------------	--	--	--	--	--	--	--	--	--

Applicant's or duly authorised representative of the applicant's (initials) _____ Commissioner of Oaths (initials) _____

Disclaimer: A mark with an "X" by the receiving official does not confirm the authenticity of the information submitted with the application.

APPLICATION NUMBER										
---------------------------	--	--	--	--	--	--	--	--	--	--

Applicant's or duly authorised representative of the applicant's (initials) _____ Commissioner of Oaths (initials) _____

Section 1

Applicant's details (Individual)

1A. Identification details																
1.1	Surname															
1.2	First name(s)															
1.3	Are you a South African citizen?										Y/N					
1.4	Identity number											Age			Gender (M/F)	
1.5	Mark with "X" in respect of your race	African			Coloured			Indian			White					
1.6	Income tax number															

1B. Contact details														
1.7	Telephone number													
1.8	Cellphone number													
1.9	Fax number													
1.10	Email address													

1C. Residential address												
1.11	Street number											
1.12	Street name											
1.13	Suburb											
1.14	Town/City								Postal Code			
1.15	How many years have you lived and / or worked in the area?											

1D. Postal address												
1.16	Street number/PO Box											
1.17	Suburb											
1.18	Town/City								Postal Code			

APPLICATION NUMBER									
--------------------	--	--	--	--	--	--	--	--	--

Applicant's or duly authorised representative of the applicant's (initials) _____ Commissioner of Oaths (initials) _____

1E. Fish processing experience									
1.19	How many years have you been involved in the fishing processing sector?								
1.20	In what capacity have you been involved in the fish processing sector? Tick the relevant box below.								
Transferring the catch from the fishing gear	<input type="checkbox"/>	Canning	<input type="checkbox"/>	Cleaning or washing the catch	<input type="checkbox"/>	Chilling and storing the chilled fish	<input type="checkbox"/>	Unloading or landing the fish	<input type="checkbox"/>
Filleting	<input type="checkbox"/>	Smoking	<input type="checkbox"/>	Lining and preserving	<input type="checkbox"/>	Cutting up	<input type="checkbox"/>	Marketing	<input type="checkbox"/>
Sorting and grading	<input type="checkbox"/>	Drying	<input type="checkbox"/>	Dismembering	<input type="checkbox"/>	Icing	<input type="checkbox"/>	Other (specify)	<input type="checkbox"/>
Bleeding & gutting	<input type="checkbox"/>	Salting	<input type="checkbox"/>	Separating parts of	<input type="checkbox"/>	Freezing	<input type="checkbox"/>		

1F. Payment of levies									
1.21	Is the applicant an existing fishing right holder or exemption holder? If "Yes", is the applicant up to date with the payment of his/her levies for fish landed at the date of submitting his/her application?								

APPLICATION NUMBER	<input type="checkbox"/>								
--------------------	--------------------------	--------------------------	--------------------------	--------------------------	--------------------------	--------------------------	--------------------------	--------------------------	--------------------------

Applicant's or duly authorised representative of the applicant's (initials) _____ Commissioner of Oaths (initials) _____

Section 2

Rights or exemptions held by applicant (Individual)

2A. Rights and/or fish processing exemptions			
2.1	Was the applicant awarded a fish processing right during the Long-Term Rights Allocation and Management Process: 2001 (2001 LTRAMP) or granted an exemption to operate a fish processing establishment in the period 2002 to 2014?	Y/N	
2.2	Was the applicant awarded any other fishing right since 2003?	Y/N	
2.3	If "Yes," in "2.2" complete the table below for all fishing rights awarded.		
	Name of Right Holder	Sector	Right Holder number
			% ownership of the right
2.4	Are you a member, director, shareholder or beneficiary of any legal entity: company, close corporation, trust or co-operative that applied for a fishing right in any other fishing sector during FRAP 2015/16?	Y/N	
2.5	If "Yes" in "2.4", complete the table below for all fishing rights applied for (including this application) in order of preference.		
	Name of entity	Sector	Application number
			Applicant's percentage shareholding or membership interest
01			
02			
03			
04			
05			
06			
07			
08			
09			
10			

APPLICATION NUMBER										
---------------------------	--	--	--	--	--	--	--	--	--	--

Applicant's or duly authorised representative of the applicant's (initials) _____ Commissioner of Oaths (initials) _____

2.6	Did the applicant derive income from any other source other than fisheries in respect of the financial year which ends on any date between 1 July 2014 and 30 June 2015? If "Yes," complete the table below.	Y/N	
Annual turnover in Rands (most recently audited, verified or certified figures)		% income derived from fisheries	% income derived from other sources
2.7	Does the applicant derive income from other sources of income in the current financial year or tax year? If "Yes", indicate the other sources of income in the space provided below.	Y/N	

Section 3

Applicant's details (entity)

3A. Identification details												
3.1	Registered name											
3.2	Trading name											
3.3	Type of South African entity (mark with an "X")	Company		Close corporation		Co-operative		Trust				
3.4	Registration number											
3.5	Income tax number											
3.6	Percentage black (combination of Africans (A), Coloureds (C) and Indians) (I) ownership				%							
3B. Contact details												
3.7	Telephone number											
3.8	Fax number											
3.9	Email address											
3C. Details of authorised contact person												
3.10	Contact name											
3.11	Identity number											
3.12	Work telephone number											
3.13	Cellphone number											
3.14	Fax number											
3.15	Email address											
3.16	Position held/relation to applicant											
3D. Physical address												

APPLICATION NUMBER												
---------------------------	--	--	--	--	--	--	--	--	--	--	--	--

Applicant's or duly authorised representative of the applicant's (initials) _____ Commissioner of Oaths (initials) _____

3.17	Street number									
3.18	Street name									
3.19	Suburb									
3.20	Town/City					Postal Code				
3.21	How many years have the applicant operated in the area?									
3E. Postal address										
3.22	Street number/PO Box									
3.23	Suburb									
3.24	Town/City					Postal Code				
3F. Fish processing experience										
3.25	How many years has the applicant been involved in the fish processing sector?									
3.26	What other business operations is the applicant currently involved in? (enter the details below).									

3G. Payment of levies										
3.27	Is the applicant an existing fishing right holder or exemption holder? If "Yes", is the applicant up to date with the payment of his/her or its levies for fish landed at the date of submitting his/her or its application?									

Section 4

Rights or exemptions held by applicant (entity)

4A. Rights allocation/exemption records										
4.1	Was the applicant awarded a fish processing right during the Long-Term Rights Allocation and Management Process: 2001 (2001 LTRAMP) or granted an exemption to operate a fish processing establishment in the period 2002 to 2014?	Y/N								
4.2	Was the applicant awarded any other fishing right since 2003?	Y/N								
4.3	If "Yes," in "4.2" complete the table below for all fishing rights allocated to the applicant.	Y/N								
	Name of Right Holder	Sector	Right Holder number	% ownership of the right						

APPLICATION NUMBER									
---------------------------	--	--	--	--	--	--	--	--	--

Applicant's or duly authorised representative of the applicant's (initials) _____ Commissioner of Oaths (initials) _____

4.4	Is the applicant more than 50% South African owned?	Y/N	
4.5	Does the applicant or any of its members, directors or shareholders hold share(s) /membership interest in any other legal entity that is applying for a fish processing right during FRAP 2015/16? If "Yes", complete the table below.	Y/N	
Name of entity		FPE sector	FPE application number
		Applicant's percentage shareholding or membership interest	

Section 4

Rights or exemptions held by applicant (entity)

4.6	Does the applicant or any of its members, directors or shareholders hold any share(s)/ membership interest in any legal entity that is applying for a fishing right in any other fishery / sector during FRAP 2015/16? If "Yes", complete the table below.	Y/N	
Name of entity		Sector	Application number
		Applicants percentage shareholding or membership interest	
01			
02			
03			
04			
05			
06			
07			
08			
09			
10			
4.7	Did the applicant derive income from any other sources other than fisheries in respect of the financial year which ends on any date between 1 July 2014 and 30 June 2015? If "Yes", complete the table below.	Y/N	
Annual turnover in Rands (most recently audited, verified or certified figures)		% income derived from fisheries	% income derived from other sources
4.8	Does the applicant derive income from other sources of income in the current financial year or tax year? If "Yes", indicate the other sources of income in the space provided below.	Y/N	

APPLICATION NUMBER									
---------------------------	--	--	--	--	--	--	--	--	--

Applicant's or duly authorised representative of the applicant's (initials) _____ Commissioner of Oaths (initials) _____

Section 5 Compliance

5.1	Has the applicant (or any of its members, shareholders or directors in the case of an entity) been charged with an offence under the MLRA, or the regulations or permit conditions during the 2001 long-term right period (2002-2014)?	Y/N	
5.2	Has the applicant (or any of its members, shareholders or directors in the case of an entity) entered into a plea bargain under the Criminal Procedure Act 51 of 1977, for a contravention of the MLRA, or the regulations, or permit conditions during 2001 LTRAMP period (2002-2014)?	Y/N	
5.3	Has the applicant (or any of its members, shareholders or directors in the case of an entity) been convicted of a contravention of the MLRA, or the regulations, or permit conditions during the 2001 long-term right period (2002-2014)?	Y/N	
5.4	Has the applicant (or any of its members, shareholders or directors in the case of an entity) paid an admission of guilt fine for a contravention of the MLRA, the regulations, or the permit conditions during the 2001 long-term right period (2002-2014)?	Y/N	
5.5	Has applicant's fishing vessel, motor vehicle, premises or any of his/her or its assets been detained, arrested or seized under the MLRA or restrained, preserved, confiscated or forfeited under the Prevention of Organised Crime Act 121 of 1998 during the 2001 long-term right period (2002-2014)?	Y/N	
5.6	Was the applicant or any of its members or shareholders or directors' right or permit suspended, revoked, cancelled, reduced or altered in terms of section 28 of the MLRA during the long-term right period?	Y/N	
5.7	Has the applicant complied fully with the Compensation for Occupational Injuries & Diseases Act, 130 of 1993?	Y/N	
5.8	Has the applicant complied fully with the Occupational Health & Safety Act, 85 of 1993?	Y/N	
5.9	Has the applicant complied fully with the Basic Conditions of Employment Act, 75 of 1997?	Y/N	
5.10	Has the applicant complied fully with the Marine Living Resources Act, 18 of 1998?	Y/N	
5.11	Has the applicant complied fully with the Customs & Excise Act, 91 of 1964?	Y/N	

Section 6 Access to a suitable vessel

6.1	Does the applicant own a suitable vessel (>50% ownership)?		Y/N	
6.2	Does the applicant have a 50% ownership in a suitable vessel?		Y/N	
6.3	Does the applicant have part-ownership in a suitable vessel (<50%)?		Y/N	
6.4	Does the applicant have an access agreement in a suitable vessel (e.g. ownership, part-ownership, catch agreement, charter agreement or bank guarantee)?		Y/N	
6.5	Does the applicant consider building a new vessel?		Y/N	
6.6	Please tick the category of fish currently being processed or intended for processing on board the vessel.	Indicate with a ✓	Please specify the species and common name (s) of the fish currently being processed or intended for processing on board the vessel.	
	Shellfish			
	Finfish			
	Crustaceans			

APPLICATION NUMBER									
---------------------------	--	--	--	--	--	--	--	--	--

Applicant's or duly authorised representative of the applicant's (initials) _____ Commissioner of Oaths (initials) _____

Seaweeds			
Molluscs			
Other			
6.7	Please stipulate the number of years that the applicant is operating a vessel-based fish processing establishment(s)		
6.8	NOTE: Full details regarding the vessel(s) to be used by the applicant to operate a vessel-based fish processing establishment(s) must be submitted. Where more than one vessel is to be used the required details must be provided separately in respect of each vessel. Section 6 must be answered / completed even where the vessel is not owned by the applicant.		
Name of vessel:		Area number:	
Official number (SAMSA)		Year of build:	
Registered owner:		ID/registration number of vessel owner:	
Registered length as per current safety certificate:		Registered tonnage as per safety certificate if >25 tons	
Number of crew as per safety certificate:		Shaft power (KW):	
Hold capacity tons:		Radio call sign:	
NCRS establishment number		Is the vessel processing facility HACCP approved?	
Gross tonnage (gt)		Flag state (where applicable)	Is the vessel IUU listed? Y/N
6.9	Complete the table below in respect of the total book and insured value of the fixed assets (vessels and processing equipment).		
Total book value of fixed assets (vessels)(Rand)		Total insured value of fixed assets (vessels)(Rand)	
Total book value of fixed assets (processing equipment)(Rand)		Total insured value of fixed assets (processing equipment)(Rand)	

Section 6

Access to a suitable land-based premises

6.10	Does the applicant own a suitable premises (>50% ownership)?		Y/N
6.11	Does the applicant have a 50% ownership in a suitable premises?		Y/N
6.12	Does the applicant have part-ownership in a suitable premises (<50%)?		Y/N
6.13	Does the applicant have a lease agreement in a suitable premises?		Y/N
6.14	NCRS establishment number	Is the premises HACCP approved?	Y/N
Please tick the category of fish currently being processed or intended for processing on the premises.		Indicate with a √	Please specify the species and common name (s) of the fish currently being processed or intended for processing on the premises.
Shellfish			
Finfish			
Crustaceans			
Seaweeds			
Molluscs			

APPLICATION NUMBER									
---------------------------	--	--	--	--	--	--	--	--	--

Applicant's or duly authorised representative of the applicant's (initials) _____ Commissioner of Oaths (initials) _____

Other			
6.15	Complete the table below in respect of the total book and insured value of the fixed assets (premises and processing equipment).		
Total book value of fixed assets (premises)(Rands)		Total insured value of fixed assets (premises)(Rands)	
Total book value of fixed assets (equipment)(Rands)		Total insured value of fixed assets (equipment)(Rands)	
6.16	Please state the number of years that the applicant is operating a land-based fish processing establishment(s).		

Section 7

Fish processing performance

7.1	Did the applicant utilise his/her or its fish processing right for at least five years during the period 2002 to 2014?		Y/N	
7.2	If "No" in 7.1 did the applicant provide reasons to the Department as to why the applicant did not utilise the right?		Y/N	
7.3	Complete the table below in relation to the applicant's fish processing records.			
Year	Fish processing permit applied for? (Y/N)	TAE (effort) / TAC (quantum) allocated (where applicable)	Did the applicant process any fish? (Y/N)	Actual mass of fish processed in kilograms
2002				
2003				
2004				
2005				
2006				
2007				
2008				
2009				
2010				
2011				
2012				
2013				
2014				

Section 8

Transformation

8A. Management and employment equity

8.1	Complete the table below in respect of the applicant's shareholding or membership interest held by black persons (A=Africans, C=Coloureds, I=Indians).		
Year	Percentage shareholding/ membership interest held by black persons	Percentage voting rights held by black persons	Percentage of dividends actually paid over to black shareholders / members or to which they are entitled to

APPLICATION NUMBER									
---------------------------	--	--	--	--	--	--	--	--	--

Applicant's or duly authorised representative of the applicant's (initials) _____ Commissioner of Oaths (initials) _____

2001 (as in 2001 application form)			
2005 (as in 2005)			
2009 (as in 2009)			
2013 (as in 2013)			
2015 (at date of application)			
8.2	Complete the table below in respect of the applicant's transformation profile.		
% Black shareholding in 2001	% Black shareholding in 2005	% Black shareholding in 2013	% Black shareholding at date of application

8.3	Complete the table below in respect of the applicant's shareholding and membership interest (A=African C=Coloured, I=Indian, W=White and F=Females).						
	Shareholders name/ Member Name (Surname & Initial(s))	Years of Service	Race (A/C/I/ W)	Gender (M/F)	Age	Disability (Y/N)	Identity Number
1							
2							
3							
4							
5							
6							
7							
8							
9							
10							

APPLICATION NUMBER									
--------------------	--	--	--	--	--	--	--	--	--

Applicant's or duly authorised representative of the applicant's (initials) _____ Commissioner of Oaths (initials) _____

8.4 Complete the following table in relation to the income levels of the applicant's employees as at 28 February 2015																						
	Gross monthly income (total Monthly cost to company)	Average Monthly Income	Number of employees	Percentage of total employees (%)	Specify the number of HDI employees						Specify the percentage of HDI employees											
					A	C	I	F	Y	D	A	C	I	F	Y	D						
1	>R75 000																					
2	Between R75 000 and R50 000																					
3	Between R50 000 and R25 000																					
4	Between R25 000 and R20 000																					
5	Between R20 000 and R15 000																					
6	Between R15 000 and R10 000																					
7	Between R10 000 and R5 000																					
8	Between R5 000 and R2 500																					
9	Below R2 500																					
	Total				100%																	

8.5 Complete the following table in relation to the applicant's most recent employment equity profile as provided to the Department of Labour in October 2014. If the applicant is not designated or did not voluntarily comply, then the table must be completed as at 28 February 2015.											
A=African, C=Coloured, I=Indian, W=White and F=Females										Total	
Occupational Levels	Gender	A No.	A%	C No.	C%	I No.	I%	W No.	W%	ACI%	F%
Top management	Male										
	Female										
Senior management	Male										
	Female										
Professionally qualified and experienced specialists and mid-management	Male										
	Female										
Skilled technical and academically qualified workers, junior management, supervisors, foremen, and superintendents	Male										
	Female										
Semi-skilled and discretionary decision making	Male										
	Female										
Unskilled and defined decision making	Male										
	Female										

APPLICATION NUMBER											
---------------------------	--	--	--	--	--	--	--	--	--	--	--

Applicant's or duly authorised representative of the applicant's (initials) _____ Commissioner of Oaths (initials) _____

8.9	Does the applicant make donations of his/her or its annual taxable income which qualify for a deduction in terms of section 18A of the Income Tax Act 58 of 1962?	Y/N	
8.10	What percentage of the applicant's net profit is spent on corporate social investment?		

8C. Affirmative procurement

8.11	Does the applicant procure goods / services from majority black-owned companies?	Y/N	
------	--	-----	--

8D. Local economic development

8.12	Complete the table below in respect of areas or harbours where the applicant processes his/her or its fish.		
Year	Area or harbour name	Factory (FPE) name	Quantity fish processed (kilograms)
2010			
2011			
2012			
2013			
2014			
8.13	Complete the table below in respect of the areas or harbours where the applicant intends to process his/her or its fish. Rank by order of usage from 1 – 3 (3 being the highest).		
	Area or harbour name	Frequency of usage	Name of factory (FPE)
			Frequency of usage

8E. Employment equity

8.14	Is the applicant a designated employer as defined in Section 1 of the Employment Equity Act, 55 of 1998?	Y/N	
8.15	If the applicant is designated, has the applicant complied with the Employment Equity Act, 55 of 1998		
8.16	Has the applicant developed an employment equity plan? If yes, attach a copy of the plan;		

8F. Skills Development

8.17	Has the applicant complied with the Skills Development Act, 97 of 1998?	Y/N	
8.18	If "Yes", indicate which Sector Education Training Authority ("SETA") the applicant is registered with.		
8.19	Has the applicant paid levies in terms of the Skills Development Levies Act, 9 of 1999?	Y/N	
8.20	If "Yes", state the amount of the levies paid in rand value.	R	
8.21	Has the applicant appointed a skills development facilitator?	Y/N	

APPLICATION NUMBER									
---------------------------	--	--	--	--	--	--	--	--	--

Applicant's or duly authorised representative of the applicant's (initials) _____ Commissioner of Oaths (initials) _____

8.22	If "Yes", state the name of the appointee		ID No															
8.23	Has the applicant developed a workplace skills plan?												Y/N					
8.24	Does the applicant participate in learnership programmes?												Y/N					
8.25	What percentage of the applicant's training budget is spent on the training of historically disadvantaged persons?													%				
8.26	State the rand value of the training budget and the equivalent spent on historically disadvantaged persons.												R					

8G. Enterprise development and value adding														
8.27	Has the applicant embarked upon <i>enterprise development projects</i> to address increasing black ownership, management and skills in new business enterprises, which includes investment programmes and access to finance? Full details of these initiatives are requested												Y/N	
8.28	Has the applicant initiated <i>value adding activities</i> in the FPE sector.												Y/N	

Section 9
Job creation

9.1	Does the applicant provide permanent employment? If "Yes", complete the table below in respect of the financial year which ends on any date between 1 July 2014 and 30 June 2015.												Y/N	
Total number of employees												% of employees involved in fish processing		
Total wages paid to all employees												% wages paid to employees involved in fish processing		
9.2	Does the applicant contribute towards medical aid or any kind of medical support arrangement for more than 50% of his/her or its employees?												Y/N	
9.3	Does the applicant contribute towards pension/provident fund for more than 50% of his/her or its employees?												Y/N	
9.4	Does the applicant provide all his/her or its employees with safe working conditions at his/her or its sea-based and/or land-based fish processing establishment(s)?												Y/N	
9.5	Does the applicant provide any other kind of benefits to his/her or its employees (e.g. employee share scheme)?												Y/N	

APPLICATION NUMBER														
---------------------------	--	--	--	--	--	--	--	--	--	--	--	--	--	--

Applicant's or duly authorised representative of the applicant's (initials) _____ Commissioner of Oaths (initials) _____

Section 10

Applicant Declaration

I, the undersigned, do hereby make oath and declare that:

- (a) I have read the instructions set out in this Application form and the General Policy on the Allocation and Management of Fishing Rights: 2013 and the Fish Processing Establishment Policy: 2015.
- (b) The information submitted with and in this Application is true, correct and complete.
- (c) I accept that if any information in and with this Application is not true or complete, or if false information is provided, or material Information is not disclosed, this may lead to the Application being refused, or to the revocation, suspension, cancellation, alteration or reduction of any right, license or permit granted on the strength of this Application, in terms of Section 28 of the Marine Living Resources Act 18 of 1998.
- (d) In order to allow for the proper verification of information submitted I hereby authorise any institution, organ of state, person or body, who possesses or acquires any information relevant to my application, to disclose or make the information available to the Minister, his/her delegate or an official of the Department of Agriculture, Forestry and Fisheries or the Fishing Rights Verification Team.
- (e) I undertake to co-operate with any investigators by timeously submitting responses to written requests for information or explanations, by attending meetings with investigators, by answering questions satisfactorily at such meetings and where necessary, by granting investigators access to premises, vessels and documents. I accept that failure to co-operate in this regard will constitute an independent ground for refusing an application.
- (f) I accept that any attempt to influence the decision of the delegated authority or appellant authority on the allocation of a right or quantum or effort, in any manner other than provided for in the relevant General and FPE policies or in this application form, will result in the application being refused.

Signed at : _____

This _____ **day of** _____ **20** ____.

Signature of applicant or duly authorised representative: _____

Applicant's full name or registered name _____

The deponent declares that he/she knows and understands the contents and implications of the above declaration.

Commissioner of Oaths	_____
Full name	_____
Designation	_____
Physical Address	_____

APPLICATION NUMBER									
---------------------------	--	--	--	--	--	--	--	--	--

Applicant's or duly authorised representative of the applicant's (initials) _____ Commissioner of Oaths (initials) _____

If the application is prepared or compiled by, or in consultation with or on the advice of any person or entity the following information must be provided:	
Why was the application prepared by a person or entity other than the applicant?	
Who was consulted and why was the person consulted for advice?	
What fee or other remuneration was paid or was promised to the person for the assistance rendered?	
If assisted, please provide full details of the consultant / advisor that prepared this application	

Details of the person who completed the form.	
Contact name	
Identity number	
Work telephone number	
Cellphone number	
Fax number	
Email address	
Position held / relation to the applicant	

APPLICATION NUMBER									
---------------------------	--	--	--	--	--	--	--	--	--

Applicant's or duly authorised representative of the applicant's (initials) _____ Commissioner of Oaths (initials) _____

DEPARTMENT OF AGRICULTURE, FORESTRY AND FISHERIES

NO. 1140

16 NOVEMBER 2015



agriculture,
forestry & fisheries

Department:
Agriculture, Forestry and Fisheries
REPUBLIC OF SOUTH AFRICA

BRANCH: FISHERIES MANAGEMENT										
SECTOR NAME	APPLICATION NUMBER									
	IDENTIFICATION NUMBER									

Application form

For Individual applicants

Fishing Rights Allocation Process 2015/2016

FRAP 2015/2016

APPLICATION NUMBER										
---------------------------	--	--	--	--	--	--	--	--	--	--

Applicant's or duly authorised representative of the applicant's (initials) _____ Commissioner of Oaths (initials) _____

IMPORTANT INFORMATION INSTRUCTIONS

1. The applicant or its duly authorised representative shall read and understand the general instructions and application requirement sections before completing this application form. All the information provided by an applicant must be true, correct, and verifiable. The applicant must complete all the sections of the form that are relevant to the applicant's application.
2. Only South African citizens, companies, close corporations or trusts as defined in the Marine Living Resources Act 1998 (Act No. 18 of 1998), may apply for a commercial fishing right. A South African company, close corporation or trust must be registered in South Africa, and the majority of its respective shareholders, members must be South African citizens. Members of the same household, as defined in the sector specific policy, may not be granted more than one right in the same fishery sector.
3. An applicant completing this application form must read the General Policy on the Allocation and Management of Fishing Rights: 2013 and the Sector Specific Fishery Policy: 2015. These policies will guide the Minister or his/her delegate's in the assessment of this application and the decision to allocate the fishing right applied for. Copies of these policies are accessible on the Department's website at <http://www.daff.gov.za>, or are obtainable at the Distribution Centre where this form was collected.
4. Whilst you may ask an official at any application centre to explain the contents of the form to you and/or to assist with any query related to completing this form or related to the FRAP 2015/16 process and queries may also be directed telephonically during the week (Monday to Friday) between 08h00 and 16h00 to the **FRAP Call Centre Helpline at (021) 402 FRAP (3727)**, you remain responsible for ensuring that the form is correctly completed and that all the documentation and information is provided.
5. Please do not communicate with the Minister, the delegated authority, or officials in the Department about your application during the application and allocation process, other than at the application centre or **FRAP Call Centre Helpline at (021) 402 FRAP (3727)** It is the applicant's responsibility to ensure that all the applicable sections of the form are completed and that all the documentation and information requested as indicated in the form or from the General or Sector Specific Policies are submitted with the form.
6. When completing this form, if any section does not apply to the applicant, then mark the section "N/A" – "not applicable" and the information requested in that section does not have to be supplied. No section should remain blank. The applicant must as far as possible confine their responses to the spaces provided in the application form. If this is not possible then the information may be submitted as attachments to the form referencing the question number to which the attachment relates.
7. All documents attached must be true and certified copies of the originals, unless the original document is specifically requested. Copies of originals that have not been certified as true copies of the original will not be accepted.
8. Only applications submitted on the official departmental FRAP 2015/16 Form for either entity or individuals as applicable will be accepted. If an application is submitted on any other form or in any other manner, it will not be considered. Please fill out the form with a pen unless completing the form electronically. Do not use a pencil.
9. The application form and the applicant's declaration in section 8 of this application form must be signed by the applicant or its authorised representative and attested to before a Commissioner of Oaths. Please ensure that each page of the application form and attachments (supporting documents) are initialed by the applicant or its authorised representative and the Commissioner of Oaths. If the application and declaration is not signed before a Commissioner of Oaths, the application will not be considered. The application will consist of the original application form with supporting documentation. Please submit the original application together with one (1) certified true copy of the original application. The application and the copy must be punched, divided and submitted in a file.
10. The application and the copy **must** reach one of the Receiving Centre's before the stipulated closing date and time listed in the Government Gazette Notice dated **[date]**. The application must be physically (hand) delivered to one of the Distribution and Receiving Centre's listed in Government Gazette Notice dated **[date]**. Copies hereof are accessible on the Department's website at <http://www.daff.gov.za>, or are obtainable at the Distribution Centre where this form was collected. Late applications will not be accepted and will be declined.
11. Do not submit an application by mail (post), fax or email.
12. The application fee must be deposited into **[name of account holder]**, **[insert name of bank]** with account number **[number]** before the application is submitted. Please use the application form number as the reference number on the bank deposit slip or the printed "electronic funds transfer" page. Your proof of payment must be attached to the application. If you furnish any information that is not true or complete, you will be disqualified from applying or your application may be refused or if granted, it may be revoked or suspended. Your application will not be considered if the proof of payment is not attached to the application. No application fees will be refunded.
13. An application will be declined if the applicant :-
 - a. provides false information and/or documentation under oath; or
 - b. falsifies documents; or
 - c. makes misleading false statements; or
 - d. fails to disclose material information or documentation which may materially affect the assessment of this application.
14. If you fail to comply with the requirements of the General Policy on the Allocation and Management of Fishing Rights: 2013, the Sector Specific Fishery Policy: 2015 and/or the instructions and requirements of the application your application will be declined. The delegated authority has no discretion to condone non-compliance with lodgment requirements, materially defective applications and/or an essential requirement for participating in a sector/fishery.
15. The Minister or his/her delegated authority reserves the right to call upon you to make further representations, provide additional information and documentation, or to verify any aspect of the application.
16. Applicants may call the **FRAP Call Centre Helpline (021 402 FRAP (3727))**, during the week (Monday to Friday) between 08h00 and 16h00. Relevant information about FRAP 2015/16 is also accessible on the Department's website at <http://www.daff.gov.za>.

APPLICATION NUMBER

--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--

Applicant's or duly authorised representative of the applicant's (initials) _____ Commissioner of Oaths (initials) _____

IMPORTANT INFORMATION					
APPLICATION REQUIREMENTS					
IF YOU CANNOT PROVIDE THE DOCUMENTS OR INFORMATION AS REQUIRED, THEN YOU MUST SUBMIT A WRITTEN EXPLANATION FOR ITS ABSENCE IN THE PLACE OF THAT SPECIFIC ANNEXURE.					Mark the box with an "X" if the required documents are attached
No.	Sub Section	Documents or Information Required	Annexure	Applicant	Official
1	1.1 - 1.4	Provide a certified true copy of the applicant's identity document.	1A-1		
2	1.6	Original valid South African Revenue Services (SARS) Tax Clearance Certificate.	1A-2		
3	1.11 - 1.14	Provide a copy of one of the following: (a) a utility bill (water, electricity, telephone), or (b) a rent agreement for a house or flat, or (c) a bond agreement with a bank, or (d) bank statements, or (e) an affidavit from a third party confirming the current residential address of the applicant.	1C-1		
4	1.16	Provide the names, identity numbers and the relationship to the applicant of all the occupiers at the residential address where the applicant lives.	1C-2		
5	1.17	If "No", provide the name/s, identity number/s and the relationship to the applicant of all the other members of the household who earn an income and upon whom the applicant is dependent on financially.	1C-3		
6	2.1	If "Yes", provide a copy of either any commercial catch permit or a grant of right letter or a right transfer approval letter issued to the applicant in terms of the Marine Living Resources Act 18 of 1998 (MLRA).	2A-1		
7	2.7	If "Yes", provide proof of shareholding/members interest in other entities that applied for a fishing right in any other sector during FRAP2015/16.	2A-2		
8	2.9 – 2.10	If "Yes", provide proof of audited/verified/certified financial statement from all source of income in respect of the financial year which ends on any date between 1 July 2014 and 30 June 2015.	2A- 3		
9	3.1	If "Yes", provide details and any documentation regarding the offence including information regarding the conduct giving rise to the charge and the outcome of the criminal proceedings.	3A-1		
10	3.2	If "Yes", provide details and any documentation regarding the plea bargain arrangement entered into, including the conduct giving rise to the plea bargain, the dates and specifics of the plea bargain.	3A-2		
11	3.3	If "Yes", provide details and documentation regarding the conduct of the applicant, the date(s) of conviction, and the penalties imposed.	3A-3		
12	3.4	If "Yes", provide details and any documentation regarding the admission of guilt fine paid, including information regarding the conduct giving rise to the fine, the date of the offence and Rand amount paid.	3A-4		
13	3.5	If "Yes", provide details regarding the detention, arrest or seizure, including information regarding the conduct giving rise to the proceedings, and whether a final confiscation or forfeiture order was granted under the Prevention of Organised Crime Act 121 of 1998 (or its predecessor) or the MLRA.	3A-5		
14	3.6	If "Yes", provide details and any documentation including the conduct of the individuals giving rise to the Section 28 proceedings.	3A-6		
15	4.1 - 4.3	If "Yes", provide proof of vessel ownership detailing shareholding in the vessel.	4A-1		
16	4.4	If "Yes", provide copy of vessel access agreement.	4A-2		
17	4.5	Provide the South African Maritime Safety Authority (SAMSA) certificate and vessel specification documents, except in cases where a vessel is still to be built or purchased.	4A-3		
18	6.1	If "Yes", provide proof of donations of the annual taxable income which qualify for deduction in terms of section 18A of the Income Tax Act 58 of 1962.	6A-1		
19	6.2	If "Yes", provide net percentage of the total procurement from black owned company (ies) for the financial year which ends on any date between 1 July 2014 and 30 June 2015.	6A-2		
20	7.1 - 7.3	If "Yes", provide applicant's employees Payroll for the financial year which ends on any date between 1 July 2014 and 30 June 2015. If "No", provide the reasons.	7A-1		
21	7.5	If "Yes", provide proof.	7A-2		
Disclaimer: A mark with an "X" by the receiving official does not confirm the authenticity of the information submitted with the application.					

APPLICATION NUMBER

Applicant's or duly authorised representative of the applicant's (initials) _____ Commissioner of Oaths (initials) _____

Section 1**Applicant's details**

1A. Identification Details																
1.1	Surname															
1.2	First Name(s)															
1.3	Are you a South African citizen?											Y/N				
1.4	Identity Number											Age			Gender (M/F)	
1.5	Mark with "X" in respect of your race	African		White		Coloured		Indians								
1.6	Income Tax number															
1B. Contact Details																
1.7	Telephone number															
1.8	Cellphone number															
1.9	Fax number															
1.10	Email address															
1C. Residential Address																
1.11	Street number															
1.12	Street name															
1.13	Suburb															
1.14	Town/City											Postal Code				
1.15	How many years have you lived and / or worked in the area?															
1.16	How many people live at the above address?															
1.17	Is the applicant the only income earner at the above address?											Y/N				
1D. Postal Address																
1.18	PO Box															
1.19	Suburb															
1.20	Town/City											Postal Code				

APPLICATION NUMBER

Applicant's or duly authorised representative of the applicant's (initials) _____ Commissioner of Oaths (initials) _____

Section 1

Applicant's details

1E. Fishing experience			
1.21	How many years have you been involved in the fishing industry?		
1.22	In what capacity have you been involved in the fishing sector you are applying for? Tick the relevant box below.		
Diver	<input type="checkbox"/>	Boat Assistant	<input type="checkbox"/>
		Factory employee	<input type="checkbox"/>
			Vessel Owner <input type="checkbox"/>
Long-term right holder	<input type="checkbox"/>	Processor	<input type="checkbox"/>
		Marketer	<input type="checkbox"/>
			Other (specify) <input type="checkbox"/>
1.23	What work are you currently involved in? (enter details below).		

Section 2

Form of applicant

2A. Right allocation records			
2.1	Were you awarded a fishing right since 2003?		Y/N <input type="checkbox"/>
2.2	If "Yes," in "2.1" complete the table below for all fishing rights allocated to you.		
	Name of Right Holder	Sector	Right Holder number
			% ownership of the right
2.3	Have you applied for any other fishing rights during the Fishing Rights Allocation Process: 2015/16 (FRAP 2015/16)?		Y/N <input type="checkbox"/>
2.4	If "Yes," in "2.3" complete the table below for all fishing rights applied for (including this application) in order of preference.		
	Name of Applicant for other right	Fishery	Application Number

APPLICATION NUMBER

Applicant's or duly authorised representative of the applicant's (initials) _____ Commissioner of Oaths (initials) _____

Section 2

Form of applicant

2A. Right allocation records			
2.5	Is there any other person in the same household as defined in the Sector Specific policy who has applied for any fishing right during the Fishing Rights Allocation Process: 2015/16 (FRAP 2015/16)?		Y/N
2.6	If "Yes," in "2.5" complete the table below in respect of that person/s.		
	Name of person	Application number	Relationship to you (i.e. parent, guardian, spouse or dependent)
			Fishery Sector applied for
2.7	Are you a member, director, shareholder or beneficiary of any legal entity: company, close corporation or trust that applied for a fishing right in any other fishing sector during FRAP 2015/16?		Y/N
2.8	If "Yes," in "2.7" complete the table below for all fishing rights applied for (including this application) in order of preference (excluding Fish Processing Establishment).		
	Name of a company or close corporation	Application number	Applicants percentage shareholding or Membership interests
			Fishery
	01		
	02		
	03		
	04		
	05		
	06		
	07		
	08		
	09		
	10		
2.9	Did you derive income from any other sources other than fisheries in respect of the financial year which ends on any date between 1 July 2014 and 30 June 2015? If "Yes," complete the table below.		Y/N
	Annual turnover in Rands (most recently audited, verified or certified figures)	%derived from fisheries	%derived from other sources
2.10	Are you deriving income from other sources of income in the current financial year or tax year? If yes complete field below in respect of other sources of income.		Y/N

APPLICATION NUMBER

Applicant's or duly authorised representative of the applicant's (initials) _____ Commissioner of Oaths (initials) _____

Section 3

Compliance

3.1	Have you been charged with an offence under the MLRA, or the regulations or permit conditions since 2003?	Y/N	
3.2	Have you entered into a plea bargain under the Criminal Procedure Act 51 of 1977, for a contravention of the MLRA, or the regulations, or permit conditions since 2003?	Y/N	
3.3	Have you been convicted of a contravention of the MLRA, or the regulations, or permit conditions since 2003?	Y/N	
3.4	Have you paid an admission of guilt fine for a contravention of the MLRA, the regulations, or the permit conditions since 2003?	Y/N	
3.5	Has your fishing vessel, motor vehicle, premises or any of your assets been detained, arrested or seized under the MLRA or restrained, preserved, confiscated or forfeited under the Prevention of Organised Crime Act 121 of 1998 since 2003?	Y/N	
3.6	Was your right or permit suspended, revoked, cancelled, reduced or altered under section 28 of the MLRA since 2003?	Y/N	
Has the applicant complied fully with the legislation listed below?			
3.7	Compensation for Occupational Injuries & Diseases Act 130 of 1993	Y/N	
3.8	Occupational Health & Safety Act 85 of 1993	Y/N	
3.9	Basic Conditions of Employment Act 75 of 1997	Y/N	
3.10	Marine Living Resources Act 18 of 1998	Y/N	
3.11	Customs & Excise Act 91 of 1964	Y/N	

Section 4

Access to a suitable vessel

4.1	Do you own a suitable vessel (>50% ownership)?	Y/N	
4.2	Do you have a 50% ownership in a suitable vessel?	Y/N	
4.3	Do you have part-ownership in a suitable vessel (<50%)?	Y/N	
4.4	Do you have an access agreement in a suitable vessel (e.g. catch agreement, charter agreement, or bank guarantee)?	Y/N	
4.5	Do you consider building a vessel?	Y/N	
4.5	Vessel Details (complete vessel details below).		
	Vessel name	Gross tonnage (gt)	Vessel length (m)
	Vessel type	Vessel horse power (kw)	Number of crew
4.6	Complete the table below in respect of the value of the vessel including all fishing equipment.		
	Total book value (Rand)	Total insured value (Rand)	

Section 5

Fishing Performance

5.1	Did you utilise your fishing right for at least five years during the period 2007 to 2014 (2005 to 2013 in case of abalone)?	Y/N	
5.2	Complete the table below in relation to your catch records in the sector applying for.		

APPLICATION NUMBER

Applicant's or duly authorised representative of the applicant's (initials) _____ Commissioner of Oaths (initials) _____

Year	Catch permit applied for? (Y/N)	Right Number (e.g. NETM)	Name(s) of vessel(s)	Number of crew allocated	Individual TAC (Right holder quantum)	Did you land any fish? (Y/N)	Actual amount landed in kilograms
2005							
2006							
2007							
2008							
2009							
2010							
2011							
2012							
2013							
2014							

Section 6
Transformation

6A. Cooperate social investment

6.1	Does the applicant make donations of the annual taxable income which qualify for deduction in terms of section 18A of the Income Tax Act 58 of 1962?	Y/N	
-----	--	-----	--

6B. Affirmative procurement

6.2	Does the applicant procure goods / services from majority black owned company (ies)?	Y/N	
-----	--	-----	--

6C. Local Economic Development

6.3 Complete the table below in respect to harbours where catch has been landed and processed.

Year	Harbour name	Quantity landed (kilograms)	Factory name	Quantity processed (kilograms)
2010				
2011				
2012				
2013				
2014				

Section 6
Transformation

6C. Local Economic Development

6.4 Complete the table below in respect of harbours where catch is to be landed and processed
Rank by order of usage from 1 – 3 (3 being the highest).

APPLICATION NUMBER

Applicant's or duly authorised representative of the applicant's (initials) _____ Commissioner of Oaths (initials) _____

Harbour Name	Frequency of usage	Factory name	Frequency of usage

Section 7
Job creation

7.1	Do you provide permanent employment? If yes complete the table below in respect of the financial year which ends on any date between 1 July 2014 and 30 June 2015.		Y/N	
Total number of employees		% of employees involved in fishing operations (including admin staff)	% of employees involved in the sector being applied for.	
Total wages paid to all employees		% wages paid to employees involved in fishing	% paid to employees involved in the sector being applied for	

7.2	Complete the following table in relation to the applicants employees as at 28 February 2015															
	Gross monthly income (total cost to company)	Average Monthly Income	Number of employees	Percentage of total employees (%)	Specify the number of HDI employees						Specify the percentage of HDI employees					
					A	C	I	F	Y	D	A	C	I	F	Y	D
1	>R75 000															
2	Between R75 000 and R50 000															
3	Between R50 000 and R25 000															
4	Between R25 000 and R20 000															
5	Between R20 000 and R15 000															
6	Between R15 000 and R10 000															
7	Between R10 000 and R5 000															
8	Between R5 000 and R2 500															
9	Below R2 500															
Total (in all unshaded spaces/blocks/cells)				100%												

Section 7
Job creation

7.2	Do you contribute towards medical aid or any kind of medical support arrangement for more than 50% of your employees?	Y/N	
7.3	Do you contribute towards pension/provident fund for more than 50% of your employees?	Y/N	
7.4	Do you provide all your employees with safe working conditions at sea?	Y/N	

APPLICATION NUMBER

Applicant's or duly authorised representative of the applicant's (initials) _____ Commissioner of Oaths (initials) _____

7.5	Do you provide any other kinds of benefits for your employees (e.g. employee share scheme)?	Y/N	<input type="checkbox"/>
-----	---	-----	--------------------------

APPLICATION NUMBER	<input type="text"/>											
---------------------------	----------------------	----------------------	----------------------	----------------------	----------------------	----------------------	----------------------	----------------------	----------------------	----------------------	----------------------	----------------------

Applicant's or duly authorised representative of the applicant's (initials) _____ Commissioner of Oaths (initials) _____

DEPARTMENT OF AGRICULTURE, FORESTRY AND FISHERIES

NO. 1141

16 NOVEMBER 2015



agriculture,
forestry & fisheries

Department:
Agriculture, Forestry and Fisheries
REPUBLIC OF SOUTH AFRICA

BRANCH: FISHERIES MANAGEMENT										
SECTOR NAME	APPLICATION NUMBER	S	E	C	T	0	0	0	0	1
	REGISTRATION NUMBER									
<p>Application form for Entity applicants Fishing Rights Allocation Process 2015/2016 FRAP 2015/2016</p>										

APPLICATION NUMBER	S	E	C	T	0	0	0	0	1
--------------------	---	---	---	---	---	---	---	---	---

Applicant's or duly authorised representative of the applicant's (initials) _____ Commissioner of Oaths (initials) _____

IMPORTANT INFORMATION INSTRUCTIONS

1. The applicant or its duly authorised representative shall read and understand the general instructions and application requirement sections before completing this application form. All the information provided by an applicant must be true, correct, and verifiable. The applicant must complete all the sections of the form that are relevant to the applicant's application.
2. Only South African citizens, companies, close corporations or trusts as defined in the Marine Living Resources Act 1998 (Act No. 18 of 1998), may apply for a commercial fishing right. A South African company, close corporation or trust must be registered in South Africa, and the majority of its respective shareholders, members must be South African citizens.
3. An applicant completing this application form must read the General Policy on the Allocation and Management of Fishing Rights: 2013 and the Sector Specific Fishery Policy: 2015. These policies will guide the Minister or his/her delegate's in the assessment of this application and the decision to allocate the fishing right applied for. Copies of these policies are accessible on the Department's website at <http://www.daff.gov.za>, or are obtainable at the Distribution Centre where this form was collected.
4. Whilst you may ask an official at any application centre to explain the contents of the form to you and/or to assist with any query related to completing this form or related to the FRAP 2015/16 process and queries may also be directed telephonically during the week (Monday to Friday) between 08h00 and 16h00 to the **FRAP Call Centre Helpline at (021) 402 FRAP (3727)**, you remain responsible for ensuring that the form is correctly completed and that all the documentation and information is provided.
5. Please do not communicate with the Minister, the delegated authority, or officials in the Department about your application during the application and allocation process, other than at the application centre or **FRAP Call Centre Helpline at (021) 402 FRAP (3727)**. It is the applicant's responsibility to ensure that all the applicable sections of the form are completed and that all the documentation and information requested as indicated in the form, or from the General or Sector Specific Policies are submitted with the form.
6. When completing this form, if any section does not apply to the applicant, then mark the section "N/A" – "not applicable" and the information requested in that section does not have to be supplied. No section should remain blank. The applicant must as far as possible confine their responses to the spaces provided in the application form. If this is not possible then the information may be submitted as attachments to the form referencing the question number to which the attachment relates.
7. All documents attached must be true and certified copies of the originals, unless the original document is specifically requested. Copies of originals that have not been certified as true copies of the original will not be accepted.
8. Only applications submitted on the official departmental FRAP 2015/16 Form will be accepted. If an application is submitted on any other form or in any other manner, it will not be considered. Please fill out the form with a pen unless completing the form electronically. Do not use a pencil.
9. The application form and the applicant's declaration in section 8 of this application form must be signed by the applicant or its authorised representative and attested to before a Commissioner of Oaths. Please ensure that each page of the application form and attachments (supporting documents) are initialed by the applicant or its authorised representative and the Commissioner of Oaths. If the application and declaration is not signed before a Commissioner of Oaths, the application will not be considered. The application will consist of the original application form with supporting documentation. Please submit the original application together with one (1) certified true copy of the original application. The application and the copy must be punched, divided and submitted in a file.
10. The application and the copy **must** reach one of the Receiving Centre's before the stipulated closing date and time listed in the Government Gazette Notice dated **[date]**. The application must be physically (hand) delivered to one of the Receiving Centre's listed in Government Gazette Notice dated **[date]**. Copies hereof are accessible on the Department's website at <http://www.daff.gov.za>, or are obtainable at the Distribution Centre where this form was collected. Late applications will not be accepted and will not be considered.
11. Do not submit an application by mail (post), fax or email.
12. The application fee must be deposited into **[name of account holder]**, **[insert name of bank]** with account number **[number]** before the application is submitted. Please use the application form number as the reference number on the bank deposit slip or the printed "electronic funds transfer" page. Your proof of payment must be attached to the application. Your application will not be considered if the proof of payment is not attached to the application. No application fees will be refunded.
13. If you furnish any information that is not true or complete, you will be disqualified from applying or your application may be refused or if granted, it may be revoked or suspended.
14. An application will be declined if the applicant :-
 - a. provides false information and/or documentation under oath; or
 - b. falsifies documents; or
 - c. makes misleading false statements; or
 - d. fails to disclose material information or documentation which may materially affect the assessment of this application.;
15. If you fail to comply with the requirements of the General Policy on the Allocation and Management of Fishing Rights: 2013, the Sector Specific Fishery Policy: 2015 and/or the instructions and requirements of the application, your application will be declined. The delegated authority has no discretion to condone non-compliance with lodgment requirements, materially defective applications and/or an essential requirement for participating in a sector/fishery.
16. The Minister or his/her delegated authority reserves the right to call upon you to make further representations, provide additional information and documentation, or to verify any aspect of the application.
17. Applicants may call the **FRAP Call Centre Helpline (021 402 FRAP (3727))**, during the week (Monday to Friday) between 08h00 and 16h00. Relevant information about FRAP 2015/16 is also accessible on the Department's website at <http://www.daff.gov.za>.

APPLICATION NUMBER

S E C T O O O O 1

Applicant's or duly authorised representative of the applicant's (initials) _____ Commissioner of Oaths (initials) _____

IMPORTANT INFORMATION					
APPLICATION REQUIREMENTS					
IF AN APPLICANT CANNOT PROVIDE THE DOCUMENTS OR INFORMATION AS REQUIRED, THEN THE APPLICANT MUST SUBMIT A WRITTEN EXPLANATION FOR ITS ABSENCE IN THE PLACE OF THAT SPECIFIC ANNEXURE.					Mark the box with an "X" if the required documents are attached
No.	Sub Section	Documents or Information Required	Annexure	Applicant	Official
1	1.1 - 1.4	Provide a certified true copy of the company or close corporation registration documents and in the case of a trust a certified true copy of the trust deed together with any amendments and letters of authority	1A-1		
2	1.5	If turnover is greater than R50 million, provide BBBEE certificate. If turnover is less than R50 million, provide confirmation of black ownership from registered auditors, and or accounting officers and attach sworn affidavits as per the Department of Trade and Industry (DTI) latest legislation and/or standards.	1A-2		
3	1.6	Original valid South African Revenue Services (SARS) Tax Clearance Certificate.	1A-3		
4	1.11 - 1.12	Provide a letter on the letterhead of the applicant confirming the appointment of the person as the duly authorised contact person for the applicant including the certified true copy of the authorised person's Identity document.	1C- 1		
5	1.18 - 1.21	Provide a copy of one of the following: (a) a utility bill (water, electricity, telephone), or (b) a lease agreement, or (c) a bond agreement with a bank, or (d) bank statements, or (e) an affidavit from a third party, confirming the applicant's registered address or principal place of business address of the applicant.	1D- 1		
6	2.1	If "Yes", provide a copy of either any commercial catch permit or grant of right letter or a right transfer approval letter issued to the applicant in terms of the Marine Living Resources Act 18 of 1998 (MLRA).	2A-1		
7	2.5	If "Yes", provide the information of each individual shareholders/members/trustees and beneficiaries interests represented as a percentage as follows: Full name; Identity number/registration number; Proof of address and contact details; Racial classification; Number of shares, interest as a member and beneficial interest as a trustee or beneficiary; Rand value of the share, members or beneficial interest in the entity; Percentage interest; and Number of years in the fishing industry and in what capacity; including specifying the precise extent of foreign shareholders/members/trustees and beneficiaries interests in the applicant.	2A-2		
8	2.6 - 2.7	If "Yes", provide proof of shareholding/members interest in other entities that applied for a fishing right in this sector and in any other sector during FRAP2015/16.	2A-3		
9	2.8 -2.9	If "Yes", provide proof of audited/verified/certified financial statement from all sources of income in respect of the financial year which ends on any date between 1 July 2014 and 30 June 2015.	2A-4		
10	3.1	If "Yes", provide details and any documentation regarding the offence including information regarding the conduct giving rise to the charge and the outcome of the criminal proceedings.	3A-1		
11	3.2	If "Yes", provide details and any documentation regarding the plea bargain arrangement entered into, including the conduct giving rise to the plea bargain, the dates and specifics of the plea bargain.	3A-2		
12	3.3	If "Yes," provide details and documentation regarding the conduct of the applicant, the date(s) of conviction, and the penalties imposed.	3A-3		
13	3.4	If "Yes", provide details and any documentation regarding the admission of guilt fine paid, including information regarding the conduct giving rise to the fine, the date of the offence and rand amount paid.	3A-4		
14	3.5	If "Yes", provide details regarding the detention, arrest or seizure, including information regarding the conduct giving rise to the proceedings, and whether a final confiscation or forfeiture order was granted under the Prevention of Organised Crime Act 121 of 1998 (or its predecessor) or the MLRA.	3A-5		
15	3.6	If "Yes", provide details and any documentation including the conduct of the individuals giving rise to the Section 28 proceedings.	3A-6		
16	4.1 - 4.3	If "Yes", provide proof of vessel ownership(s) detailing shareholding in the vessel(s) and the cost of that shareholding alternatively how the shareholding was acquired, with proof. If more than one vessel, attach annexures and label in sequential order e.g. 4A-1a, 4A-1b etc.	4A-1		
17	4.4	If "Yes", provide copy of vessel access agreement (i.e. catch agreement, charter agreement, or bank guarantee and/or offer to purchase agreement). If the applicant is considering building a new vessel, then the vessel plans and related costs from the building company are required.	4A-2		
18	4.5	Provide the South African Maritime Safety Authority (SAMSA) certificate and vessel specification documents, except in cases where a vessel is still to be built or purchased. If more than one vessel, attach annexures and label in sequential order e.g. 4A-3a, 4A- 3b etc. If yes, please indicate the name of the Regional Fishery Management Organisation and detail the reasons for the negative listing;	4A-3		
19	6.1 - 6.2	No documents required, same documents as submitted as annexure 1A- 2 Provide proof of dividends paid to black shareholders in 2005, 2009 and 2014 financial years	6A-1		
20	6.3	Attach the most recent employment equity profile provided to the Department of Labour and if none provided to the Department of Labour, provide the employment equity profile as at the date of application.	6A-2		
21	6.4	Provide proof in writing confirming board of directors from registered auditors and the relevant documentation from the Companies and Intellectual Property Commission .	6A-3		
22	6.8	If "Yes", provide proof of donations of the annual taxable income which qualify for deduction in terms of section 18A of the Income Tax Act 58 of 1962.	6B-1		
23	6.6	If "Yes", provide net percentage of the total procurement from black owned company(ies) for the financial year which ends on any date between 1 July 2014 and 30 June 2015.	6C-1		
24	6.8	Please provide full details of the various corporate social investment projects that were invested in by the applicant. Proof hereof should also be provided.	6C-2		

APPLICATION NUMBER

S E C T O O O O 1

Applicant's or duly authorised representative of the applicant's (initials) _____ Commissioner of Oaths (initials) _____

		IMPORTANT INFORMATION		
		APPLICATION REQUIREMENTS		
		IF AN APPLICANT CANNOT PROVIDE THE DOCUMENTS OR INFORMATION AS REQUIRED, THEN THE APPLICANT MUST SUBMIT A WRITTEN EXPLANATION FOR IT IN THE PLACE OF THAT SPECIFIC ANNEXURE.	Mark the box with an "X" if the required documents are attached	
25	6.13	If "Yes", provide a copy of the reports on the development and consultation of an employment equity plan and the progress made to implement the employment equity plan to the Department of Labour in terms of Section 21 of the Employment Equity Act 55 of 1998.	6E-1	
26	6.13	If "Yes", provide a copy of the analysis required by Section 19 of the Employment Equity Act 55 of 1998, which must include a profile of the applicant's workforce within each occupational category and level in order to determine the degree of under representation of people from designated groups in the various occupational categories and levels in the employer's workforce.	6E-2	
27	6.13	If "Yes", provide a copy of the reports submitted to the Department of Labour in terms of Section 27 of the Employment Equity Act 55 of 1998, indicating the remuneration and benefits received in each occupational category and level of that employer's workforce.	6E-3	
28	6.13	If "Yes", provide a copy of written acknowledgment or other communication regarding the applicant's reports from the Department of Labour?	6E-4	
29	6.14	If "Yes", provide a copy of the employment equity plan.	6E-5	
30	6.16	If "Yes", provide proof indicating which Sector Education Training Authority ("SETA") the applicant is registered with.	6F-1	
31	6.16	If "No", provide a statement as to why the applicant has not complied	6F-2	
32	6.18	If "Yes", provide proof of the levies paid for the period 2006 to 2014 and at the time of application.	6F-3	
33	6.18	If "No", provide a statement with reasons why the applicant has not paid the levies.	6F-4	
34	6.20	If "Yes", provide proof of the appointee's appointment confirmation.	6F-5	
35	6.20	If "No", state why not	6F-6	
36	6.21	If "Yes", provide a copy of the workplace skills plan.	6F-7	
37	6.21	If no, state the reasons why the workplace skills plan has not been developed.	6F-8	
38	6.22	If "Yes", provide details, including the number of historically disadvantaged persons who participate in these programmes;	6F-9	
39	6.25	If "Yes" provide full details of the initiatives that the applicant has embarked upon to address increasing black ownership, management and skills in new business enterprises, which includes investment programmes and access to finance.	6G-1	
40	6.26	If "Yes" provide a list of the value adding activities that the applicant has initiated, particularly those activities that stimulate the creation of jobs and wealth within the specific sector(s) the applicant operates within.	6G-2	
41	7.1 - 7.3	If "Yes", provide applicant's employees Payroll for the financial year which ends on any date between 1 July 2014 and 30 June 2015.	7A-1	
42	7.5	If "Yes", provide full details of these benefits with proof.	7A-2	
Disclaimer: A mark with an "X" by the receiving official does not confirm the authenticity of the information submitted with the application.				

APPLICATION NUMBER

S E C T O O O O 1

Applicant's or duly authorised representative of the applicant's (initials) _____ Commissioner of Oaths (initials) _____

Section 2

Form of applicant

2A. Right allocation records			
2.1	Was the applicant awarded a fishing right since 2003?	Y/N	
2.2	If "Yes," in "2.1" complete the table below for all fishing rights allocated to the applicant.		
	Name of Right Holder	Sector	Right Holder number
			% ownership of the right
2.3	Has the applicant applied for any other fishing rights during the Fishing Rights Allocation Process: 2015/16 (FRAP 2015/16)?	Y/N	
2.4	If "Yes," in "2.3" complete the table below for all fishing rights applied for (including this application) in order of preference (excluding Fish Processing Establishment: (FPE)).	Y/N	
	Name of Applicant for other right	Fishery	Application Number
01			
02			
03			
04			
05			
06			
07			
08			
09			
10			

APPLICATION NUMBER S E C T O O O O 1

Applicant's or duly authorised representative of the applicant's (initials) _____ Commissioner of Oaths (initials) _____

Section 3

Compliance

3.1	Has the applicant or any of its members and share-holder or directors been charged with an offence under the MLRA, or the regulations or permit conditions during the long-term right period?	Y/N	
3.2	Has the applicant or any of its members and share-holder or directors entered into a plea bargain under the Criminal Procedure Act 51 of 1977, for a contravention of the MLRA, or the regulations, or permit conditions since 2003?	Y/N	
3.3	Has the applicant or any of its members and share-holder or directors been convicted of a contravention of the MLRA, or the regulations, or permit conditions during the long-term right period?	Y/N	
3.4	Has the applicant or any of its members and share-holder or directors paid an admission of guilt fine for a contravention of the MLRA, the regulations, or the permit conditions during the long-term right period?	Y/N	
3.5	Has the applicant or any of its members and share-holder or directors fishing vessel, motor vehicle, premises or any of the applicants assets been detained, arrested or seized under the MLRA or restrained, preserved, confiscated or forfeited under the Prevention of Organised Crime Act 121 of 1998 during the long-term right period?	Y/N	
3.6	Was the applicant or any of its members and share-holder or directors right or permit suspended, revoked, cancelled, reduced or altered under section 28 of the MLRA during the long-term right period?	Y/N	
Has the applicant complied fully with the legislation listed below?			
3.7	Compensation for Occupational Injuries & Diseases Act 130 of 1993	Y/N	
3.8	Occupational Health & Safety Act 85 of 1993	Y/N	
3.9	Basic Conditions of Employment Act 75 of 1997	Y/N	
3.10	Marine Living Resources Act 18 of 1998	Y/N	
3.11	Customs & Excise Act 91 of 1964	Y/N	

APPLICATION NUMBER	S	E	C	T	0	0	0	0	1
---------------------------	---	---	---	---	---	---	---	---	---

Applicant's or duly authorised representative of the applicant's (initials) _____ Commissioner of Oaths (initials) _____

Section 4

Access to a suitable vessel

4.1	Does the applicant own a suitable vessel (>50% ownership)?				Y/N	
4.2	Does the applicant have a 50% ownership in a suitable vessel?				Y/N	
4.3	Does the applicant have part-ownership in a suitable vessel (<50%)?				Y/N	
4.4	Does the applicant have an access agreement in a suitable vessel (e.g. catch agreement, charter agreement, or bank guarantee)?				Y/N	
4.5	Does the applicant consider building a vessel?				Y/N	
4.6	Vessel Details (complete vessel details below).					
Vessel name		Gross tonnage (gt)		Vessel length (m)		
Vessel type		Vessel horse power (kw)		Number of crew		
Flag state (where applicable)		Year built		Is the vessel IUU listed?	Y/N	

If more than one vessel, the applicant shall create and complete a similar table and attach as per requirement 4.1-4.5. Complete the table below in respect of the other vessel(s) information details.

Vessel name		Gross tonnage (gt)		Vessel length (m)		Number of crew		% ownership of the vessel	
Vessel name		Gross tonnage (gt)		Vessel length (m)		Number of crew		% ownership of the vessel	
Vessel name		Gross tonnage (gt)		Vessel length (m)		Number of crew		% ownership of the vessel	
Vessel name		Gross tonnage (gt)		Vessel length (m)		Number of crew		% ownership of the vessel	
Vessel name		Gross tonnage (gt)		Vessel length (m)		Number of crew		% ownership of the vessel	

4.7 Complete the table below in respect of the total value of the vessel(s) including all fishing equipment.

Total book value (Rand)		Total insured value (Rand)	
-------------------------	--	----------------------------	--

Section 5

Fishing Performance

5.1	Did the applicant utilise its fishing right for at least five years during the period 2007 to 2014(2005 to 2013 for abalone)?						Y/N	
5.2	If "No" in 5.1 did the applicant provide reasons to the Department why did the applicant not utilise the right?						Y/N	
5.3	Complete the table below in relation to the applicant's catch records in the sector applying for.							
Year	Catch permit applied for? (Y/N)	Right Number (e.g. HIT)	Name(s) of vessel(s)	Number of crew allocated	Individual TAC (Right holder quantum)	Did the applicant land any fish? (Y/N)	Actual amount landed in kilograms	
2005								
2006								
2007								
2008								

APPLICATION NUMBER S E C T O O O O O 1

Applicant's or duly authorised representative of the applicant's (initials) _____ Commissioner of Oaths (initials) _____

CONTINUES ON PAGE 258 - PART 3



Government Gazette Staatskoerant

REPUBLIC OF SOUTH AFRICA
REPUBLIEK VAN SUID AFRIKA

Vol. 605

16 November 2015
November

No. 39417

PART 3 OF 3

N.B. The Government Printing Works will not be held responsible for the quality of "Hard Copies" or "Electronic Files" submitted for publication purposes

ISSN 1682-5843



9 771682 584003

39417



AIDS HELPLINE: 0800-0123-22 Prevention is the cure

2009							
2010							
2011							
2012							
2013							
2014							

Section 6
Transformation

6A. Management and Employment Equity

6.1	Complete the table below in respect of shareholding/membership interest held by black persons.		
Year	Percentage shareholding / Membership interest held by black persons	Percentage Voting Rights Held by Black Persons	Percentage of Dividends actually paid over to Black Shareholders or to which they are entitled to
2005 (as in 2005 application form)			
2009			
2015 (at time of application)			

6.2	Complete the table below in respect of the applicant's transformation profile.		
%Black shareholding in 2005	%Black shareholding in 2014	%Black shareholding at application date	

APPLICATION NUMBER S E C T O O O O 1

Applicant's or duly authorised representative of the applicant's (initials) _____ Commissioner of Oaths (initials) _____

Section 6
Transformation

6.3	Complete the table below in respect of the applicant's shareholding and membership interest. A=African C=Coloured, I=Indian, W=White and F=Female											
	Shareholders' name/ Member Name (Surname & Initial(s))	Years of Service	Race (A/C// W)	Gender (M/F)	Age	Disability (Y/N)	Identity Number					
1												
2												
3												
4												
5												
6												
7												
8												
9												
10												

6.4	Complete the following table in relation to the applicants employees as at 28 February 2015																
	Gross monthly income (total cost to company)	Average Monthly Income	Number of employees	Percentage of total employees (%)	Specify the number of HDI employees						Specify the percentage of HDI employees						
					A	C	I	F	Y	D	A	C	I	F	Y	D	
1	>R75 000																
2	Between R75 000 and R50 000																
3	Between R50 000 and R25 000																
4	Between R25 000 and R20 000																
5	Between R20 000 and R15 000																
6	Between R15 000 and R10 000																
7	Between R10 000 and R5 000																
8	Between R5 000 and R2 500																
9	Below R2 500																
	Total (in all unshaded spaces/blocks/cells)			100%													

APPLICATION NUMBER S E C T 0 0 0 0 1

Applicant's or duly authorised representative of the applicant's (initials) _____ Commissioner of Oaths (initials) _____

Section 6
Transformation

6.5 Complete the following table in relation to the applicant's most recent employment equity profile as provided to the Department of Labour in October 2014. If the applicant is not designated or did not voluntarily comply, then the table must be completed as at 28 February 2015.

A=African C=Coloured, I=Indian, W=White and F=Female										Total	
Occupational Levels	Gender	A No.	A%	C No.	C%	I No.	I%	W No.	W%	ACI %	F%
Top management	Male										
	Female										
Senior management	Male										
	Female										
Professionally qualified and experienced specialists and mid-management	Male										
	Female										
Skilled technical and academically qualified workers, junior management, supervisors, foremen, and superintendents	Male										
	Female										
Semi-skilled and discretionary decision making	Male										
	Female										
Unskilled and defined decision making	Male										
	Female										
TOTAL EMPLOYEES (add females and males)	Permanent										
	Contract										
	Seasonal										

6.6 Complete the table below in respect of the applicant's board of director's (if a company) or members (if a close corporation) as at date of application.

	Director / Member Name (Surname & Initial(s))	Years of Service	Black (Y/N)	Gender (M/F)	Age	Disability (Y/N)	Identity Number
1							
2							
3							
4							
5							
6							
7							
8							
9							
10							

6B. Corporate social investment		
6.7	Does the applicant make donations of the annual taxable income which qualify for deduction in terms of section 18A of the Income Tax Act 58 of 1962?	Y/N
6.8	What percentage of the applicant's net profit is spent on corporate social investment?	%

APPLICATION NUMBER S E C T O O O O 1

Applicant's or duly authorised representative of the applicant's (initials) _____ Commissioner of Oaths (initials) _____

Section 6 Transformation

6C. Affirmative procurement

6.9	Does the applicant procure goods / services from majority black owned company(ies)?	Y/N	
-----	---	-----	--

6D. Local Economic Development

6.10 Complete the table below in respect to harbours where catch has been landed and processed.				
Year	Harbour name	Quantity landed (kilograms)	Factory name	Quantity processed (kilograms)
2010				
2011				
2012				
2013				
2014				
6.11 Complete the table below in respect to harbours where catch is to be landed and processed. Rank by order of usage from 1 – 3 (3 being the highest)				
Harbour Name	Frequency of usage	Factory name	Frequency of usage	

6E. Employment Equity

6.12	Is the applicant a designated employer as defined in Section 1 of the Employment Equity Act 55 of 1998?	Y/N	
6.13	Has the applicant complied with the Employment Equity Act 55 of 1998?	Y/N	
6.14	Has the applicant developed an employment equity plan?	Y/N	

6F. Skills Development

6.15	Has the applicant complied with the Skills Development Act 97 of 1998?	Y/N	
6.16	If "Yes", indicate which Sector Education Training Authority ("SETA") the applicant is registered with.		
6.17	Has the applicant paid levies in terms of the Skills Development Levies Act 9 of 1999?	Y/N	
6.18	If "Yes," state the amount of the levies paid in rand value.	R	
6.19	Has the applicant appointed a skills development facilitator?	Y/N	

APPLICATION NUMBER S E C T O O O O 1

Applicant's or duly authorised representative of the applicant's (initials) _____ Commissioner of Oaths (initials) _____

6.20	If "Yes", state the name of the appointee		ID No															
6.21	Has the applicant developed a workplace skills plan?											Y/N						
6.22	Does the applicant participate in learnership programmes?											Y/N						
6.23	What percentage of the applicant's training budget is spent on the training of historically disadvantaged persons?												%					
6.24	State the rand value of the training budget and the equivalent spent on historically disadvantaged persons.											R						

6G. Enterprise Development and Value Adding

6.25	Has the applicant embarked upon <i>enterprise development projects</i> to address increasing black ownership, management and skills in new business enterprises, which includes investment programmes and access to finance? Full details of these initiatives are requested	Y/N	
6.26	Has the applicant initiated <i>value adding activities</i> in the specific sector / fishery that it operates within	Y/N	

Section 7

Job creation

7.1	Does the applicant provide permanent employment? If yes complete the table below in respect of the financial year which ends on any date between 1 July 2014 and 30 June 2015.		Y/N	
	Total number of employees	% of employees involved in fishing operations (including admin staff)	% of employees involved in the sector being applied for	
	Total wages paid to all employees	% wages paid to employees involved in fishing	% wage paid to employees involved in the sector being applied for	
7.2	Does the applicant contribute towards medical aid or any kind of medical support arrangement for more than 50% of its employees?		Y/N	
7.3	Does the applicant contribute towards pension/provident fund for more than 50% of its employees?		Y/N	
7.4	Does the applicant provide all its employees with safe working conditions at sea?		Y/N	
7.5	Does the applicant provide any other kinds of benefits for its employees (e.g. employee share scheme)?		Y/N	

APPLICATION NUMBER S E C T O O O O 1

Applicant's or duly authorised representative of the applicant's (initials) _____ Commissioner of Oaths (initials) _____

Section 8

Applicant Declaration

I, the undersigned, do hereby make oath and declare that:

- (a) I have read the instructions set out in this application form and the General Policy on the Allocation and Management of Fishing Rights: 2013 and the Sector Specific Fishery Policy: 2015.
- (b) The information submitted with and in this Application is true and correct and complete.
- (c) I accept that if any information in and with this Application is not true or complete, or if false information is provided, or material information is not disclosed, this may lead to the Application being refused, or to the revocation, suspension, cancellation, alteration or reduction of any right, license or permit granted on the strength of this Application, in terms of Section 28 of the Marine Living Resources Act 18 of 1998.
- (d) In order to allow for the proper verification of information submitted I hereby authorise any institution, organ of state, person or body, who possesses or acquires any information relevant to my application, to disclose or make the information available to the Minister, his/her delegate or an official of the Department of Agriculture, Forestry and Fisheries or the Fishing Rights Verification Team.
- (e) I undertake to co-operate with any investigators by timeously submitting responses to written requests for information or explanations, by attending meetings with investigators, by answering questions satisfactorily at such meetings and where necessary, by granting investigators access to premises, vessels and documents. I accept that failure to co-operate in this regard will constitute an independent ground for refusing an application.
- (f) I accept that any attempt to influence the decision of the delegated authority or appellant authority on the allocation of a right or quantum or effort, in any manner other than provided for in the relevant Sector Specific Policy or in this application form, will result in the application being declined.

Signed at : _____
This _____ **day of** _____ **20**__
Signature of applicant: _____
Applicant's full name _____

The deponent declares that he/she knows and understands the contents and implications of the above declaration.

Commissioner of Oaths	_____
Full name	_____
Designation	_____
Physical Address	_____

If the application is prepared or compiled by, or in consultation with or on the advice of any person or entity the following information must be provided:

Why was the application prepared by a person or legal entity other than the Applicant or why was someone consulted for advice? What fee or other remuneration was paid, or was promised for the assistance?

If assisted, please provide full details of the consultant / advisor that prepared this application

Details of the person who completed the form.

Contact Name	_____														
Identity number															
Work telephone number															
Cellphone number															
Fax number															
Email address	_____														
Position held/relation to applicant	_____														

APPLICATION NUMBER S E C T O O O O 1

Applicant's or duly authorised representative of the applicant's (initials) _____ Commissioner of Oaths (initials) _____

DEPARTMENT OF AGRICULTURE, FORESTRY AND FISHERIES

NO. 1142

16 NOVEMBER 2015

Schedule B of fees determined in terms of section 25(1) and (2) of the Marine Living Resources Act, 18 of 1998

Fisheries	Past fee (rand)	Application fee (rand)	Quota (grant of right) fee payable by successful applicants (rand)			
			Per ton	Per crew member	Per vessel	Per area
Hake Deep Sea Trawl	32 400	40 986	68			
Hake Inshore Trawl (hake)	8 800	11 132	68			
Hake Inshore Trawl (sole)	2 000	2 530	171			
Horse Mackerel	21 900	27 404	42			
Small Pelagics (Pilchard)	6 400	8 096	8			
Small Pelagics (Anchovy)	2 000	2 530	5			
Patagonian Toothfish	21 000	26 565	826			
South Coast Rock Lobster(wholemass)	8 800	11 132	997			
KZN Prawn Trawl	7 700	9 741			19	
West Coast Rock Lobster (Off Shore)	2 000	2 530	683			
Hake Long Line	2 500	3 163	205			
Squid	5 200	6 578		889		
Tuna Pole	1 300	1 645		143		
Seaweed	1 900	2 404				4 301
Longline Demersal Shark	500	6 326			474	
Linefish Traditional	400	505		258		
Handline Hake	1 300	1 645		1 034		
West Coast Rock Lobster (near shore)	300	380				
Oysters	100	127				
White Mussels	100	127				
Net Fishing (small nets/gill nets/beach seine/trek)	200	253				
Large Pelagics	6 700	8 476			17 250	
Abalone		1 725				
KZN Seine/Sardine		253				

WARNING!!!

To all suppliers and potential suppliers of goods to the Government Printing Works

The Government Printing Works would like to warn members of the public against an organised syndicate(s) scamming unsuspecting members of the public and claiming to act on behalf of the Government Printing Works.

One of the ways in which the syndicate operates is by requesting quotations for various goods and services on a quotation form with the logo of the Government Printing Works. Once the official order is placed the syndicate requesting upfront payment before delivery will take place. Once the upfront payment is done the syndicate do not deliver the goods and service provider then expect payment from Government Printing Works.

Government Printing Works condemns such illegal activities and encourages service providers to confirm the legitimacy of purchase orders with GPW SCM, prior to processing and delivery of goods.

To confirm the legitimacy of purchase orders, please contact:

Renny Chetty (012) 748-6375 (Renny.Chetty@gpw.gov.za),

Anna-Marie du Toit (012) 748-6292 (Anna-Marie.DuToit@gpw.gov.za) and

Siraj Rizvi (012) 748-6380 (Siraj.Rizvi@gpw.gov.za)

IMPORTANT

Information

from Government Printing Works

Dear Valued Customers,

Government Printing Works has implemented rules for completing and submitting the electronic Adobe Forms when you, the customer, submits your notice request.

Please take note of these guidelines when completing your form.

GPW Business Rules

1. No hand written notices will be accepted for processing, this includes Adobe forms which have been completed by hand.
2. Notices can only be submitted in Adobe electronic form format to the email submission address submit.egazette@gpw.gov.za. This means that any notice submissions not on an Adobe electronic form that are submitted to this mailbox will be **rejected**. National or Provincial gazette notices, where the Z95 or Z95Prov must be an Adobe form but the notice content (body) will be an attachment.
3. Notices brought into GPW by "walk-in" customers on electronic media can only be submitted in Adobe electronic form format. This means that any notice submissions not on an Adobe electronic form that are submitted by the customer on electronic media will be **rejected**. National or Provincial gazette notices, where the Z95 or Z95Prov must be an Adobe form but the notice content (body) will be an attachment.
4. All customers who walk in to GPW that wish to submit a notice that is not on an electronic Adobe form will be routed to the Contact Centre where the customer will be taken through the completion of the form by a GPW representative. Where a customer walks into GPW with a stack of hard copy notices delivered by a messenger on behalf of a newspaper the messenger must be referred back to the sender as the submission does not adhere to the submission rules.
5. All notice submissions that do not comply with point 2 will be charged full price for the notice submission.
6. The current cut-off of all Gazette's remains unchanged for all channels. (Refer to the GPW website for submission deadlines – www.gpwonline.co.za)
7. Incorrectly completed forms and notices submitted in the wrong format will be rejected to the customer to be corrected and resubmitted. Assistance will be available through the Contact Centre should help be required when completing the forms. (012-748 6200 or email info.egazette@gpw.gov.za)
8. All re-submissions by customers will be subject to the above cut-off times.
9. All submissions and re-submissions that miss the cut-off will be rejected to the customer to be submitted with a new publication date.
10. Information on forms will be taken as the primary source of the notice to be published. Any instructions that are on the email body or covering letter that contradicts the notice form content will be ignored.

You are therefore advised that effective from **Monday, 18 May 2015** should you not comply with our new rules of engagement, all notice requests will be rejected by our new system.

Furthermore, the fax number **012- 748 6030** will also be **discontinued** from this date and customers will only be able to submit notice requests through the email address submit.egazette@gpw.gov.za.

