



Government Gazette

REPUBLIC OF SOUTH AFRICA

Vol. 477 Pretoria 4 March 2005 No. 27361

PART 1 OF 3



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

GENERAL NOTICE ALGEMENE KENNISGEWING

NOTICE 399 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 KWA-ZULU NATAL SARDINE BEACH SEINE, BEACH-SEINE (TREKNET) AND GILLNET (DRIFT-NET, SET-NET), OYSTER AND WHITE MUSSEL 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. Kwa-Zulu Natal Sardine Beach Seine (English - Annexure A, Afrikaans Annexure B)
2. Beach-Seine (Treknet) And Gillnet (Drift-Net, Set-Net) (English - Annexure C, Afrikaans - Annexure D)
3. Oysters (English - Annexure E, Afrikaans - Annexure F)
4. White Mussels (English - Annexure G, Afrikaans - Annexure H)

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	Doring Bay Lokaal: Doring Bay Gemeenskapsaal Datum: 3 Maart 2005 Tyd: 17h00	Lamberts Bay Lokaal: Lamberts Bay Ontspanningsaal Datum: 4 Maart 2005 Tyd: 08h30	Elands Bay Lokaal: Elands Bay Gemeenskapsaal Datum: 4 Maart 2005 Tyd: 14h00
Lokaal: Laaiplek 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	Allanitsa 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 Veelbeligheidsentrum 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	Lokaal: Hawstania Inn Datum: 16 Maart 2005 Tyd: 09h00	Hermanus (Mount Pleasant) Lokaal: Grobelaar Saal Datum: 16 Maart 2005 Tyd: 14h00
Gansbaai Lokaal: NG Kerk Datum: 17 Maart 2005 Tyd: 09h00	Buffelsjag Lokaal: Owls Ontspanningsaal Uienkraalmond, Buffelsjag Datum: 17 Maart 2005 Tyd: 15h00	Struisbaai Lokaal: Stuisbaai 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: Delmadie Gemeenskapsaal Datum: 2 Maart 2005 Tyd: 09h30	Klein Brak Aiveer 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
Port Alfred Lokaal: Jawuka Saal Datum: 8 Maart 2005 Tyd: 09h00	Hamburg Lokaal: Hamburg Gemeenskapsaal Datum: 8 Maart 2005 Tyd: 15h00	Oos London Lokaal: Oos London Stadsaal Datum: 9 Maart 2005 Tyd: 09h00	Centana Lokaal: Centane Burgersentrum Datum: 10 Maart 2005 Tyd: 09h30	Koffie Baai Lokaal: Kwa Tshezi Lodge Datum: 10 Maart 2005 Tyd: 16h30	Port St Johns Lokaal: Port St Johns Stadsaal Datum: 11 Maart 2005 Tyd: 09h00
Port Edward Lokaal: Nkululekweni Gemeenskapsaal Datum: 11 Maart 2005 Tyd: 17h30	Lokaal: UmniniSaal 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:

Per Faks: Faks Nommer: (021) 670-1782 Aandag: Die Adjunk Direkteur-Generaal Vissery (Spesifiseer asseblief watter vissery) Beleid Kommentaar	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	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
		By Hand Aandag: Die Adjunk Direkteur-Generaal Die Regte Verifieerseenheid Landsdown Road 11 Claremont Vissery (Spesifiseer asseblief watter vissery) Beleid Kommentaar

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 123626

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 KWAZULU-NATAL
SARDINE BEACH-SEINE COMMERCIAL 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 KwaZulu-Natal (KZN) sardine commercial beach-seine fishery is issued by the Department of Environmental Affairs and Tourism: Branch Marine and Coastal Management (*“the Department”*) for public comment. This fishery will also be referred to as the KwaZulu-Natal sardine beach-seine fishery. This policy must be read with the Draft General Policy on the Allocation and Management of Long-term Commercial Fishing Rights: 2005 (*“the General Fisheries Policy”*).

As stated in the General Policy, the Department will hold public meetings at coastal venues to consult with the general public and interested and affected parties in particular, with respect to this draft KZN sardine beach-seine 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:

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

The purpose of this policy is to set out the considerations that will apply to the allocation of long-term commercial KZN sardine beach-seine 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 KZN beach-seine 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.

2. Biology and resource dynamics

The KwaZulu-Natal commercial sardine beach-seine fishery is highly seasonal. During the winter months when large shoals of sardines (*Sardinops sagax*) enter the waters of KwaZulu-Natal from the south. This classical spawning migration is referred to as the KZN “sardine run”.

The annual sardine run corresponds with an offshore movement of the warm Agulhas Current in the region of the Wild Coast during autumn through to winter and its replacement by a cool, narrow band of water inshore. This event provides a corridor for cold-water-loving sardines to migrate northward in large shoals that may be 15 kilometres long, three kilometres wide and 40 metres deep. The shoals attract thousands of predators such as gannets, dolphins and sharks.

The KZN sardine beach-seine fishery relies entirely on the sardine run. Moreover, KwaZulu-Natal’s tourism industry is geared towards capitalizing on the spectacle of the sardine run, including the excitement of beach-seine operations. There are, however, years when the intrusion of cold water does not occur or sardines do not appear inshore. Catches in the KwaZulu-Natal sardine beach-seine fishery have been close to zero in some years.

The KZN sardine beach-seine fishery has been regulated since the 1970s. Prior to the Marine Living Resources Act (1998), permits were issued by the KZN Fisheries Licensing Board. A maximum of 35 permits were allocated annually. Permits, and nowadays rights, were issued exclusively for the capture of sardines; all other fish had to be returned to the water alive.

3. Sector profile

The commercial sardine beach-seine fishery is restricted to KwaZulu-Natal. Due to it being a short, seasonal fishery which is only activated during the sardine run, most of the participants are employed in other fishing sectors for the remainder of the year.

Although sardines are a TAC-controlled species, targeted predominantly by the pelagic fishing industry, the KZN beach-seine fishery is managed on the basis of Total Applied Effort (TAE). This is because the biomass landed by beach-seines in KZN is less than 0.1 percent of the total national catch. Effort is not restricted to any particular beaches or areas, thereby allowing the Draft Sardine Beach-seine Fishing Policy: March 2005

fishers to follow the sardines along the coast and catch the fish as they move inshore. Gear restrictions apply and fishing in marine protected areas is prohibited. The TAE (the number of nets that may be used), is set by the Minister each year.

The sardine beach-seine nets are laid using converted ski-boats. Teams of fishers - approximately 20 per net - then haul the net shoreward by hand. Sardines are sold locally by the right-holder, or buyers purchase the contents of the net while it is still on the beach. The bulk of the catch is used for bait but a limited amount of sardines are consumed by the locals. In years when the sardine run occurs, an average of 20 000 crates or 500 tons are landed, with a catch value of between R1.5 and R2 million.

The present right-holders are mainly commercial fishers, split equally among Blacks and Whites. In the past few years, two rights have been fished by squid right-holders from the Eastern Cape. These right-holders have introduced more technologically advanced procedures to the fishery. Their use of a spotter plane and superior fishing gear has resulted in them out-competing the other fishers. All teams employ temporary labour during the season. Consequently, approximately 700 workers may be employed for a one- to two-month season each year.

4. The medium-term rights allocation process

The sardine beach-seine fishery has not changed much since before the revision of the TAE and the allocation of rights in 2001. Medium-term fishing rights introduced a degree of stability to the fishery, whereas in previous years permit-holders entered or exited the fishery each year. The TAE was set at 35 right-holders in 2001. Only 27 applications were received, 26 of which were granted.

This fishery is relatively capital intensive due to the capital outlay required for a powered ski-boat, beach-seine net and 4X4 vehicle, as well as the risk associated with the short, unpredictable sardine season. The fishery is currently 50 percent black-owned and managed.

5. Over-arching sectoral objectives

The objectives of allocating long-term rights in the sardine beach-seine fishery are to:

- Increase the transformation profile of this fishery;
- Allocate rights to sardine beach-seine fishers who are traditionally reliant on sardines and resident in KZN;
- Sustain the economic viability of the fishery
- Ensure the environmental sustainability of the fishery.

6. Duration of rights

Having regard to the above objectives, the Department will allocate commercial fishing rights for a period of ten years (01 January 2006 – 31 December 2015). Every right-holder will, however, be tested at regular intervals against predetermined performance criteria. These criteria will be discussed with right-holders during 2006.

7. New entrants

Surplus effort is available for allocation in this fishery. The Department will seek to accommodate new entrants. It will also replace non-performing right-holders and untransformed entities.

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 in order to select the successful applicants.

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 right-holder:** Although the General Policy prohibits companies and close corporations from applying in the Cluster D fisheries, the KZN Beach-seine fishery is an exception. The Department will in this fishery (and only this Cluster D fishery) permit individuals and close corporations (not companies) to apply for a KZN beach-seine commercial fishing right. As far as individuals are concerned, more than one right will not be granted to a family. In addition, a right will not be granted to a close corporation and members or employees separately.
- (b) **Traditional sardine beach-seine:** Rights will only be allocated to traditional sardine beach-seine fishers. The Department considers a traditional sardine beach-seine fisher to be someone who has been active in the fishery for the past ten years.
- (c) **Access to nets and boats:** Applicants will be required to demonstrate that they have access to the appropriate nets and a suitable boat required to operate in this fishery.
- (c) **Compliance:** Applicants that perpetrated serious infringements of the MLRA or the Regulations will be excluded.
- (d) **Paper quotas:** Paper quotas (as defined in the General Policy) will be excluded. Large groups of identical or very similar applications that are sponsored by consultants or commercial fishing companies and other entities will be excluded as fronts for paper quota, regardless of the merits of individual applications. The onus will be on the applicants to provide sufficient proof that they are not fronts for paper quotas.
- (e) **Non-utilisation:** Right-holders who did not regularly utilise their right during the period 2002 to 2004 will be excluded.

- (f) **Multi-sector involvement:** Applicants who hold rights in other commercial fisheries, or who have interests - including shares and membership interests - in right-holders in other commercial fisheries will be excluded. Beneficiaries of trust applicants will also be excluded.
- (g) **Personal involvement in harvesting of the resource:** Applicants will have to have been involved in the sardine beach-seine fishery during the fishing season and have participated in the operation of the business.
- (h) **Dependency on the resource:** Whilst the Department recognises the limited season, unpredictability and risk associated with this fishery, applicants will be required to demonstrate their historical dependency on the sardine beach-seine fishery for their livelihoods.
- (i) **KZN residents:** Commercial rights in this fishery will only be allocated to persons who live in, or whose business is registered in KwaZulu-Natal.

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 improve the transformation profile of the KZN sardine beach-seine fishery, applicants will be scored on whether or not they are black (includes Africans, Coloureds and Indians). Applicants that are close corporations will be assessed and scored on:
- The percentage black and women representation at ownership and management levels;
 - Whether employees are members in the applicant and the extent of their benefits;
 - Affirmative procurement;
 - The representivity of blacks and women at the various levels below executive management;
 - Compliance with the Employment Equity Act 55 of 1998; and

- Corporate social investment.
- (b) **Jobs:** Right-holder applicants who can demonstrate that they have provided employment - temporary or permanent - will be rewarded. With regard to applicants that are close corporations, regard will be had as to whether employees are provided with:
- Full-time employment;
 - Medical aid and pension;
 - Any other employment benefits; and
 - Safe working conditions.
- (c) **Historical involvement:** the Department will consider how long an applicant has been involved in the sardine beach-seine fishery.
- (d) **Fishing performance:** Right-holder applicants will be assessed by having regard to their fishing performance 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 using nets.

- (e) **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, 1993, and the Compensation for Occupational Injuries and Diseases Act, 1993, may be negatively scored where these laws are applicable.

9. Provisional lists

Before the Department makes a final decision on who will be allocated commercial sardine beach-seine rights, it will issue a provisional list of successful applicants. People in KwaZulu-Natal may then inform the Department if any commercial sardine beach-seine fishers have not, or should not, have been included on the provisional list.

10. Management and co-management of the KZN sardine beach-seine fishery

The commercial sardine beach-seine 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.

A new Operational Management Plan for the fishery will be implemented within the next two to three years.

11. Application fees

Application fees for this sector will not be more than R500. The Department is currently assessing the cost of the allocations process for this sector. The Department will inform right-holders and interested parties once it has determined an application fee.

12. Vehicle use in the coastal zone

Many right-holders in the KZN sardine beach-seine fishery have sought permission to use vehicles in the coastal zone following the prohibition of unregulated vehicle use on beaches in 2002. In 2004, the Minister of Environmental Affairs and Tourism amended the regulations that control vehicle use in the coastal zone (see www.mcm-deat.gov.za for the Regulations and Implementation Guideline).

Right-holders in the KZN sardine beach-seine fishery must apply to the Deputy Director-General of Marine and Coastal Management for a permit to use a vehicle in the coastal zone if a vehicle is required for fishing.

Application forms for vehicle use in the coastal zone will be made available, along with the application forms for rights in the KZN sardine beach-seine fishery. These application forms are also available from www.mcm-deat.gov.za.

13. 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**. Right-holders and interested 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 BEACH-SEINE (TREKNET)
AND GILLNET (DRIFT-NET, SET-NET) COMMERCIAL 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
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1. Introduction

This policy on the allocation and management of fishing rights in the commercial beach-seine (treknet) and gillnet (drift-net, set-net) fisheries is issued by the Department of Environmental Affairs and Tourism: Branch Marine and Coastal Management (*“the Department”*) for public comment. (These fisheries will also be referred to as the beach-seine and gillnet fisheries). This policy must be read with the Draft General Policy on the Allocation and Management of Long-term Commercial Fishing Rights: 2005 (*“the General Fisheries Policy”*). A separate policy is issued for the KwaZulu-Natal beach-seine fishery.

As stated in the General Policy, the Department will hold public meetings at coastal venues to consult with the general public, and interested and affected parties in particular, with respect to this beach-seine and gillnet fisheries 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 Beach-Seine and Gillnet 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 Beach-Seine and Gillnet Policy Comments	By E-mail: RVU@deloitte.co.za Attention: The Deputy Director-General Beach-Seine and Gillnet Policy Comments
		By Hand Attention: The Deputy Director-General The Rights Verification Unit 11 Landsdown Road Claremont Beach-Seine and Gillnet Policy Comments

The purpose of this policy is to set out the considerations that will apply to the allocation of long-term commercial beach-seine and gillnet 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 Beach-Seine and Gillnet 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 beach-seine and gillnet fishing rights in terms of section 79 of the Marine Living Resources Act 18 of 1998 (“*the MLRA*”) to a senior official of the Department.

2. Biology and resource dynamics

The beach-seine and gillnet fisheries are South Africa’s oldest commercial fisheries, having been established in the early 1700’s and mid 1800’s respectively. Besides a minimum mesh size and an area restriction that was originally designed to reduce conflict between beach-seine and gillnet fishers, there were no controls in the fishery until the early 1970’s. Since then, both fisheries have been restricted to catching harders (*Liza richardsonii*) and St Joseph sharks (*Callorhynchus capensis*), with a limited by-catch allowance of linefish species. In False Bay, however, right-holders in the beach-seine fishery are entitled to target certain linefish species.

3. Sector profile

The gillnet fishery is restricted to Yzerfontein northwards whereas the beach-seine fishery is restricted to the west of Gordon’s Bay. The estuarine gillnet fishery (namely Olifants Estuary) will be phased out over a five- to 10-year period.

As part of the management strategy, the coast and Total Applied Effort (“TAE”) is subdivided into “beach-seine and gillnet” areas, effort is limited by gear restrictions and fishing by means of nets is prohibited in Marine Protected Areas. Essentially, the beach-seine and gillnet fishery is set a TAE (number of nets that may be used in each area along the west and south east coasts) on an area basis by the Minister each year.

Prior to the 2001 medium-term right allocation process, the fishery landed approximately 6 000 tons of fish per annum, of which only 1 400 tons were reported on compulsory monthly catch return forms.

A survey of more than 50 percent of permit-holders revealed that less than 10 percent regarded themselves as beach-seine or gillnet fishers while only eight percent were *bona fide*, full-time netfishers who acquired more than 50 percent of their income from this fishery. Permit holders in most areas operated at a loss of between R1 900 and R5 500 per annum, the exceptions being the gillnet fishery in Saldhana-Langebaan, where 50 percent of operators were full time net fishers and the beach-seine fishery in False Bay, where 70 percent of operators were full time netfishers.

The main target species, the harder, is currently over-exploited. There is a direct negative correlation between the degree of effort and stock status. The export market for the secondary target species, St Joseph shark has collapsed, but there is potential for a local market. There is a substantial linefish by-catch comprising mostly over-exploited or collapsed species. Consequently, the management of the netfishery cannot be considered separately from the line fishery.

There exists a substantial illegal gillnet fishery directed at high value species throughout the west, south and east coasts. Illegal gillnetting on the west coast is mostly directed at galjoen (*Dichistius capensis*) and smooth-hound shark (*Mustelus mustelus*) in the sea and harders, springer / flathead mullet (*Mugil cephalus*) and elf (*Pomatomus saltatrix*) in estuaries. Illegal gillnetting on the south and east coasts is largely confined to estuaries and directed at, amongst others, dusky kob (*Argyrosomus japonicus*), spotted grunter (*Pomadasys commersonnii*) and a range of mullet species.

4. The medium-term rights allocation process

Prior to the revision of the TAE and allocation of rights in 2001, the fishery was completely over-subscribed with 147 beach-seine and 293 gillnet permits issued between Port Nolloth on the west coast and Nature's Valley on the south coast. There were a further 120 and 100 gillnet permit-holders in the Olifants and Berg River estuaries respectively. Consequently, effort had to be reduced to levels that would facilitate the recovery of the harder stock and ensure economically viable ventures for the remaining *bona fide* full-time fishers. The TAE was accordingly set at 58

beach-seine rights and 162 gillnets. In the 2001 medium-term rights allocation process, 12 beach-seine net rights and 55 small net (gillnet) rights were allocated. A further 58 netfishers were granted exemptions to fish.

5. Over-arching sectoral objectives

The objectives of allocating long-term rights in the beach-seine and gillnet fishery are to:

- Increase the transformation profile of this sector;
- Allocate rights to traditional beach-seine and gillnet fishers in traditional fishing areas along the west and southeast coasts;
- Manage the fishery in a way that ensures that the main target species caught by beach-seines and gillnets, such as harders and St Joseph sharks, recover from current levels of over-exploitation;
- Support the economic viability of the fishery; and
- Ensure the environmental sustainability of the fishery.

6. Duration of rights

Having regard to the above objectives, the Department will allocate commercial fishing 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

7. New entrants

Although the beach-seine and gillnet fishery is oversubscribed, with many more netfishers than nets available for allocation, the Department may replace a number of non-performing netfishers with traditional netfishers who were not allocated medium-term rights.

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.

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 netfish 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) **Traditional beach-seine & gillnet fishers:** Rights will only be allocated to traditional netfishers. The Department considers a traditional netfisher to be someone who netfishes for a living and has done so for at least the past ten years.
- (c) **Access to nets:** applicants will be required to demonstrate that they have access to the appropriate nets and boats required to operate in this fishery.

- (c) **Compliance:** Applicants that perpetrated serious infringements of the MLRA or the regulations will be excluded.
- (d) **Paper quotas:** Paper quotas (as defined in the General Policy) will be excluded. Large groups of identical, or very similar applications, that are sponsored by consultants or commercial fishing companies and other entities, will be excluded as fronts for paper quotas, regardless of the merits of individual applications. The onus will be on the applicants to provide sufficient proof that they are not fronts for paper quotas.
- (e) **Non-utilisation:** Right-holders who did not regularly utilise their right during the medium-term period (2002 to 2004) will be excluded.
- (f) **Multi-sector involvement:** Applicants who hold rights in other commercial fisheries, 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.
- (g) **Personal involvement in harvesting of the resource:** Applicants will have to have been involved on a full-time basis in beach-seine or gillnet fishing and accordingly have participated in the operation of the business.
- (h) **Dependency on the resource:** Right-holder applicants who are currently not dependant on beach-seine or gillnet fishing 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 beach-seine or gillnet fishing for a livelihood. Applicants that derive any of their income from sources outside the fishing industry (except pensions or annuities) will be excluded.
- (i) **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. Commercial beach-seine and gillnet fishing rights will only be granted to residents who live adjacent to

a fishing zone or area. Successful right-holders in the beach-seine and gillnet fishery will be restricted to designated fishing zones or areas.

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:** In order to improve the transformation profile of the beach-seine and gillnet fishery, black applicants (includes Africans, Coloureds and Indians) will score additional points
- (b) **Jobs:** Right-holder applicants who can demonstrate that they have provided temporary or permanent employment during the medium-term period, will be rewarded.
- (c) **Historical involvement:** the Department will consider how long an applicant has been dependent on the beach-seine and gillnet fishery for a living.
- (d) **Fishing performance:** Right-holder applicants will be assessed by having regard to their fishing performance during the medium-term period (2002 to 2004).

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

- (e) **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, 1993, and the Compensation for Occupational Injuries and Diseases Act, 1993, may be negatively scored where these laws are applicable.

9. Provisional lists

Before the Department makes a final decision on who will be allocated rights to participate in the beach-seine and gillnet 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 participated in the beach-seine and gillnet fishery have been excluded from the provisional list.

10. Management and co-management of the net fisheries

The beach-seine and gillnet fishery will be managed in accordance with the ecosystem approach to fisheries ("EAF"). An ecosystem approach to fisheries is a holistic and integrated policy which recognises that fishing and associated land-based activities impact on the broader marine environment.

A new Operational Management Plan for the fishery will be implemented within the next two to three years. It is the intention of the Department to promote co-management of the resource by re-enforcing the TURF (Territorial User Rights Fishery) system.

11. Application fees

Application fees for this fishery will not be more than R500. The Department is currently assessing the cost of the allocations process for this sector. The Department will inform right-holders and interested parties once it has determined an application fee.

12. Vehicle use in the coastal zone

Many beach-seine sought permission to use vehicles in the coastal zone since the prohibition of unregulated vehicle use on beaches in 2002. In 2004, the Minister of Environmental Affairs and

Tourism amended the regulations that control vehicle use in the coastal zone (see www.mcm-deat.gov.za for the Regulations and Implementation Guideline).

Beach-seine fishers must apply to the Deputy Director-General of Marine and Coastal Management for a permit to use a vehicle in the coastal zone if a vehicle is required for fishing.

Application forms for vehicle use in the coastal zone will be made available along with the application forms for commercial fishing rights in the beach-seine and gillnet fishery. These application forms are also available from www.mcm-deat.gov.za.

13. 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**. These may be amended annually after consulting with right-holders in the fishery. Right-holders and interested 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 OYSTER 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 Oyster Commercial Fishery 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 Fisheries Policy”*).

As stated in the General Policy, the Department will hold public hearings and roadshows as widely as possible in order to consult with the public in general, and interested and affected parties in particular, concerning this policy. Written or verbal comments will be invited at these meetings and assistance will be provided, if necessary. Written comments must be given to the Department by 11 April 2005. Comments submitted after this date will not be considered. Comments shall be submitted as follows:

By Fax: (021) 402-3362

Attention: The Deputy Director-General
Oyster Policy Comments

By Mail

The Department of Environmental Affairs and
Tourism
Private Bag X2, Roggebaai, 8012
Attention: The Deputy Director-General
Oyster Policy Comments

The purpose of this policy is to set out the considerations that will apply to the allocation of commercial oyster harvesting rights. Many of these considerations are not new. They have been applied by the Department in the past when allocating rights and managing this fishery and to an extent this policy represents a codification of those considerations.

Certain post rights allocation management policy considerations are broadly elaborated on in this policy. An Oyster 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 Oyster 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. Biological Status of Oysters

The Cape Rock oyster, which is targeted in this fishery, has an extensive geographic distribution occurring on rocky reefs from Cape Agulhas to Mozambique. These oysters are found in the intertidal zone and up to about 6m water depths. The Cape Rock oyster is found naturally and is sold as “wild oysters” in South Africa restaurants. A cheaper oyster is the Pacific oyster which is imported and widely used in mariculture.

Oysters along the KwaZulu-Natal coast have been found to take 33 months (almost 3 years) to reach marketable size (60 mm Right Valve Length). Oysters are broadcast spawners. Oysters along the KwaZulu-Natal coast spawn throughout the year with peaks during spring and summer. Harvesting takes place during spring low tides and traditionally was restricted to the intertidal zone, however in recent years there has been a gradual expansion of harvesting depth towards the fringes of the subtidal zone. This is due to a decline in oyster density in the intertidal zone and a gradual increase in gear efficiency (*“creeping effort”*). Oysters are dislodged from rocks by means of a pointed steel crowbar.

3. Sector Profile

The oyster fishery was previously managed as two separate fisheries related to their areas of operation, namely the KwaZulu-Natal coast and the Southern Cape coast. Since 2002 the oyster fishery has been managed as a single national fishery. Under the new management system, four commercial oyster-harvesting areas were officially recognised, namely KZN North, KZN South, Port Elizabeth and the Southern Cape. Differences between the regulations and harvesting patterns in the regions continue to exist.

In KwaZulu-Natal (North and South coasts), the management approach previously adopted by the KwaZulu-Natal Provincial Government was retained. This entailed maintaining a system of

effort limitations whereby the numbers of pickers are restricted and a daily bag limit of 190 oysters per picker per day is enforced. Moreover, the KZN North and South coasts are further sub-divided into five zones each, which are harvested on a rotational basis. This requires that zones remain fallow for at least three years at a time (the optimal length of time required for oyster recruits to reach marketable size) thereby allowing for recovery of the oyster stock. This system applies to both the commercial and recreational sectors.

The oyster fishery along the Southern Cape coast is not managed by means of rotational harvesting, but by means of limiting the number of pickers, with no daily bag limit. Furthermore, effort has been split across areas according to the extent of accessible oyster reef. The southern Cape fishery is controlled by a closed season from 15 December – 05 January. The closed season has been imposed to limit conflict between holidaymakers and the commercial oyster sector. In Port Elizabeth, no harvesting of the oyster beds is practised, and only washed-up oysters are being collected.

The Total Applied Effort (“TAE”) for the oyster fishery is currently not informed by scientific considerations or even the status of the resource, but is based on pre-2002 effort levels. Advancements in research and stock assessments for the oyster resource are required in order to properly determine sustainable harvesting levels. The current TAE (2005 season) is set at 145 pickers and is apportioned as follows:

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

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

- Heidelberg (“Witsand”): 10 pickers;
- Riversdale/Mossel Bay: 58 pickers; and
- George/Knysna: 34 pickers.

Limited commercial oyster rights were allocated in 2002 to empower a number of former subsistence fishers who were previously prevented from selling the subsistence harvests.

4. The Medium Term Rights Allocation Process

In 2002 commercial rights to harvest oysters were awarded to 34 applicants employing a total of 114 pickers. Of these, 88% were allocated limited commercial rights. Rights have been awarded mainly to individuals. Individuals hold 91%, close corporations 3% and companies 6% of the rights.

Black persons hold only 25,8% of the individual rights, which is extremely poor for a fishery that is easily accessible, and requires minimal gear and capital outlay. Moreover, only 25,8% of the individual right holders are women.

Although the TAE was set at 145 pickers, only 114 pickers currently harvest oysters.

5. Over-all Sectoral Objectives

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

- Significantly improve the transformation profile of this fishery;
- Allocate oyster rights to those who depend on oyster harvesting for their livelihood;
- Empower oyster pickers;
- Ensure that rights are allocated in all the areas where oysters can be harvested; and
- Support the economic viability and environmental sustainability of the fishery.

The Department is aware and concerned about certain monopolistic tendencies in this sector (*see further paragraph 9 below*).

6. Duration of Rights

Commercial fishing rights will be allocated for a period not exceeding three (3) years. Long-term rights will only be considered once there is sufficient information on the status of the resource and the transformation profile of the sector has improved significantly. The Department will institute a socio-economic study in this fishery during the three year period in an attempt to correct present imbalances in the sector.

7. New Entrants

Although the fishery as a whole is currently overexploited, a number of oyster harvesting areas are currently not exploited at all. The Department requires that these areas be exploited in order to gain valuable information about the oysters in those areas. In addition, the sector is untransformed and dominated by a few persons to the detriment of others operating in the sector.

The Department will therefore endeavour to allocate rights to new entrants in the areas where no medium term commercial oyster right were allocated (and a TAE was set for these areas) and where the introduction of new entrants will improve the transformation profile of the sector.

8. Evaluation criteria

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

8.1 Exclusionary Criteria

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

- (a) **Form of the Applicant:** Only natural persons (ie. individuals) may apply for rights.
- (b) **Applications from families:** In general, only one right will be allocated per family. Where more than one application is received from family members who live at the same address, then all the applications may be excluded. More than one right may be allocated per family where applicants clearly and convincingly demonstrate that they have established separate small commercial operations.
- (c) **Compliance:** Applicants that have been convicted of a serious transgression of the MLRA (leading, for example, to a sentence of imprisonment without the option of the payment of a fine) will not be allocated a right. Applicants that have had any fishing right cancelled or revoked in terms of the Marine Living Resources Act will also not be allocated a right. Other breaches of the Marine Living Resources Act will adversely affect the evaluation of applications, will be negatively scored, as set out below.
- (d) **Paper Quotas:** A paper quota as defined in the General Policy will be excluded.
- (e) **Non – utilisation:** Those right holders that have failed to utilise their medium term commercial oyster right between 2002 and 2004 will not be re-allocated a right.
- (f) **Non – dependants:** Persons (such as lawyers, teachers, police officers, undertakers and so forth) that derive any of their income from sources outside of the fishing industry will be excluded.
- (g) **Personal Involvement:** Applicants will have to be involved on a full-time basis in the harvesting of oysters.

8.2 Balancing Criteria

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

(a) Transformation

The Department will affirm black applicants as the transformation profile of this sector is particularly poor. In addition, the Department will also seek to affirm women by applying gender as a tie-breaking factor, if necessary.

(b) Investment in the Fishery

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

(c) Harvesting Performance

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

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

(d) Reliance on Oysters

The Department will prefer applicants who rely on oyster harvesting for 75% and more of their gross annual income. As stated above, applicants who earn any income from sources outside of the fishing industry will be excluded.

(e) Local Economic Development

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

(f) Compliance

Right holders, who are currently being investigated for breaches of the Marine Living Resources Act will not be allocated an oyster right until the outcome of the investigation is known.

Minor infringements of the Marine Living Resources Act, including its Regulations, by the applicant will be negatively scored.

9. Monopolies and the Registration of Buyers

The Department is of the view that the potential of this sector has not been fully achieved due to the monopolisation of this sector by one or two groupings.

Not only has the growth of this sector been detrimentally affected as a result of the existing of monopolies, but pickers have been exploited. The existence of monopolies in this sector is unacceptable and will not be allowed to continue.

Accordingly, all persons intending to purchase oysters from right holders (pickers) will be required to register with the Department. The Department will not register buyers who have had a right or permit cancelled or revoked under the Marine Living Resources Act or been convicted of an offence under the Marine Living Resources Act. Should the Department determine that registered buyers are colluding in the setting of prices for oysters, the Department shall intervene and act as the sole purchaser of oysters from oyster pickers.

10. Harvesting Oysters

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

- wetsuits;
- weight-belts;
- masks; and
- snorkels.

Right holders and pickers may not use:

- fins;
- artificial breathing apparatus; and
- floating devices.

11. Application Fees

Application fees for this sector will not be more than R500. The Department is currently assessing the cost of the allocations process for this sector. The Department will inform right holders and interested parties once it has determined an application fee.

12. Provisional Lists

Before the Department makes a final decision on who will be allocated oyster rights, it will issue a provisional list of successful applicants on an area basis to each area. People in these areas may then inform the Department if any persons who historically harvested oysters have not been included on the provisional list.

13. 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**. These may be amended annually after consulting with right holders in the fishery. Right holders and interested 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 WHITE MUSSEL 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 white mussel commercial fishery 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 to consult with the general public, and interested and affected parties in particular, with respect to this draft white mussel 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 White Mussel 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 White Mussel Policy Comments	By E-mail: RVU@deloitte.co.za Attention: The Deputy Director-General White Mussel Policy Comments
		By Hand Attention: The Deputy Director-General The Rights Verification Unit 11 Landsdown Road Claremont White Mussel Policy Comments

The purpose of this policy is to set out the considerations that will apply to the allocation of commercial white mussel 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 White Mussel 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 white mussel 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

White mussels (*Donax serra*) occur between northern Namibia and the Wild Coast. They are present in high numbers on the sandy beaches of the west and south coasts of South Africa. The zonal distribution of the mussel changes with the tidal cycle. On the west coast, juveniles are found high up on the beach, whereas adults are distributed around and below the mean spring low tide mark. On the east and south coasts, adults are found in the mid-tide region.

White mussels are dominant burrowers on sandy beaches, favouring temperate shores. They are bivalve molluscs that filter-feed and grow to a shell length of 60 millimetres in about five years. The mussels migrate up and down the beach in response to tidal cycles, with juveniles migrating more frequently than the adults.

Commercial exploitation is limited to the west coast where white mussels are particularly abundant owing to the nutrient rich Benguela Current that washes these shores.

3. Sector profile

Commercial harvesting of white mussels is limited to seven areas along the west coast. The fishery started in the late 1960's but in 1966 it was negatively affected by a red tide that caused massive mortalities of white mussels. The recovery of the population took more than 10 years and led to a dramatic reduction in catch per unit effort (*CPUE*). The total number of white mussels harvested per year has declined steadily since the 1980's. This has largely been as a result of the fishery's lack of economic viability. Surveys conducted in 1988 and 1989 showed that the annual landings amounted to less than one percent of the standing biomass in the relevant areas. Preliminary results from surveys undertaken in 2003 and 2004 support these findings. The resource is therefore considered to be under-exploited.

Currently, commercial right-holders are permitted to collect 2 000 white mussels per month. White mussels are harvested as bait and not for human consumption. A market for human consumption needs to be investigated.

The white mussel fishery is catch- and effort-controlled. A Total Applied Effort (“TAE”) of seven right-holders, with bag limits of 2 000 per month and a minimum legal size of 35 millimetres, is enforced. The right-holders either own retail outlets or sell their catch to retail outlets where white mussels realise a price of between R1.00 and R1.50 each.

4. The medium-term rights allocation process

Currently, there are seven commercial right-holders located in seven areas along the west coast. Each right-holder is permitted to harvest 2 000 mussels per month. Each right-holder employs between six and eight harvesters who are paid between R0.15 and R0.80 per mussel, depending on the number of oysters harvested.

5. Over-arching sectoral objectives

The over-arching objectives of allocating commercial fishing rights in the white mussel fishery are to:

- Significantly increase the transformation profile of the fishery;
- Allocate white mussel rights to those individuals who depend on white mussel harvesting for their livelihood;
- Encourage the development of a market for the human consumption of white mussels;
- Ensure that rights are allocated in all the areas where white mussels can be harvested;
- Support the economic viability of the fishery; and
- Ensure the environmental sustainability of the fishery.

6. Duration of rights

Commercial fishing rights for white mussels will be allocated for a period not exceeding two years. Long-term rights will only be considered once there is sufficient information on the status of the resource and greater clarity about the marketability of white mussels for human consumption.

7. New entrants

The resource is not optimally exploited in a number of areas. The Department requires these areas to be exploited in order to gain valuable information about white mussels in those areas. In addition, the fishery is untransformed.

Therefore, the Department will endeavour to allocate rights to new entrants in the areas where a TAE was set, but no commercial white mussel rights were allocated in the medium-term rights allocation. Furthermore, the Department will allocate rights to new entrants who will improve the transformation profile of the fishery.

8. Evaluation criteria

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

8.1 *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:** Only natural persons (i.e. individuals) may apply for rights in the white mussel fishery. If a white mussel harvester who is employed

by an existing right-holder would like to apply for a white mussel fishing right, he/she should ensure that he/she is not listed as a harvester on the application of his/her current employer.

- (b) **Applications from families:** In general, only one right will be allocated per family. Where more than one application is received from family members who live at the same address, then all the applications may be excluded. More than one right may be allocated per family where applicants clearly and convincingly demonstrate that they have established separate small commercial operations.
- (c) **Compliance:** Applicants that have been convicted of a serious infringement of the MLRA (leading, for example, to a sentence of imprisonment without the option of the payment of a fine) will not be allocated a right. Applicants that have had any fishing right cancelled or revoked in terms of the MLRA will also not be allocated a right. Other breaches of the MLRA will adversely affect an application.
- (d) **Paper quotas:** Paper quotas (as defined in the General Policy) will be excluded. Large groups of identical, or very similar applications, that are sponsored by consultants or commercial fishing companies and other entities, will be excluded as fronts for paper quotas, regardless of the merits of individual applications.
- (e) **Non-utilisation:** Those right-holders that have failed to utilise their medium-term commercial white mussel right between 2002 and 2004 will not be re-allocated a right.
- (f) **Dependence on the resource:** Right-holder applicants who are not dependent on the harvesting of white mussels for at least 75 percent of their annual gross income will be excluded. Applicants that derive any of their income from sources outside the fishing industry will be excluded.

8.2 Balancing criteria

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

(a) Transformation

In order to improve the transformation profile of the white mussel fishery, applicants will be scored on whether or not 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.

(b) Investment in the fishery

The Department will consider what investments, if any, applicants have made in the fishery.

(c) Harvesting performance

Right-holder applicants will be assessed by having regard to their performance in the white mussel fishery over the medium-term period (2002 to 2004).

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

(d) Reliance on white mussels

The Department will prefer applicants who rely on white mussel harvesting for 75 percent and more of their gross annual income. As stated above, applicants who earn any income from sources outside the fishing industry will be excluded.

(e) Local economic development

The Department will prefer to allocate rights to those applicants who live adjacent to those areas where white mussels are harvested. Applicants will be required to demonstrate that they have lived adjacent to the white mussel harvesting area for at least four years.

(f) Jobs

White mussel harvesters who are employed by an existing right-holder may apply for a right. Applicants who intend to employ people to harvest their white mussel allocation will be preferred if they provide, or intend to provide:

- Full-time employment for harvesters;
- Medical aid and pension;
- Any other benefits; and
- Safe working conditions.

(g) Non-payment of levies

The Department requires every right-holder to pay a levy on the white mussels harvested.

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

(h) Compliance

Right-holders, who are being investigated for breaches of the MLRA, whether criminal or administrative, will not be allocated a white mussel right until the outcome of the investigation is known.

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

9. Application fees

Application fees for this fishery will not be more than R500. The Department is currently assessing the cost of the allocations process for this fishery and will inform right-holders and interested parties once it has determined an application fee.

10. Provisional lists

Before the Department makes a final decision on who will be allocated rights to participate in the commercial white mussel fishery, it will issue a provisional list of successful applicants. The provisional list will be circulated to each harvest area. Interested and affected parties in these areas may then inform the Department if any persons who historically harvested white mussels on a commercial basis have been excluded from the provisional list.

11. 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**. These may be amended annually after consulting with right-holders in the fishery. Right-holders and interested parties are invited to comment on these permit conditions.