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PART 1 OF 3



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

GENERAL NOTICE ALGEMENE KENNISGEWING

NOTICE 398 OF 2005

DEPARTMENT OF ENVIRONMENTAL AFFAIRS AND TOURISM

INVITATION TO COMMENT ON THE DRAFT POLICIES CONCERNING THE ALLOCATION AND MANAGEMENT OF LONG TERM FISHING RIGHTS IN THE HAKE HANDLINE AND WEST COAST ROCK LOBSTER (NEARSHORE) FISHERIES, 2005.

The Minister of Environmental Affairs and Tourism hereby issues for notice and comment a draft fisheries policy on the allocation and management of long term commercial fishing rights. Interested and affected parties are invited to submit written comment on these Draft Policies on the Allocation and Management of Long Term Fishing Rights 2005 in the manner provided for in this Notice.

1. Hake Handline (English - Annexure A, Afrikaans –Annexure B)
2. West Coast Rock Lobster (Nearshore) (English - Annexure C, Afrikaans –Annexure D)

IN THE CASE OF INCONSISTENCY BETWEEN THE ENGLISH AND AFRIKAANS TEXT, THE ENGLISH TEXT PREVAILS

These fishery specific policies must be read with the Draft General Policy on the Allocation and Management of Long Term Fishing Rights, 2005. Interested parties may submit written comments to the Department by 17h00 on Monday 11 April 2005 in the manner described below.

In order to solicit comments from members of communities who may need special assistance in order to participate, a series of public meetings will be held where the applicable policies and their consequences will be explained, questions will be answered, written comments will be invited, oral comments will be recorded and views from member of the audience will be minuted.

Port Nolloth Lokaal: Port Nolloth Stadsaal Datum: 2 Maart 2005 Tyd: 09h00	Hondeklipbaai Lokaal: Hondeklipbaai Gemeenskapsentrum Datum: 2 Maart 2005 Tyd: 17h00	Ebenhaeser Lokaal: Ebenhaeser Gemeenskapsaal Datum: 3 Maart 2005 Tyd: 08h30	Dorina Bay Lokaal: Dong Bay Gemeenskapsaal Datum: 3 Maart 2005 Tyd: 17h00	Lamberts Bay Lokaal: Lamberts Bay Ontspanningsaal Datum: 4 Maart 2005 Tyd: 09h30	Elands Bay Lokaal: Elands Bay Gemeenskapsaal Datum: 4 Maart 2005 Tyd: 14h00
Laaiplek Lokaal: Laaioplek Gemeenskapsaal Datum: 5 Maart 2005 Tyd: 08h00	St Helena Bay Lokaal: St Helena Bay Hotel Datum: 5 Maart 2005 Tyd: 11h30	Paternoster Lokaal: Paternoster Gemeenskapsaal Datum: 7 Maart 2005 Tyd: 08h30	Vredenburg Lokaal: Vredenburg Gemeenskapsaal/ Sportgronde Datum: 7 Maart 2005 Tyd: 13h30	Saldanha Bay Lokaal: Diazville Gemeenskapsaal Datum: 8 Maart 2005 Tyd: 09h00	Langebaan Lokaal: Langebaan Gemeenskapsaal Datum: 8 Maart 2005 Tyd: 14h00
Yzerfontein Lokaal: Burgersentrum Datum: 9 Maart 2005 Tyd: 09h00	Atlantis Lokaal: Gemeenskapsaal (Saxon C) Datum: 9 Maart 2005 Tyd: 14h00	Simonstad Lokaal: Simonstad Burgersentrum Datum: 10 Maart 2005 Tyd: 09h00	Hout Bay Lokaal: Ontspanningsaal Hout Bay Datum: 10 Maart 2005 Tyd: 14h30	Kaapstad Lokaal: Burgersentrum Seepunt Datum: 11 Maart 2005 Tyd: 09h00	Ocean View Lokaal: Ocean View Veeldoelighedsentrum Datum: 11 Maart 2005 Tyd: 14h30
Kalk Bay Lokaal: Holy Trinity Saal Datum: 14 Maart 2005 Tyd: 09h00	Strand Lokaal: Strand Burgersentrum Datum: 14 Maart 2005 Tyd: 14h00	Macassar Lokaal: New Macassar Burgersentrum Datum: 15 Maart 2005 Tyd: 09h00	Kleinmond Lokaal: Burgersentrum Datum: 15 Maart 2005 Tyd: 14h00	Hawston Lokaal: Hawstania Inn Datum: 16 Maart 2005 Tyd: 09h00	Hermanus (Mount Pleasant) Lokaal: Grobslaar Saal Datum: 16 Maart 2005 Tyd: 14h00
Gansbaai Lokaal: NG Kerk Datum: 17 Maart 2005 Tyd: 09h00	Buffelsjag Lokaal: Owls Ontspanningsaal Uilenkraalmond, Buffelsjag Datum: 17 Maart 2005 Tyd: 15h00	Stuilsbaai Lokaal: Stuilsbaai Biblioteek Datum: 18 Maart 2005 Tyd: 09h30	Arniston Lokaal: Die Vissers Unie Saal Datum: 18 Maart 2005 Tyd: 14h30	Vermaaklikheid Lokaal: Vermaaklikheid Restaurant Datum: 19 Maart 2005 Tyd: 09h00	Stilbaai Lokaal: Stilbaai Gemeenskapsaal Datum: 19 Maart 2005 Tyd: 15h00
Mossel Bay Lokaal: Delmade Gemeenskapsaal Datum: 2 Maart 2005 Tyd: 09h30	Klein Brak Riveer Lokaal: Reebok Gemeenskapsaal Datum: 2 Maart 2005 Tyd: 14h30	Knysna Lokaal: Honley Burgersentrum Datum: 3 Maart 2005 Tyd: 09h00	Plettenberg Baai Lokaal: Simuney Saal Datum: 3 Maart 2005 Tyd: 14h00	Jeffrey's Baai Lokaal: Pellsrus Gemeenskapsaal Datum: 7 Maart 2005 Tyd: 09h30	Port Elizabeth Lokaal: PE Burgersentrum Datum: 7 Maart 2005 Tyd: 15h00
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Port Edward Lokaal: Nkululekweni Gemeenskapsaal Datum: 11 Maart 2005 Tyd: 17h30	Umnini Saal Lokaal: Umnini Saal Datum: 14 Maart 2005 Tyd: 09h00	Shelley Beach Lokaal: Die Boot Klub Datum: 14 Maart 2005 Tyd: 14h30	Durban Lokaal: DLI Saal Datum: 15 Maart 2005 Tyd: 10h00	Stanger Lokaal: Stanger Saal Datum: 16 Maart 2005 Tyd: 09h00	Richardsbaai Lokaal: Bay Stadsaal Datum: 16 Maart 2005 Tyd: 17h00

Participants will be required to register on arrival at the venue, and are requested to arrive half an hour prior to the start of the meeting.

Interested parties may also submit written comments to the Department by 17h00 on Monday 11 April 2005 in the following manner:

<p>Per Faks: Faks Nummer: (021) 670-1782 Aandag: Die Adjunk Direkteur-Generaal Vissery (Spesifiseer asseblief watter vissery) Beleid Kommentaar</p>	<p>Per Pos: Aandag: Mr Horst Kleinschmidt Die Adjunk Direkteur-Generaal Die Departement van Omgewingsake en Toerisme Posbus 44963 Claremont 7735 Vissery (Spesifiseer asseblief watter vissery) Beleid Kommentaar</p>	<p>Per E-pos: RVU@deloitte.co.za Aandag: Die Adjunk Direkteur-Generaal Die Departement van Omgewingsake en Toerisme Vissery (Spesifiseer asseblief watter vissery) Beleid Kommentaar</p> <hr/> <p>By Hand Aandag: Die Adjunk Direkteur-Generaal Die Regte Verifieeringseenheid Landsdown Road 11 Claremont Vissery (Spesifiseer asseblief watter vissery) Beleid Kommentaar</p>
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Copies of all of the draft policies are also available on the Department's official website www.mcm-deat.gov.za. Hard copies may also be collected from the Department's fishery control offices along the coast. More information regarding the Long Term Rights Allocation Process can be obtained from the following helpline: **0861 123 626**

Please note that comments received after the closing date may be disregarded.

Telephonic queries regarding the submission of comments may directed to the Rights Verification Unit at **(021) 670-3669**.

DRAFT



**DEPARTMENT OF ENVIRONMENTAL AFFAIRS AND TOURISM
BRANCH MARINE AND COASTAL MANAGEMENT**

**POLICY FOR THE ALLOCATION AND MANAGEMENT OF
COMMERCIAL FISHING RIGHTS IN THE
HAKE HANDLINE FISHERY: 2005**

**THIS DRAFT POLICY MUST BE READ WITH THE DRAFT GENERAL
POLICY ON THE ALLOCATION AND MANAGEMENT OF LONG-TERM
COMMERCIAL FISHING RIGHTS: 2005 (available at [www.mcm-
deat.gov.za](http://www.mcm-deat.gov.za))**

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1. Introduction

This is a draft policy on the allocation and management of commercial fishing rights in the hake handline fishery and is issued by the Department of Environmental Affairs and Tourism: Branch Marine and Coastal Management (“the Department”) for public comment. This policy must be read with the Draft General Policy on the Allocation and Management of Long-Term Commercial Fishing Rights: 2005 (“the General Policy”).

As stated in the General Policy, the Department will hold public meetings at coastal venues in order to consult with the general public and interested and affected parties in particular, with respect to this draft hake handline policy. At these public meetings, comments on this policy will be invited. Written comments may be submitted to the Department by 11 April 2005. Comments submitted after this date will not be considered. Comments shall be submitted as follows:

By Fax: Fax Number: (021) 670-1782 Attention: The Deputy Director-General Hake Handline Policy Comments	By Mail: Attention: Mr Horst Kleinschmidt The Deputy Director-General The Department of Environmental Affairs and Tourism P.O Box 44963 Claremont 7735 Hake Handline Policy Comments	By E-mail: RVU@deloitte.co.za Attention: The Deputy Director-General Hake Handline Policy Comments
		By Hand Attention: The Deputy Director-General The Rights Verification Unit 11 Landsdown Road Claremont Hake Handline Policy Comments

The purpose of this policy is to set out the considerations that will apply to the allocation of long-term commercial hake handline fishing rights. Many of these considerations are not new. They have been applied by the Department when allocating rights in the past. This policy documents these considerations, but includes a few changes and additions.

Certain post-rights allocation management policies are also presented in this draft policy. A Hake Handline Fishery Management Manual will be finalised with all right-holders during the course of 2006. This manual will stipulate in detail the management methodology and procedures for the fishery. In particular, the Department intends to manage this fishery on a regional basis subsequent to the allocation of long-term commercial fishing rights.

The Minister of Environmental Affairs and Tourism intends to delegate the section 18 power to allocate hake handline commercial fishing rights in terms section 79 of the Marine Living Resources Act 18 of 1998 (*“the MLRA”*) to a senior official of the Department.

2. Sector profile

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

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

During the 1980's and 1990's the fishery was not properly regulated and managed. The lack of a regulatory framework, coupled with increased demand for PQ hake in the late 1990's, resulted in a number of persons, including recreational and commercial fishers operating in other fisheries, entering this fishery to take advantage of the high prices. During the late 1980's hake handline catches were estimated to be approximately 150 tons. By the 1990's this had increased to between 1 100 tons and 1 400 tons annually. By the year 2000, approximately 5000 tons were landed.

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

is set aside under the global hake total allowable catch.

The Department manages the hake longline fishery as part of a “hake” collective. In terms of the MLRA, a “global” total allowable catch (“TAC”) for hake is set annually by the Minister of Environmental Affairs and Tourism. The hake handline and longline fisheries share 10 percent of the global TAC. The hake deep sea trawl fishery is allocated 83 percent of the TAC and the balance is fished by the hake inshore trawl fishery. Until 2004, 1 000 tons was set aside for foreign fishing. This allocation will be discontinued

The hake handline fishery operates out of small fishing harbours and slipways along the southern Cape and Eastern Cape coasts, as far north as Port Alfred. The handline fishery, like the hake long line fishery, lands PQ hake for export to Europe. The fishery operates in inshore waters targeting shallow water hake, *Merluccius capensis*.

Hake stocks are currently managed in terms of a recovery strategy and the TAC for hake has been reduced each year since 2003. Current catch rates of shallow water hake are unsustainable.

3. The medium-term rights allocation process

In 2003, the Department allocated 86 commercial hake handline fishing rights. The rights authorised 86 vessels and more than 700 crew to target hake using the handline method. This was the first time that commercial fishing rights were allocated in this fishery and the first time that the hake handline fishery was subjected to comprehensive regulation.

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

Of the rights allocated, 26 percent were allocated to blacks. Approximately 25 percent of the skippers in this fishery are black, while 76 percent of crew are black.

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

4. Over-arching sectoral objectives

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

- Significantly increase the transformation profile of the hake handline fishery;
- Allocate rights to hake handline fishers who rely on the hake handline fishery for their livelihoods;
- Ensure that applicants based at fishing harbours that are historically associated with hake handline catches are allocated a fair proportion of the rights;
- Support the economic viability of the fishery; and
- Ensure the environmental sustainability of the fishery.

5. Duration of rights

Having regard to the transformation profile of the fishery, the Department intends to allocate commercial rights for a period of eight years (01 January 2006 to 31 December 2013), and subject to a review at regular intervals against predetermined performance criteria, including the attainment of agreed transformation goals (**see paragraph 12 below**).

6. New entrants

The hake handline fishery is currently over-subscribed. There are many more handline fishers than the resource is able to sustain. However, the poor transformation profile of this fishery, coupled

with the fact that many hake handline fishers, particularly black skippers, did not apply for commercial rights in 2001, mean that rights are likely to be allocated to a substantial number of new entrant applicants.

7. Evaluation criteria

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

7.1 Exclusionary criteria

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

- (a) **Form of the applicant:** Applications will only be considered from entities incorporated in terms of the Close Corporations Act of 1984 and individuals (i.e. sole proprietors or natural persons). Applications from trusts and companies will not be considered.
- (b) **Compliance:** Compliance with the provisions of the MLRA, including the provisions of its regulations is considered to be of paramount importance. Applicants, including their members, that have been convicted of an offence in terms of the MLRA (without the option of the payment of a fine) will not be allocated a hake handline fishing right. Applicants, including their members, that have had any fishing right cancelled or revoked in terms of the Marine Living Resources Act will also not be allocated a hake handline fishing right. Other breaches of the MLRA will negatively affect the evaluation of applications.
- (c) **Paper quotas:** Paper quotas as defined in the General Policy will be excluded.

Large groups of identical or very similar applications that are sponsored by consultants or commercial fishing companies and other entities, will be excluded as fronts for paper quotas, regardless of the merits of individual applications.

- (d) **Non-utilisation:** Those right-holders that failed to utilise their medium-term commercial hake handline right between 2003 and 2004 will not be re-allocated a right.
- (e) **Personal involvement in harvesting of the resource:** Applicants will have to demonstrate that they are involved on a full-time basis in the hake handline fishery. They will be required to demonstrate that they are active fishers and participate in the operation of the hake handline business.
- (f) **Dependency on the resource:** Right-holder applicants who are not dependent on the hake handline fishery for at least 75 percent of their gross annual income will be excluded. Potential new entrants will be required to demonstrate their historical dependency on the hake handline fishery for their livelihood. Applicants that derive any of their income from sources outside of the fishing industry will be excluded.
- (g) **Vessel access:** Applicants will be required to demonstrate a right of access to a suitable vessel (*see paragraph 8 below*).

7.2 Balancing criteria

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

(a) Transformation

Currently, only 26 percent of right-holders in this fishery are black-owned. An estimated 25 percent are black-managed.

Applicants that are individuals will be scored on whether or not they are black. Applicants that are close corporations will be assessed and scored on –

- The percentage black and women representation at ownership and management levels (particularly with regard to skippers);
- Whether employees are members of the applicant and the extent of their benefits;
- Affirmative procurement;
- Compliance with the Skills Development Levies Act 9 of 1999; and
- Corporate social investment.

(b) Investment in the fishery

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

Right-holder applicants will be assessed as follows:

- Investment in vessels by 31 December 2004 will be recognised, as long as the investment demonstrates a real commitment to participate in the sector. Right-holder applicants will not be rewarded for having concluded charter agreements or catching or purchasing agreements.
- Investment in marketing initiatives will be considered. The Department will have regard to whether the applicant is capable of marketing hake.

New entrant applicants will have to show whether they have invested in a vessel and in what form. In addition, new entrant applicants will have to show whether they have access to markets.

(c) Fishing performance

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

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

(d) Jobs

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

(e) Local economic development

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

(f) Historical involvement

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

(g) Compliance

Minor infringements of the MLRA, the Regulations and permit conditions will be negatively scored. Right-holder applicants who cannot demonstrate that they

comply with the Skills Development Act 97 of 1998 and the Skills Development Levies Act 9 of 1999 and the Occupational Health and Safety Act 85 1993, will be negatively scored.

7.3 *Empowerment of hake handline fishers*

The Department will require all fishing crew who are intending to work on hake handline boats to register with the Department on its Hake Handline Crew List. Those applicants who are successful in applying for a hake handline fishing right will be required to select their crew members from among those who are listed on the Hake Handline Crew List.

7.4 *Effort allocations*

In 2003, one vessel was allocated to each successful applicant. The Department intends revising the allocation of effort in the hake handline fishery.

Firstly, the Department will allocate crew based on the maximum crew complement which is authorised by the South African Maritime Association (“SAMSA”). The Department will reserve a pool of approximately 15 vessels for allocation to successful applicants who are transformed and who have invested in hake handline vessels. The Department will allocate one vessel to each successful applicant. The pool of reserved vessels will be allocated to those applicants that scored highest on transformation criteria and who requested more than one vessel.

Secondly, although this fishery is managed in terms of a TAE (130 vessels and 785 crew), a precautionary maximum TAC of 5 500 tons is also used to manage this fishery. Records reveal that over the duration of the medium-term period, this precautionary maximum catch limit was never reached. Accordingly, the Department may, in the future, allocate slightly more fishing rights, provided that once the fishery lands 5 500 tons, all hake handline fishing will be halted for that season.

8. Suitable vessels

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

- has a minimum SAMSA certified length of approximately five metres and a maximum SAMSA certified length of approximately 12 metres. Essentially, the Department will allocate rights to skiboats and deck boats;
- has a functioning vessel monitoring system; and
- is certified as being HACCP (“Hazard Analysis and Critical Control Point”) compliant.

9. Multi-sector involvement

Right-holders in the hake handline fishery (including their members) will not be allowed to hold commercial fishing rights in any other fishery. Right-holders in the hake handline fishery will, however, be entitled to target snoek.

10. Application fees and levies

The application fee for the hake handline fishery will be set having regard to:

- The cost of the entire rights allocation process, including consultation, receipting, evaluation of applications, verification, appeals and reviews. In this regard the costs incurred during the medium-term process will be used as a guide; and
- The value of the fish being allocated over the duration of the right.

The annual levies payable with effect from 01 January 2006 will be revised, after

consultation with affected and interested parties.

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 and integrated policy which recognises that fishing and associated land-based activities impact on the broader marine environment. The EAF will be detailed further in the Hake Handline Fishery Management Manual. South Africa remains committed to the target date of 2010 for the implementation of an EAF in the commercial fisheries.

11.2 *Management on a regional basis*

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

11.3 *Access to traditional linefish stocks*

Hake handline fishers will not be permitted to fish for traditional linefish stocks such as kob (*Argyrosomus* spp.) and geelbek (*Atractoscion aquidens*). Hake handline fishers will, however, be allowed to target snoek when it becomes available.

12. Performance measuring

The Department will institute a number of formal performance measuring exercises for the duration of the commercial fishing rights. It is envisaged that the first performance

measuring exercise will take place after a year, and thereafter every three years.

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

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

13. Observer and monitoring programme

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

14. Provisional lists

Before the Department makes a final decision on who will be allocated rights to participate in the hake handline fishery, it will issue a provisional list of successful applicants. The provisional list will be circulated to each fishing area. Interested and affected parties in these areas may then inform the Department if any persons who historically fished for hake using the handline method have been excluded from the provisional list.

15. Permit conditions

Permit conditions for this fishery will be issued annually. The permit conditions applicable to this fishery for the 2005 season are attached as **Annexure A**. Interested and affected parties are invited to comment on these permit conditions.

DRAFT



**DEPARTMENT OF ENVIRONMENTAL AFFAIRS AND TOURISM
BRANCH MARINE AND COASTAL MANAGEMENT**

**POLICY FOR THE ALLOCATION AND MANAGEMENT OF COMMERCIAL FISHING
RIGHTS IN THE WEST COAST ROCK LOBSTER LIMITED COMMERCIAL (NEARSHORE)
FISHERY: 2005**

**THIS DRAFT POLICY MUST BE READ WITH THE DRAFT
GENERAL POLICY ON THE ALLOCATION AND MANAGEMENT OF
LONG-TERM COMMERCIAL FISHING RIGHTS: 2005 (available at
www.mcm-deat.gov.za)**

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1. Introduction

This policy on the allocation and management of fishing rights in the west coast rock lobster limited commercial (nearshore) fishery is issued by the Department of Environmental Affairs and Tourism: Branch Marine and Coastal Management (“the Department”) for public comment. This sector will also be referred to as “WCRL (nearshore)”. This policy must be read with the Draft General Policy on the Allocation and Management of Long-term Commercial Fishing Rights: 2005 (“*the General Policy*”).

As stated in the General Policy, the Department will hold public meetings at coastal venues in order to consult with the general public, and interested and affected parties in particular, with respect to this draft WCRL (nearshore) policy. At these public meetings, comments on this policy will be invited. Written comments must be submitted to the Department by 11 April 2005. Comments submitted after this date will not be considered. Comments shall be submitted as follows:

By Fax: Fax Number: (021) 670-1782 Attention: The Deputy Director-General WCRL (Nearshore) Policy Comments	By Mail: Attention: Mr Horst Kleinschmidt The Deputy Director-General The Department of Environmental Affairs and Tourism P.O Box 44963 Claremont 7735 WCRL (Nearshore) Policy Comments	By E-mail: RVU@deloitte.co.za Attention: The Deputy Director-General WCRL (Nearshore) Policy Comments
		By Hand Attention: The Deputy Director-General The Rights Verification Unit 11 Lansdown Road Claremont WCRL (Nearshore) Policy Comments

The purpose of this policy is to set out the considerations that will apply to the allocation of long-term commercial WCRL (nearshore) fishing rights. Many of these considerations are not new. They have been applied by the Department when allocating rights in the past. This policy documents these considerations, but includes a few changes and additions.

Certain post-rights allocation management policies are also presented in this draft policy. A West Coast Rock Lobster (Nearshore) Fishery Management Manual will be finalised with all right-holders during the course of 2006. This manual will stipulate in detail the management methodology and procedures for the fishery.

The Minister of Environmental Affairs and Tourism intends to delegate the section 18 power to allocate commercial WCRL (nearshore) fishing rights in terms section 79 of the Marine Living Resources Act 18 of 1998 (“*the MLRA*”) to a senior official of the Department.

2. Biology and resource dynamics

West coast rock lobster (*Jasus lalandii*) are slow-growing long-lived animals. Female size 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.

West Coast rock lobster occur inshore (<200m depth) from just north of Walvis Bay in Namibia to East London. Commercial exploitation occurs from about 25°S in Namibia to Gansbaai. However, recreational fishing extends further eastwards to Mossel Bay.

3. Sector profile

The current harvestable biomass is estimated at around eight percent of the pre-exploitation levels and spawning biomass at approximately 21 percent. This decline is largely a result of two effects: large unsustainable catches taken particularly during the first half of the 20th century and a substantial reduction in the somatic growth rate during the 1990’s.

Commercial fishing began in the 1880’s. The commercial fishery 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.

From 1946 onwards, annual quotas were granted, 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 Total Allowable Catch ("TAC") to between 4 000 and 6 000 tons restored some balance in the period 1970/71 to 1989/90.

The tail-mass production quota was replaced by a whole lobster (landed mass) quota, and management by means of a TAC was introduced in the early 1980's. Area or zonal allocations were introduced at the same time. Other management measures that were enforced early on were size limits and a closed season. Catches of berried or 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. Since then, there has been a slow recovery, with the commercial TAC being set at 3 527 tons for the 2004/2005 season.

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 shallow waters. Hoopnets are seldom used at depths exceeding 30 metres. Hoopnet dinghies may either operate independently from the shore by means of an outboard motor or oars, or be transported to the fishing grounds by means of a motorized mother vessel (deckboat).

The west coast rock lobster fishery is made up of two distinct sectors: a commercial fishery and a recreational fishery. 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.

The commercial sector consists of large-scale offshore operators (right allocations of more than 1.5 tons) and a more limited nearshore component (right allocations of less than 1.5 tons). In the nearshore sector, right-holders may only use hoopnets and may not move between areas.

The nearshore commercial sector (or limited commercial fishery) replaced the subsistence fishery in 2001 as a result of the findings and recommendations 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 Department allocates 20 percent of the west coast rock lobster TAC to the nearshore fishery and 80 percent to the offshore fishery. The reason for this split is that approximately 20 percent of the resource is located in the inshore region, while 80 percent is located offshore in deeper waters.

The offshore fishery supports some 5 500 employees, 95 percent of whom are black. Of these, more than 2 500 are sea-going personnel, with the remainder employed in processing and marketing operations on land. West coast rock lobster fishing takes place between November and July and the average annual income over this period is R26 500. The annual value of west coast rock lobster catches is approximately R200 million. The approximate value of vessels in this fishery is R130 million.

4. The medium-term rights allocation process

In 2001, the Department allocated 234 full commercial west coast rock lobster fishing rights. An additional 511 limited commercial fishing rights were allocated to former subsistence fishers. Of the rights allocated in the full commercial fishery, 66 percent were granted to blacks and black-owned entities. The representation of blacks at senior management level in the full commercial fishery is, however, only 34 percent.

Of the rights allocated in the limited commercial fishery, 91.5 percent were allocated to blacks; predominantly black-owned micro enterprises. This means that approximately 70 percent of the west coast rock lobster fishery is controlled by blacks.

In 2003, the Department allocated a further 230 tons of west coast rock lobster to 274 limited commercial right-holders in the area east of Cape Hangklip. Of the rights allocated, more than 90 percent were allocated to blacks.

In 1992, 39 predominantly white right-holders controlled the west coast rock lobster TAC. In contrast, by the end of 2003, the Department had allocated 1 019 commercial rock lobster fishing rights. Of these, more than 785 were allocated to former subsistence fishers. To accommodate the larger number of right-holders, the average allocation in 2002 was 6.8 tons, compared with an average allocation of 56 tons in 1992. However, the difference between largest and smallest right-holders also decreased substantially over the past 10 years. In 1992, there was a 200-fold difference between the highest (199 tons) and the lowest (one ton) allocations; in 2002, there was a 66-fold difference between the highest (95.6 tons) and the lowest (1.5 tons) allocations.

5. Over-arching sectoral objectives

The objectives of allocating long-term fishing rights in the WCRL (nearshore) fishery are to:

- Maintain the transformation profile of this fishery;
- Allocate commercial fishing rights to fishers who depend on the WCRL resource for their livelihoods;
- Ensure that applicants based at fishing villages that are historically associated with WCRL catches are allocated a fair proportion of rights;
- Encourage investment in vessels, marketing and processing infrastructure, and the creation of secure jobs;
- Sustain the economic viability of the fishery; and
- Ensure the environmental sustainability of the fishery.

6. Duration of rights

Having regard to –

- the transformation profile of the fishery;
- the need to encourage further investments in this fishery by micro enterprises;
- the need to encourage creation of permanent jobs;

- the need to maintain the economic stability that currently prevails in the fishery; and
- the fact that the west coast rock lobster resource is well managed with reliable and current data,

The Department will allocate commercial rights for a period of 10 years (01 January 2006 to 31 December 2015 and subject to regular review against predetermined performance criteria, including the attainment of agreed transformation goals (**see paragraph 12 below**).

7. New entrants

Although the west coast rock lobster fishery is optimally exploited and there is no room for additional participants, new entrant applicants will be considered and may be preferred over existing right-holders who have failed to transform at all, or who have failed to implement transformation plans as stipulated in their medium-term right applications. In addition, those right-holders that did not utilise their rights, or did not utilise them effectively, will not be re-allocated a right and may be replaced by new entrants.

8. Evaluation criteria

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

8.1 Exclusionary criteria

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

- (a) **Form of the applicant:** Only natural persons will be considered. Right-holders who previously operated in the form of juristic persons (i.e. close corporations, trusts or companies) will have to apply in their individual capacities, but will be considered to be “*right-holders*” for purposes of the allocation process.

A nuclear family (comprising a couple, their parents and their children) may not be granted more than one right so as to avoid monopolies and to broaden access to the west coast rock lobster resource. Applicants may be required to disclose their relationship to applicants in other commercial fisheries. If more than one member of a household applies for a right, all the applications from the family may be excluded, unless the applicants clearly and convincingly demonstrate that they have established separate small commercial operations.

- (b) **Compliance:** Applicants that committed a serious infringement of the MLRA will be excluded.
- (c) **Paper quotas:** Paper quotas (as defined in the General Policy) will be excluded. Large groups of identical, or very similar applications, that are sponsored by consultants or commercial fishing companies and other entities, will be excluded as fronts for paper quotas, regardless of the merits of individual applications.
- (d) **Non-utilisation:** Those right-holders that failed to utilise their medium-term commercial west coast rock lobster right between 2002 and 2004 will not be re-allocated a commercial right.
- (e) **Multi-sector involvement:** Applicants who hold rights in a commercial fishery other than the abalone fishery, or have interests - including shares and membership interests - in right-holders in other commercial fisheries will be excluded. Applicants who are the beneficiaries of right-holder trusts will be excluded.
- (f) **Personal involvement in harvesting of the resource:** Applicants will have to demonstrate that, during the fishing season, they are involved on a full-time basis in

fishing for WCRL. They should be active on fishing vessels and participate in the operation of the business.

- (g) **Dependence on the resource:** Right-holder applicants who are not dependent on the harvesting of WCRL for at least 75 percent of their annual gross income will be excluded. Potential new entrants will be required to demonstrate their historical dependence on WCRL fishing for their livelihood. Applicants that derive any of their income from sources outside the fishing industry will be excluded.
- (h) **Resident in fishing zone:** Applicants who do not live adjacent to the fishing zone where they have applied for rights will be excluded. Applicants will be required to demonstrate that they have lived adjacent to the fishing zone for at least four years. WCRL (nearshore) fishing rights will only be granted to residents who live adjacent to a fishing zone or area. Successful right-holders in the WCRL (nearshore) fishery will be restricted to designated fishing zones or areas.
- (i) **Vessel access:** Applicants will have to demonstrate a right of access to a suitable vessel (*see paragraph 9 below*).

8.2 Comparative balancing criteria

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

(a) Transformation

To maintain the transformation profile of the WCRL (nearshore) fishery, applicants will be scored positively if they are black. Gender may be used as a tie-breaking factor, i.e. where more than one applicant scores the same, a female applicant will be preferred over a male applicant.

Applicants will also be assessed and scored on –

- Affirmative procurement; and
- Corporate social investment.

(b) Investment

Investment in vessels by 31 December 2004 will be recognised, as long as the investment demonstrates a real commitment to participate in the fishery.

(c) Jobs

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

(d) Processing and marketing

Right-holder applicants will be required to submit processing and marketing records and may be assessed on their performance in this regard.

(e) Fishing performance

Right-holder applicants will be assessed by having regard to their performance in the WCRL fishery during the medium-term period.

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

(f) Historical involvement

Right-holder applicants and potential new entrants may be rewarded for historical involvement in the fishing industry. Such involvement might include being a crewmember in the limited commercial WCRL fishery, or being a crew member in any other commercial fishery.

(g) Compliance

Minor infringements of MLRA, the regulations and permit conditions, such as over-fishing or the landing of under-sized WCRL, will be negatively scored. Right-holder applicants who cannot demonstrate that they comply with the Skills Development Act 97 of 1998 and the Skills Development Levies Act, 9 of 1999, and the Occupational Health and Safety Act, 85 of 1993, will be negatively scored.

8.3 Quantum criteria

Allocations to successful right-holders in the WCRL (nearshore) fishery will be fixed at between 750 kilograms and 1.5 tons. Regard will be had to the abundance of the resource in the area or zone applied for, as well as investment in the fishery and job creation.

9. Suitable vessels and gear limitations

A suitable vessel in the WCRL (nearshore) fishery is a vessel that:

- has a maximum SAMSA certified length of eight metres;
- is fitted with a vessel monitoring system; and
- is geared to fish for WCRL using hoop nets only.

10. Management measures

The WCRL 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 WCRL (nearshore) fishing policy does not attempt to provide a policy statement on EAF in the WCRL fishery. The EAF in the WCRL fishery will be detailed in the West Coast Rock Lobster (Nearshore) Fishery Management Manual. South Africa remains committed to the target date of 2010 for the implementation of an EAF in the commercial fisheries.

The WCRL (nearshore) 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 are contained in the permit conditions.

11. Application fees and levies

The application fee for the WCRL (nearshore) fishery will be set having regard to:

- The cost of the entire rights allocation process, including consultation, receipting, evaluation, verification and appeals and reviews. In this regard, the costs incurred during the medium-term process will be used as a guide; and
- The value of the fish being allocated over the duration of the right.

The annual levies payable with effect from 01 January 2006 will be revised, after consultation with interested and affected parties.

12. Performance reviews

The Department will institute a number of performance measuring exercises for the duration of the commercial fishing rights. It is envisaged that the first performance measuring exercise will take place after a year, and thereafter every three years. Failure to perform as stipulated may result in the right being suspended, cancelled or revoked.

13. Observers

The vessels used in the WCRL (nearshore) fishery are not able to accommodate observers. Right-holders will, however, be expected to cooperate fully with land-based observers or those transported to the fishing grounds in other vessels.

14. Provisional lists

Before the Department makes a final decision on who will be allocated rights to participate in the WCRL (nearshore) fishery, it will issue a provisional list of successful applicants. The provisional list will be circulated to each fishing area. Interested and affected parties in these areas may then inform the Department if any persons who historically fished for WCRL in the nearshore area have been excluded from the provisional list.

15. Permit conditions

Permit conditions for this fishery will be issued annually. The permit conditions applicable to this fishery for the 2005 season are attached as **Annexure A**. Interested and affected parties are invited to comment on these permit conditions.